

## EN BANC

[ **Adm. Case No. 2474, September 15, 2004** ]

**EDUARDO M. COJUANGCO, JR., COMPLAINANT, VS. ATTY. LEO J. PALMA, RESPONDENT.**

### DECISION

#### PER CURIAM:

"The practice of law is a privilege accorded only to those who measure up to certain rigid standards of mental and moral fitness. For the admission of a candidate to the bar, the Rules of Court not only prescribe a test of academic preparation but require satisfactory testimonials of good moral character. These standards are neither dispensed with nor lowered after admission: the lawyer must continue to adhere to them or else incur the risk of suspension or removal."<sup>[1]</sup>

Eduardo M. Cojuangco, Jr. filed with this Court the instant complaint for disbarment against Atty. Leo J. Palma, alleging as grounds "deceit, malpractice, gross misconduct in office, violation of his oath as a lawyer and grossly immoral conduct."

The facts are undisputed:

Complainant and respondent met sometime in the 70's. Complainant was a client of Angara Concepcion Regala & Cruz Law Offices (ACCRA) and respondent was the lawyer assigned to handle his cases. Owing to his growing business concerns, complainant decided to hire respondent as his personal counsel.

Consequently, respondent's relationship with complainant's family became intimate. He traveled and dined with them abroad.<sup>[2]</sup> He frequented their house and even tutored complainant's 22-year old daughter Maria Luisa Cojuangco (Lisa), then a student of Assumption Convent.

On June 22, 1982, without the knowledge of complainant's family, respondent married Lisa in Hongkong. It was only the next day that respondent informed complainant and assured him that "everything is legal." Complainant was shocked, knowing fully well that respondent is a married man and has three children. Upon investigation, complainant found that respondent courted Lisa during their tutoring sessions. Immediately, complainant sent his two sons to Hongkong to convince Lisa to go home to Manila and discuss the matter with the family. Lisa was persuaded.

Complainant also came to know that: **(a)** on the date of the supposed marriage, respondent requested from his (complainant's) office an airplane ticket to and from Australia, with stop-over in Hong Kong; **(b)** respondent misrepresented himself as "bachelor" before the Hong Kong authorities to facilitate his marriage with Lisa; and **(c)** respondent was married to Elizabeth Hermosisima and has three children,

namely: Eugene Philippe, Elias Anton and Eduardo Lorenzo.

On August 24, 1982, complainant filed with the Court of First Instance, Branch XXVII, Pasay City a petition<sup>[3]</sup> for declaration of nullity of the marriage between respondent and Lisa, docketed as Civil Case No. Pq-0401-P. In the Decision<sup>[4]</sup> dated November 2, 1982, the CFI declared the marriage null and void *ab initio*.

Thereafter, complainant filed with this Court the instant complaint<sup>[5]</sup> for disbarment, imputing to respondent the following acts:

**"a.** In grave abuse and betrayal of the trust and confidence reposed in him by complainant and his family and taking undue advantage of his tutoring sessions with Maria Luisa, respondent secretly courted her. The great disparity in intelligence, education, age, experience and maturity between Maria Luisa and respondent gave the latter an overwhelming moral ascendancy over Maria Luisa as to overcome her scruples and apprehensions about respondent's courtship and advances, considering that he is a married man with three (3) children;

**b.** Respondent courted Maria Luisa with persistence and determination and even pursued her in her travels abroad under false pretenses that he was traveling on official business for complainant. To break down the final resistance of Maria Luisa and assuage her pangs of guilt, he made representations that there was no legal impediment whatsoever to his marrying;

**c.** With his moral ascendancy over Maria Luisa and his misrepresentation that there was no legal impediment or prohibition to his contracting a second marriage, respondent succeeded in inducing and beguiling her into marrying him. Without complying with the requirements of Philippine law that he should first obtain a judicial declaration of nullity of his marriage to Elizabeth H. Palma and that the "advice" of Maria Luisa's parents should first be obtained she being only twenty-two (22) years of age, respondent succeeded in contracting marriage with her in Hongkong on June 22, 1982 by falsely representing himself before the Hongkong authorities that he is a 'bachelor.' x x x."

Respondent filed a motion to dismiss<sup>[6]</sup> on the ground of lack of cause of action. He contended that the complaint fails to allege acts constituting deceit, malpractice, gross misconduct or violation of his lawyer's oath. There is no allegation that he acted with "wanton recklessness, lack of skill or ignorance of the law" in serving complainant's interest. Anent the charge of grossly immoral conduct, he stressed that he married complainant's daughter with "utmost sincerity and good faith" and that "it is contrary to the natural course of things for an immoral man to marry the woman he sincerely loves."

In the Resolution<sup>[7]</sup> dated March 2, 1983, we referred the case to the Office of the Solicitor General (OSG) for investigation, report and recommendation. Former Assistant Solicitor General Oswaldo D. Agcaoili conducted the investigation.

