

## SECOND DIVISION

**[ A.M. No. RTJ-15-2417 [Formerly known as OCA  
IPI No. 10-3466-RTJ], July 22, 2015 ]**

**ELADIO D. PERFECTO, COMPLAINANT, VS. JUDGE ALMA  
CONSUELO D. ESIDERA, RESPONDENT.**

### RESOLUTION

**LEONEN, J.:**

On July 15, 2010, Eladio Perfecto filed an administrative Complaint<sup>[1]</sup> against Judge Alma Consuelo Desales-Esidera of Branch 20 of the Regional Trial Court of Catarman, Northern Samar for falsification of public document and dishonesty.

Eladio Perfecto (Perfecto) alleged that Judge Alma Consuelo Desales-Esidera (Judge Desales-Esidera) was first married to Richard Tang Tepace on May 7, 1987 at the Metropolitan Trial Court of Manila.<sup>[2]</sup>

On October 3, 1990, Judge Desales-Esidera gave birth to a daughter with Renato Verano Esidera at Capitol Medical Center in Quezon City.<sup>[3]</sup> Her marriage to Richard Tang Tepace was later declared void on January 27, 1992.<sup>[4]</sup>

Based on her certification of marriage records dated February 21, 2009, Judge Desales-Esidera married Renato Verano Esidera on June 3, 1992.<sup>[5]</sup>

Perfecto further alleged that Judge Desales-Esidera falsified her daughter's birth certificate to make it appear that she and Renato Verano Esidera were married on March 18, 1990 and that their daughter was a legitimate child.<sup>[6]</sup> No marriage took place on that date based on a certification of no marriage issued by the Office of the City Civil Registrar of Parañaque City.<sup>[7]</sup> Judge Desales-Esidera did not take any step to rectify the error on her daughter's birth certificate.<sup>[8]</sup>

Perfecto prays for Judge Desales-Esidera's dismissal from office for her alleged dishonesty.<sup>[9]</sup>

Judge Desales-Esidera filed her Comment with Motion to Dismiss on December 30, 2010.<sup>[10]</sup> She argued that Perfecto did not comply with the requirement of personal knowledge under Rule 140, Section 1.<sup>[11]</sup> He should have supported his Complaint "with affidavits of persons who knew her personally or with authenticated copies of documents that supported his allegations."<sup>[12]</sup> Otherwise, Perfecto's allegations were nothing more than "tsismis" or hearsay.<sup>[13]</sup> Perfecto perjured himself when he subscribed to facts that were not based on his personal knowledge.<sup>[14]</sup>

Judge Desales-Esidera brought this court's attention to the allegedly malicious

means by which Perfecto obtained the documents supporting his allegations.<sup>[15]</sup> According to her, the documents were secured in connivance with persons involved in or were related to parties in other administrative cases. Perfecto also connived with court employees who violated either the law or Supreme Court circulars by bringing court records outside the court without the judge's knowledge or consent.<sup>[16]</sup> Judge Desales-Esidera claimed that this affects Perfecto's credibility and integrity.<sup>[17]</sup>

Moreover, Judge Desales-Esidera claimed that the persons involved in obtaining the documents "desperately want[ed] [her] out of the judiciary so that they could continue their illegal activities in the office[,] like temporary borrowing of funds in the Office of the Clerk of Court . . . and the abuse of the accreditation of [Perfecto] [,] whose newspaper [was] not printed and circulated generally and regularly in Northern Samar."<sup>[18]</sup>

Judge Desales-Esidera further argued that the charges against her were personal and not judicial.<sup>[19]</sup> She did not participate in the accomplishment of the birth certificate.<sup>[20]</sup> She had planned to correct her daughter's birth certificate, but she and her husband decided against it for the best interest of her daughter.<sup>[21]</sup>

On the question of integrity, honesty, and morality, Judge Desales-Esidera argued that everything she did was legal and in accordance with her religious beliefs. She was, indeed, married to her second husband on March 18, 1990, but only under recognized Catholic rites.<sup>[22]</sup> The priest who officiated their marriage had no authority to solemnize marriages under the civil law.

