

**IN RE: DISBARMENT OF ARMANDO PUNO. FLORA QUINGWA,
COMPLAINANT, VS. ARMANDO PUNO, RESPONDENT.***Adm. No. 389. February 28, 1967*

Ponente: REGALA, J.

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On April 16, 1959, Flora Quingwa filed before this Court a verified complaint charging Armando Puno, a member of the Bar, with gross immorality and misconduct. In his answer, the respondent denied all the material allegations of the complaint, and as a special defense averred that the allegations therein do not constitute grounds for disbarment or suspension under section 25, Rule 127 of the former Rules of Court.

The case was referred to the Solicitor General on June 3, 1958, for investigation, report and recommendation. Hearings were held by the then Solicitor Roman Cancino, Jr., during which the complainant, assisted by her counsel, presented evidence both oral and documentary. The respondent, as well as his counsel, cross-examined the complainant's witnesses. The respondent likewise testified. He denied having sexual intercourse with complainant at the Silver Moon Hotel on June 1, 1958, disclaimed the handwriting "Mr. & Mrs. A. Puno" appearing in the hotel register, and disowned Armando Quingwa Puno, Jr. to be his child.

After the hearing, the Solicitor general filed a complaint, formally charging respondent with immorality. The complaint recites:

"That on June 1, 1958, at a time when complainant Flora Quingwa and respondent Armando Puno were engaged to be married, the said respondent invited the complainant to attend a movie but on their way the respondent told the complainant that they take refreshment before going to the Lyric Theater; that they proceeded to the Silver Moon Hotel at R. Hidalgo, Manila; that while at the restaurant on the first floor of the said Silver Moon Hotel, respondent proposed to complainant that they go to one of the rooms upstairs assuring her that 'anyway we are getting married;' that with reluctance and a feeling of doubt engendered by love of respondent and the respondent's promise of marriage, complainant acquiesced, and before they entered the hotel room respondent registered and signed the registry book as 'Mr. and Mrs. A. Puno'; that after registering at the hotel, respondent shoved complainant inside the room; that as soon as they were inside the room, someone locked the door from outside and respondent proceeded to the bed and undressed himself; that complainant begged respondent not to molest her but respondent insisted, telling her: 'anyway I have promised to marry you'; and respondent, still noticing the reluctance of complainant to his overtures of love, again assured complainant that 'you better give up. Anyway I promised that I will marry you'; that thereupon respondent pulled complainant to the bed, removed her pantie, and then placed himself on top of her and held her hands to keep her flat on the bed; that when respondent was already on top of complainant the latter had no other recourse but to submit to respondent's demand and two (2) sexual intercourse took place from 3:00 o'clock until 7:00 o'clock that same evening when they left the hotel and proceeded to a birth-day party together; that after the sexual act with complainant on June 1, 1958, respondent repeatedly proposed to have some more but complainant refused telling that they had better wait until they were married; that after their said sexual intimacy on June 1, 1958 and feeling that she was already on the family way, complainant repeatedly implored respondent to comply with his promise of marriage but respondent refused to comply;

that on February 20, 1959, complainant gave birth to a child.

"That the acts of the respondent in having carnal knowledge with the complainant through a promise of marriage which he did not fulfill and has refused to fulfill up to the present constitute a conduct which shows that respondent is devoid of the highest degree of morality and integrity which at all times is expected of and must be possessed by members of the Philippine Bar."

The Solicitor General asked for the disbarment of the respondent.

A copy of this complaint was served on respondent on May 3, 1962. Thereupon, he answered the complaint on June 9, 1962, again denying that he took complainant to the Silver Moon Hotel and that on the promise of marriage, succeeded twice in having sexual intercourse with her. He, however, admitted that sometime in June, 1955, he and the complainant became sweethearts until November, 1955, when they broke off, following a quarrel. He left for Zamboanga City in July, 1958, to practice law. Without stating in his answer that he had the intention of introducing additional evidence, respondent prayed that the complaint be dismissed.

This case was set for hearing in this Court on July 20, 1962. On the day of the hearing Solicitor Ceferino E. Gaddi who appeared for the complainant submitted the case for decision without oral argument. There was no appearance for the respondent.

Since the failure of respondent to make known in his answer his intention to present additional evidence in his behalf is deemed a waiver of the right to present such evidence (*Toledo v. Toledo*, Adm. Case No. 266, April 27, 1963), the evidence produced before the Solicitor General in his investigation, where respondent had an opportunity to object to the evidence and cross-examine the witnesses, may now be considered by this Court, pursuant to Section 6, Rule 139 of the Rules of Court.

After reviewing the evidence, we are convinced that the facts are as stated in the complaint.

Complainant is an educated woman, having been a public school teacher for a number of years. She testified that respondent took her to the Silver Moon Hotel on June 1, 1958, signing the hotel register as "Mr. and Mrs. A. Puno," and succeeded in having sexual intercourse with her on the promise of marriage. The hotel register of the Silver Moon Hotel (Exh. B-1 and Exh. B-2) shows that "Mr. & Mrs. A. Puno" arrived at that hotel on June 1, 1958 at 3:00 P.M. and departed at 7:00 P.M.

