



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 27-2005

TO : THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC ATTORNEY'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT : DISBARMENT OF ATTY. LEO J. PALMA

For the information and guidance of all concerned, quoted hereunder is the Decision of the Court En Banc dated September 15, 2004 in Administrative Case No. 2474, entitled "Eduardo M. Cojuangco, Jr. vs. Atty. Leo J. Palma", to wit:

"The practice of law is a privilege accorded only to those who measure up to certain rigid standards of mental and moral fitness. For the admission of a candidate to the bar, the Rules of Court not only prescribe a test of academic preparation but require satisfactory testimonials of good moral character. These standards are neither dispensed with nor lowered after admission: the lawyer must continue to adhere to them or else incur the risk of suspension or removal."¹

Eduardo M. Cojuangco, Jr. filed with this Court the instant complaint for disbarment against Atty. Leo J. Palma, alleging as grounds "deceit, malpractice, gross misconduct in office, violation of his oath as a lawyer and grossly immoral conduct."

The facts are undisputed:

Complainant and respondent met sometime in the 70's. Complainant was a client of Angara Concepcion Regala & Cruz Law Offices (ACCRA) and respondent was the lawyer assigned to handle his cases. Owing to his growing business concerns, complainant decided to hire respondent as his personal counsel.

¹ In re Gutierrez, Adm. Case No. L-363, July 31, 1962, 5 SCRA 661.

Consequently, respondent's relationship with complainant's family became intimate. He traveled and dined with them abroad.² He frequented their house and even tutored complainant's 22-year old daughter Maria Luisa Cojuangco (Lisa), then a student of Assumption Convent.

On June 22, 1982, without the knowledge of complainant's family, respondent married Lisa in Hongkong. It was only the next day the respondent informed complainant and assured him that "everything is legal". Complainant was shock, knowing fully well that respondent is a married man and has three children. Upon investigation, complainant found that respondent courted Lisa during their tutoring sessions. Immediately, complainant sent his two sons to Hongkong to convince Lisa to go home to Manila and discuss the matter with the family. Lisa was persuaded.

Complainant also came to know that: (a) on the date of the supposed marriage, respondent requested from his (complainant's) office an airplane ticket to and from Australia, with stop-over in Hong Kong; (b) respondent misrepresented himself as a "bachelor" before the Hong Kong authorities to facilitate his marriage with Lisa; and (c) respondent was married to Elizabeth Hermosisima and has three children, namely: Eugene Philippe, Elias Anton and Eduardo Lorenzo.

On August 24, 1982, complainant filed with the Court of First Instance, Branch XXVII, Pasay City a petition³ for declaration of nullity of the marriage between respondent and Lisa, docketed as Civil Case No. Pq-0401-P. In the Decision⁴ dated November 2, 1982, the CFI declared the marriage null and void *ab initio*.

Thereafter, complainant filed with this Court the instant complaint⁵ for disbarment, imputing to respondent the following acts:

"a. In grave abuse and betrayal of the trust and confidence reposed in him by complainant and his family and taking undue advantage of his tutoring sessions with Maria Luisa, respondent secretly courted her. The great disparity in intelligence, education, age, experience and maturity between Maria Luisa and respondent gave the latter an overwhelming moral ascendancy over Maria Luisa as to overcome her scruples and apprehensions about respondent's courtship and advances, considering that he is a married man with three (3) children;

b. Respondent courted Maria Luisa with persistence and determination and even pursued her in her travels abroad under false pretenses that he

² Transcripts of Stenographic Notes (TSN), April 21, 1983 at 49-51.

³ Annex "D", Complaint, Rollo at 13-19.

⁴ Annex "F", *id.* at 32-36.

