



Republic of the Philippines
Supreme Court

Manila

EN BANC

MARIA VICTORIA B. VENTURA,
Complainant,

A.C. No. 9608

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,**
PERLAS-BERNABE,** and
LEONEN, JJ.

- versus -

ATTY. DANILO S. SAMSON,
Respondent.

Promulgated:

NOVEMBER 27, 2012

X-----X

DECISION

PER CURIAM:

The Court has often reminded members of the bar to live up to the standards and norms of the legal profession by upholding the ideals and principles embodied in the Code of Professional Responsibility. Lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity and fair dealing. Lawyers are at all times subject to the watchful public eye and community approbation. Needless to

* On leave.

** On official leave.

state, those whose conduct – both public and private – fail this scrutiny have to be disciplined and, after appropriate proceedings, accordingly penalized.¹

Complainant Maria Victoria B. Ventura filed on July 29, 2004 a Complaint² for Disbarment or Suspension before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline against respondent Atty. Danilo S. Samson for “grossly immoral conduct.”

In her complaint, complainant alleged that

2. The herein Complainant **MARIA VICTORIA B. VENTURA** executed a Sworn Statement dated 19 April 2002 and a Supplemental-Complaint dated 10 May 2002 stating therein that the crime of **RAPE** was committed against her person sometime in December, 2001 and on 19 March 2002 when she was merely **thirteen (13) years of age** by herein Respondent **ATTY. DANILO S. SAMSON**, then thirty eight (38) years old, married to Teresita B. Samson, Filipino and resident of Barangay 5, San Francisco, Agusan Del Sur, Philippines....

3. In his Counter-Affidavit, herein Respondent **ATTY. DANILO S. SAMSON** admitted that sexual intercourse indeed transpired between the herein Complainant **MARIA VICTORIA B. VENTURA** and himself....

4. After the conduct of preliminary investigation, the Office of the Provincial Prosecutor of Agusan Del Sur, Philippines issued a RESOLUTION dated 10 June 2002 dismissing the charge of RAPE and finding the existence of probable cause for the crime of QUALIFIED SEDUCTION and issued the corresponding INFORMATION for QUALIFIED SEDUCTION on 04 July 2002....

5. Thereafter, the herein Complainant filed a MOTION FOR RECONSIDERATION dated 26 August 2002 which was denied in the RESOLUTION dated 02 October 2002 of the Office of the Provincial Prosecutor of Agusan Del Sur....

6. The aforesaid RESOLUTION dated 02 October 2002 was elevated to [the Department of Justice], by way of a PETITION FOR REVIEW, and is pending resolution by the Department of Justice.

x x x x

8. The act/s committed by the herein Respondent Atty. Danilo S. Samson against the herein Complainant **MARIA VICTORIA B. VENTURA** as hereinbefore stated clearly constitute ... “**grossly immoral conduct**” under Section 27 of Rule 138 of the Rules of Court of the Philippines which provides for a penalty of “**DISBARMENT or SUSPENSION of an Attorney by the SUPREME COURT.**”

¹ See *Tapucar v. Tapucar*, Adm. Case No. 4148, July 30, 1998, 293 SCRA 331, 338.

² *Rollo*, pp. 2-5.

Complainant narrated in her Sworn Statement³ that sometime in December 2001, at around midnight, she was sleeping in the maid's room at respondent's house when respondent entered and went on top of her. Respondent kissed her lips, sucked her breast, and succeeded in having sexual intercourse with her. She felt pain and found blood stain in her panty. She stated that another incident happened on March 19, 2002 at respondent's poultry farm in Alegria, San Francisco, Agusan del Sur. Respondent asked her to go with him to the farm. He brought her to an old shanty where he sexually abused her. Thereafter, respondent gave her five hundred pesos and warned her not to tell anyone what had happened or he would kill her and her mother.

