

EN BANC

[A.C. No. 6593, February 04, 2010]

MAELOTISEA S. GARRIDO, COMPLAINANT, VS. ATTYS. ANGEL E. GARRIDO AND ROMANA P. VALENCIA, RESPONDENTS.

DECISION

PER CURIAM:

Maelotisea Sipin Garrido filed a complaint-affidavit^[1] and a supplemental affidavit^[2] for disbarment against the respondents Atty. Angel E. Garrido (*Atty. Garrido*) and Atty. Romana P.Valencia (*Atty. Valencia*) before the Integrated Bar of the Philippines (*IBP*) Committee on Discipline charging them with gross immorality. The complaint-affidavit states:

1. That I am the legal wife of Atty. Angel E. Garrido by virtue of our marriage on June 23, 1962 at San Marcelino Church, Ermita, Manila which was solemnized by Msgr. Daniel Cortes x x x
2. That our marriage blossomed into having us blessed with six (6) children, namely, Mat Elizabeth, Arnel Angelito, Madeleine Eloiza, Arnel Angelo, Arnel Victorino and Madonna Angeline, all surnamed Garrido;
3. x x x x
4. That on May, 1991, during my light moments with our children, one of my daughters, Madeleine confided to me that sometime on the later part of 1987, an unknown caller talked with her claiming that the former is a child of my husband. I ignored it and dismissed it as a mere joke. But when May Elizabeth, also one of my daughters told me that sometime on August 1990, she saw my husband strolling at the Robinson's Department Store at Ermita, Manila together with a woman and a child who was later identified as Atty. Ramona Paguida Valencia and Angeli Ramona Valencia Garrido, respectively x x x
5. x x x x
6. That I did not stop from unearthing the truth until I was able to secure the Certificate of Live Birth of the child, stating among others that the said child is their daughter and that Atty. Angel Escobar Garrido and Atty. Romana Paguida Valencia were married at Hongkong sometime on 1978.

7. That on June 1993, my husband left our conjugal home and joined Atty. Ramona Paguida Valencia at their residence x x x
8. That since he left our conjugal home he failed and still failing to give us our needed financial support to the prejudice of our children who stopped schooling because of financial constraints.

x x x x

That I am also filing a disbarment proceedings against his mistress as alleged in the same affidavit, Atty. Romana P. Valencia considering that out of their immoral acts I suffered not only mental anguish but also besmirch reputation, wounded feelings and sleepless nights; x x x

In his Counter-Affidavit,^[3] Atty. Garrido denied Maelotisea's charges and imputations. By way of defense, he alleged that Maelotisea was not his legal wife, as he was already married to Constanica David (*Constancia*) when he married Maelotisea. He claimed he married Maelotisea after he and Constanica parted ways. He further alleged that Maelotisea knew all his escapades and understood his "bad boy" image before she married him in 1962. As he and Maelotisea grew apart over the years due to financial problems, Atty. Garrido met Atty. Valencia. He became close to Atty. Valencia to whom he confided his difficulties. Together, they resolved his personal problems and his financial difficulties with his second family. Atty. Garrido denied that he failed to give financial support to his children with Maelotisea, emphasizing that all his six (6) children were educated in private schools; all graduated from college except for Arnel Victorino, who finished a special secondary course.^[4] Atty. Garrido alleged that Maelotisea had not been employed and had not practiced her profession for the past ten (10) years.

Atty. Garrido emphasized that all his marriages were contracted before he became a member of the bar on May 11, 1979, with the third marriage contracted after the death of Constanica on December 26, 1977. Likewise, his children with Maelotisea were born before he became a lawyer.

In her Counter-Affidavit,^[5] Atty. Valencia denied that she was the mistress of Atty. Garrido. She explained that Maelotisea was not the legal wife of Atty. Garrido since the marriage between them was void from the beginning due to the then existing marriage of Atty. Garrido with Constanica. Atty. Valencia claimed that Maelotisea knew of the romantic relationship between her and Atty. Garrido, as they (Maelotisea and Atty. Valencia) met in 1978. Maelotisea kept silent about her relationship with Atty. Garrido and had maintained this silence when she (Atty. Valencia) financially helped Atty. Garrido build a house for his second family. Atty. Valencia alleged that Maelotisea was not a proper party to this suit because of her silence; she kept silent when things were favorable and beneficial to her. Atty. Valencia also alleged that Maelotisea had no cause of action against her.

