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EN BANC

[A.C. No. 8560. September 06, 2016]

CARRIE-ANNE SHALEEN CARLYLE S. REYES, COMPLAINANT, VS. ATTY. RAMON F. NIEVA, RESPONDENT.

D E C I S I O N

PERLAS-BERNABE, J.:

For the Court's resolution is the Complaint[1] dated March 3, 2010 filed by complainant Carrie-Anne Shaleen Carlyle S. Reyes (complainant) against respondent Atty. Ramon F. Nieva (respondent), praying that the latter be disbarred for sexually harassing her.

The Facts

Complainant alleged that she has been working at the Civil Aviation Authority of the Philippines (CAAP) as an Administrative Aide on a Job Order basis since October 2004. Sometime in January 2009, she was reassigned at the CAAP Office of the Board Secretary under the supervision of respondent, who was then acting as CAAP Acting Board Secretary. During complainant's stint under respondent, she would notice that during office hours, respondent would often watch "*pampagana*" videos saved in his office laptop, all of which turned out to be pornographic films. Complainant also averred that whenever respondent got close to her, he would hold her hand and would sometimes give it a kiss. During these instances, complainant would remove her hands and tell him to desist. According to complainant, respondent even offered her a cellular phone together with the necessary load to serve as means for their private communication, but she refused the said offer, insisting that she already has her own cellular phone and does not need another one.[2]

Complainant also narrated that at about 5 o'clock in the afternoon of April 1, 2009, respondent texted her to wait for him at the office. Fearing that respondent might take advantage of her, complainant convinced two (2) of her officemates to accompany her until

respondent arrived. Upon respondent's arrival and seeing that complainant had companions, he just told complainant and the other two (2) office staff to lock the door when they leave.[3]

Complainant further recounted that on the following day, April 2, 2009, respondent called her on her cellular phone, asked if she received his text message, and told her he would tell her something upon his arrival at the office. At about 9:30 in the morning of even date, respondent asked complainant to encode a memorandum he was about to dictate. Suddenly, respondent placed his hand on complainant's waist area near her breast and started caressing the latter's torso. Complainant immediately moved away from respondent and told him "*sumosobra na ho kayo sir*." Instead of asking for an apology, respondent told complainant he was willing to give her P2,000.00 a month from his own pocket and even gave her a note stating "*just bet (between) you and me, x x x kahit na si mommy*," referring to complainant's mother who was also working at CAAP. At around past 11 o'clock in the morning of the same day, while complainant and respondent were left alone in the office, respondent suddenly closed the door, grabbed complainant's arm, and uttered "*let's seal it with a kiss*," then attempted to kiss complainant. This prompted complainant to thwart respondent's advances with her left arm, raised her voice in order to invite help, and exclaimed "*wag naman kayo ganyan sir, yung asawa nyo magagalit, sir may asawa ako*." After respondent let her go, complainant immediately left the office to ask assistance from her former supervisor who advised her to file an administrative case[4] against respondent before the CAAP Committee on Decorum and Investigation (CODI).[5]

Finally, complainant alleged that after her ordeal with respondent, she was traumatized and was even diagnosed by a psychiatrist to be suffering from post-traumatic stress disorder with recurrent major depression.[6] Eventually, complainant filed the instant complaint.

In his defense,[7] respondent denied all of complainant's allegations. He maintained that as a 79-year old retiree who only took a position at the CAAP on a consultancy basis, it was very unlikely for him to do the acts imputed against him, especially in a very small office space allotted for him and his staff. In this regard, he referred to his Counter-Affidavit[8] submitted before the CODI, wherein he explained, *inter alia*, that: (*a*) while he indeed watches "interesting shows" in his office laptop, he never invited anyone, including complainant, to watch with him and that he would even close his laptop whenever someone comes near him;[9] (*b*) he never held and kissed complainant's hand because if he had done so, he would have been easily noticed by complainant's co-staffers;[10] (*c*) he did offer her a cellular phone, but this was supposed to be an office phone which should not be used for personal purposes,

and thus, could not be given any sexual meaning;[11] (*d*) he did tell complainant to wait for him in the afternoon of April 1, 2009, but only for the purpose of having an available encoder should he need one for any urgent matter that would arise;[12] and (*e*) he would not do the acts he allegedly committed on April 2, 2009 as there were other people in the office and that those people can attest in his favor.[13] Respondent then pointed out that the administrative case filed against him before the CODI was already dismissed for lack of basis and that complainant was only being used by other CAAP employees who were agitated by the reforms he helped implement upon his assumption as CAAP consultant and eventually as Acting Corporate Board Secretary.[14]