⁵ Dated November 8, 1982, *id.* at 1-6.

was traveling on official business for complainant. To break down the final resistance of Maria Luisa and assuage her pangs of guilt, he made representations that there was no legal impediment whatsoever to his marrying;

c. With his moral ascendancy over Maria Luisa and his misrepresentation that there was no legal impediment or prohibition to his contracting a second marriage, respondent succeeded in inducing and beguiling her into marrying him. Without complying with the requirements of Philippine law that he should first obtain a judicial declaration of nullity of his marriage to Elizabeth H. Palma and that the "advice" of Maria Luisa's parents should first be obtained she being only twenty-two (22) years of age, respondent succeeded in contracting marriage with her in Hongkong on June 22, 1982 by falsely representing himself before the Hongkong authorities that he is a 'bachelor.' x x x."

Respondent filed a motion to dismiss⁶ on the ground of lack of cause of action. He contended that the complaint fails to allege acts constituting deceit, malpractice, gross misconduct or violation of his lawyer's oath. There is no allegation that he acted with "wanton recklessness, lack of skill or ignorance of the law" in serving complainant's interest. Anent the charge of grossly immoral conduct, he stressed that he married complainant's daughter with "utmost sincerity and good faith" and that "it is contrary to the natural course of things for an immoral man to marry the woman he sincerely loves."

In the Resolution⁷ dated March 2, 1983, we referred the case to the Office of the Solicitor General (OSG) for investigation, report and recommendation. Former Assistant Solicitor General Oswaldo D. Agcaoili conducted the investigation.

Meanwhile, on December 28, 1983, the First Division of this Court issued in G.R. No. 64538⁸ a Resolution⁹ (a) setting aside the CFI Decision dated November 2, 1982 in Civil Case No. Pq-0401-P declaring the marriage between respondent and Lisa null and void *ab*

⁶ Dated February 8, 1983, id. at 53-56.

⁷ *Supra*.

⁸ "*Leo J. Palma vs. Hon. Manuel V. Romillo, etc.*"

In Civil Case No. Pq-0401-P, for declaration of nullity of marriage mentioned earlier, the trial court issued an order dated January 17, 1983 denying respondent's motion for reconsideration/new trial. This prompted him to file with this Court a petition for certiorari assailing the said order.

In this Resolution, this Court ordered respondent judge "to conduct a new trial in the case below and to allow petitioner to file his answer, which should be filed within ten (10) days from finality of this Resolution. The records show that respondent judge acted with undue haste in declaring petitioner in default on the complaint filed on August 24, 1982, and in rendering his *ex parte* decision of November 2, 1982 as well as in refusing to give due course to the timely appeal filed by the petitioner and instead ordering the execution of the judgment."

⁹ Rollo, at 197-198.

initio; and (b) remanding the case to the CFI for proper proceeding and determination. To this date, the records fail to disclose the outcome of this case.

On March 19, 1984, respondent filed with the OSG an Urgent Motion to Suspend Proceedings¹⁰ on the ground that the final outcome of Civil Case No. Pq-0401-P poses a prejudicial question to the disbarment proceeding. It was denied.

Respondent sought refuge in this Court through an Urgent Motion for Issuance of a Restraining Order.¹¹ In the Resolution dated December 19, 1984, we enjoined the OSG from continuing the investigation of the disbarment proceedings.¹²

Thereafter, the case was referred to the Integrated Bar of the Philippines Commission on Bar Discipline. On October 19, 1998, Commissioner Julio C. Elamparo issued the following order:

"Considering the length of time that this case has remained pending and as a practical measure to ease the backlog of this Commission, the parties shall within ten (10) days from notice, manifest whether or not they are still interested in prosecuting this case or supervening events have transpired which render this case moot and academic or otherwise, this case shall be deemed closed and terminated."¹³

In his Manifestation,¹⁴ complainant manifested and confirmed his continuing interest in prosecuting his complaint for disbarment against respondent.

On the other hand, respondent sought several postponements of hearing on the ground that he needed more time to locate vital documents in support of his defense. The scheduled hearing of December 4, 2001 was reset for the last time on January 24, 2002, with a warning that should he fail to appear or present deposition, the case will be deemed submitted for resolution.¹⁵ Respondent again failed to appear on January 24, 2002; hence, the case was considered submitted for resolution.¹⁶

On March 20, 2003, Investigating Commissioner Milagros V. San Juan submitted a Report and Recommendation finding respondent guilty of gross immoral conduct and violation of his oath as a lawyer. She recommended that respondent be suspended from the practice of law for a period of three (3) years. Thus:

¹⁰ *Id.* at 199-201.