Further, Judge Desales-Esidera argued that while her religious marriage was done before the declaration of nullity of her first marriage, the prevailing jurisprudence at that time was that "there was no need for a judicial decree to establish the invalidity of void marriage."<sup>[23]</sup> She described her state of mind and motivations for her acts as follows:

When I got married the first time, it was not our intention to live together as husband and wife. It was a secret marriage solemnized by a judge. We planned of a church wedding supposedly on my birthday of the same year. However, Richard reasoned out that he was still confused because his mother was sick while his father, a Chinese, would not agree because it was the Year of the Dragon. As established by the evidence in the annulment case (Decision, page 4 onwards, Annex C of Complaint), I continued living with my parents and using my paternal name. Never for a moment did we live together as husband and wife. For some reasons we cooled off and finally called it quits. When I met my second husband, I found it very much unfair to be bound in a marriage that was never consummated. I wanted the marriage annulled. But the annulment process was long and I was not getting any younger. Then, I got pregnant. I knew it was against my values but I had no choice. I heard that getting pregnant beyond thirty was more risky.

Renato and I are both religious. We both wanted to correct what we have started wrongly. I consulted at least two priests who were knowledgeable

on Canon Law, a certain Fr. Albarico from San Sebastian Church and Rev. Fr. David J. Tither, C.S.S.R of the Redemptorist Church in Baclaran. I also made my own research on Catholic annulment and got a copy of the deliberations on "psychological incapacity" as a ground for annulment under the Family Code. I need not over emphasize that in view of the separation of the Church and the State, civil marriages are not recognized by the Catholic Church. Couples who are civilly married are considered living in state of sin, and may be ex-communicated. They cannot receive the sacraments. Thus, my marriage to Richard Tang was not recognized by the Catholic Church. Moreover, in my research I found this digest in Vol. 1, Civil Code Annotated. Ambrosio Padilla, p. 454, 1975 edition:

**"People vs. Whipkey, (CA) 69, O.G. 9678. - Pursuant to Art. 66 of the Civil Code, before a marriage license can be obtained by a citizen or subject of a foreign country, he must first present a certificate of legal capacity to contract marriage to be issued by the diplomatic or consular official of his own country. The law stresses the mandatory character of this requirement by the use of the word "necessary", so that marriage license secured in violation of Article 66 of the Civil Code is a void license."**

I need not go into details. But anybody knows that a marriage solemnized with a void license is no marriage at all. My marriage to Richard Tang, a Chinese, was void ab initio. If I am not mistaken, at that time, the jurisprudence was that there was no need for a judicial decree to establish the invalidity of void marriage. (*People vs. Aragon*, 100 Phil. 1033, cited on page 470 of the same book).

The logical conclusion, therefore, was that there was no impediment for Renato and I to get married although we still need the court order to cancel the registration. But we both can receive the sacrament. Our primary purpose in availing of the Sacrament of Holy Matrimony was to continue living in a state of grace while waiting for the result of the annulment case which came two years later. So after consultations and a little catechesis with Fr. David Tither, he finally officiated the sacramental marriage rite in one of the confessional rooms in the parish office of Baclaran Church with two other priests. Rev. Fr. Patrick J. Deane, C.S.S.R and Rev. Fr. Desmond de Souza, C.S.S.R., as witnesses. Our second marriage on June 3, 1992 was again in a religious ceremony but with all the formalities required by law.

That pregnancy was very complicated. In fact, it was diagnosed as ectopic pregnancy. After two sessions with Fr. David Tither, also a known healer and exorcist, the fetus finally went down from the fallopian tube to the womb but was born prematurely. It was also difficult and painful giving birth to her. So, my husband Renato took charge of everything, including the preparation for the registration of the baby.

Complainant accuses me of falsifying the birth certificate of my daughter,

Mary Joyce. However, her certificate of live birth form was accomplished by her father in his own handwriting and signed by him. My husband Renato is not a lawyer. To him, what matters is that our union is blessed by God and that before the eyes of the Almighty, our daughter is legitimate.

The date of marriage which my husband supplied in the birth certificate of our daughter, Mary Joyce, is the date we received the Sacrament of Holy Matrimony on March 18, 1990. Fr. David Tither had no license to solemnize marriage from the National Archives or from the civil government. It was a purely sacramental marriage rite, without legal effect but definitely valid and recognized by the Roman Catholic Church. It is called "matrimona de conciencia". All he could give us was a blank certificate of marriage but signed by him and the two priest witnesses, a certification and a covering letter (Annex E, F and G). The need referred to in the covering letter did not arrive because our second marriage (June 3, 1992) came before Mary Joyce attended the pre-school, so the form remained blank up to this date. If I were as scheming as my accusers, I should have filled it up a long time ago. But I am too honest and honorable to do that.

