

**JOSE MONTANA, JULIANA M. MONTANA AND MARTINA MONTANA,
PETITIONERS VS. ATTY. EDMUNDO M. RUADO, RESPONDENT.***Adm. Case No. 507. February 24, 1975*

Ponente: FERNANDO, J.

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It has been remarked that affairs of the heart may at the start be characterized by sweetness and light only to turn sour at the end. It is not unlikely either that there will be moments of warmth resulting in a love-child, not exactly unwanted, but apt to cause complications. So it did turn out exactly in this administrative case, the male participant, respondent Edmundo M. Ruado, being a member of the bar and, at the time of the complaint, an assistant Provincial Fiscal of Romblon. His conduct in courting complainant Martina Montana,[1] leading her to believe in the sincerity of his intentions, both of them being single at the time, and to submit to his importunities to have sexual relations resulting in her pregnancy and subsequent delivery, but thereafter marrying another woman, was stigmatized as lacking in that "degree of morality and integrity which at all times is expected of, and must be possessed by, members of the bar.[2] Respondent was required to answer. He did so: He denied the fact that he and complainant, Martina Montaña, were sweethearts and further disclaimed any promise being given by him to marry her. Such being the circumstances, he was rather insistent that he did not violate any trust or confidence and that he was not guilty of any deceitful inducements. There was no denial, however, of the sexual intimacies that marked the relationship as well as of complainant thereafter, as a consequence thereof, becoming pregnant.

It was at that stage that the administrative case was referred to the Solicitor General for investigation, report and recommendation. The matter was investigated and the report of this investigation was duly forthcoming. According to the findings: "Complainant Martina Montana's declarations in the investigation tend to show that she and respondent were sweethearts. This started when they met at the Governor's office in Romblon. Complainant then was employed as filing clerk while respondent [was the] public defender. Because they were often seen together, people who knew them began to talk about them, as lovers. The frequency of their association continued unabated until respondent revealed to complainant that his parents were against her for she had created a bad impression on respondent's father. Complainant resented this. She left Romblon and sought employment in Manila, eventually landing a job in the Bureau of Public Highways. Respondent, however, stayed in Romblon and continued discharging his duties as Assistant Provincial Fiscal, a position he was appointed to later. This episode momentarily broke the relationship between the two." [3] Then come this portion: "Respondent, however, came to Manila on several occasions during which he visited complainant. Eventually, the two made up. During these visits, complainant was led to believe by respondent that he would marry her and the only drawback was his financial instability and his moral obligation to support the education of his brothers and sisters. Thus, whenever the subject of marriage was introduced in their conversations, respondent simply begged deferment." [4] Further: "It was on these visits that respondent and complainant had intimate affairs. There was an instance when respondent fetched complainant in her office. Thereafter, the two proceeded to Long Beach Hotel in Pasay City. It was alleged by complainant that she did not know at first that they were to proceed to the hotel. Complainant not

knowing the place where their taxi stopped reminded respondent that they were supposed to eat but respondent confided to her that the place also served food at the same time leading her inside and since she felt she would create a scene if she desisted, she went along with respondent and in one of the rooms they had sexual intercourse. Other similar incidents followed. Such was what happened in March, 1960 when respondent attended the convention of the government prosecutor's league in Manila and having fetched complainant in her office the two proceeded first to a moviehouse at Rizal Avenue. They wound up later at the Long Beach Hotel and once more indulged in sexual intercourse."[5] So: "As a consequence, complainant became pregnant. Alarmed by her condition she immediately wrote a letter to respondent and urged him to come to Manila. Respondent, in reply explained that he was quite busy with his work. When respondent finally came he accompanied complainant to a doctor who confirmed her pregnancy."[6] The deterioration of the relationship was set forth thus: "Respondent seldom came to Manila after he learned of complainant's pregnancy. Obviously in despair, complainant threatened to bring the matter to court and respondent's reaction was of belligerence. The matter eventually reached the attention of the Department of Justice and administrative investigations were conducted to determine respondent's fitness to hold on to his job as Assistant Provincial Fiscal. Shortly thereafter, the instant case was filed seeking the disbarment of herein respondent."[7]