The IBP's Report and Recommendation

In a Report and Recommendation[15] dated August 14, 2012, the Integrated Bar of the Philippines (IBP) Investigating Commissioner recommended the dismissal of the instant administrative complaint against respondent.[16] He found that complainant failed to substantiate her allegations against respondent, as opposed to respondent's defenses which are ably supported by evidence. Citing respondent's evidence, the Investigating Commissioner opined that since the CAAP Office of the Board Secretary was very small, it is implausible that a startling occurrence such as an attempted sexual molestation would not be noticed by not only the other occupants of said office area, but also by those occupying the office adjacent to it, i.e., the CAAP Operations Center, which is separated only by glass panels. Further, the Investigating Commissioner drew attention to the investigation conducted by the CODI showing that the collective sworn statements of the witnesses point to the eventual conclusion that none of the alleged acts of misconduct attributed to respondent really occurred.[17]

In a Resolution[18] dated May 10, 2013, the IBP Board of Governors (IBP Board) unanimously reversed the aforesaid Report and Recommendation. As such, respondent was found guilty of committing sexual advances, and accordingly, recommended that he be suspended from the practice of law for three (3) months.

In view of respondent's Motion for Reconsideration,[19] the IBP Board referred the case to the IBP Commission on Bar Discipline (IBP-CBD) for study, evaluation, and submission of an Executive Summary to the IBP Board.[20]

In the Director's Report[21] dated July 8, 2014, the IBP-CBD National Director recommended

that the current IBP Board adhere to the report and recommendation of the Investigating Commissioner as it is supported by the evidence on record; on the other hand, the reversal made by the previous IBP Board is bereft of any factual and legal bases, and should therefore, be set aside. In this light, the current IBP Board issued a Resolution[22] dated August 10, 2014 setting aside the previous IBP Board's Resolution, and accordingly, dismissed the administrative complaint against respondent.

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable for violating the Code of Professional Responsibility (CPR).

The Court's Ruling

Rule 1.01, Canon 1 of the CPR provides:

> **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.

The provision instructs that "[a]s officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing."[23]

In similar light, Rule 7.03, Canon 7 of the CPR states:

> **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 private life, behave in a

> scandalous manner to the discredit of the legal profession.

Good moral character is a trait that every practicing lawyer is required to possess. It may be defined as "what a person really is, as distinguished from good reputation, or from the opinion generally entertained of him, or the estimate in which he is held by the public in the place where he is known. Moral character is not a subjective term but one which corresponds to objective reality."[24] Such requirement has four (4) ostensible purposes, namely: (*a*) to protect the public; (*b*) to protect the public image of lawyers; (*c*) to protect prospective clients; and (*d*) to protect errant lawyers from themselves.[25]

In *Valdez v. Dabon*,[26] the Court emphasized that a lawyer's continued possession of good moral character is a requisite condition to remain a member of the Bar, *viz*.:

> Lawyers have been repeatedly reminded by the Court that 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. This proceeds from the lawyer's bounden duty to observe the highest degree of morality in order to safeguard the Bar's integrity, and the legal profession exacts from its members nothing less. Lawyers are called upon to safeguard the integrity of the Bar, free from misdeeds and acts constitutive of malpractice. Their exalted positions as officers of the court demand no less than the highest degree of morality.
>
> The Court explained in *Arnobit v. Atty. Arnobit* that "**as officers of the court, lawyers must not only in fact be of good moral character but must also be seen to be of good moral character and leading lives in accordance with the highest moral standards of the community. A member of the bar and an officer of the court is not only required to refrain from adulterous relationships or keeping a mistress but must also behave himself so as to avoid scandalizing the public by creating the impression that he is flouting those moral standards**." Consequently, any errant behavior of the lawyer, be it in his public or private activities, which tends to show deficiency in moral character, honesty, probity or good demeanor, is sufficient to warrant suspension or disbarment.[27] (Emphasis and underscoring supplied)

