

ROSARIO DELOS REYES, COMPLAINANT, VS. ATTY. JOSE B. AZNAR, RESPONDENT.

Adm. Case No. 1334. November 28, 1989

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/9fcf5e864e86/>

PER CURIAM:

This is a complaint for disbarment filed against respondent on the ground of gross immorality.

Complainant, a second year medical student of the Southwestern University (Cebu), alleged in her verified complaint that respondent Atty. Jose B. Aznar, then chairman of said university, had carnal knowledge of her for several times under threat that she would fail in her Pathology subject if she would not submit to respondent's lustful desires. Complainant further alleged that when she became pregnant, respondent, through a certain Dr. Gil Ramas, had her undergo forced abortion.

In compliance with the Resolution of the Court dated July 9, 1974, respondent filed his Answer denying any personal knowledge of complainant as well as all the allegations contained in the complaint and by way of special defense, averred that complainant is a woman of loose morality.

On September 2, 1974, the Court Resolved to refer the case to the Solicitor General for investigation, report and recommendation.

The findings of the Solicitor General is summarized as follows:

EVIDENCE FOR THE COMPLAINANT

Complainant Rosario delos Reyes testified that:

- 1) she was a second year medical student of the Southwestern University, the Chairman of the Board of which was respondent Jose B. Aznar (pp. 11, 15, tsn, June 6, 1975);
- 2) she however failed in her Pathology subject which prompted her to approach respondent in the latter's house who assured her that she would pass the said subject (pp. 15, 16, 26, 33, tsn, June 6, 1975);
- 3) despite this assurance, however, she failed (p. 33, tsn, June 6, 1975);
- 4) sometime in February, 1973, respondent told her that she should go with him to Manila, otherwise, she would flunk in all her subjects (pp. 42, 50, tsn, June 6, 1975); xxx xxx xxx;
- 5) on February 12, 1973, both respondent and complainant boarded the same plane (Exh. "A") for Manila: from the Manila Domestic Airport, they proceeded to Room 905, 9th Floor of the Ambassador Hotel where they stayed for three days (Exhs. "K", "K-1" to "K-6"; p. 55, tsn, June 6, 1975);
- 6) after arriving at the Ambassador Hotel, they dined at a Spanish restaurant at San Marcelino, Malate, Manila for around three hours (pp. 56-57, tsn, June 6, 1975);
- 7) they returned to the hotel at around twelve o'clock midnight, where respondent had carnal knowledge of her twice and then thrice the next morning (p. 59, tsn, June 6, 1975; pp. 154, 155 & 157, tsn, July 18, 1975);

8) complainant consented to the sexual desires of respondent because for her, she would sacrifice her personal honor rather than fail in her subjects (p. 61, tsn, June 6, 1975); xxx xxx xxx;

9) sometime in March, 1973, complainant told respondent that she was suspecting pregnancy because she missed her menstruation (p. 76, tsn, July 17, 1975); xxx xxx xxx;

10) later, she was informed by Dr. Monsanto (an instructor in the college of medicine) that respondent wanted that an abortion be performed upon her (p. 82, tsn, July 17, 1975); xxx xxx xxx;

11) thereafter, Ruben Cruz, a confidant of respondent, and Dr. Monsanto fetched her at her boarding house on the pretext that she would be examined by Dr. Gil Ramas (pp. 87-88, tsn, July 17, 1975);

12) upon reaching the clinic of Dr. Ramas, she was given an injection and an inhalation mask was placed on her mouth and nose (pp. 88-90, tsn, July 17, 1975);

13) as a result she lost consciousness and when she woke up, an abortion had already been performed upon her and she was weak, bleeding and felt pain all over her body (pp. 90-91, tsn, July 17, 1975); xxx xxx xxx (Rollo, pp. 38-40)

Monica Gutierrez Tan testified that she met complainant and a man whom complainant introduced as Atty. Aznar in front of the Ambassador Hotel (pp. 183-184, tsn, Sept. 10, 1975; Rollo, p. 41).

Dr. Rebecca Gucor and Dr. Artemio Ingco, witnesses for the complainant, testified that abdominal examinations and x-ray examination of the lumbro-sacral region of complainant showed no signs of abnormality (Rollo, p. 42).