In the course of the hearings, the parties filed the following motions before the IBP Commission on Bar Discipline:

First, the respondents filed a Motion for Suspension of Proceedings^[6] in view of the criminal complaint for concubinage Maelotisea filed against them, and the Petition

for Declaration of Nullity^[7] (of marriage) Atty. Garrido filed to nullify his marriage to Maelotisea. The IBP Commission on Bar Discipline denied this motion for lack of merit.

Second, the respondents filed a Motion to Dismiss^[8] the complaints after the Regional Trial Court of Quezon City declared the marriage between Atty. Garrido and Maelotisea "an absolute nullity." Since Maelotisea was never the legal wife of Atty. Garrido, the respondents argued that she had no personality to file her complaints against them. The respondents also alleged that they had not committed any immoral act since they married when Atty. Garrido was already a widower, and the acts complained of were committed before his admission to the bar. The IBP Commission on Bar Discipline also denied this motion.^[9]

Third, Maelotisea filed a motion for the dismissal of the complaints she filed against the respondents, arguing that she wanted to maintain friendly relations with Atty. Garrido, who is the father of her six (6) children.^[10] The IBP Commission on Bar Discipline likewise denied this motion.^[11]

On April 13, 2004, Investigating Commissioner Milagros V. San Juan (*Investigating Commissioner San Juan*) submitted her Report and Recommendation for the respondents' disbarment.^[12] The Commission on Bar Discipline of the IBP Board of Governors (*IBP Board of Governors*) approved and adopted this recommendation with modification under Resolution No. XVI-2004-375 dated July 30, 2004. This resolution in part states:

x x x finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that Atty. Garrido exhibited conduct which lacks the degree of morality required as members of the bar, Atty. Angel E. Garrido is hereby **DISBARRED** for gross immorality. However, the case against Atty. Romana P. Valencia is hereby **DISMISSED** for lack of merit of the complaint.

Atty. Garrido moved to reconsider this resolution, but the IBP Commission on Bar Discipline denied his motion under Resolution No. XVII-2007-038 dated January 18, 2007.

Atty. Garrido now seeks relief with this Court through the present petition for review. He submits that under the circumstances, he did not commit any gross immorality that would warrant his disbarment. He also argues that the offenses charged have prescribed under the IBP rules.

Additionally, Atty. Garrido pleads that he be allowed on humanitarian considerations to retain his profession; he is already in the twilight of his life, and has kept his promise to lead an upright and irreproachable life notwithstanding his situation.

In compliance with our Resolution dated August 25, 2009, Atty. Alicia A. Risos-Vidal (*Atty. Risos-Vidal*), Director of the Commission on Bar Discipline, filed her Comment on the petition. She recommends a modification of the penalty from disbarment to reprimand, advancing the view that disbarment is very harsh considering that the

77-year old Atty. Garrido took responsibility for his acts and tried to mend his ways by filing a petition for declaration of nullity of his bigamous marriage. Atty. Risos-Vidal also notes that no other administrative case has ever been filed against Atty. Garrido.

THE COURT'S RULING

After due consideration, we resolve to adopt the findings of the IBP Board of Governors against Atty. Garrido, and to reject its recommendation with respect to Atty. Valencia.

General Considerations

Laws dealing with double jeopardy or with procedure - such as the verification of pleadings and prejudicial questions, or in this case, prescription of offenses or the filing of affidavits of desistance by the complainant - do not apply in the determination of a lawyer's qualifications and fitness for membership in the Bar.^[13]

We have so ruled in the past and we see no reason to depart from this ruling.^[14] *First*, admission to the practice of law is a component of the administration of justice and is a matter of public interest because it involves service to the public.^[15] The admission qualifications are also qualifications for the continued enjoyment of the privilege to practice law. *Second*, lack of qualifications or the violation of the standards for the practice of law, like criminal cases, is a matter of public concern that the State may inquire into through this Court. In this sense, the complainant in a disbarment case is not a direct party whose interest in the outcome of the charge is wholly his or her own;^[16] effectively, his or her participation is that of a witness who brought the matter to the attention of the Court.