Verily, lawyers are expected to abide by the tenets of morality, not only upon admission to the Bar but also throughout their legal career, in order to maintain their good standing in this exclusive and honored fraternity. They may be suspended from the practice of law or disbarred for any misconduct, even if it pertains to his private activities, as long as it shows him to be wanting in moral character, honesty, probity or good demeanor.[28]

After due consideration, the Court reverses the findings and recommendations of the IBP, and finds respondent administratively liable for violations of the CPR, as will be explained hereunder.

To recapitulate, the IBP found that as compared to complainant's purposedly bare and uncorroborated allegations, respondent's evidence point to the conclusion that none of the alleged sexual advances made by respondent against complainant actually occurred. As such, it absolved respondent from any administrative liability. In support of such finding, the IBP largely relied on the following: (*a*) the five (5) photographs[29] respondent submitted to the CODI to show that respondent's office space was so small that any commotion caused by a sexual harassment attempt would have been easily noticed by the other occupants thereof;[30] and (*b*) the investigation conducted by the CODI per the Transcript[31] submitted by respondent where the witnesses said that they did not notice anything out of the ordinary on April 2, 2009, the date when respondent's alleged sexual advances against complainant were committed.[32] However, the foregoing evidence, taken as a whole, did not actually refute complainant's allegation that at around past 11 o'clock in the morning of April 2, 2009, respondent closed the door, grabbed complainant's right arm, uttered the words "*let's seal it with a kiss*" and attempted to kiss complainant despite the latter's resistance.

A careful perusal of the aforesaid Transcript shows that at around past 11 o'clock in the morning of April 2, 2009, there was a time that complainant and respondent were indeed left alone in the office:

> Mr. Mendoza: *Ngayon, puwede mo bang idescribe sa amin nung* 9:30 to 11:00 *sinu-sino kayo doon*?
>
> Witness 1: *Tatlo (3) lang kami sir po dun. Si* Ma'am Carrie Anne [complainant], *si* sir Nieva [respondent] *tsaka aka po.*
>
> Mr. Mendoza: So *ikaw lang ang witness, ang taong naroon* 9:30 to 11?

Witness 1: Yes sir.

x x x x

Mr. Mendoza: *Saan kayo kumakain ng* lunch?

Witness 1: *Sa loob po kami naglulunch.*

Mr. Mendoza: *Pag nag-order ng pagkain minsan may natitira pa bang iba*?

Witness 1: *Itong po yung dalawa yung natira nung umalis po aka. Um… pagbalik ko po wala na po si* Ma'am Caan [complainant] *si* Ma'am Amy *nalang po ang nandoon*.

Mr. Mendoza: So *siya* [complainant] *nalang at tsaka si* Atty. Nieva [respondent] *ang naiwan doon sa* room? *Eh nasaan na yung ibang* OJT *pa*?

Witness 1: *Tatlo lang po kasi kami nun* sir*, nasa* Land Bank *po yung dalawa*.

Mr. Mendoza: So *nasa* Land Bank *sila*. So *totoong may nangyari na naiwan silang dalawa* [complainant and respondent] *na* time na *silang dalawa lang ang naiwan sa kuwarto*?

Witness 1: *Opo nung mga* quarter to 12 *siguro po nun*.

Mr. Mendoza: *Ilang beses na may nangyayaring ganun na silang naiiwan doon sa kuwarto*?

Witness 1: *Yun lang po kasi yung natatandaan ko po sir na* time na *naiwan sila eh*.

x x x x

Mr. Abesamis: *Umalis ka sa room para bumili ng pagkain nandoon si* Atty. Nieva [respondent]?

Witness 1: *Andoon pa po silang dalawa* [complainant and respondent]. *Pero tapos na po silang magtype nun tas nag* decide *na maglunch na eh*.

Mr. Abesamis: *Saan*? *Sino ang naiwan*?

