

THIRD DIVISION

[A.C. No. 4428, December 12, 2011]

ELPIDIO P. TIONG, COMPLAINANT, VS. ATTY. GEORGE M. FLORENDO, RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

Before the Court is an administrative complaint^[1] for disbarment filed by Elpidio P. Tiong against Atty. George M. Florendo for gross immorality and grave misconduct.

The facts of the case are as follows:

Complainant Elpidio P. Tiong, an American Citizen, and his wife, Ma. Elena T. Tiong, are real estate lessors in Baguio City. They are likewise engaged in the assembly and repair of motor vehicles in Paldit, Sison, Pangasinan. In 1991, they engaged the services of respondent Atty. George M. Florendo not only as legal counsel but also as administrator of their businesses whenever complainant would leave for the United States of America (USA).

Sometime in 1993, complainant began to suspect that respondent and his wife were having an illicit affair. His suspicion was confirmed in the afternoon of May 13, 1995 when, in their residence, he chanced upon a telephone conversation between the two. Listening through the extension phone, he heard respondent utter the words "I love you, I'll call you later". When confronted, his wife initially denied any amorous involvement with respondent but eventually broke down and confessed to their love affair that began in 1993. Respondent likewise admitted the relationship. Subsequently, at a meeting initiated by respondent and held at the Salibao Restaurant in Burnham Park, Baguio City, respondent and complainant's wife, Ma. Elena, confessed anew to their illicit affair before their respective spouses.

On May 15, 1995, the parties met again at the Mandarin Restaurant in Baguio City and, in the presence of a Notary Public, Atty. Liberato Tadeo, respondent and Ma. Elena executed and signed an affidavit^[2] attesting to their illicit relationship and seeking their respective spouses' forgiveness, as follows:

"WE, GEORGE M. FLORENDO, a resident of Baguio City and of legal age and MA. ELENA T. TIONG, likewise a resident of Baguio City, of legal age, depose and state:

We committed adultery against our spouses from May 1993 to May 13, 1995 and we hereby ask forgiveness and assure our spouses that this thing will never happen again with us or any other person. We assure that we will no longer see each other nor have any communication

directly or indirectly. We shall comply with our duties as husband and wife to our spouses and assure that there will be no violence against them. That any behaviour unbecoming a husband or wife henceforth shall give rise to legal action against us; We shall never violate this assurance;

We, the offended spouses Elizabeth F. Florendo and Elpidio Tiong forgive our spouses and assure them that we will not institute any criminal or legal action against them because we have forgiven them. If they violate this agreement we will institute legal action.

This document consists of four (4) typewritten copies and each party has been furnished a copy and this document shall have no validity unless signed by all the parties.

IN WITNESS WHEREOF, we have set out hands this 15th day of May 1995 at Baguio City, Philippines.

(SIGNED)
GEORGE M. FLORENDO
(SIGNED)
MA. ELENA T. TIONG

(SIGNED)
ELPIDIO TIONG
(SIGNED)
ELIZABETH F. FLORENDO"

Notwithstanding, complainant instituted the present suit for disbarment on May 23, 1995 charging respondent of gross immorality and grave misconduct. In his Answer^[3], respondent admitted the material allegations of the complaint but interposed the defense of pardon.

In the Resolution^[4] dated September 20, 1995, the Court resolved to refer the case to the Integrated Bar of the Philippines (IBP) for investigation and decision.

Finding merit in the complaint, the Commission on Bar Discipline (CBD), through Commissioner Agustinus V. Gonzaga, submitted its Report and Recommendation^[5] dated September 21, 2007 for the suspension of respondent from the practice of law for one (1) year, which was adopted and approved by the IBP Board of Governors in its Resolution^[6] dated October 19, 2007. Respondent's Motion for Reconsideration^[7] therefrom was denied in the Resolution^[8] dated June 26, 2011.

Hence, the instant petition on the sole issue - whether the pardon extended by complainant in the Affidavit dated May 15, 1995 is sufficient to warrant the dismissal of the present disbarment case against respondent for gross immoral conduct.

After due consideration, the Court resolves to adopt the findings and recommendation of the IBP-CBD except as to the penalty imposed.

The pertinent provisions in the Code of Professional Responsibility provide, thus:

"CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.