

EN BANC

[A.C. No. 1481. October 17, 2008.]

REBECCA B. ARNOBIT, *complainant*, **vs. ATTY. PONCIANO P. ARNOBIT**, *respondent*.

DECISION

PER CURIAM :

Rebecca B. Arnobit, in her affidavit-complaint ¹ dated May 11, 1975, prays that the Court exercise its disciplinary power over her husband, respondent Atty. Ponciano Arnobit, on the grounds of Immorality and Abandonment.

In her complaint, Rebecca alleged that she and respondent were married on August 20, 1942. Twelve children were born out of this union. Rebecca further alleged seeing respondent through law school, continuously supporting him until he passed the bar examinations and became a member of the Philippine bar. Several years after, however, or in 1968, respondent left the conjugal home and started cohabiting with one Benita Buenafe Navarro who later bore him four more children. Respondent's infidelity, according to Rebecca, impelled her to file a complaint for legal separation and support. A criminal case for adultery against Benita and respondent later followed.

In his Answer ² dated July 31, 1975, respondent admitted that Rebecca is his wedded wife and the mother of their 12 children. He denied, however, having cohabited with Benita. And he pointed to his complaining wife as the cause of their separation, stating the observation that she was "always traveling all over the country, ostensibly for business purposes, without his knowledge and consent, . . . thereby neglecting her obligations toward her family." ³

Issues having been joined, hearings were conducted before the Office of the Solicitor General and, subsequently, before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline (Commission). At the hearings, Rebecca presented both oral and documentary evidence to support her allegations of abandonment and immorality.

Aside from her testimony, Rebecca presented two other witnesses, *viz.*: Venancia M. Barrientos, her sister, who identified a letter dated August 28, 1970 written by respondent to her, addressing her as "Vending" (Exhibit "B-1"), therein asking for forgiveness for the unhappiness he caused his family; and Melecio Navarro, husband of Benita, who testified about how respondent took his wife Benita as a mistress, knowing fully well of their lawful marriage.

Rebecca also presented the affidavits of National Bureau of Investigation agents Eladio C. Velasco and Jose C. Vicente (Exhibits "H-1" and "H-2") to show the existence of a *prima facie* case for adultery. The pictures and baptismal and birth certificates of Mary Ann, Ma. Luisa, Caridad, and Ponciano Jr., all surnamed Arnobit, were submitted to prove the fact that respondent sired four illegitimate children out of his illicit cohabitation with Benita. ⁴

According to the investigating commissioner, respondent, despite due notice, repeatedly absented himself when it was his turn to present evidence, adding that scheduled hearings had to be postponed just to afford respondent ample opportunity to present his side of the controversy. The investigating commissioner also stated that, in most cases, respondent would seek postponement, pleading illness, on the very date of the hearing. And according to the Commission, its several directives for respondent to send by mail his affidavits and documentary exhibits in lieu of personal appearance so that the commission could finish with the investigation proved futile.

In its *Report* dated June 21, 1995, the Commission found respondent liable for abandonment and recommended his suspension from the practice of law for three (3) months. The recommendation portion of the report reads, as follows:

WHEREFORE, it is respectfully recommended to the Board of Governors that the respondent be suspended from the practice of law for a period of three (3) months as a lesson for him to change his ways. An indefinite suspension is not recommended because it has been gathered from complainant herself that respondent supports himself through the practice of law — which would be cruel for us to curtail at this time when he is already advanced in age — the penalty of three (3) months suspension and recording of such penalty in his record being sufficient to berate him as to his lack of responsibility as evidenced by his abandonment of the children. [Report and Recommendation rendered by Commissioner Vicente Q. Roxas]

On January 27, 1996, the IBP Board of Governors passed Resolution No. XII-96-43 adopting and approving the Commission report aforementioned.

While the Court concurs with the inculpatory findings of the IBP on the charge of abandonment, it cannot bring itself to agree that respondent is liable only for that offense. As it were, the charge for gross immoral conduct has sufficiently been proven. Following established jurisprudence, respondent deserves to be disbarred.

The Code of Professional Responsibility provides:

Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct:

CANON 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the Integrated Bar.

Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

As this Court often reminds members of the bar, the requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning. Good moral character is not only a condition precedent for admission to the legal profession, but it must also remain intact in order to maintain one's good standing in that exclusive and honored fraternity. Good moral character is more than just the absence of bad character. Such character expresses itself in the will to do the unpleasant thing if it is right and the resolve not to do the pleasant thing if it is wrong. This must be so because "vast interests are committed to his care; he is the recipient of unbounded trust and confidence; he deals with his client's property, reputation, his life, his all." 5

Immoral conduct has been described as that conduct which is so willful, flagrant, or shameless as to show indifference to the opinion of good and respectable members

of the community. To be the basis of disciplinary action, such conduct must not only be immoral, but grossly immoral. That is, it must be so corrupt as to virtually constitute a criminal act or so unprincipled as to be reprehensible to a high degree or committed under such scandalous or revolting circumstances as to shock the common sense of decency. ⁶

As officers of the court, lawyers must not only in fact be of good moral character but must also be seen to be of good moral character and leading lives in accordance with the highest moral standards of the community. ⁷ A member of the bar and an officer of the court is not only required to refrain from adulterous relationships or keeping a mistress but must also so behave himself as to avoid scandalizing the public by creating the impression that he is flouting those moral standards.

