

EN BANC

[A.M. No. P-02-1651 (formerly OCA I.P.I. No. 00-1021-P), August 04, 2003]

ALEJANDRO ESTRADA, COMPLAINANT, VS. SOLEDAD S. ESCRITOR, RESPONDENT.

DECISION

PUNO, J.:

The case at bar takes us to a most difficult area of constitutional law where man stands accountable to an authority higher than the state. To be held on balance are the state's interest and the respondent's religious freedom. In this highly sensitive area of law, the task of balancing between authority and liberty is most delicate because to the person invoking religious freedom, the consequences of the case are not only temporal. The task is not made easier by the American origin of our religion clauses and the wealth of U.S. jurisprudence on these clauses for in the United States, there is probably no more intensely controverted area of constitutional interpretation than the religion clauses.^[1] The U.S. Supreme Court itself has acknowledged that in this constitutional area, there is "considerable internal inconsistency in the opinions of the Court."^[2] As stated by a professor of law, "(i)t is by now notorious that legal doctrines and judicial decisions in the area of religious freedom are in serious disarray. In perhaps no other area of constitutional law have confusion and inconsistency achieved such undisputed sovereignty."^[3] Nevertheless, this thicket is the only path to take to conquer the mountain of a legal problem the case at bar presents. Both the penetrating and panoramic view this climb would provide will largely chart the course of religious freedom in Philippine jurisdiction. That the religious freedom question arose in an administrative case involving only one person does not alter the paramount importance of the question for the "constitution commands the positive protection by government of religious freedom -not only for a minority, however small- not only for a majority, however large- but for each of us."^[4]

I. Facts

The facts of the case will determine whether respondent will prevail in her plea of religious freedom. It is necessary therefore to lay down the facts in detail, careful not to omit the essentials.

In a sworn letter-complaint dated July 27, 2000, complainant Alejandro Estrada wrote to Judge Jose F. Caoibes, Jr., presiding judge of Branch 253, Regional Trial Court of Las Piñas City, requesting for an investigation of rumors that respondent Soledad Escritor, court interpreter in said court, is living with a man not her husband. They allegedly have a child of eighteen to twenty years old. Estrada is not personally related either to Escritor or her partner and is a resident not of Las Piñas City but of Bacoar, Cavite. Nevertheless, he filed the charge against Escritor as he

believes that she is committing an immoral act that tarnishes the image of the court, thus she should not be allowed to remain employed therein as it might appear that the court condones her act.^[5]

Judge Caoibes referred the letter to Escritor who stated that "there is no truth as to the veracity of the allegation" and challenged Estrada to "appear in the open and prove his allegation in the proper forum."^[6] Judge Caoibes set a preliminary conference on October 12, 2000. Escritor moved for the inhibition of Judge Caoibes from hearing her case to avoid suspicion and bias as she previously filed an administrative complaint against him and said case was still pending in the Office of the Court Administrator (OCA). Escritor's motion was denied. The preliminary conference proceeded with both Estrada and Escritor in attendance. Estrada confirmed that he filed the letter-complaint for immorality against Escritor because in his frequent visits to the Hall of Justice of Las Piñas City, he learned from conversations therein that Escritor was living with a man not her husband and that she had an eighteen to twenty-year old son by this man. This prompted him to write to Judge Caoibes as he believed that employees of the judiciary should be respectable and Escritor's live-in arrangement did not command respect.^[7]

Respondent Escritor testified that when she entered the judiciary in 1999,^[8] she was already a widow, her husband having died in 1998.^[9] She admitted that she has been living with Luciano Quilapio, Jr. without the benefit of marriage for twenty years and that they have a son. But as a member of the religious sect known as the Jehovah's Witnesses and the Watch Tower and Bible Tract Society, their conjugal arrangement is in conformity with their religious beliefs. In fact, after ten years of living together, she executed on July 28, 1991 a "Declaration of Pledging Faithfulness," viz:

DECLARATION OF PLEDGING FAITHFULNESS

I, Soledad S. Escritor, do hereby declare that I have accepted Luciano D. Quilapio, Jr., as my mate in marital relationship; that I have done all within my ability to obtain legal recognition of this relationship by the proper public authorities and that it is because of having been unable to do so that I therefore make this public declaration pledging faithfulness in this marital relationship.