Witness 1: *Dalawa pa lang sila sir pagbalik ko tatlo na sila pero wala naman po si* Ma'am Caan [complainant]. *Nung umalis po ako si* sir Nieva [respondent] *tsaka si* Ma'am Caan *yung nandoon then pagbalik ko po wala na si* Ma'am Caan, *si sir* Nieva *tsaka silang dalawa na po yung nandoon.*

Mr. Abesamis: Ok. *So wala na silang kasamang iba*?

Witness 1: *Opo.*[33]

The same Transcript also reveals that the CODI interviewed the occupants of the adjacent office, *i.e.*, the CAAP Operations Center, which, according to the IBP Investigating Commissioner, was only separated from complainant and respondent's office, *i.e.* the CAAP Office of the Board Secretary, by glass panels. Pertinent parts of the interview read:

Mr. Borja: *Nung oras ng mga alas onse* (11) *pagitan ng alas onse* (11) *hanggang alas dose* (12), *nasaan ka* joy [Witness 4]?

Witness 4: *Andun po sa* ORCC [CAAP Operations Center].

Mr. Borja: *Si ano naman Donna* [Witness 5] *ganun din*? *Kasi sinasabi dito noong bandang ganung oras* past eleven (11) *parang nag*-advance *yata si* Atty. Nieva [respondent] *kay* Ms. Reyes (Caan) [complainant] *ngayon nung chinachansingan siya parang ganun ang dating eh* "Iraised up my voice also, so that the OPCEN personnel will hear of the alarm" *may narinig ba kayo na sumigaw siya*?

Witness 4: *Eh kasi sir wala pong braket yun yung time na ano yung* RPCC 764 *so nag-cocoordinate kami…*

Mr. Borja: *Ano yung* 764?

Witness 4: *Yung sa* Tuguegarao *yung nawawala siya so may alerfa tapos ditressfa so intransi po kami… opo…*

Mr. Borja: *So busing-busy ka sa telepono*?

Witness 4: *Opo lahat kami.*

Mr. Borja: *Pati ikaw*?

Witness 5: *Opo*.

Mr. Borja: *Sinong walang ginagawa nun*?

Witness 4: *Wala kasi kanya-kanya kami ng* coordination *lahat kami nasa telepono*.

Mr. Borja: *Kaya kapag kumakalampag yung pader [sa] kabila hindi niyo maririnig*?

Witness 4: *Hindi siguro sir kasi kung nakasara din sila ng pinto tapos kanya-kanya kaming may kausap sa telepono eh.*

Mr. Borja: *Kung hindi kayo nakikipag-usap ngayon wala kayong ginagawa, narinig niyo ang usapan doon sa kabila.*

Witness 5: Yes sir.

Atty. Gloria: *Lalo na pag malakas.*

Mr. Borja: *Pag malakas pero* therein normal *voice lang* level.

Witness 4: *Kasi minsan malakas din yung radio nila eh. Kung minsan kasi sir may mga music sila. Eto sir yung* time *na kinuha… Dami nila eh… Lumabas nakita naming mga ano mga* 10:45 *na yan nabasa* sir.

Mr. Borja: *Pero ang pinag-uusapan natin lagpas ng alas onse* (11) *ha bago mag-alas dose* (12) *ang pinaka* latest message *mo dito* 02/03/06 11:06. So between 11:06 to 12 *wala kayong…*

Witness 4: *Kasi nakikipag-coordination talaga kami kahit… kami lang nandoon sa telepono*.

Mr. Borja: Written *pero* voice coordination *niyo sa telepono kayo*?

Witness 4: *Tsaka naka* log-in *sa* log book.

x x x x

Mr. Abesamis: Ma'am Joy [Witness 4] *sabi niyo kanina naririnig niyo si* sir [respondent] *sa kabila kung wala kayong kausap lalong-lalo na kapag malakas*

yung salita?

Witness 4: *Opo.*

Mr. Abesamis: So *ibig sabihin kahit hindi malakas may* possibility *na maririnig niyo yung usapan kung walang* radio? *Siguro* if intelligible or knowledgeable *pero maririnig mo sa kabila*?

