

PRECIOSA R. OBUSAN, COMPLAINANT, VS. GENEROSO B. OBUSAN, JR., RESPONDENT.

Adm. Case No. 1392. April 02, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This is a disbarment case filed in 1974 by Preciosa Razon against her husband Generoso B. Obusan, Jr. on the ground of adultery or grossly immoral conduct. He was admitted to the bar in 1968.

In 1967, when Generoso B. Obusan, Jr. was working in the Peoples Homesite and Housing Corporation, he became acquainted with Natividad Estabillo who represented to him that she was a widow. They had carnal relations. He begot with her a son who was born on November 27, 1972. He was named John Obusan (Exh. D). Generoso came to know that Natividad's marriage to Tony Garcia was subsisting or undissolved.

Four days after the birth of the child or on December 1, 1972, Generoso, 33, married Preciosa, 37, in a civil ceremony. The marriage was ratified in a religious ceremony held on December 30, 1972 (Exh. C and C-1).

The couple lived with the wife's mother at 993 Sto. Cristo Street, Tondo, Manila for more than one year. In the evening of April 13, 1974, when his wife was out of the house, lawyer Obusan asked permission from his mother-in-law to leave the house and take a vacation in his hometown, Daet, Camarines Norte. Since then, he has never returned to the conjugal abode.

Preciosa immediately started looking for her husband. After much patient investigation and surveillance, she discovered that he was living and cohabiting with Natividad in an apartment located at 85-A Felix Manalo Street, Cubao, Quezon City. He had brought his car to that place.

The fact that Obusan and Natividad lived as husband and wife was corroborated by Linda Delfin, their housemaid in 1974; Remedios Bernal, a laundress, and Ernesto Bernal, a plumber, their neighbors staying at 94 Felix Manalo Street. The three executed the affidavits, Exhibits A, B and F, which were confirmed by their testimonies.

Romegil Q. Magana, a pook leader, testified that Obusan introduced himself as the head of the family (25-30 tsn Nov. 26, 1976). His name is at the head of the barangay list (Exh. E, G and H). Nieves Cacnio, the owner of the apartment, came to know Obusan as Mr. Estabillo. She identified five photographs, Exhibits I to I-D, where respondent Obusan appeared as the man wearing eyeglasses.

Respondent's defense was that his relationship with Natividad was terminated when he married Preciosa. He admitted that from time to time he went to 85-A Felix Manalo Street but only for the purpose of giving financial assistance to his son, Jun-Jun. Lawyer Rogelio Panotes, the ninong of Jun-Jun, corroborated respondent's testimony.

He denied the testimonies of the maid, the laundress and the plumber. He claims that they were paid witnesses. He declared that he did not live with Natividad. He resided with his sister at Cypress Village, San Francisco del

Monte, Quezon City.

On the other hand, he claimed that he was constrained to leave the conjugal home because he could not endure the nagging of his wife, their violent quarrels, her absences from the conjugal home (she allegedly went to Baguio, Luneta and San Andres Street) and her interference with his professional obligations.

The case was investigated by the Office of the Solicitor General. He filed a complaint for disbarment against the respondent. Obusan did not answer the complaint. He waived the presentation of additional evidence. His lawyer did not file any memorandum.

After an examination of the record, we find that the complainant has sustained the burden of proof. She has proven his abandonment of her and his adulterous relations with a married woman separated from her own husband.

Respondent was not able to overcome the evidence of his wife that he was guilty of grossly immoral conduct. Abandoning one's wife and resuming carnal relations with a former paramour, a married woman, falls within "that conduct which is willful, flagrant, or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community" (7 C.J.S. 959; *Arciga vs. Maniwang*, Adm. Case No. 1608, August 14, 1981, 106 SCRA 591).

Thus, a lawyer was disbarred when he abandoned his lawful wife and cohabited with another woman who had borne him a child. He failed to maintain the highest degree of morality expected and required of a member of the bar (*Toledo vs. Toledo*, 117 Phil. 768).

WHEREFORE, respondent is disbarred. His name is stricken off the Roll of Attorneys.

SO ORDERED.

Makasiar, Acting C.J., Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Relova, Gutierrez, Jr., and De la Fuente, JJ., concur.

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