

EN BANC

[A.C. NO. 4921, August 03, 2005]

CARMELITA I. ZAGUIRRE, COMPLAINANT, VS. ATTY. ALFREDO CASTILLO, RESPONDENT.

R E S O L U T I O N

PER CURIAM

In the Decision dated March 6, 2003, the Court found respondent Atty. Alfredo Castillo guilty of Gross Immoral Conduct and imposed upon him the penalty of Indefinite Suspension.^[1] Respondent, who was already married with three children, had an affair with complainant between 1996 to 1997, while he was reviewing for the bar until before the release of the results thereof. Complainant got pregnant and respondent, who was then already a lawyer, executed a notarized affidavit acknowledging the child as his with a promise to support said child. Upon the birth of the child, however, respondent started to refuse recognizing the child and from giving her any form of support.

On April 11, 2003, respondent filed a motion for reconsideration seeking compassion and forgiveness from this Court. He submitted certificates from government and civic organizations appreciating his services as a lawyer, certificates of attendance from religious groups, and certificates of good moral character from judges and lawyers in Occidental Mindoro.^[2]

On July 8, 2003, the Court required complainant and the IBP to file comment thereon.^[3]

On August 11, 2003, the IBP Occidental Mindoro Chapter issued a Resolution (No. 01-2003) recommending the exoneration of respondent from administrative liability. It stated that the suspension of respondent, who has served as Clerk of Court, Public Attorney and 3rd Assistant Provincial Prosecutor, would cause a great loss to the community; that respondent has shown integrity and moral uprightness in the performance of his official functions; that the acts imputed to him may be attributed to his "youthful indiscretion period"; and that respondent has mended his ways after taking his oath as member of the bar.^[4]

The IBP, through Director for Bar Discipline, Rogelio Vinluan, gave its Comment dated August 15, 2003, stating that the motion for reconsideration should be denied until respondent admits the paternity of the child and agrees to support her.^[5]

On August 17, 2003, complainant submitted her Comment stating that respondent's motion for reconsideration should be denied since respondent has not truly repented as he is still not supporting his child.^[6]

On August 25, 2003, respondent's wife, Livelyn Castillo, submitted a handwritten letter stating that respondent is loving and ""maasikaso"" and while it is true that respondent had an affair with complainant, such was only

because of human frailty. She claims that complainant threatened to file the present case after respondent ended their illicit affair. Complainant also used threat to compel respondent to sign the affidavit of acknowledgement and support. Livelyn further avers that respondent is the sole breadwinner of the family and that their family will be gravely affected by his suspension.^[7]

On August 28, 2003, respondent filed a Reply to the Comment of the IBP stating that if the acts acknowledging and giving support to the child of the complainant are the proofs of his remorse, then he shall comply unconditionally.^[8]

On September 23, 2003, the Court required complainant to file comment on Livelyn's letter.^[9]

On January 13, 2004, complainant's counsel said that while he sympathizes with Livelyn and her children, respondent has not taken any move to support complainant and her child to repair the damage done to them.^[10]

On March 3, 2005, respondent, in his Reply to complainant's Comment, reiterated his willingness to support the child if only to show his remorse. He attached a photocopy of post dated checks addressed to complainant for the months of March to December 2005 in the amount of P2,000.00 each.^[11]

On March 4, 2005, Livelyn Castillo, sent another handwritten letter expressing that it is unfair for her and her three children that respondent had to support complainant's daughter when it is not clear who the child's father is. Livelyn argues that complainant should have filed a case for support where the paternity of the child could be determined and not use the present administrative case to get support from respondent.^[12]

On April 11, 2005, Atty. Luzviminda Puno sent a letter to the Office of the Provincial Prosecutor of Occidental Mindoro, asking whether or not respondent is still connected with said office despite having been indefinitely suspended by this Court. It replied on May 10, 2005 that respondent is still connected with their office; that he has been regularly receiving his salary and benefits; and that this was the first time that they received communication concerning respondent's administrative case.^[13]

Respondent gave his Comment dated May 9, 2005 stating that he continued to discharge his duties and received salary and benefits in connection therewith since he filed a timely motion for reconsideration thus the case has not yet attained finality.^[14]

In view of respondent's show of repentance and active service to the community, the Court deems it just and reasonable to convert the penalty of indefinite suspension to a definite period of two years suspension.

WHEREFORE, respondent's motion for reconsideration is **GRANTED**. The indefinite suspension imposed on him by the Court in its Decision dated March 6, 2003 is **REDUCED** to **TWO YEARS** suspension effective from date of receipt of herein Resolution.

Complainant's further claim for support of her child should be addressed to the proper court in a proper case.

Let a copy of this Resolution be attached to Atty. Castillo's record in the Office of the Bar Confidant and a copy thereof be furnished the IBP, all courts throughout the country and the Department of Justice including the Office of the Provincial Prosecutor of Occidental Mindoro.

SO ORDERED.

Puno, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur. Davide, Jr., CJ., and Panganiban, JJ., join J. Santiago in her dissenting opinion. Ynares-Santiago, J., see dissenting opinion.

[1] The *fallo* reads as follows:

ACCORDINGLY, in view of the foregoing, the Court finds respondent GUILTY of Gross Immoral Conduct and ordered to suffer INDEFINITE SUSPENSION from the practice of law.

Let a copy of this Decision be attached to Atty. Castillo's personal record in the Office of the Bar Confidant and a copy thereof be furnished the IBP and all courts throughout the country.

SO ORDERED.

[2] Rollo, pp. 154-175.

[3] *Id.*, p. 145.

[4] *Id.*, p. 192.

[5] *Id.*, pp. 184-185.

[6] *Id.*, p. 179.

[7] Rollo, pp. 147-150.

[8] *Id.*, pp. 183-183a.

[9] *Id.*, p. 177.

[10] *Id.*, p. 218.