

CECILIA ZULUETA, PETITIONER, VS. COURT OF APPEALS AND ALFREDO MARTIN, RESPONDENTS.

G.R. No. 107383. February 20, 1996

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition to review the decision of the Court of Appeals, affirming the decision of the Regional Trial Court of Manila (Branch X) which ordered petitioner to return documents and papers taken by her from private respondent's clinic without the latter's knowledge and consent.

The facts are as follows:

Petitioner Cecilia Zulueta is the wife of private respondent Alfredo Martin. On March 26, 1982, petitioner entered the clinic of her husband, a doctor of medicine, and in the presence of her mother, a driver and private respondent's secretary, forcibly opened the drawers and cabinet in her husband's clinic and took 157 documents consisting of private correspondence between Dr. Martin and his alleged paramours, greetings cards, cancelled checks, diaries, Dr. Martin's passport, and photographs. The documents and papers were seized for use in evidence in a case for legal separation and for disqualification from the practice of medicine which petitioner had filed against her husband.

Dr. Martin brought this action below for recovery of the documents and papers and for damages against petitioner. The case was filed with the Regional Trial Court of Manila, Branch X, which, after trial, rendered judgment for private respondent, Dr. Alfredo Martin, declaring him "the capital/exclusive owner of the properties described in paragraph 3 of plaintiff's Complaint or those further described in the Motion to Return and Suppress" and ordering Cecilia Zulueta and any person acting in her behalf to immediately return the properties to Dr. Martin and to pay him P5,000.00, as nominal damages; P5,000.00, as moral damages and attorney's fees; and to pay the costs of the suit. The writ of preliminary injunction earlier issued was made final and petitioner Cecilia Zulueta and her attorneys and representatives were enjoined from "using or submitting/admitting as evidence" the documents and papers in question. On appeal, the Court of Appeals affirmed the decision of the Regional Trial Court. Hence this petition.

There is no question that the documents and papers in question belong to private respondent, Dr. Alfredo Martin, and that they were taken by his wife, the herein petitioner, without his knowledge and consent. For that reason, the trial court declared the documents and papers to be properties of private respondent, ordered petitioner to return them to private respondent and enjoined her from using them in evidence. In appealing from the decision of the Court of Appeals affirming the trial court's decision, petitioner's only ground is that in *Alfredo Martin v. Alfonso Felix, Jr.*,^[1] this Court ruled that the documents and papers (marked as Annexes A-i to J-7 of respondent's comment in that case) were admissible in evidence and, therefore, their use by petitioner's attorney, Alfonso Felix, Jr., did not constitute malpractice or gross misconduct. For this reason it is contended that the Court of Appeals erred in affirming the decision of the trial court instead of dismissing private respondent's

complaint.

Petitioner's contention has no merit. The case against Atty. Felix, Jr. was for disbarment. Among other things, private respondent, Dr. Alfredo Martin, as complainant in that case, charged that in using the documents in evidence, Atty. Felix, Jr. committed malpractice or gross misconduct because of the injunctive order of the trial court. In dismissing the complaint against Atty. Felix, Jr., this Court took note of the following defense of Atty. Felix, Jr. which it found to be "impressed with merit:"[2]

On the alleged malpractice or gross misconduct of respondent [Alfonso Felix, Jr.], he maintains that:

x x x

x x x

x x x

4. When respondent refiled Cecilia's case for legal separation before the Pasig Regional Trial Court, there was admittedly an order of the Manila Regional Trial Court prohibiting Cecilia from using the documents Annex "A-I to J-7." On September 6, 1983, however having appealed the said order to this Court on a petition for certiorari, this Court issued a restraining order on aforesaid date which order temporarily set aside the order of the trial court. Hence, during the enforceability of this Court's order, respondent's request for petitioner to admit the genuineness and authenticity of the subject annexes cannot be looked upon as malpractice. Notably, petitioner Dr. Martin finally admitted the truth and authenticity of the questioned annexes. At that point in time, would it have been malpractice for respondent to use petitioner's admission as evidence against him in the legal separation case pending in the Regional Trial Court of Makati? Respondent submits it is- not malpractice.

Significantly, petitioner's admission was done not thru his counsel but by Dr. Martin himself under oath. Such verified admission constitutes an affidavit, and, therefore, receivable in evidence against him. Petitioner became bound by his admission. For Cecilia to avail herself of her husband's admission and use the same in her action for legal separation cannot be treated as malpractice.

Thus, the acquittal of Atty. Felix, Jr. in the administrative case amounts to no more than a declaration that his use of the documents and papers for the purpose of securing Dr. Martin's admission as to their genuineness and authenticity did not constitute a violation of the injunctive order of the trial court. By no means does the decision in that case establish the admissibility of the documents and papers in question.

It cannot be overemphasized that if Atty. Felix, Jr. was acquitted of the charge of violating the writ of preliminary injunction issued by the trial court, it was only because, at the time he used the documents and papers, enforcement of the order of the trial court was temporarily restrained by this Court. The TRO issued by this Court was eventually lifted as the petition for certiorari filed by petitioner against the trial court's order was dismissed and, therefore, the prohibition against the further use of the documents and papers became effective again.

Indeed the documents and papers in question are inadmissible in evidence. The constitutional injunction declaring "the privacy of communication and correspondence [to be] inviolable"[3] is no less applicable simply because it is the wife (who thinks herself aggrieved by her husband's infidelity) who is the party against whom the constitutional provision is to be enforced. The only exception to the prohibition in the Constitution is if there is a "lawful order [from a] court or when public safety or order requires otherwise, as prescribed by law." [4] Any violation of this provision renders the evidence obtained inadmissible "for any purpose in any proceeding." [5]

The intimacies between husband and wife do not justify any one of them in breaking the drawers and cabinets of

the other and in ransacking them for any telltale evidence of marital infidelity. A person, by contracting marriage, does not shed his/her integrity or his right to privacy as an individual and the constitutional protection is ever available to him or to her.

The law insures absolute freedom of communication between the spouses by making it privileged. Neither husband nor wife may testify for or against the other without the consent of the affected spouse while the marriage subsists.[6] Neither may be examined without the consent of the other as to any communication received in confidence by one from the other during the marriage, save for specified exceptions.[7] But one thing is freedom of communication; quite another is a compulsion for each one to share what one knows with the other. And this has nothing to do with the duty of fidelity that each owes to the other.

WHEREFORE, the petition for review is DENIED for lack of merit.

SO ORDERED.

Regalado (Chairman), Romero, and Puno, JJ., concur.

[1] 163 SCRA 111(1988).

[2] Id. at 120-121, 126.

[3] 1973 CONST., Art. IV, §4(1); 1987 CONST., Art. III, §3(1).

[4] Id.

[5] 1973 CONST., ART. IV, §4(2); 1987 CONST., Art. III, 3 §(2).

[6] Rule 130, §22.

[7] Rule 130, §24.

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