In her Supplemental-Complaint,⁴ complainant averred that respondent allowed her to sleep in his house after her mother agreed to let her stay there while she studied at the Agusan National High School. She further stated that on the night she was sexually abused, she was awakened when respondent went on top of her. She struggled to free herself and shouted, but respondent covered her mouth and nobody could hear as nobody was in the house. Complainant also claimed that on March 19, 2002, between 5:00 p.m. to 6:00 pm, respondent forced her to ride a multi-cab. When they arrived at his poultry farm in Alegria, respondent dragged her to a dilapidated shack. She resisted his advances but her efforts proved futile.

Respondent alleged in his Answer⁵ that

2. Respondent admits the allegations in paragraph 2 of the complaint to the effect that Maria Victoria Ventura filed a complaint against him for Rape at the Provincial Prosecutor's Office with qualification that the said complaint for Rape was dismissed. Respondent, however, has no knowledge or information as to the truth of the allegation that she was 13 years....

x x x x

5. Respondent vehemently denies the truth of the allegations in paragraph 8 of the complaint to the effect that the acts of respondent in having sex with complainant constitute ... grossly immoral conduct. The

³ Id. at 6-7. Dated April 19, 2002.

⁴ Id. at 8-9.

⁵ Id. at 57-62. Dated September 2, 2004.

truth is that [the] act of respondent in having sex with complainant was done [with] mutual agreement after respondent gave money to complainant. Respondent respectfully submit[s] that his act of having sex with complainant once does not constitute ... gross[ly] immoral conduct. There is no human law that punishes a person who [has] sex with a woman with mutual agreement and complainant [accepts] compensation therefore. Having sex with complainant once with just compensation does not amount to immoral conduct....

x x x x

6. The complaint is instigated by Corazon Ventura who was an employee at the Law Office of respondent herein. The said Corazon Ventura entertained hatred and [had a grudge] against the herein respondent who terminated her services due to misunderstanding....

7. The filing of the Criminal Case against respondent as well as this Administrative Case is a well orchestrated and planned act of Corazon Ventura as vengeance against respondent as a result of her separation from the employment in the Law Office of the respondent. This claim is supported by the Affidavit of Natividad Ruluna, the former Office Clerk at the Law Office of respondent....

8. To show that Corazon Ventura desires to get back [at] respondent, she demanded from respondent to settle with her and demanded the payment of the amount [of] P2,000,000.00[;] otherwise she will file a case against him in Court for Rape and for disbarment. Respondent did not come across with Corazon Ventura, the latter made good her threats and filed the criminal case for Rape. [sic] When the case [for] rape did not prosper because the Prosecutor dropped the Rape Case, Corazon Ventura [sent word] to respondent that she is amenable for the amount of P400,000.00. In effect, Corazon Ventura wanted to extort from respondent so that she [can] get even with him and his wife for separating her from the employment;

9. Complainant is a woman of loose moral character. This is supported by the Affidavit of Patronio Punayan, Jr. which is hereto attached as Annex "3". And Corazon Ventura can afford to utilize Maria Victoria Ventura as her instrument in putting down the respondent herein because Maria Victoria Ventura is not her biological daughter and she knows before hand that her ward has a questionable reputation. The fact [that] Corazon Ventura is not the biological mother of Maria Victoria Ventura is shown by the pre-trial order in Criminal Case No. 5414....

x x x x

Respondent has not violated any grounds mentioned in this rule. Respondent respectfully submits that his having sex with complainant with just compensation once does not amount to immoral conduct. For who among men will not yield to temptation when a woman shall invite him for sex?