¹¹ Dated December 13, 1984.

¹² OSG Records at 5. The OSG issued the Order dated December 20, 1984 suspending the scheduled hearing until the Court orders otherwise. (OSG Records at 1)

¹³ Records of the Commission on Bar Discipline at 11.

¹⁴ Dated November 13, 1998, *id.* at 13.

¹⁵ Order dated December 4, 2001, *id.* at 51.

¹⁶ Order dated January 24, 2002, *id.* at 97.

"The main issue to be resolved in this case is whether or not respondent committed the following acts which warrant his disbarment:

- a) Grave abuse and betrayal of the trust and confidence reposed in him by complainant;
- b) His misrepresentation that there was no legal impediment or prohibition to his contracting a second marriage;
- c) The acts of respondent constitute deceit, malpractice, gross misconduct in office, grossly immoral conduct and violation of his oath as a lawyer.

Respondent admits that he married Maria Luisa in Hongkong representing himself as a Bachelor, however, he claimed that the marriage certificate stated a condition no different from term "spinster" with respect to Luisa.

There is no question that respondent as a lawyer well versed in the law knew fully well that in marrying Maria Luisa he was entering into a bigamous marriage defined and penalized under Article 349 of the Revised Penal Code. The respondent betrayed the trust reposed in him by complainant. He was treated as part of the family and was allowed to tutor Maria Luisa.

For the foregoing reasons, it is submitted that respondent committed grossly immoral conduct and violation of his oath as a lawyer, and it is recommended that respondent be suspended from the practice of law for a period of three (3) years.

SO ORDERED."

The IBP Board of Governors adopted and approved the above Report and Recommendation, but it reduced respondent's penalty to only one (1) year suspension.

Except for the penalty, we affirm the IBP's Report and Recommendation.

At the outset, it must be stressed that the law profession does not describe a dichotomy of standards among its members. There is no distinction as to whether the transgression is committed in the lawyer's professional capacity or in his private life. This is because a lawyer may not divide his personality so as to be an attorney at one

time and a mere citizen at another.¹⁷ Thus, not only his professional activities but even his private life, insofar as the latter may reflect unfavorably upon the good name and prestige of the profession and the courts, may at anytime be the subject of inquiry on the part of the proper authorities.¹⁸

Respondent claims that he had served complainant to the best of his ability. In fact, the complainant does not allege that he acted with "wanton recklessness, lack of skill and ignorance of the law."

While, complainant himself admitted that respondent was a good lawyer,¹⁹ however, professional competency alone does not make a lawyer a worthy member of the Bar. Good moral character is always indispensable requirement.

The ringing truth in this case is that respondent married Luisa while he has a subsisting marriage with Elizabeth Hermosisima. The Certification²⁰ from the Local Civil Registrar of Cebu City shows that he married Elizabeth on December 19, 1971 at Cardial's Private Chapel, Cebu City. On the other hand, the Certificate of Marriage²¹ from the Deputy Registrar of Marriages, Hong Kong, proves respondent's subsequent marriage with Lisa on July 9, 1982. That Elizabeth was alive at the time of respondent's second marriage was confirmed on the witness stand by Atty. Victor P. Lazatin, Elizabeth's classmate and family friend.²²

Undoubtedly, respondent's act constitutes grossly immoral conduct, a ground for disbarment under **Section 27, Rule 138 of the Revised Rules of Court**. He exhibited a deplorable lack of that degree of morality required of him as a member of the Bar. In particular, he made a mockery of marriage which is a sacred institution demanding respect and dignity. His act of contracting a second marriage is contrary to honesty, justice, decency and morality.²³

This is not the first occasion that we censure immorality. Thus, we have somehow come up with a common definition of what constitutes immoral conduct. i.e., **"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**

¹⁷ *In re Almacen*, 31 SCRA 562 (1970).

