

## EN BANC

[ A.C. No. 3405, March 18, 2014 ]

**JULIETA B. NARAG, COMPLAINANT, VS. ATTY. DOMINADOR M. NARAG, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

Before this Court is a "Petition for Readmission" to the practice of law filed by Dominador M. Narag (Respondent).

On November 13, 1989, Julieta B. Narag (Julieta) filed an administrative complaint for disbarment against her husband, herein respondent, whom she accused of having violated Rule 1.01<sup>[1]</sup> in relation to Canons 1<sup>[2]</sup> and 6<sup>[3]</sup> of the Code of Professional Responsibility. She claimed that the respondent, who was then a college instructor in St. Louis College of Tuguegarao and a member of the *Sangguniang Panlalawigan* of Cagayan, maintained an amorous relationship with a certain Gina Espita (Gina) – a 17-year old first year college student. Julieta further claimed that the respondent had already abandoned her and their children to live with Gina. The respondent denied the charge against him, claiming that the allegations set forth by Julieta were mere fabrications; that Julieta was just extremely jealous, which made her concoct stories against him.

On June 29, 1998, the Court rendered a Decision, which directed the disbarment of the respondent. The Court opined that the respondent committed an act of gross immorality when he abandoned his family in order to live with Gina. The Court pointed out that the respondent had breached the high and exacting moral standards set for members of the legal profession.

A Motion for the Re-opening of the Administrative Investigation, or in the Alternative, Reconsideration of the Decision was filed by the respondent on August 25, 1998. He averred that he was denied due process of law during the administrative investigation as he was allegedly unjustly disallowed to testify in his behalf and adduce additional vital documentary evidence. Finding no substantial arguments to warrant the reversal of the questioned decision, the Court denied the motion with finality in the Resolution dated September 22, 1998.

On November 29, 2013, the respondent filed the instant petition for reinstatement to the Bar. The respondent alleged that he has expressed extreme repentance and remorse to his wife and their children for his misgivings. He claimed that his wife Julieta and their children had already forgiven him on June 10, 2010 at their residence in Tuguegarao City. The respondent presented an undated affidavit prepared by his son, Dominador, Jr., purportedly attesting to the truth of the respondent's claim.

The respondent averred that he has been disbarred for 15 years already and that he has been punished enough. He alleged that he is already 80 years old, weak and wracked with debilitating osteo-arthritic pains. That he has very limited mobility due to his arthritis and his right knee injury.

He further claimed that he enlisted in the Philippine Air Force Reserve Command where he now holds the rank of Lieutenant Colonel; that as member of the Reserve Command, he enlisted in various rescue, relief and recovery missions. The respondent likewise submitted the various recommendations, testimonials and affidavits in support of his petition for readmission.<sup>[4]</sup>

"Whether the applicant shall be reinstated in the Roll of Attorneys rests to a great extent on the sound discretion of the Court. The action will depend on whether or not the Court decides that the public interest in the orderly and impartial administration of justice will continue to be preserved even with the applicant's reentry as a counselor at law. The applicant must, like a candidate for admission to the bar, satisfy the Court that he is a person of good moral character, a fit and proper person to practice law. The Court will take into consideration the applicant's character and standing prior to the disbarment, the nature and character of the charge/s for which he was disbarred, his conduct subsequent to the disbarment, and the time that has elapsed between the disbarment and the application for reinstatement."<sup>[5]</sup>

The extreme penalty of disbarment was meted on the respondent on account of his having committed a grossly immoral conduct, i.e., abandoning his wife and children to live with his much younger paramour. Indeed, nothing could be more reprehensible than betraying one's own family in order to satisfy an irrational and insatiable desire to be with another woman. The respondent's act was plainly selfish and clearly evinces his inappropriateness to be part of the noble legal profession.

More than 15 years after being disbarred, the respondent now professes that he had already repented and expressed remorse over the perfidy that he had brought upon his wife and their children. That such repentance and remorse, the respondent asserts, together with the long years that he had endured his penalty, is now sufficient to enable him to be readmitted to the practice of law.

The respondent's pleas, however, are mere words that are hollow and bereft of any substance. The Court, in deciding whether the respondent should indeed be readmitted to the practice of law, must be convinced that he had indeed been reformed; that he had already rid himself of any grossly immoral act which would make him inept for the practice of law. However, it appears that the respondent, while still legally married to Julieta, is still living with his paramour – the woman for whose sake he abandoned his family. This only proves to show that the respondent has not yet learned from his prior misgivings.

That he was supposedly forgiven by his wife and their children would likewise not be sufficient ground to grant respondent's plea. It is noted that only his son, Dominador, Jr., signed the affidavit which was supposed to evidence the forgiveness bestowed upon the respondent. Thus, with regard to Julieta and the six other children of the respondent, the claim that they had likewise forgiven the respondent is hearsay. In any case, that the family of the respondent had forgiven him does not

discount the fact that he is still committing a grossly immoral conduct; he is still living with a woman other than his wife.