Attached to respondent's Answer is his Counter-Affidavit⁶ which he submitted to the Provincial Prosecutor. He alleged therein that complainant

⁶ Id. at 63-69.

usually stayed late at night with her male friends when her mother was out of the house. He claimed that he heard rumors that complainant had sexual affairs with different boys. Respondent narrated that on March 19, 2002, he saw complainant with some of her classmates near their rented house. Complainant told him that they wanted to go out to swim but they did not have money. When she asked if he could spare some amount, he gave her money. He told her in jest that he wanted to see her that afternoon and go to a place where they could be alone, and he was surprised when she agreed. He just thought that for complainant, sex is a common thing despite her age. At around 5:00 p.m., he fetched complainant at her house. She casually walked towards the car and boarded it. He told her that they will not check in a lodging house because people might recognize him. Upon reaching his poultry farm, respondent met his farm worker and asked him if he could use the latter's hut. The farm worker agreed and they went straight to the hut.

Inside the farm worker's hut, complainant did not hesitate in entering the room. Respondent did not notice any involuntariness on her part as she undressed herself. He asserted that they had sexual intercourse based on their mutual understanding. Thereafter, the complainant dressed up and walked back to the multi-cab where she waited for him. He told her not to tell anyone about what had happened, to which she replied "*natural buang kay motug-an*" meaning, she's not crazy as to tell anyone. He alleged that she accepted the money he gave because she needed to buy some things but her mother did not give her any allowance. Respondent insisted that what happened between them was the first and the last incident. He claimed that he was able to confirm that complainant is no longer a virgin.

It likewise appears that the Investigating Prosecutors found that probable cause exists for respondent to stand trial for qualified seduction.⁷ The charge of rape, however, was dismissed for insufficiency of evidence. An Information was filed with the Regional Trial Court (RTC) of Agusan del

⁷ Id. at 119-122. Resolution dated June 10, 2002.

Sur, Branch 6, but complainant who was not satisfied with the dismissal of the rape charge, filed a motion for reconsideration. When said motion was denied, complainant filed a petition for review with the Department of Justice (DOJ). However, the DOJ sustained the findings of the prosecutor.

Then, on December 14, 2006, complainant and her mother appeared before the public prosecutor and executed their respective Affidavits of Desistance.⁸ Complainant stated that what happened between respondent and her in March 2002 was based on mutual understanding. Thus, she was withdrawing the complaint she filed against respondent before the RTC as well as the one she filed before the IBP Commission on Bar Discipline. Accordingly, the criminal case against respondent was dismissed.⁹

In its Report and Recommendation¹⁰ dated October 10, 2007, the IBP Commission on Bar Discipline recommended that respondent be suspended for a period of one year from the practice of law for immorality with the warning that repetition of the same or similar act will merit a more severe penalty.

On November 10, 2007, the Board of Governors of the IBP issued Resolution No. XVIII-2007-237, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED **with modification**, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex “A”; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that respondent is found guilty of immorality, the victim is a minor, respondent and his wife was victim’s guardians and for being a married man, Atty. Danilo S. Samson is hereby **SUSPENDED** from the practice of law for five (5) years with **Stern Warning** that repetition of the same or similar act in the future will be dealt with more severely.¹¹

Complainant now moves to reconsider the IBP Resolution. She argues that the penalty imposed by the IBP is not commensurate to the

⁸ Id. at 158-159.

⁹ Id. at 164.

¹⁰ Id. at 172-184.

¹¹ Id. at 170.

gravity and depravity of the offense. She contends that respondent committed grossly immoral conduct by forcing himself to have sexual intercourse with a young and innocent lass of 13 years of age. He also took advantage of his moral ascendancy over complainant considering that she was then staying at respondent's residence. Moreover, there was a betrayal of the marital vow of fidelity considering that respondent was a married man. She insists that this detestable behavior renders respondent unfit and undeserving of the honor and privilege which his license confers upon him. Thus, complainant prays that the penalty of disbarment be imposed.¹²

Meanwhile, respondent also filed a Motion for Reconsideration¹³ of the IBP Resolution. He asserts that complainant has not presented any proof of her minority. Likewise, during the sexual encounter, complainant was not under their custody. He contends that complainant's mother even testified that her daughter stayed at respondent's house only until February 2002. He further stresses that because of his admission and remorse, and since this is the first time he has been found administratively liable, he is entitled to a reduction of the penalty to one year suspension from the practice of law.