According to the Order to comment, I am also accused of immorality. The basis of morality is generally the do's and don'ts set by the Church of whatever religion. As Catholics, we have the Ten Commandments. I have sinned against one but I took advantage of the Sacrament of Reconciliation and the Sacrament of Matrimony. I did not, and do not live with anybody not my husband as defined by my Catholic faith. Chastity is a virtue. Even if one is civilly married but if there is no religious ratification, in the eyes of my God, the spouses are living in sin and cannot take the Sacrament of the Holy Eucharist.

From the day I saw the certified copy of the birth certificate of our daughter, I already planned to correct it. But, being married, anything that would affect our family must be a conjugal decision. We decided against it, not because I am a lawbreaker, dishonest or immoral, but because not to disturb her birth record will serve her best interest and welfare. It will save her the embarrassment of being different in some way from her sisters; and the repercussion of being branded an "illegitimate" by her teachers and peers. As a mother, I have to protect her from, everything detrimental to her well-being. More than a judge, I am a mother and a wife. As a lawyer, I agreed because it can always be corrected when the time or need comes. This case has already affected my daughter emotionally, especially when she learned that somebody secured her birth certificate and pretended to be "Mary Joyce." She could not understand why she should be dragged in this controversy using her birth certificate which is supposed to be confidential. Neither do I. If the Xerox copies appended to the Complaint were perused carefully, my children, especially Mary Joyce, would have been saved from emotional shock and trauma. Being appointed to the Judiciary is not a license to pry on our personal life before I became a judge and criticize our wisdom.

Finally, my life and the status of our firstborn could not have escaped the

scrutiny of all those involved in the selection process in the appointment to the Judiciary, including those who conducted the background investigation. It is personal and has nothing to do with my professional life then, and now, with my judicial life. My love story is the best proof of my morality and my honesty. I never kept it a secret; but I cannot allow it also to be publicized unnecessarily. The first civil marriage was never consummated because of our agreement to have a church wedding first. The second marriage was purely a sacramental rite in obedience to the Law of God, so that my husband and I would continue living together without offending our God until the annulment process was finalized. The third marriage was made to finally formalize our status in the eyes of the law of man.

The reason for these administrative cases is that I cannot be like my accusers. I cannot join them because I value my dignity and my peace of mind.

We all have our stories to tell. Nobody's perfect. What is important is we learn from our mistakes, amend our lives and avoid further wrongdoings. If the Honorable Court Administrator, through the Legal Office, would only conduct discreet investigation on the life of my accusers and their lifestyles, the Office would realize who among us is leading an immoral life.<sup>[24]</sup> (Emphasis in the original)

On September 29, 2014, the Office of the Court Administrator recommended that Judge Desales-Esidera be found guilty of disgraceful, immoral, or dishonest conduct and that she be suspended from judicial service for 15 days with the warning that a repetition of a similar offense would be dealt with more severely.<sup>[25]</sup>

The Office of the Court Administrator found that Judge Desales-Esidera condoned the misrepresentation made on her child's birth certificate.<sup>[26]</sup>

The Office of the Court Administrator also found that Judge Desales-Esidera engaged in an "illicit affair" and contracted a second marriage while another marriage subsisted.<sup>[27]</sup> She contracted the second marriage knowing that there were legal impediments to that marriage.<sup>[28]</sup> Judge Desales-Esidera "did not comport herself according to her Roman Catholic faith."<sup>[29]</sup>

We find that Judge Desales-Esidera's omission to correct her child's birth certificate is not sufficient to render her administratively liable under the circumstances. The error in the birth certificate cannot be attributed to her. She did not participate in filling in the required details in the document. The birth certificate shows that it was her husband who signed it as informant.<sup>[30]</sup>

Judge Desales-Esidera is also not guilty of disgraceful and immoral conduct under the Code of Professional Responsibility.

Morality refers to what is good or right conduct at a given circumstance. In *Estrada v. Escritor*,<sup>[31]</sup> this court described morality as "how we ought to live and why."<sup>[32]</sup>