

## **SECOND DIVISION**

**[ A.M. No. P-19-3985 (Formerly OCA I.P.I. No. 12-3839-P), July 10, 2019 ]**

**PRECIOUSA CASTILLO-MACAPUSO, COMPLAINANT, V. ATTY. NELSON B. CASTILLEJOS, JR., OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, CAUAYAN, ISABELA, RESPONDENT.**

**[A.M. No. P-19-3986 (Formerly OCA I.P.I. No. 13-4199-P)]**

**ANONYMOUS, COMPLAINANT, V. PRECIOUSA C. MACAPUSO, SOCIAL WELFARE OFFICER II, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MAKATI CITY, RESPONDENT.**

### **D E C I S I O N**

**J. REYES, JR., J.:**

This is a consolidation of two cases filed. The first case is against Atty. Nelson B. Castillejos, Jr. (Atty. Castillejos), Clerk of Court VI, of the Office of the Clerk of Court (OCC), Regional Trial Court (RTC), Cauayan City, Isabela, for disbarment and removal from office arising from the complaint of Preciousa Castillo-Macapuso (Preciousa) on the ground of grave misconduct, immorality and conduct unbecoming of a court employee.

The second case emanated from an anonymous complaint against the complainant in the previous case, Preciousa, for removal from office on the ground of immorality.

#### **Antecedents**

Preciousa, separated-in-fact from her husband for sixteen (16) years, is a Social Welfare Officer II at the OCC, RTC of Makati City and Vice President of the Philippine Association of Court Employees (PACE), National Capital Judicial Region.<sup>[1]</sup> She met Atty. Castillejos, Clerk of Court VI, of the OCC, RTC, Cauayan City, Isabela, in February 2010, during one of the meetings of PACE in Region 2, RTC, Cauayan City.<sup>[2]</sup> After getting acquainted with each other, Preciousa received text messages and calls regularly between February and March 2010, from Atty. Castillejos regarding work related matters concerning the organization.<sup>[3]</sup>

Sometime in March 2010, Preciousa had to go to Cauayan, Isabela for the Regional Election of the PACE in Region 2. Being the host chapter President, Preciousa coordinated with Atty. Castillejos for their lodging. At the hotel, Preciousa learned that Atty. Castillejos had already paid for the lodging. After that, she received a text message from Atty. Castillejos inviting her for dinner to discuss confidential matters to which she obliged. They met at the silver Toyota Vios of Atty. Castillejos parked outside the hotel. After entering the car, Atty. Castillejos kissed Preciousa and drove the car to a motel. Atty. Castillejos assured Preciousa that he is a good and

trustworthy person. Subsequently, they had sex that night. Upon her return to the hotel, Atty. Castillejos revealed that he had a child with a live-in partner.<sup>[4]</sup>

After the said incident, Atty. Castillejos started to court Preciousa through text messages and phone calls from April 2010 to February 2011. On February 18, 2011, Preciousa went to Cauayan City again on the invitation of Atty. Castillejos. It was at that time that they officially became a couple. From that time on, they had intimate relations with one another seeing each other twice a month.<sup>[5]</sup>

In March 2011, Atty. Castillejos was able to convince Preciousa to have her marriage annulled since she had trouble changing her beneficiary in her SSS from her former husband to her children. Atty. Castillejos said that he will be the one to take care of everything regarding the case from the preparation of the petition, hiring of a lawyer and a psychologist until the issuance of a final decree. The agreed fee was P150,000.00 to which an additional payment of P100,000.00 was asked by Atty. Castillejos.<sup>[6]</sup>

In May 2011, Preciousa was scheduled for an operation for total hysterectomy in June 2011, which necessitated her to take a leave from work for two months. Atty. Castillejos convinced her to stay in Isabela for her recovery after the operation to which she acceded. During her stay in Isabela, Atty. Castillejos visited her all the days of the week where they would have sexual congress, except on Sundays. On the days that she does not want to have sexual intercourse, he asked her to perform oral sex on him. She stayed in Isabela until the last week of July 2011.<sup>[7]</sup>

On August 25, 2011, she fetched Atty. Castillejos from the airport where he came from a convention of the Clerks of Courts in Cebu. They had dinner that night and had sex at Go Hotels in Edsa, Mandaluyong. The following morning, she felt pain in her abdomen and asked Atty. Castillejos if he had a previous sexual encounter with any woman. Atty. Castillejos admitted that he had a sexual encounter with a commercial sex worker while he was in Cebu. This prompted them to undergo medical examination. They proceeded to Philippine General Hospital (PGH) for consultation with Dr. Analyn T. Fuentes-Fallarme, a doctor who specializes in infectious diseases. The examination of Preciousa showed that she had a purulent discharge like *nana* as a result of a sexually transmitted infection caused by gonorrhea and chlamydia although the said doctor could not determine whether Atty. Castillejos was the one who transmitted it to Preciousa. Aside from that, they were advised by the doctor to undergo HIV testing after 6 weeks, as Cebu is a known hotspot for HIV and that there is a big possibility that Atty. Castillejos might be infected given that he had an unprotected sexual encounter with a commercial sex worker.<sup>[8]</sup>

In September that year, it was revealed by Atty. Castillejos that he was in truth a married man but promised that if the results turned out to be positive, then he would leave his wife and live with Preciousa. The tests turned out to be negative, however, a repeat testing was advised after 6 months counted from the time of the sexual contact. They returned to PGH for a repeat of HIV testing on October 7, 2011.<sup>[9]</sup>