The pertinent provisions in the Code of Professional Responsibility provide:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01. - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

x x x x

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.

x x x x

Rule 7.03. - A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or

¹² Id. at 185-188.

¹³ Id. at 194-201.

private life, behave in a scandalous manner to the discredit of the legal profession.

As we explained in *Zaguirre v. Castillo*,¹⁴ the possession of good moral character is both a condition precedent and a continuing requirement to warrant admission to the bar and to retain membership in the legal profession. It is the bounden duty of members of the bar to observe the highest degree of morality in order to safeguard the integrity of the Bar.¹⁵ Consequently, any errant behavior on the part of a lawyer, be it in the lawyer's public or private activities, which tends to show said lawyer deficient in moral character, honesty, probity or good demeanor, is sufficient to warrant suspension or disbarment.

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.¹⁶ Immoral conduct 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.¹⁷

From the undisputed facts gathered from the evidence and the admissions of respondent himself, we find that respondent's act of engaging in sex with a young lass, the daughter of his former employee, constitutes gross immoral conduct that warrants sanction. Respondent not only admitted he had sexual intercourse with complainant but also showed no remorse whatsoever when he asserted that he did nothing wrong because she allegedly agreed and he even gave her money. Indeed, his act of having carnal knowledge of a woman other than his wife manifests his disrespect for the laws on the sanctity of marriage and his own marital vow of fidelity. Moreover, the fact that he procured the act by enticing a very young woman

¹⁴ A.C. No. 4921, March 6, 2003, 398 SCRA 658, 664.

¹⁵ See *Advincula v. Macabata*, A.C. No. 7204, March 7, 2007, 517 SCRA 600, 609.

¹⁶ See *Cojuangco, Jr. v. Palma*, Adm. Case No. 2474, September 15, 2004, 438 SCRA 306, 314.

¹⁷ *Garrido v. Garrido*, A.C. No. 6593, February 4, 2010, 611 SCRA 508, 518, citing *St. Louis University Laboratory High School (SLU-LHS) Faculty and Staff v. Dela Cruz*, A.C. No. 6010, August 28, 2006, 499 SCRA 614, 624.

with money showed his utmost moral depravity and low regard for the dignity of the human person and the ethics of his profession.

In *Cordova v. Cordova*,¹⁸ we held that the moral delinquency that affects the fitness of a member of the bar to continue as such includes conduct that outrages the generally accepted moral standards of the community, conduct for instance, which makes a mockery of the inviolable social institution of marriage.

Respondent has violated the trust and confidence reposed on him by complainant, then a 13-year-old minor,¹⁹ who for a time was under respondent's care. Whether the sexual encounter between the respondent and complainant was or was not with the latter's consent is of no moment. Respondent clearly committed a disgraceful, grossly immoral and highly reprehensible act. Such conduct is a transgression of the standards of morality required of the legal profession and should be disciplined accordingly.

Section 27, Rule 138 of the Rules of Court expressly states that a member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for, among others, any deceit, grossly immoral conduct, or violation of the oath that he is required to take before admission to the practice of law. It bears to stress that membership in the Bar is a privilege burdened with conditions. As a privilege bestowed by law through the Supreme Court, membership in the Bar can be withdrawn where circumstances concretely show the lawyer's lack of the essential qualifications required of lawyers.²⁰

Likewise, it was held in *Maligsa v. Cabanting*²¹ that a lawyer may be disbarred for any misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, in honesty,

¹⁸ Adm. Case No. 3249, November 29, 1989, 179 SCRA 680, 683.

¹⁹ *Rollo*, p. 84. Certification of the Municipal Civil Registrar certifying that complainant was born on September 25, 1988.

²⁰ *Garrido v. Garrido*, supra note 17 at 526.