Complainant also testified that she last saw respondent on July 5, 1958, when the latter went to Zamboanga City. When she learned that respondent had left for Zamboanga City, she sent him a telegram sometime in August of that year telling him that she was in trouble. Again she wrote him a letter in September and another one in October of the same year, telling him that she was pregnant and she requested him to come. Receiving no replies from respondent, she went to Zamboanga City in November, 1958, where she met the respondent and asked him to comply with his promise to marry her.

Respondent admitted that he left for Zamboanga City in July, 1958, and that he and complainant met in Zamboanga City in November, 1958. The fact that complainant sent him a telegram and letters was likewise admitted in respondent's letter to the complainant dated November 3, 1958 (Exh. E), which was duly identified by the respondent to be his.

Complainant gave birth to a baby boy on February 20, 1959, at the Maternity and Children's Hospital. This is supported by a certified true copy of a birth certificate issued by the Deputy Local Civil Registrar of Manila, and a certificate of admission of complainant to the Maternity and Children's Hospital issued by the Medical records clerk of the hospital.

To show how intimate the relationship between the respondent and the complainant was, the latter testified that she gave money to the respondent whenever he asked from her. This was corroborated by the testimony of Maria Jaca, a witness for the complainant. Even respondent's letter dated November 3, 1958 (Exh. E) shows that he used to ask for money from the complainant.

The lengthy cross-examination to which complainant was subjected by the respondent himself failed to discredit complainant's testimony.

In his answer to the complaint of the Solicitor General, the respondent averred that he and complainant were sweethearts up to November, 1955 only. The fact that they reconciled and were sweethearts in 1958 is established by the testimony of Fara Santos, a witness of the complaint (pp. 12 & 17, t.s.n.); respondent's letter to the complainant dated November 3, 1958 (Exh. E); and respondent's own testimony (pp. 249 & 255, t.s.n.)

Complainant submitted to respondent's plea for sexual intercourse because of respondent's promise of marriage and not because of a desire for sexual gratification or of voluntariness and mutual passion. (Cf. *Tanjanco v. Court of Appeals*, G. R. No. L-18630, December 17, 1966)

One of the requirements for all applicants for admission to the Bar is that the applicant must produce before the Supreme Court satisfactory evidence of good moral character (Section 2, Rule 127 of the old Rules of Court, now section 2, Rule 138) If that qualification is a condition precedent to a license or privilege to enter upon the practice of law, it is essential during the continuance of the practice and the exercise of the privilege. (*Royong v. Oblena*, Adm. Case No. 376, April 30, 1963, citing *In re Pelaez*, 44 Phil. 567) When his integrity is challenged by evidence, it is not enough that he denies the charges against him; he must meet the issue and overcome the evidence for the relator (Legal and Judicial Ethics, by Malcolm, p. 93) and show proofs that he still maintains the highest degree of morality and integrity, which at all times is expected of him. Respondent denied that he took complainant to the Silver Moon Hotel and had sexual intercourse with her on June 1, 1958, but he did not present evidence to show where he was on that date. In the case of *United States v. Tria*, 17 Phil. 303, Justice Moreland, speaking for the Court, said:

"An accused person sometimes owes a duty to himself if not to the State. If he does not perform that duty he may not always expect the State to perform it for him. If he fails to meet the obligation which he owes to himself, when to meet it is the easiest of easy things, he is hardly indeed if he demand and expect that same full and wide consideration which the State voluntarily gives to those who by reasonable effort seek to help themselves. This is particularly so when he not only declines to help himself but actively conceals from the State the very means by which it may assist him."

With respect to the special defense raised by the respondent in his answer to the charges of the complainant that the allegations in the complaint do not fall under any of the grounds for disbarment or suspension of a member of the Bar as enumerated in section 25 of Rule 127 of the (old) Rules of Court, it is already a settled rule that the statutory enumeration of the grounds for disbarment or suspension is not to be taken as a limitation on the general power of courts to suspend or disbar a lawyer. The inherent powers of the court over its officers can not be restricted. Times without number, our Supreme Court held that an attorney will be removed not only for malpractice and dishonesty in his profession, but also for gross misconduct, which shows him to be unfit for the office and unworthy of the privileges which his license and the law confer upon him. (*In re Pelaez*, 44 Phil. 567, citing *In re Smith* [1906] 73 Kan., 743; *Balinon v. de Leon*, Adm. Case No. 104, January 28, 1954; 50 O.G. 583; *Mortel v. Aspiras*, Adm. Case No. 145, December 28, 1956, 53 O.G. 627) As a matter of fact, "grossly immoral conduct" is now one of the grounds for suspension or disbarment. (Section 27, Rule 138, Rules of Court)

Under the circumstances, we are convinced that the respondent has committed a grossly immoral act and has thus

disregarded and violated the fundamental ethics of his profession. Indeed, it is important that members of this ancient and learned profession of law must conform themselves in accordance with the highest standards of morality. As stated in paragraph 29 of the Canons of Judicial Ethics:

"x x x The lawyer should aid in guarding the bar against the admission to the profession of candidates unfit or unqualified because deficient in either moral character or education. He should strive at all times to uphold the honor and to maintain the dignity of the profession and to improve not only the law but the administration of justice."

WHEREFORE, respondent Armando Puno is hereby dis-barred and, as a consequence, his name is ordered stricken off from the Roll of Attorneys.

Concepcion, C.J., Reyes, Dizon, Makalintal, Bengzon, Zaldivar, Sanchez, and Castro, JJ., concur.

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