I recognize this relationship as a binding tie before `Jehovah' God and before all persons to be held to and honored in full accord with the principles of God's Word. I will continue to seek the means to obtain legal recognition of this relationship by the civil authorities and if at any future time a change in circumstances make this possible, I promise to legalize this union.

Signed this 28th day of July 1991.^[10]

Escritor's partner, Quilapio, executed a similar pledge on the same day.^[11] Both pledges were executed in Atimonan, Quezon and signed by three witnesses. At the time Escritor executed her pledge, her husband was still alive but living with another woman. Quilapio was likewise married at that time, but had been separated in fact from his wife. During her testimony, Escritor volunteered to present members of her

congregation to confirm the truthfulness of their "Declarations of Pledging Faithfulness," but Judge Caoibes deemed it unnecessary and considered her identification of her signature and the signature of Quilapio sufficient authentication of the documents.^[12]

Judge Caoibes endorsed the complaint to Executive Judge Manuel B. Fernandez, Jr., who, in turn, endorsed the same to Court Administrator Alfredo L. Benipayo. On July 17, 2001, the Court, upon recommendation of Acting Court Administrator Zenaida N. Elepaño, directed Escritor to comment on the charge against her. In her comment, Escritor reiterated her religious congregation's approval of her conjugal arrangement with Quilapio, viz:

Herein respondent does not ignore alleged accusation but she reiterates to state with candor that there is no truth as to the veracity of same allegation. Included herewith are documents denominated as Declaration of Pledging Faithfulness (Exhibit 1 and Exhibit 2) duly signed by both respondent and her mate in marital relationship with the witnesses concurring their acceptance to the arrangement as approved by the WATCH TOWER BIBLE and TRACT SOCIETY, Philippine Branch.

Same marital arrangement is recognized as a binding tie before "JEHOVAH" God and before all persons to be held to and honored in full accord with the principles of God's Word.

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Undersigned submits to the just, humane and fair discretion of the Court with verification from the WATCH TOWER BIBLE and TRACT SOCIETY, Philippine Branch . . . to which undersigned believes to be a high authority in relation to her case.^[13]

Deputy Court Administrator Christopher O. Lock recommended that the case be referred to Executive Judge Bonifacio Sanz Maceda, RTC Branch 255, Las Piñas City for investigation, report and recommendation. In the course of Judge Maceda's investigation, Escritor again testified that her congregation allows her conjugal arrangement with Quilapio and it does not consider it immoral. She offered to supply the investigating judge some clippings which explain the basis of her congregation's belief and practice regarding her conjugal arrangement. Escritor started living with Quilapio twenty years ago when her husband was still alive but living with another woman. She met this woman who confirmed to her that she was living with her (Escritor's) husband.^[14]

Gregorio Salazar, a member of the Jehovah's Witnesses since 1985, also testified. He had been a presiding minister since 1991 and in such capacity is aware of the rules and regulations of their congregation. He explained the import of and procedure for executing a "Declaration of Pledging Faithfulness", viz:

Q: Now, insofar as the pre-marital relationship is concern (*sic*), can you cite some particular rules and regulations in your congregation?

A: Well, we of course, talk to the persons with regards (*sic*) to all the parties involved and then we request them to

execute a Public Declaration of Pledge of faithfulness.

Q: What is that document?

A: Declaration of Pledge of faithfulness.

Q: What are the relations of the document Declaration of Pledge of faithfulness, who are suppose (*sic*) to execute this document?

A: This must be signed, the document must be signed by the elders of the congregation; the couple, who is a member (*sic*) of the congregation, baptized member and true member of the congregation.

Q: What standard rules and regulations do you have in relation with this document?

A: Actually, sir, the signing of that document, ah, with the couple has consent to marital relationship (*sic*) gives the Christian Congregation view that the couple has put themselves on record before God and man that they are faithful to each other. As if that relation is validated by God.

Q: From your explanation, Minister, do you consider it a pledge or a document between the parties, who are members of the congregation?