The evidence for the respondent as reported by the Solicitor General is summarized as follows:

Edilberto Caban testified that:

1. In December, 1972, respondent Atty. Aznar stayed at Ambassador Hotel with his wife and children; respondent never came to Manila except in December, 1972; (pp. 8-9, tsn, Nov. 24, 1977);
2. He usually slept with respondent everytime the latter comes to Manila (p. 13, tsn, Nov. 24, 1977; Rollo, pp. 42-43).

Oscar Salangsang, another witness for the respondent stated that:

1. In February, 1973, he went to Ambassador Hotel to meet respondent: the latter had male companions at the hotel but he did not see any woman companion of respondent Aznar:
2. He usually slept with respondent at the Ambassador Hotel and ate with him outside the hotel together with Caban (pp. 8-9, 13-15, tsn, Jan. 13, 1978; Rollo, p. 43).

The Court notes that throughout the period of the investigation conducted by the Solicitor General, respondent Aznar was never presented to refute the allegations made against him.

In his Answer, respondent Aznar alleges that he does not have any knowledge of the allegations in the complaint. As special defense, respondent further alleged that the charge leveled against him is in furtherance of complainant's vow to wreck vengeance against respondent by reason of the latter's approval of the recommendation of the Board of Trustees barring complainant from enrollment for the school year 1973-1974 because she failed in most of her subjects. It is likewise contended that the defense did not bother to present respondent in the investigation conducted by the Solicitor General because nothing has been shown in the hearing to prove that respondent had carnal knowledge of the complainant.

Contrary to respondent's averments, the Solicitor General made a categorical finding to the effect that respondent

had carnal knowledge of complainant, to wit:

"From the foregoing, it is clear that complainant was compelled to go to Manila with respondent upon the threat of respondent that if she failed to do so, she would flunk in all her subjects and she would never become a medical intern (pp. 42, 50, tsn, June 6, 1975). As respondent was Chairman of the College of Medicine, complainant had every reason to believe him.

"It has been established also that complainant was brought by respondent to Ambassador Hotel in Manila for three days where he repeatedly had carnal knowledge of her upon the threat that if she would not give in to his lustful desires, she would fail in her Pathology subject (Exhs. "A", "K", "K-1" to "K-6" pp. 51, 52, 55-59, tsn, June 6, 1975;).

xxx xxx xxx

"On the other hand, respondent did not bother to appear during the hearing. It is true that he presented Edilberto Caban and Oscar Salangsang who testified that respondent usually slept with them every time the latter came to Manila, but their testimony (sic) is not much of help. None of them mentioned during the hearing that they stayed and slept with respondent on February 12 to February 14, 1973 at Ambassador Hotel. xxx xxx xxx Besides, Edilberto Caban testified that respondent stayed at Ambassador Hotel with his wife and children in December, 1972. The dates in question, however, are February 12 to 14, 1973, inclusive. His (Caban's) testimony, therefore, is immaterial to the present case" (Rollo. pp. 43-44).

In effect, the Solicitor General found that the charge of immorality against respondent Aznar has been substantiated by sufficient evidence, both testimonial and documentary; while finding insufficient and uncorroborated the accusation of intentional abortion. The Solicitor General then recommends the suspension of respondent from the practice of law for a period of not less than three (3) years.

On March 16, 1989, the Court Resolved to require the parties to Move in the premises to determine whether any intervening event occurred which would render the case moot and academic (Rollo, p. 69).

On April 12, 1989, the Solicitor General filed a manifestation and motion praying that the case at bar be considered submitted for decision on the bases of the report and recommendation previously submitted together with the record of the case and the evidence adduced (Rollo. p. 75).

After a thorough review of the records, the Court agrees with the finding of the Solicitor General that respondent Aznar, under the facts as stated in the Report of the investigation conducted in the case, is guilty of "grossly immoral conduct" and may therefore be removed or suspended by the Supreme Court for conduct unbecoming a member of the Bar (Sec. 27, Rule 138, Rules of Court).