In the second week of November 2011, Preciousa asked Atty. Castillejos about the status of her nullity case, but the latter always diverted her attention to avoid the topic. On November 14, 2011, Preciousa texted Atty. Castillejos regarding the status

of her case, but the latter replied that he knew nothing about the case. This prompted her to go to Cauayan City the following day to seek assistance from City Prosecutor Rudy Cabrera to meet Executive Judge Raul Babaran (Judge Babaran) regarding the subject case. She learned from Judge Babaran that there was really no case for nullity of her marriage that was filed. Preciousa told Judge Babaran that she already gave P250,000.00 to Atty. Castillejos to facilitate the filing and attend to the case.<sup>[10]</sup>

On November 18, 2011, Preciousa went to the OCC, RTC, Cauayan City to obtain a certification that, indeed, there was no nullity case filed and, on November 22, 2011, she sent a demand letter to Atty. Castillejos through LBC but to no avail.<sup>[11]</sup>

In December 2011, Preciousa filed a case against Atty. Castillejos for violation of Republic Act No. 9262 or the Anti-Violence Against Women and Children Act.<sup>[12]</sup>

### *Respondent's Position*

Atty. Castillejos denied the allegations of Preciousa. He refuted the statement of Preciousa that he took advantage of her in March 2010, and that he misrepresented himself as a bachelor. He averred that he never concealed that he is married and that he has a love child with another woman.<sup>[13]</sup>

Atty. Castillejos also questioned the credibility of Preciousa because of certain inconsistencies. According to Atty. Castillejos, Preciousa failed to show that he resorted to falsehood and unlawful and dishonest conduct in his acts and the motivation thereof. Atty. Castillejos averred that what transpired between them was nothing but mutual lust and desire, and that it was his belief that their exchange of text messages was made by two consenting married adults who very well knew that they could not enter into a serious and intimate relationship.<sup>[14]</sup>

Furthermore, Atty. Castillejos denied the allegations that money was paid to him regarding the processing of Preciousa's petition for annulment of her marriage in the amount of P250,000.00. He also repudiated the allegation that he asked Preciousa to stay in Isabela and had carnal knowledge of her while she was recovering from her total hysterectomy. He, likewise, denied having sexual intercourse with a commercial sex worker when he went to Cebu and just agreed to undergo an HIV test to pacify Preciousa.<sup>[15]</sup>

Atty. Castillejos admitted that he committed a mistake when he had carnal knowledge of a woman other than his wife. In spite of everything, Atty. Castillejos stressed that he had already discontinued any connections or ties with Preciousa and is starting anew and continuing to maintain the moral integrity necessary for the practice of law.<sup>[16]</sup>

In the meantime, closely intertwined with the complaint was an anonymous complaint charging Preciousa of immorality and grave misconduct for her alleged affair with Atty. Castillejos. On March 17, 2014, the court resolved that the two cases be consolidated in order to expedite the investigation and resolution of both cases.<sup>[17]</sup>

### **Report and Recommendation**

In his Report and Recommendation,<sup>[18]</sup> Investigating Executive Judge Omar T. Viola (Judge Viola) recommended that Atty. Castillejos be meted the penalty of DISMISSAL FROM THE SERVICE and thereafter, be suspended for SIX MONTHS as a member of the Philippine Bar, quote:

For this and in all fairness, it is respectfully recommended that respondent Atty. Nelson B. Castillejos, Jr., be meted the penalty of DISMISSAL FROM THE SERVICE and thereafter SIX MONTHS SUSPENSION as a member of the Philippine Bar.

On January 26, 2015, a Memorandum<sup>[19]</sup> was passed by the Office of the Court Administrator (OCA) finding both Atty. Castillejos and Preciousa guilty of disgraceful and immoral conduct and that both of them be meted the penalty of one (1) year suspension from office without pay, quote:

**IN VIEW OF THE FOREGOING**, we respectfully recommend for the consideration of the Court that: (a) the instant cases be **REDOCKETED** as regular administrative matters; and (b) both Atty. Nelson B. Castillejos, Jr., Clerk of Court VI, Office of the Clerk of Court, Regional Trial Court, Cauayan, Isabela, and Preciousa Castillo-Macapuso, Social Welfare Officer II, OCC, RTC, Makati City , be found **GUILTY** of Disgraceful and Immoral Conduct and that each be imposed the penalty of One (1) Year **SUSPENSION** from office without pay effective upon [the] receipt of notice from the court with a **STERN WARNING** that a repetition of the same or similar act shall be dealt with more severely.

Hence, the case was transmitted to this court for review.

### **The Court's Ruling**

After reviewing the records of the case, the Court agrees with the Report and Recommendation of Judge Viola and the Memorandum of the OCA regarding the guilt of Atty. Castillejos and Preciousa.

"Immoral conduct" has been defined 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.<sup>[20]</sup> This Court has held that "for such conduct to warrant disciplinary action, the same must be 'grossly immoral,' that is, it must be so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree."<sup>[21]</sup>

It is not easy to state with accuracy what constitutes "grossly immoral conduct," let alone what constitutes the moral delinquency and obliquity that renders a lawyer unfit or unworthy to continue as a member of the bar in good standing.<sup>[22]</sup>

In *Ventura v. Samson*,<sup>[23]</sup> we explained that 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. It 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.