Likewise, that the respondent executed a holographic will wherein he bequeaths all his properties to his wife and their children is quite immaterial and would not be demonstrative that he had indeed changed his ways. Verily, nothing would stop the respondent from later on executing another last will and testament of a different tenor once he had been readmitted to the legal profession.

In fine, the Court is not convinced that the respondent had shown remorse over his transgressions and that he had already changed his ways as would merit his reinstatement to the legal profession. Time and again the Court has stressed that the practice of law is not a right but a privilege. It is enjoyed only by those who continue to display unassailable character.

**WHEREFORE**, in view of the foregoing premises, the Petition for Reinstatement to the Bar filed by Dominador M. Narag is hereby **DENIED**.

**SO ORDERED.**

*Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Castillo, Villarama, Jr., Perez, Mendoza, and Reyes, JJ., concur.*

*Leonen, J., see dissenting opinion.*

*Bersamin, and Abad, JJ., join the dissent of J. Leonen.*

*Perlas-Bernabe, J., on official leave.*

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[1] Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

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

[3] CANON 6 – These canons shall apply to lawyers in government service in the discharge of their official duties.

[4] (1) Recommendation of the IBP Cagayan Chapter; (2) Affidavit of Dominador, Jr. with a copy of the holographic will executed by the petitioner leaving all his properties to Julieta and their children; (3) Testimonial of Justice Hilarion L. Aquino; (4) Testimonial of Archbishop Emeritus Diosdado Talamayan of Tuguegarao Archdiocese; (5) Testimonial of Brigadier General Antonio L. Tamayo, Chairman of the Board and Chief Executive Officer of University of Perpetual Help System; (6) Testimonial of Major General Lino H.E. Lapinid, Past Commander of the Philippine Air Force Reserve Command; (7) Testimonial of retired Regional Trial Court Judge Antonio Eugenio, former President of the Philippine Judges Association; (8) Joint Testimonial of Dr. Roger Perez (former President of Cagayan State University) and Dr. Victor Perez (President, University of Cagayan Valley); and (9) Testimonial of Fr. Ranhilio Aquino, former Chair of the Department of Jurisprudence and Legal Philosophy of the Philippine Judicial Academy.

[5] *Bernardo v. Atty. Mejia*, 558 Phil. 398, 401 (2007), citing *Cui v. Cui*, 120 Phil.

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DISSENTING OPINION

LEONEN, J.:

*"But mercy is above this sceptred sway; It is enthroned in the hearts of kings, It is an attribute to God himself; And earthly power doth then show likest God's When mercy seasons justice. "*

*- William Shakespeare, The Merchant of Venice (Act IV, Scene I)*

Mercy tempers justice. It is mercy that assures that our institutions are cloaked with humane compassion strengthening courts with a mantle of respect and legitimacy.

I disagree with my esteemed colleagues that Dominador M. Narag's plea for judicial clemency (in the form of a petition for readmission to the practice of law) should be denied. He has been disbarred and unable to practice his chosen profession for 15 years. He presents an affidavit to support his claim that his wife and children have forgiven him. He alleges that during the time that he was unable to practice, he volunteered his time and services to the community especially those who were affected by disasters.

Dominador M. Narag is also already 80 years old.

He has suffered enough. I vote to grant his petition and, thus, allow him judicial clemency.

Clemency is not unprecedented.

In *Bernardo v. Atty. Mejia*,<sup>[1]</sup> this court disbarred Atty. Ismael F. Mejia for misappropriating and converting funds, falsifying documents, and issuing insufficiently funded checks. Fifteen years after his disbarment, then 71-year-old Atty. Mejia filed a petition for readmission to the practice of law, "begging for [this court's] forgiveness."<sup>[2]</sup> According to Atty. Mejia, "he ha[d] long repented'and x x x ha[d] suffered enough"<sup>[3]</sup> and that readmission to the practice of law would "redeem the indignity that [his children had] suffered due to his disbarment."<sup>[4]</sup>

This court readmitted Atty. Mejia to the practice of law, taking into account Atty. Mejia's rehabilitation and that he was "already of advanced years."<sup>[5]</sup> This court said:

xxx While the age of the petitioner and the length of time during which he has endured the ignominy of disbarment are not the sole measure in allowing a petition for reinstatement, the Court takes cognizance of the rehabilitation of Mejia. Since his disbarment in 1992, no other transgression has been attributed to him, and he has shown remorse. Obviously, he has learned his lesson from this experience, and his punishment has lasted long enough. Thus, while the Court is ever mindful