²¹ Adm. Case No. 4539, May 14, 1997, 272 SCRA 408, 414.

probity and good demeanor or unworthy to continue as an officer of the court. Similarly, in *Dumadag v. Lumaya*,²² the Court pronounced:

The practice of law is a privilege burdened with conditions. Adherence to the rigid standards of mental fitness, maintenance of the highest degree of morality and faithful compliance with the rules of the legal profession are the conditions required for remaining a member of good standing of the bar and for enjoying the privilege to practice law.

The fact that complainant filed an Affidavit of Desistance during the pendency of this case is of no moment. Complainant's Affidavit of Desistance cannot have the effect of abating the instant proceedings in view of the public service character of the practice of law and the nature of disbarment proceedings as a public interest concern. A case of suspension or disbarment is *sui generis* and not meant to grant relief to a complainant as in a civil case, but is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts. A disbarment case is not an investigation into the acts of respondent but on his conduct as an officer of the court and his fitness to continue as a member of the Bar.²³

Illicit sexual relations have been previously punished with disbarment, indefinite or definite suspension, depending on the circumstances.²⁴ In this case, respondent's gross misbehavior and unrepentant demeanor clearly shows a serious flaw in his character, his moral indifference to sexual exploitation of a minor, and his outright defiance of established norms. All these could not but put the legal profession in disrepute and place the integrity of the administration of justice in peril, hence the need for strict but appropriate disciplinary action.²⁵

The Court is mindful of the dictum that the power to disbar must be exercised with great caution, and only in a clear case of misconduct that

²² A.C. No. 2614, June 29, 2000, 334 SCRA 513, 521.

²³ *Tiong v. Florendo*, A.C. No. 4428, December 12, 2011, 662 SCRA 1, 6-7.

²⁴ *Samaniego v. Ferrer*, A.C. No. 7022, June 18, 2008, 555 SCRA 1, 5, citing *Bustamante-Alejandro v. Alejandro*, A.C. No. 4526, February 13, 2004, 422 SCRA 527, 533, *Guevarra v. Eala*, A.C. No. 7136, August 1, 2007, 529 SCRA 1, 21, *Zaguire v. Castillo*, A.C. No. 4921, August 3, 2005, 465 SCRA 520, 525, and *Ferancullo v. Ferancullo*, A.C. No. 7214, November 30, 2006, 509 SCRA 1, 15.

²⁵ See *Tapucar v. Tapucar*, supra note 1 at 341.

seriously affects the standing and character of the lawyer as an officer of the Court and as a member of the bar. Thus, where a lesser penalty, such as temporary suspension, could accomplish the end desired, disbarment should never be decreed.²⁶ However, in the present case, the seriousness of the offense compels the Court to wield its power to disbar as it appears to be the most appropriate penalty.²⁷

WHEREFORE, respondent Atty. Danilo S. Samson is hereby **DISBARRED** for Gross Immoral Conduct, Violation of his oath of office, and Violation of Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the Code of Professional Responsibility.


Let a copy of this Decision, which is immediately executory, be made part of the records of respondent in the Office of the Bar Confidant, Supreme Court of the Philippines. And let copies of the Decision be furnished the Integrated Bar of the Philippines and circulated to all courts.

This Decision takes effect immediately.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice

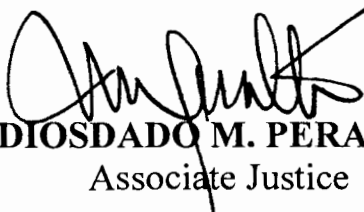

PRESBITERO J. VELASCO, JR.
Associate Justice

²⁶ *Dantes v. Dantes*, A.C. No. 6486, September 22, 2004, 438 SCRA 582, 590, citing *Tapucar v. Tapucar*, supra note 1 at 339-340 and *Resurreccion v. Sayson*, Adm. Case No. 1037, December 14, 1998, 300 SCRA 129, 136-137.

²⁷ *Dantes v. Dantes*, id.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On leave)
ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
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ROBERTO A. ABAD
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MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

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BIENVENIDO L. REYES
Associate Justice

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ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