¹⁸ *Bustamante-Alejandro vs. Alejandro, et al.*, AC No. 4256, February 13, 2004.

Rule 7.03, Canon 7 provides:

"A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in scandalous manner to the discredit of the legal profession."

¹⁹ TSN, April 21, 1983, at 98.

²⁰ Annex "A", Rollo at 7.

²¹ Annex "C" and Annex "D", *id.*, at 12 and 13.

²² TSN, July 12, 1982, at 1-42.

²³ *Villasanta vs. Peralta*, 101 Phil. 313 (1957).

community.”²⁴ Measured against this definition, respondent’s act is manifestly immoral. *First*, he abandoned his lawful wife and three children. *Second*, he lured an innocent young woman into marrying him. And *third*, he misrepresented himself as a “bachelor” so he could contract marriage in a foreign land.

Our rulings in the following cases are relevant:

- 1) In *Macarrubo vs. Macarrubo*,²⁵ respondent entered into multiple marriages and then resorted to legal remedies to sever them. There, we ruled that “[S]uch pattern of misconduct by respondent undermines the institutions of marriage and family, institutions that this society looks to for the rearing of our children, for the development of values essential to the survival and well-being of our communities, and for the strengthening of our nation as a whole.” As such, “there can be no other fate that awaits respondent than to be disbarred.”
- 2) In *Tucay vs. Tucay*,²⁶ respondent contracted marriage with another married woman and left complainant with whom he has been married for thirty years. We ruled that such acts constitute “a grossly immoral conduct and only indicative of an extremely low regard for the fundamental ethics of his profession,” warranting respondent’s disbarment.
- 3) In *Villasanta vs. Peralta*,²⁷ respondent married complainant while his first wife was still alive, their marriage still valid and subsisting. We held that “the act of respondent of contracting the second marriage is contrary to honesty, justice, decency and morality.” Thus, lacking the good moral character required by the Rules of Court, respondent was disqualified from being admitted to the bar.
- 4) In *Cabrera vs. Agustin*,²⁸ respondent lured an innocent woman into a simulated marriage and thereafter satisfied his lust. We held that respondent failed to maintain that degree of morality and integrity, which at all times is expected of members of the bar. He is, therefore, disbarred from the practice of law.
- 5) In *Toledo vs. Toledo*,²⁹ respondent abandoned his wife, who supported him and spent for his law education, and thereafter cohabited with another woman. We ruled that he “failed to maintain the highest degree of morality expected and required of a member of the bar.” For this, respondent was disbarred.

²⁴ 7 C.J.S. 959.

²⁵ Adm. Case No. 6148, February 27, 2004.

²⁶ A.C. No. 5170, November 17, 1999, 318 SCRA 229.

²⁷ 101 Phil.313 (1957)

²⁸ 106 Phil. 256 (1960).

²⁹ 117 SCRA 768, Adm. Case No. 266, April 27, 1963.

6) In *Obusan vs. Obusan, Jr.*,³⁰ respondent abandoned his lawful wife and child and resumed cohabitation with his former paramour. Here, we ruled that "abandoning one's wife and resuming carnal relations with a former paramour, a married woman," constitute grossly immoral conduct warranting disbarment.

The circumstances here speak of a clear case of betrayal of trust and abuse of confidence. It was respondent's closeness to the complainant's family as well as the latter's complete trust in him that made possible his intimate relationship with Lisa. When his concern was supposed to be complainant's legal affairs only, he sneaked at the latter's back and courted his daughter. Like the proverbial thief in the night, he attacked when nobody was looking. Moreover, he availed of complainant's resources by securing a plane ticket from complainant's office in order to marry the latter's daughter in Hongkong. He did this without complainant's knowledge. Afterwards, he even had the temerity to assure complainant that "everything is legal." Clearly, respondent had crossed the limits of propriety and decency.

Respondent justified his conduct by professing he really loved Lisa and since he married her, he cannot be charged with immorality. His reasoning shows a distorted mind and a brazen regard on the sanctity of marriage. In such relationship, the man and the woman are obliged to live together, observe mutual respect and fidelity.³¹ How could respondent perform these obligations to Lisa when he was previously married to Elizabeth? If he really loved her, then the noblest thing he could have done was to walk away.

