

PERFECTO MENDOZA, COMPLAINANT, VS. ALBERTO B. MALA, RESPONDENT.

Adm. Case No. 1129. July 27, 1992

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

The complaint which initiated the administrative case at bar, filed in 1972 by Perfecto Mendoza, charged Atty. Alberto B. Mala with serious misconduct consisting of grossly and scandalously immoral acts. The complaint alleged, more particularly, that sometime in 1971, respondent Mala being then detailed in the Office of the Agrarian Counsel in Baliwag, Bulacan, and being then a boarder in the conjugal dwelling of complainant Mendoza and his wife, Leticia Manalastas -- and during the complainant's sojourn in Camarines Sur which lasted for some two (2) years -- respondent Mala and said Leticia Manalastas had and maintained illicit sexual relations and cohabited openly, notoriously and scandalously; and that as a result of said relations Leticia Manalastas bore a child who was thereafter baptized in the parish church of San Miguel and given the name of Alberto Mala, Jr., with the consent of respondent Mala.

Atty. Mala was required to answer the complaint but despite notice of that requirement, failed to do so within the time appointed. The case was then referred by the Court to the Office of the Solicitor General in 1973, which proceeded to receive the evidence of the complainant *ex parte*.

It was not until after the complainant had finished presenting his proofs and rested his case that Mala finally appeared. He filed a motion for admission of his answer in July, 1974; and although his explanation for the long delay in answering the complaint was inconsistent with an earlier one set forth in a motion for admission of a "motion to dismiss," the Solicitor General's Office admitted his answer "upon broad grounds of justice and equity," and, while denying his request to cross-examine the complainant's witnesses, allowed him to present his own evidence.

The case was subsequently transferred by the Office of the Solicitor General to the Integrated Bar of the Philippines; and the respondent completed the presentation of his testimonial and documentary evidence before the Commission on Bar Discipline in May, 1990.

The evidence was in due course considered, analyzed and assessed by the IBP Board of Governors which thereafter promulgated a Resolution on November 11, 1991, signed by all but one of its members, finding respondent Mala guilty as charged -- this, notwithstanding the complainant's retraction of his complaint -- and recommending the imposition on him of the penalty of suspension for a period of six (6) months and a warning of more severe sanction to be imposed for a repetition "of his immoral failings as a responsible member of the bar."

This Court's own review of the evidence satisfies it that the same does indeed establish the material allegations of the complaint, that respondent Mala has in truth committed the immoral acts imputed to him; that Mala's proffered defenses are in fact untenable; and that no error of sufficient gravity is disclosed in the record to warrant rejection of the report and recommendation of the IBP Board of Governors. The Court therefore approves and

adopts the following conclusions of the IBP Board of Governors, to wit:

"From the evidence adduced, the adulterous relation of Atty. Alberto Mala with Leticia Manalastas Mala is clearly proven which, considering his position as an attorney for the Agrarian Office of the locality when these immoral acts were committed at his situs of service, caused public scorn and scandal *** (taking account of) the moral norms of our society *** "

'In *Mortel v. Aspiras* (100 Phil. 586) this Court, following the rule in the United States, held that "the continued possession *** of a good moral character is a requisite condition for the rightful continuance in the practice of the law *** and its loss requires suspension or disbarment, even though the statutes do not specify that as a ground for disbarment. It is important to note that the lack of moral character that we here refer to as essential is not limited to good moral character relating to the discharge of the duties and responsibilities of an attorney at law. The moral delinquency that affects the fitness of a member of the bar to continue as such includes conduct that outrages the generally accepted moral standards of the community, conduct for instance, which makes "a mockery of the inviolable social institution of marriage. In *Mortel*, the respondent being already married, wooed and won the heart of a single, 21-year old teacher who subsequently cohabited with him and bore him a son. Because respondent's conduct in *Mortel* was particularly morally repulsive, involving the marrying of his mistress to his own son and thereafter cohabiting with the wife of his own son after the marriage he had himself arranged, respondent was disbarred.' (Cited in *Cordova v. Cordova*, Adm. Case 3249, November 29, 1989).

"It is evident, however, that the complainant and his wife reconciled and more children were born to them. The unfortunate episode with the respondent apparently ended, hence the complainant executed an affidavit of desistance exonerating the respondent, and this story has a happy ending. Be that as it is, to exonerate totally the respondent and not give to him some lesson for scandalizing the noble profession to which he belongs will negate the IBP's duty to police its ranks and the Supreme Court to punish the erring. The mitigating circumstances above considered, a suspension from the practice of law for a period of six (6) months is recommended *** (with) a warning ***."

WHEREFORE, the Court DECLARES the respondent, Atty. Alberto B. Mala GUILTY of grave misconduct and imposes on him the penalty of SUSPENSION from the practice of law for six (6) months with the warning that a repetition by him of the same or similar misconduct will be dealt with more severely. Let notice of this decision be spread in respondent's record as an attorney in this Court, and notice of the same served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all the Courts concerned.

SO ORDERED.

Padilla, Regalado, and Nocon, JJ., concur.

Paras*, J., retired.

* Retired, as of July 4, 1992

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