

ERIBERTO H. DECENA, PETITIONER, VS. CELESTINO M. DE LEON, RESPONDENT.

Adm. Case No. 784. December 20, 1972

Ponente: ESGUERRA, J.

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ESGUERRA, J.:

This is a complaint for disbarment filed by Eriberto H. Decena against Attorney Celestino M. de Leon, for immorality in that he is living with a woman who is not his wife.

After respondent had filed his answer to the complaint denying the charge, the case was referred to the Solicitor General for investigation, report and recommendation pursuant to the resolution of this Court dated October 12, 1967.

In his report dated December 6, 1972, the Solicitor General states as follows:

"3. Solicitor Tomas M. Dilig to whom the above case was assigned summoned the parties to appear before him on October 10, 1972, at 1:00 p.m., and to present evidence in their behalf, but neither petitioner nor respondent appeared, despite due notice, for which reason Solicitor Dilig was constrained to reset the investigation for November 21 and 22, 1972 at 1:00 p.m.;

"Again, both petitioner and respondent, despite due notice, failed to appear on the scheduled dates, and once more Solicitor Dilig reset the investigation of the case for the last time for January 17 and 18, 1973, at 1:00 p.m.

"4. On November 29, 1972, petitioner Eriberto H. Decena appeared before Solicitor Dilig and filed with him a manifestation and motion requesting for the dismissal of this case on the following grounds, to wit:

'1. This administrative case was filed sometime in 1967 or 1968, or for four years or more had lapsed;

'2. Likewise, this administrative case arose out of a misunderstanding by and between petitioner and respondent during the hearing in a criminal case before the Municipal Court of Kabankalan, Kabankalan, Negros Occidental;

'3. Due to length of time that had lapsed, petitioner has no way of contacting his witnesses, as a matter of fact, his witnesses could no longer be located; and

'4. In view thereof, petitioner is no longer interested to further prosecute the above-entitled case.'

"Considering that the grounds for dismissal alleged in petitioner's aforesaid manifestation and motion are well taken, the undersigned believes that the motion should be granted.

"WHEREFORE, it is respectfully recommended that this case for disbarment against the above-named respondent be dismissed."

Finding the recommendation of the Solicitor General well founded, and there being no evidence to support the

charge, this case is hereby dismissed.

Conception, (CJJ, Makalintal, ZalCHvar, Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, and Antonio, JJ., concur.

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