A review of the records readily reveals that despite the protracted delay in the hearings mainly caused by respondent's failure to appear, complainant relentlessly pursued this administrative case against her husband. She was, to be sure, able to establish by clear, convincing, and preponderant evidence his commission of marital infidelity and abandonment of his family.

Although respondent in his answer denied abandoning complainant and their children and offered an explanation as to the cause of his and his wife's separation, he opted not to take the witness stand and be cross-examined on his sworn answer. Neither did he bother to call and present his alleged paramour, Benita, who could have had disproved an existing adulterous relationship between them, or, at least, confirm his protestation about the paternity of her four children. Significantly, Benita's husband, no less, risked personal ridicule by testifying on the illicit liaison between his wife and respondent.

The fact that respondent's philandering ways are far removed from the exercise of his profession would not save the day for him. For a lawyer may be suspended or disbarred for any misconduct which, albeit unrelated to the actual practice of his profession, would show him to be unfit for the office and unworthy of the privileges with which his license and the law invest him. ⁸ To borrow from *Orbe v. Adaza*, "[t]he grounds expressed in Section 27, Rule 138, ⁹ of the Rules of Court are not limitative and are broad enough to cover any misconduct . . . of a lawyer in his professional or private capacity." ¹⁰ To reiterate, possession of good moral character is not only a condition precedent to the practice of law, but a continuing qualification for all members of the bar.

While the onus rests on the complainant proffering the charges to prove the same, respondent owes himself and the Court the duty to show that he is morally fit to remain a member of the bar. Mere denial of wrongdoing would not suffice in the face of clear evidence demonstrating unfitness.

When one's moral character is assailed, such that his right to continue practicing his cherished profession is imperiled, it behooves the individual concerned to meet the charges squarely and present evidence, to the satisfaction of the investigating body and this Court, that he is morally fit to keep his name in the Roll of Attorneys. ¹¹ Respondent has not discharged the burden in this regard. Although duly notified, he never attended the hearings to rebut the serious charges brought against him, irresistibly suggesting that the charges are true.

Undoubtedly, respondent's act of leaving his wife and 12 children to cohabit and have children with another woman constitutes grossly immoral conduct. And to add insult to injury, there seems to be little attempt on the part of respondent to be discreet

about his liaison with the other woman.

As we have already ruled, disbarment is warranted against a lawyer who abandons his lawful wife to maintain an illicit relationship with another woman who had borne him a child. ¹² In the instant case, respondent's grossly immoral conduct compels the Court to wield its power to disbar. The penalty is most appropriate under the premises.

WHEREFORE, Atty. Ponciano P. Arnobit is hereby DISBARRED. Let a copy of this Decision be entered into the records of respondent in the Office of the Bar Confidant and his name stricken from the Roll of Attorneys. Likewise, copies of this Decision shall be furnished the IBP and circulated by the Court Administrator to all appellate and trial courts.

This Decision takes effect immediately.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-de Castro and Brion, JJ., concur.

Corona, J., is on official leave.

Footnotes

1. *Rollo*, pp. 1-3.
2. *Id.* at 20-22.
3. *Id.* at 21.
4. Exhibits "K", "L", "M-3", "M-7", and "M-9", Formal Presentation of Exhibits dated June 17, 1992 filed before the IBP, pp. 2-5.
5. *Cordon v. Balicanta*, A.C. No. 2797, October 4, 2002, 390 SCRA 299, 316.
6. *Narag v. Narag*, A.C. No. 3405, June 29, 1998, 291 SCRA 451, 464.
7. *Barrientos v. Daarol*, A.C. No. 1512, January 29, 1993, 218 SCRA 30, 40.
8. *Orbe v. Adaza*, A.C. No. 5252, May 20, 2004, 428 SCRA 567, 571.
9. SEC. 27. *Disbarment or suspension of attorneys by the Supreme Court, grounds therefor.* — A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct
10. *Orbe, supra.*
11. *Narag, supra* note 6, at 468.
12. *Narag, supra* at 472; citing *Obusan v. Obusan*, A.C. No. 1392, April 2, 1984, 128 SCRA 485; *Toledo v. Toledo*, A.C. No. 266, April 27, 1963, 7 SCRA 757.