Respondent failed to adduce evidence sufficient to engender doubt as to his culpability of the offense imputed upon him. With the exception of the self-serving testimonies of two witnesses presented on respondent's behalf, the records are bereft of evidence to exonerate respondent of the act complained of, much less contradict, on material points, the testimonies of complainant herself.

While respondent denied having taken complainant to the Ambassador Hotel and there had sexual intercourse with the latter, he did not present any evidence to show where he was at that date. While this is not a criminal proceeding, respondent would have done more than keep his silence if he really felt unjustly traduced.

It is the duty of a lawyer, whenever his moral character is put in issue, to satisfy this Court that he is a fit and proper person to enjoy continued membership in the Bar. He cannot dispense with nor downgrade the high and exacting moral standards of the law profession (*Go v. Candoy*, 21 SCRA 439 [1967]). As once pronounced by the Court:

"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. xxx 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 hardy 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" (*Quingwa v. Puno*, 19 SCRA 439 [1967]).

The Solicitor General recommends that since the complainant is partly to blame for having gone with respondent to Manila knowing fully well that respondent is a married man with children, respondent should merely be suspended from the practice of law for not less than three (3) years (Rollo, p. 47).

On the other hand, respondent in his manifestation and motion dated April 18, 1989 alleges that since a period of about ten (10) years had already elapsed from the time the Solicitor General made his recommendation for a three (3) year suspension and respondent is not practicing his profession as a lawyer, the court may now consider the respondent as having been suspended during the said period and the case dismissed for being moot and academic.

We disagree.

Complainant filed the instant case for disbarment not because respondent reneged on a promise to marry (*Quingwa v. Puno*, supra). More importantly, complainant's knowledge of respondent's marital status is not at issue in the case at bar. Complainant submitted to respondent's solicitation for sexual intercourse not because of a desire for sexual gratification but because of respondent's moral ascendancy over her and fear that if she would not accede, she would flunk in her subjects. As chairman of the college of medicine where complainant was enrolled, the latter had every reason to believe that respondent could make good his threats. Moreover, as counsel for respondent would deem it "worthwhile to inform the Court that the respondent is a scion of a rich family and a very rich man in his own right and in fact is not practicing his profession before the court" (Rollo, p. 70), mere suspension for a limited period, per se, would therefore serve no redeeming purpose. The fact that he is a rich man and does not practice his profession as a lawyer, does not render respondent a person of good moral character. Evidence of good moral character precedes admission to bar (Sec. 2, Rule 138, Rules of Court) and such requirement is not dispensed with upon admission thereto. Good moral character is a continuing qualification necessary to entitle one to continue in the practice of law. The ancient and learned profession of law exacts from its members the highest standard of morality (*Quingwa v. Puno*, supra).

Under Section 27, Rule 138, "(a) member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice. x x x." In *Arciga v. Maniwang* (106 SCRA 591, [1981]), this Court had occasion to define the concept of immoral conduct, as follows:

"A lawyer may be disbarred for grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude. A member of the bar should have moral integrity in addition to professional probity.

"It is difficult to state with precision and to fix an inflexible standard as to what is 'grossly immoral conduct or to specify the moral delinquency and obliquity which render a lawyer unworthy of continuing as a member of the bar. The rule implies that what appears to be unconventional behavior to the straight-laced may not be the immoral conduct that warrants disbarment.

"Immoral conduct has been defined as 'that which is willful, flagrant or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community' (7 C.J.S. 959).

"Where an unmarried female dwarf possessing the intellect of a child became pregnant by reason of intimacy with a married lawyer who was the father of six children, disbarment of the attorney on the ground of immoral conduct was justified (in re Hicks, 20 Pac. 2nd 896)."

In the present case, it was highly immoral of respondent, a married man with children, to have taken advantage of his position as chairman of the college of medicine in asking complainant, a student in said college, to go with him to Manila where he had carnal knowledge of her under the threat that she would flunk in all her subjects in case she refused.

WHEREFORE, respondent Jose B. Aznar is hereby DISBARRED and his name is ordered stricken off from the Roll of Attorneys.

SO ORDERED.

Narvasa, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Gancayco, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Fernan, C.J., No part – did not take part in the deliberations.

Melencio-Herrera, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.