As applied to the present case, the time that elapsed between the immoral acts charged and the filing of the complaint is not material in considering the qualification of Atty. Garrido when he applied for admission to the practice of law, and his continuing qualification to be a member of the legal profession. From this perspective, it is not important that the acts complained of were committed before Atty. Garrido was admitted to the practice of law. As we explained in *Zaguirre v. Castillo*,^[17] the possession of good moral character is both a condition precedent and a continuing requirement to warrant admission to the bar and to retain membership in the legal profession. Admission to the bar does not preclude a subsequent judicial inquiry, upon proper complaint, into any question concerning the mental or moral fitness of the respondent before he became a lawyer.^[18] Admission to the practice only creates the rebuttable presumption that the applicant has all the qualifications to become a lawyer; this may be refuted by clear and convincing evidence to the contrary even after admission to the Bar.^[19]

Parenthetically, Article VIII Section 5(5) of the Constitution recognizes the disciplinary authority of the Court over the members of the Bar to be merely incidental to the Court's exclusive power to admit applicants to the practice of law. Reinforcing the implementation of this constitutional authority is Section 27, Rule 138 of the Rules of Court which expressly states that a member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for, among

others, any deceit, grossly immoral conduct, or violation of the oath that he is required to take before admission to the practice of law.

In light of the public service character of the practice of law and the nature of disbarment proceedings as a public interest concern, Maelotisea's affidavit of desistance cannot have the effect of discontinuing or abating the disbarment proceedings. As we have stated, Maelotisea is more of a witness than a complainant in these proceedings. We note further that she filed her affidavits of withdrawal only after she had presented her evidence; her evidence are now available for the Court's examination and consideration, and their merits are not affected by her desistance. We cannot fail to note, too, that Mealotisea filed her affidavit of desistance, not to disown or refute the evidence she had submitted, but solely because of compassion (and, impliedly, out of concern for her personal financial interest in continuing friendly relations with Atty. Garrido).

Immoral conduct involves acts that are willful, flagrant, or shameless, and that show a moral indifference to the opinion of the upright and respectable members of the community.^[20] Immoral conduct is gross when it is so corrupt as to constitute a criminal act, or so unprincipled as to be reprehensible to a high degree, or when committed under such scandalous or revolting circumstances as to shock the community's sense of decency.^[21] We make these distinctions as the supreme penalty of disbarment arising from conduct requires grossly immoral, not simply immoral, conduct.^[22]

In several cases, we applied the above standard in considering lawyers who contracted an unlawful second marriage or multiple marriages.

In *Macarrubo v. Macarrubo*,^[23] the respondent lawyer entered into multiple marriages and subsequently used legal remedies to sever them. We ruled that the respondent's pattern of misconduct undermined the institutions of marriage and family - institutions that this society looks up 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. In this light, no fate other than disbarment awaited the wayward respondent.

In *Villasanta v. Peralta*,^[24] the respondent lawyer married the complainant while his marriage with his first wife was subsisting. We held that the respondent's act of contracting the second marriage was contrary to honesty, justice, decency and morality. The lack of good moral character required by the Rules of Court disqualified the respondent from admission to the Bar.

Similar to *Villasanta* was the case of *Conjuangco, Jr. v. Palma*,^[25] where the respondent secretly contracted a second marriage with the daughter of his client in Hongkong. We found that the respondent exhibited a deplorable lack of that degree of morality required of members of the Bar. In particular, he made a mockery of marriage - a sacred institution that demands respect and dignity. We also declared his act of contracting a second marriage contrary to honesty, justice, decency and morality.

In this case, the undisputed facts gathered from the evidence and the admissions of Atty. Garrido established a pattern of gross immoral conduct that warrants his