A: It is a pledge and a document. It is a declaration, pledge of a (*sic*) pledge of faithfulness.

Q: And what does pledge mean to you?

A: It means to me that they have contracted, let us say, I am the one who contracted with the opposite member of my congregation, opposite sex, and that this document will give us the right to a marital relationship.

Q: So, in short, when you execute a declaration of pledge of faithfulness, it is a preparation for you to enter a marriage?

A: Yes, Sir.

Q: But it does not necessarily mean that the parties, cohabiting or living under the same roof?

A: Well, the Pledge of faithfulness document is (*sic*) already approved as to the marital relationship.

Q: Do you mean to say, Minister, by executing this document the contracting parties have the right to cohabit?

A: Can I sir, cite, what the Bible says, the basis of that Pledge of Faithfulness as we Christians follow. The basis is herein stated in the Book of Matthew, Chapter Five, Verse Twenty-two. So, in that verse of the Bible, Jesus said "that everyone divorcing his wife, except on account of fornication, makes her a subject for adultery, and whoever marries a divorced woman commits adultery."^[15]

Atimonan, Quezon in 1991, Salazar had no personal knowledge of the personal circumstances of Escritor and Quilapio when they executed their declarations. However, when the two transferred to Almanza, Salazar inquired about their status from the Atimonan Congregation, gathered comments of the elders therein, and requested a copy of their declarations. The Almanza Congregation assumed that the personal circumstances of the couple had been considered by the Atimonan Congregation when they executed their declarations.

Escritor and Quilapio's declarations are recorded in the Watch Tower Central office. They were executed in the usual and approved form prescribed by the Watch Tower Bible and Tract Society which was lifted from the article, "Maintaining Marriage in Honor Before God and Men," ^[16] in the March 15, 1977 issue of the Watch Tower magazine, entitled *The Watchtower*.

The declaration requires the approval of the elders of the Jehovah's Witnesses congregation and is binding within the congregation all over the world except in countries where divorce is allowed. The Jehovah's congregation requires that at the time the declarations are executed, the couple cannot secure the civil authorities' approval of the marital relationship because of legal impediments. It is thus standard practice of the congregation to check the couple's marital status before giving imprimatur to the conjugal arrangement. The execution of the declaration finds scriptural basis in Matthew 5:32 that when the spouse commits adultery, the offended spouse can remarry. The marital status of the declarants and their respective spouses' commission of adultery are investigated before the declarations are executed. Thus, in the case of Escritor, it is presumed that the Atimonan Congregation conducted an investigation on her marital status before the declaration was approved and the declaration is valid everywhere, including the Almanza Congregation. That Escritor's and Quilapio's declarations were approved are shown by the signatures of three witnesses, the elders in the Atimonan Congregation. Salazar confirmed from the congregation's branch office that these three witnesses are elders in the Atimonan Congregation. Although in 1998 Escritor was widowed, thereby lifting the legal impediment to marry on her part, her mate is still not capacitated to remarry. Thus, their declarations remain valid. Once all legal impediments for both are lifted, the couple can already register their marriage with the civil authorities and the validity of the declarations ceases. The elders in the congregations can then solemnize their marriage as authorized by Philippine law. In sum, therefore, insofar as the congregation is concerned, there is nothing immoral about the conjugal arrangement between Escritor and Quilapio and they remain members in good standing in the congregation.^[17]

Salvador Reyes, a minister at the General de Leon, Valenzuela City Congregation of the Jehovah's Witnesses since 1974 and member of the headquarters of the Watch Tower Bible and Tract Society of the Philippines, Inc., presented the original copy of the magazine article entitled, "Maintaining Marriage Before God and Men" to which Escritor and Minister Salazar referred in their testimonies. The article appeared in the March 15, 1977 issue of the *Watchtower* magazine published in Pennsylvania, U.S.A. Felix S. Fajardo, President of the Watch Tower Bible and Tract Society of the Philippines, Inc., authorized Reyes to represent him in authenticating the article. The article is distributed to the Jehovah's Witnesses congregations which also distribute them to the public.^[18]