Meanwhile, on December 28, 1983, the First Division of this Court issued in G.R. No.

64538<sup>[8]</sup> a Resolution<sup>[9]</sup> **(a)** setting aside the CFI Decision dated November 2, 1982 in Civil Case No. Pq-0401-P declaring the marriage between respondent and Lisa null and void *ab initio*; and **(b)** remanding the case to the CFI for proper proceeding and determination. To this date, the records fail to disclose the outcome of this case.

On March 19, 1984, respondent filed with the OSG an Urgent Motion to Suspend Proceedings<sup>[10]</sup> on the ground that the final outcome of Civil Case No. Pq-0401-P poses a prejudicial question to the disbarment proceeding. It was denied.

Respondent sought refuge in this Court through an Urgent Motion for Issuance of a Restraining Order.<sup>[11]</sup> In the Resolution dated December 19, 1984, we enjoined the OSG from continuing the investigation of the disbarment proceedings.<sup>[12]</sup>

Thereafter, the case was referred to the Integrated Bar of the Philippines Commission on Bar Discipline. On October 19, 1998, Commissioner Julio C. Elamparo issued the following order:

**"Considering the length of time that this case has remained pending and as a practical measure to ease the backlog of this Commission, the parties shall within ten (10) days from notice, manifest whether or not they are still interested in prosecuting this case or supervening events have transpired which render this case moot and academic or otherwise, this case shall be deemed closed and terminated."**<sup>[13]</sup>

In his Manifestation,<sup>[14]</sup> complainant manifested and confirmed his continuing interest in prosecuting his complaint for disbarment against respondent.

On the other hand, respondent sought several postponements of hearing on the ground that he needed more time to locate vital documents in support of his defense. The scheduled hearing of December 4, 2001 was reset for the last time on January 24, 2002, with a warning that should he fail to appear or present deposition, the case will be deemed submitted for resolution.<sup>[15]</sup> Respondent again failed to appear on January 24, 2002; hence, the case was considered submitted for resolution.<sup>[16]</sup>

On March 20, 2003, Investigating Commissioner Milagros V. San Juan submitted a Report and Recommendation finding respondent guilty of grossly immoral conduct and violation of his oath as a lawyer. She recommended that respondent be suspended from the practice of law for a period of three (3) years. Thus:

"The main issue to be resolved in this case is whether or not respondent committed the following acts which warrant his disbarment:

- a)** Grave abuse and betrayal of the trust and confidence reposed in him by complainant;
- b)** His misrepresentation that there was no legal impediment or prohibition to his contracting a second marriage;

- c) The acts of respondent constitute deceit, malpractice, gross misconduct in office, grossly immoral conduct and violation of his oath as a lawyer.

Respondent admits that he married Maria Luisa in Hongkong representing himself as a bachelor, however, he claimed that the marriage certificate stated a condition no different from term "spinster" with respect to Luisa.

There is no question that respondent as a lawyer well versed in the law knew fully well that in marrying Maria Luisa he was entering into a bigamous marriage defined and penalized under Article 349 of the Revised Penal Code. The respondent betrayed the trust reposed in him by complainant. He was treated as part of the family and was allowed to tutor Maria Luisa.

For the foregoing reasons, it is submitted that respondent committed grossly immoral conduct and violation of his oath as a lawyer, and it is recommended that respondent be suspended from the practice of law for a period of three (3) years.

**SO ORDERED."**

The IBP Board of Governors adopted and approved the above Report and Recommendation, but it reduced respondent's penalty to only one (1) year suspension.

Except for the penalty, we affirm the IBP's Report and Recommendation.

At the outset, it must be stressed that the law profession does not prescribe a dichotomy of standards among its members. There is no distinction as to whether the transgression is committed in the lawyer's professional capacity or in his private life. This is because a lawyer may not divide his personality so as to be an attorney at one time and a mere citizen at another.<sup>[17]</sup> Thus, not only his professional activities but even his private life, insofar as the latter may reflect unfavorably upon the good name and prestige of the profession and the courts, may at any time be the subject of inquiry on the part of the proper authorities.<sup>[18]</sup>

Respondent claims that he had served complainant to the best of his ability. In fact, the complaint does not allege that he acted with "wanton recklessness, lack of skill and ignorance of the law."

While, complainant himself admitted that respondent was a good lawyer,<sup>[19]</sup> however, professional competency alone does not make a lawyer a worthy member of the Bar. Good moral character is always an indispensable requirement.

The ringing truth in this case is that respondent married Lisa while he has a subsisting marriage with Elizabeth Hermosisima. The Certification<sup>[20]</sup> from the Local Civil Registrar of Cebu City shows that he married Elizabeth on December 19, 1971 at Cardial's Private Chapel, Cebu City. On the other hand, the Certificate of Marriage<sup>[21]</sup> from the Deputy Registrar of Marriages, Hong Kong, proves respondent's subsequent marriage with Lisa on July 9, 1982. That Elizabeth was