Witness 4: *Kung mahina o* normal *yung usapan*?

Mr. Abesarnis: Normal *na usapan,* conversation.

Witness 4: *Hindi siguro pag sarado sila*.

Mr. Abesamis: *Pero kung halimbawa sisigaw*?

Witness 4: *Maririnig siguro kasi kapag nagdidictate si* Attorney [respondent] *minsan naririnig namin*.

Mr. Mendoza: *Maski sarado yung pinto*?

Witness 4: *Ah opo.*

Mr. Mendoza: *Naririnig*?

Witness 4: *Kung malakas*.

Mr. Mendoza: *Ah kung malakas*?

Witness 4: Opo.

Mr. Abesamis: So *wala kayong naririnig man lang kahit isang* word *na malakas doon sa kanila* during the time *na nangyari ito*?

Witness 4: *Nung* time *na iyan wala kasi kaming maalala…*

Mr. Abesamis: *Walang* possibility *na narinig niyo pero mas busy kayo sa telephone operation*.

Witness 4: *Busy kami*.

Mr. Abesamis: *Hindi makikilatis yung ano…*

Witness 4: *Kasi may* time *na sumigaw na babae nga pero kala lang namin ah…*

Mr. Abesamis: *Nung* date *na iyon o hindi*?

Witness 4: *Hindi, hindi pa sigurado eh kasi…*

Mr. Abesarnis: *Hindi yung* date *bang iyon ang sinasabi mo*?

Witness 4: *Hindi kasi busy talaga kami sa* coordination *nung ano eh nung* time *na iyon. Nasabay kasi eh nung* time *na iyon hinahanap pa namin yung* requirement.

Mr. Mendoza: *Pero bago yung bago mag* April 2, *meron ba kayo na tuligan na nag-aanuhan ng ganun, nagrereklamo tungkol kay* Atty. Nieva [respondent], *wala*? *May narinig kayong movie na parang sounding na* porno *ganun*?

Witness 4: *Wala music lang talaga sir.*

Mr. Mendoza: So music.

Witness 4: *Kung minsan kasi binubuksan nila yung* door *pag mainit yung kuwarto nila*.

Mr. Borja: At that time *hindi bukas iyon*?

Witness 4: *Kami ano eh may cover ng ano cartolina na white.*

Mr. Borja: *Makakatestify lang kayo sa audio eh, kasi wala kayong nakikita.*[34]

The above-cited excerpts of the Transcript show that at around past 11 o'clock in the morning of April 2, 2009, complainant and respondent were left alone in the CAAP Office of the Board Secretary as complainant's officemates were all out on errands. In this regard, it was error on the part of the IBP to hastily conclude from the testimonies of complainant's officemates who were interviewed by the CODI that nothing out of the ordinary happened. Surely, they were not in a position to confirm or refute complainant's allegations as they were not physically in the office so as to make a credible testimony as to the events that transpired therein during that time.

Neither can the testimonies of those in the CAAP Operations Center be used to conclude that respondent did not do anything to complainant, considering that they themselves admitted that they were all on the telephone, busy with their coordinating duties. They likewise clarified that while their office is indeed separated from the CAAP Office of the Board Secretary only by glass panels, they could not see what was happening there as they covered the glass panels with white cartolina. In light of their preoccupation from their official duties as well as the fact that the glass panels were covered, it is very unlikely for them to have noticed any commotion happening in the adjacent CAAP Office of the Board Secretary.

Furthermore, the IBP should have taken the testimonies of the witnesses in the CODI proceedings with a grain of salt. It bears noting that all those interviewed in the CODI proceedings were job order and regular employees of the CAAP. Naturally, they would be cautious in giving any unfavorable statements against a high-ranking official of the CAAP such as respondent who was the Acting Board Secretary at that time – lest they earn the ire of such official and put their career in jeopardy.

Thus, the IBP erred in concluding that such Transcript shows that respondent did not perform the acts complained of. On the contrary, said Transcript proves that there was indeed a period of time where complainant and respondent were left alone in the CAAP Office of the Board Secretary which gave respondent a window of opportunity to carry out his acts constituting sexual harassment against complainant.