Respondent's culpability is aggravated by the fact that Lisa was just a 22-year old college student of Assumption Convent and was under psychological treatment for emotional immaturity.³² Naturally, she was an easy prey.

Anent respondent's argument that since the validity of his marriage to Lisa has not yet been determined by the court with finality, the same poses a prejudicial question to the present disbarment proceeding. Suffice it to say that a subsequent judgment of annulment of marriage has no bearing to the instant disbarment proceeding. As we held *In re Almacen*,³³ a disbarment case is *sui generis* for it is neither purely civil nor purely criminal but is rather an investigation by the court into the conduct of its officers. Thus, if the acquittal of a lawyer in a criminal action is not determinative of an administrative case against him,³⁴ or if an affidavit of withdrawal of a disbarment case does not affect its course,³⁵ then the judgment of annulment of respondent's marriage does not also exonerate him from a wrongdoing actually committed. So long as the quantum of

³⁰ 128 SCRA 485, Adm. Case No. 1392, April 2, 1984.

³¹ Article 109 of the Civil Code.

³² TSN, April 21, 1983 at 90-93.

³³ 31 Phil. 562 (1970).

³⁴ *Calub vs. Suller*, 323 SCRA 556 (2000).

³⁵ *Rayos Ombac vs. Rayos*, 285 SCRA 93 (1998).

proof --- clear preponderance of evidence --- in disciplinary proceedings against members of the bar is met, then liability attaches.³⁶

The interdict upon lawyers, as inscribed in Rule 1.01 of the Code of Professional Responsibility, is that they “**shall not engage in unlawful, dishonest, immoral or deceitful conduct.**” This is founded on the lawyers’ primordial duty to society as spelled out in Canon 1 which states:

“CANON 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes..”

It is not by coincidence that the drafters of our Code of Professional Responsibility ranked the above responsibility first in the enumeration. They knew then that more than anybody else, it is the lawyers -- the disciples of law -- who are most obliged to venerate the law. As stated in *Ex Parte Wall*.³⁷

“Of all classes and professions, the lawyer is most sacredly bound to uphold the laws. He is their sworn servant; and for him, of all men in the world, to repudiate and override the laws, to trample them underfoot and to ignore the very bonds of society, argues recreancy to his position and office and sets a pernicious example to the insubordinate and dangerous elements of the body politic.”

Corollarily, the above responsibility is enshrined in the Attorney’s Oath which every lawyer in the country has to take before he is allowed to practice.

In sum, respondent committed grossly immoral conduct and violation of his oath as a lawyer. The penalty of one (1) year suspension recommended by the IBP is not commensurate to the gravity of his offense. The bulk of jurisprudence supports the imposition of the extreme penalty of disbarment.

WHEREFORE, respondent Leo J. Palma is found **GUILTY** of grossly immoral conduct and violation of his oath as a lawyer, and is hereby **DISBARRED** from the practice of law.

Let respondent’s name be stricken from the Roll of Attorneys immediately. Furnish the Bar Confidant, the Integrated Bar of the Philippines and all courts throughout the country with copies of this Decision.

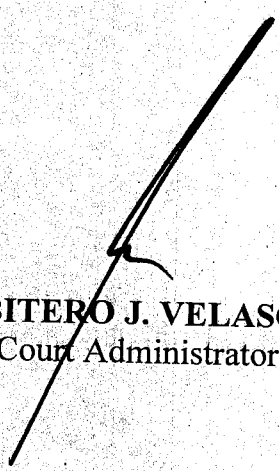
SO ORDERED.”

³⁶ *Macarrubo vs. Macarrubo, supra.*

³⁷ 107 U.S. 263, 27 Law ed., 552, 556.

Copy of the decision was received by counsel for respondent on 24 September 2004.

31 March 2005.



PRESBITERO J. VELASCO, JR.
Court Administrator

/TCB/allan/dis-palma