The Solicitor General, in his report, was duly mindful of circumstances that place the conduct of respondent Ruado in not too harsh a light. As he pointed out, he did take note that marriage must have entered "into the plans of complainant and respondent." [8] He could not believe, however, that the various occasions in which the parties engaged in sexual relations were prompted solely by the expectancy on her part that ere long the marital knot would be tied. They were both mature, no longer in the first flush of youth, impelled to act thus because of the strong physical attraction that each had for the other and of the force of a deeply-rooted desire too difficult to resist. Accordingly, it is his view that there is relevance to this excerpt from an opinion of former Chief Justice Concepcion in *Soberano vs. Villanueva*: [9] "Intimacy between a man and a woman who are not married, especially in the light of the circumstances attending this case, is neither so corrupt as to constitute a criminal act nor so unprincipled as to warrant disbarment or disciplinary action against the man as a member of the Bar." [10] The injury thus inflicted to the good name and reputation of complainant, as noted in a recent resolution, arose "from the frailty of flesh, the sociologist MacIver referring to it as 'so powerful an appetite, 'an imperative of life closely associated with the 'recklessness and the caprice of desire.'" [11]

Not that he is entitled to exculpation. The Solicitor General explained why: "In view, however, of respondent's position as Assistant Provincial Fiscal we must insist that he ought to have conducted himself in an exemplary character. His indulging in pre-marital acts with complainant, even though made possible by mutual desire, has placed him outside of the category of exemplary individuals in the community committing such acts, respondent was dismissed or more accurately considered resigned from his position as Assistant Provincial Fiscal of Romblon, Romblon, by the President of the Philippines who modified the recommendation of the Department of Justice in the administrative case against respondent that he be merely fined (Adm. Order No. 57). The dismissal of respondent took effect upon receipt of the decision of the President on April 9, 1963. Hence, respondent has ceased discharging his duties as Assistant Provincial Fiscal. In the light of the dismissal, it would seem harsh under the special circumstances of the case to impose upon respondent the extreme penalty of disbarment as prayed for by the complainant. In a case (*Administrative Case No. 248, February 26, 1962, Viojan vs. Duran*), this Court considered the suspension of a Justice of the Peace from his post as sufficient penalty for the immorality committed by him and hence dismissed the disbarment proceedings. Herein respondent was not only suspended but dismissed or considered resigned from his public office and to follow said dismissal with the penalty of disbarment would be unreasonably stiff." [12]

Accordingly, it was the recommendation that while the petition for disbarment of respondent Ruado should be

denied, he, nevertheless, should be reprimanded with a stern warning that a repetition of the same offense would be dealt with more severely by this Court. It must likewise be impressed on him that he should comply with the moral and legal obligations incumbent upon him as the father of the child born out of wedlock the result of his relationship with complainant Martina Montana. This Court is inclined to accept the above recommendation with the only modification that it should be a severe reprimand.

WHEREFORE, respondent Edmundo M. Ruado is severely reprimanded. Let a copy of this resolution be entered on his record.

Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Her parents, Mr. and Mrs. Jose Montana, joined in the petition for disbarment.

[2] Petition, paragraph (8).

[3] Report and Recommendation, page 15.

[4] Ibid.

[5] Report and Recommendation, page 16.

[6] Ibid.

[7] Ibid.

[8] Report and Recommendation, page 18.

[9] Administrative Case No. 215, December 29, 1962; 6 SCRA 819.

[10] Ibid, 895.

[11] Cf. Barba vs. Pedro, Administrative Case No. 545-SBC, December 26, 1974.

[12] Report and Recommendation, 19-20.

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