More importantly, records reveal that complainant's allegations are adequately supported by a Certificate of Psychiatric Evaluation[35] dated April 13, 2009 stating that the onset of her psychiatric problems – diagnosed as post-traumatic stress disorder with recurrent major depression started after suffering the alleged sexual molestation at the hands of respondent. Moreover, complainant's plight was ably supported by other CAAP employees[36] as well as a retired Brigadier General of the Armed Forces of the Philippines[37] through various letters to authorities seeking justice for complainant. Perceptibly, complainant would not seek help from such supporters, and risk their integrity in the process, if none of her allegations were true. Besides, there is no evidence to establish that complainant was impelled by any improper motive against respondent or that she had reasons to fabricate her allegations against him. Therefore, absent any competent proof to the contrary, the Court finds that complainant's story of the April 2, 2009 incident was not moved by any ill-will and was untainted by bias; and hence, worthy of belief and credence.[38] In this regard, it should be mentioned that respondent's averment that complainant was only being used by other CAAP

employees to get back at him for implementing reforms within the CAAP was plainly unsubstantiated, and thus, a mere self-serving assertion that deserves no weight in law.[39]

In addition, the Court notes that respondent never refuted complainant's allegation that he would regularly watch "*pampagana*" movies in his office-issued laptop. In fact, respondent readily admitted that he indeed watches "interesting shows" while in the office, albeit insisting that he only does so by himself, and that he would immediately dose his laptop whenever anyone would pass by or go near his table. As confirmed in the Transcript[40] of the investigation conducted by the CODI, these "*pampagana*" movies and "interesting shows" turned out to be pornographic materials, which respondent even asks his male staff to regularly play for him as he is not well-versed in using computers.[41]

Without a doubt, it has been established that respondent habitually watches pornographic materials in his office-issued laptop while inside the office premises, during office hours, and with the knowledge and full view of his staff. Obviously, the Court cannot countenance such audacious display of depravity on respondent's part not only because his obscene habit tarnishes the reputation of the government agency he works for – the CAAP where he was engaged at that time as Acting Corporate Secretary – but also because it shrouds the legal profession in a negative light. As a lawyer in the government service, respondent is expected to perform and discharge his duties with the highest degree of excellence, professionalism, intelligence, and skill, and with utmost devotion and dedication to duty.[42] However, his aforesaid habit miserably fails to showcase these standards, and instead, displays sheer unprofessionalism and utter lack of respect to the government position he was entrusted to hold. His flimsy excuse that he only does so by himself and that he would immediately close his laptop whenever anyone would pass by or come near his table is of no moment, because the lewdness of his actions, within the setting of this case, remains. The legal profession – much more an engagement in the public service should always be held in high esteem, and those who belong within its ranks should be unwavering exemplars of integrity and professionalism. As keepers of the public faith, lawyers, such as respondent, are burdened with a high degree of social responsibility and, hence, must handle their personal affairs with greater caution. Indeed, those who have taken the oath to assist in the dispensation of justice should be more possessed of the consciousness and the will to overcome the weakness of the flesh, as respondent in this case.[43]

In the Investigating Commissioner's Report and Recommendation adopted by the IBP Board of Governors, the quantum of proof by which the charges against respondent were assessed was preponderance of evidence. Preponderance of evidence "means evidence which is of

greater weight, or more convincing than that which is offered in opposition to it."[44] Generally, under Rule 133 of the Revised Rules on Evidence, this evidentiary threshold applies to civil cases:

> **SECTION 1.** *Preponderance of evidence, how determined.* – **In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence.** In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number. (Emphasis supplied)

Nonetheless, in **non-civil** cases such as *De Zuzuarregui, Jr. v. Soguilon*[45] cited by the IBP Investigating Commissioner, the Court had pronounced that the burden of proof by preponderance of evidence in disbarment proceedings is upon the complainant.[46] These rulings appear to conflict with other jurisprudence on the matter which contrarily hold that substantial evidence is the quantum of proof to be applied in administrative cases against lawyers.[47] The latter standard was applied in administrative cases such as *Foster v. Agtang*,[48] wherein the Court had, in fact, illumined that:

> **[T]he quantum of evidence required in civil cases is different from the quantum of evidence required in administrative cases.** In civil cases, preponderance of evidence is required. Preponderance of evidence is "a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto." **In administrative cases, only substantial evidence is needed.** Substantial evidence, which is more than a mere scintilla but is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, would suffice to hold one administratively liable.[49] (Emphasis supplied; citations omitted)

Similarly, in *Peña v. Paterno*,[50] it was held:

> Section 5, in [comparison with] Sections 1 [(Preponderance of evidence, how proved)] and 2 [(Proofbeyond reasonable doubt)], Rule 133, Rules of Court states that **in administrative cases, only substantial evidence is required, not proof beyond reasonable doubt as in criminal cases, or preponderance of evidence as in civil cases**. Substantial evidence is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.[51] (Emphasis supplied; citations omitted)

Based on a survey of cases, the recent ruling on the matter is *Cabas v. Sususco*,[52] which was promulgated just this June 15, 2016. In the said case, it was pronounced that:

> **In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.** Further, the complainant has the burden of proving by substantial evidence the allegations in his complaint. The basic rule is that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.[53] (Emphasis supplied)

Accordingly, this more recent pronouncement ought to control and therefore, quell any further confusion on the proper evidentiary threshold to be applied in administrative cases against lawyers.

Besides, the evidentiary threshold of substantial evidence – as opposed to preponderance of evidence – is more in keeping with the primordial purpose of and essential considerations attending this type of cases. As case law elucidates, "[d]isciplinary proceedings against lawyers are *sui generis*. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. It may be initiated by the Court *motu proprio*. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely

calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor."[54]

With the proper application of the substantial evidence threshold having been clarified, the Court finds that the present charges against respondent have been adequately proven by this standard. Complainant has established her claims through relevant evidence as a reasonable mind might accept as adequate to support a conclusion – that is, that respondent had harassed her and committed despicable acts which are clear ethical violations of the CPR. In fine, respondent should be held administratively liable and therefore, penalized.

Jurisprudence provides that in similar administrative cases where the lawyer exhibited immoral conduct, the Court meted penalties ranging from reprimand to disbarment. In *Advincula v. Macabata*,[55] the lawyer was reprimanded for his distasteful act of suddenly turning the head of his female client towards him and kissing her on the lips. In *De Leon v. Pedreña*,[56] the lawyer was suspended from the practice of law for a period of two (2) years for rubbing the female complainant's right leg with his hand, trying to insert his finger into her firmly closed hand, grabbing her hand and forcibly placed it on his crotch area, and pressing his finger against her private part. While in *Guevarra v. Eala*[57] and *Valdez v. Dabon*,[58] the Court meted the extreme penalty of disbarment on the erring lawyers who engaged in extramarital affairs. Here, respondent exhibited his immoral behavior through his habitual watching of pornographic materials while in the office and his acts of sexual harassment against complainant. Considering the circumstances of this case, the Court deems it proper to impose upon respondent the penalty of suspension from the practice of law for a period of two (2) years.

WHEREFORE, respondent Atty. Ramon F. Nieva is found **GUILTY** of violating Rule 1.01, Canon 1, and Rule 7.03, Canon 7 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of two (2) years, effective upon the finality of this Decision, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

Let copies of this Decision be served on the Office of the Bar Confidant, the Integrated Bar of the Philippines and all courts in the country for their information and guidance and be

attached to respondent's personal record as attorney.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Del Castillo, Perez, Mendoza, Leonen, Jardeleza, and *Caguioa, JJ.*, concur.
Brion, J., on leave.
Bersamin, J., on official leave.
Reyes, J., on official leave.

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[1] *Rollo*, pp. 1-7.

[2] Id. at 2-3.

[3] Id. at 3-4.

[4] See Affidavit-Complaint dated April 2, 2009; id. at 8.

[5] Id. at 4-5. See also id. at 60.

[6] See Certificate of Psychiatric Evaluation dated April 13, 2009. Signed by Juan V. Arellano, M.D., D.P.B.P., F.P.P.A.; id. at 9.

[7] See Comment filed on June 16, 2010; id. at 21-27.

[8] Id. at 42-55.

[9] Id. at 48.

[10] Id. at 48-49.

[11] Id. at 49.

[12] Id. at 49-50.

[13] Id. at 50.

[14] Id. at 22-23. See also id. at 54.

[15] Id. at 179-187. Signed by Commissioner Pablo S. Castillo.

[16] Id. at 187.

[17] Id. at 183-187.

[18] See Notice of Resolution in Resolution No. XX-2013-555 signed by IBP National Secretary Nasser A. Marohomsalic; id. at 178, including dorsal portion.

[19] Id. at 188-190.

[20] See id. at 208.

[21] Id. at 208-211. Signed by IBP-CBD National Director Dominic C. M. Solis.

[22] See Notice of Resolution in Resolution No. XXI-2014-531 signed by IBP National Secretary Nasser A. Marohomsalic; id. at 206.

[23] See *Spouses Lopez v. Limos*, A.C. No. 7618, February 2, 2016, citing *Tabang v. Gacott*, 713 Phil. 578, 593 (2013).

[24] *Advincula v. Macabata*, 546 Phil. 431, 440 (2007), citation omitted.

[25] Id., citing *Dantes v. Dantes*, 482 Phil. 64, 71 (2004).

[26] A.C. No. 7353, November 16, 2015.

[27] See id.

[28] *Advincula v. Macabata*, supra note 24, at 440, citing *Rural Bank of Silay. Inc. v. Pilla*, 403 Phil. 1, 9 (2001).

[29] See *rollo*, pp. 56-58.

[30] See id. at 184-185.

[31] Id. at 75-123.

[32] See id. at 186-187.

[33] Id. at 83-84 and 89.

[34] Id. at 119-122.

[35] Id. at 9.

[36] See undated Letter written by CAAP employees addressed to then-Chief Justice Reynato S. Puno; id. at 12.

[37] See Letters written by Retired Brigadier General Miguel M. Villamor of the Armed Forces of the Philippines addressed to: (*a*) respondent, id. at 17-18 (undated); and (*b*) CAAP Director General Ruben F. Ciron (dated April 7, 2009); id. at 164.

[38] See *People v. Jalbonian*, 713 Phil. 93, 104 (2013), citing *People v. Manulit*, 649 Phil. 715, 726 (2010).

[39] See *People v. Mangune*, 698 Phil. 759, 771 (2012), citing *People v. Espinosa*, 476 Phil. 42, 62 (2004).

[40] *Rollo*, pp. 75-123.

[41] See id. at 91-93, 100, and 106-107.

[42] See Section 4 (b) of Republic Act No. 6713, otherwise known as the "CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES."

[43] See *Valdez v. Dabon*, A.C. No. 7353, November 16, 2015, supra note 26, citing *Ui v. Bonifacio*, 388 Phil. 691, 706 (2000).

[44] *Montañez v. Mendoza*, 441 Phil. 47, 56 (2002).

[45] 589 Phil. 64 (2008).

[46] See *Spouses Rafols v. Barrios, Jr.*, 629 Phil. 213, 224 (2010); *Arma v. Montevilla*, 581 Phil. 1, 7 (2008); *Asa v. Castillo*, 532 Phil. 9, 21 (2006).

[47] See *Sison v. Camacho*, A.C. No. 10910, January 12, 2016; *Brennisen v. Contawi*, 686 Phil. 342, 350 (2012).

[48] A.C. No. 10579, December 10, 2014, 744 SCRA 242.

[49] Id. at 263.

[50] A.C. No. 4191, June 10, 2013, 698 SCRA 1.

[51] Id. at 592-593.

[52] See A.C. No. 8677, June 15, 2016.

[53] Id., citing *Dr. De Jesus v. Guerrero III*, 614 Phil. 520, 529 (2009).

[54] *Pena v. Aparicio*, 552 Phil. 512, 521 (2007).

[55] Supra note 24.

[56] 720 Phil. 12 (2013).

[57] 555 Phil. 713 (2007).

[58] A.C. No. 7353, November 16, 2015, supra note 26.

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