

FE MONTON, COMPLAINANT, VS. JOSE R. MADRAZO, JR., RESPONDENT.

A.C. No. 1404. April 27, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

Fe Monton, in her administrative complaint in this Court dated November 6, 1974, prayed that lawyer Jose R. Madrazo, Jr. be disbarred on the ground of immorality.

Respondent in his answer denied the charge. The case was referred to the Solicitor General for investigation, report and recommendation.

Fe Monton (she was twenty-six years old in 1974) resided with the Madrazo spouses in their home on Mount Apo Street, Davao City from 1969 to 1974 as a house helper and as clerk of lawyer Madrazo. Her mother is the first cousin of Mrs. Madrazo, Una Tolentino.

Fe attached to her administrative complaint her affidavit dated October 25, 1974 which she had filed in the city fiscal's office of Davao City to support her charge of rape against Madrazo (pp. 3-6, Rollo).

In that affidavit, Fe alleged that Madrazo raped her on November 19, 1973 in his room in the First Hotel, Manila and also on January 6, 1974 in the bedroom of his residence in Davao City.

After a preliminary investigation, an assistant city fiscal dismissed Fe's complaint for rape in his resolution of January 17, 1975 (Exh. 24).

The evidence shows that on July 16, 1974, Mrs. Madrazo discovered that Fe was pregnant. Fe told Mrs. Madrazo that Mike Ceballos is the father of her child. Fe left Davao City on July 18, 1974 and went to Cebu City.

On August 11, 1974, Mrs. Madrazo, while in Cebu City, obtained an affidavit from Fe wherein she stated that lawyer Madrazo is not the father of her child (Exh. 4). After getting that affidavit, Mrs. Madrazo inflicted injuries on the thighs of Fe (pp. 6-7, Rollo).

On September 8, 1974, a baby girl was born to Fe in a hospital at Butuan City. She registered in the hospital as Fe Ramirez. Rudy Ramirez was recorded as the father of her child. In the maternity record, Fe stated that her last menstruation was on January 26, 1974 (Exh. 23-A and 23-B).

In this administrative case, Fe repeated her version that she was raped twice by Madrazo. She insisted on that version in spite of the fact that her counsel had admitted that the alleged sexual intercourse in Davao City was a "consented act" (6 tsn June 25, 1975). Her declaration in this case is as follows:

"Sa tanong po ninyo ako po ay dinadaan sa pilitan ho noong unang attempt ho sapilitan ho ang ginawang pagkuha sa aking pagkababae — noong nakauwi na po ako sa amin ay inulit po niya sa akin ang panggagahasa sa akin hanggang sa nagbuntis ho ako.

"May mga pananakot po siyang ginawa sa akin. Binibigyan po niya ako ng pera na pampaalis nang bata at binibigyan niya ako ng pera at pinagsasabi po niyang pupunta ako sa isang doctor na makapagpapaalis ng bata.

"Pumunta po ako, binigyan po niya ako ng pera, sunud-sunuran na po ako sa lahat ng ginawa niya habang noong ako'y nagtatrabaho po sa banko lagi po akong nagtatrabaho sa Toril ngayong ang sabi po niya sa akin na magkikita po kami sa isang lugar sa isang restaurant para tatanungin po niya ako kung nakapagpapainjection po ako tungkol sa pagpapaalis ng bata tuwing lunch break.

"Tuwing lunch break po ay nagkikita kami sa restaurant at sinabi ko po na hindi na maalís ang bata hanggang isang araw po ay natuklasan ni Auntie Lina, asawa po ni Atty. Madrazo na kung sino ang ama ng bata.

"Dahil wala na po akong mapagtulungang (sic) ay sinunod ko po ang payo ni Atty. Madrazo na kung ako ay tatanungin ng aking Auntie Lina sasabihin ko po na hindi siya ang ama ng bata. Katunayan nga po noong July, hindi ko po matandaan, July 18 yata, iyon umalis po ako sa Davao.

"Binigyan po niya ako ng isang libo para pumunta ako sa Cebu para doon ko ipanganganak ang bata at susulat lang po ako sa kanya nang madalas upang mapagsustentuhan niya ang bata pero iba po ang nangyari dahil noon, ang ginawa ko pong sulat sa kanya ang bilin po niya sa akin gawin ko ay parang telegram para hindi raw malaman ang aking Auntie Lina. Iyong may legal fees Monico Mendoza turo po sa akin ang lahat ni Atty. Madrazo at ang sabi po niya sa akin ang importante po raw doon ay iyong address ko para mapadalhan niya ako ng pera sa Cebu.

"Iyon po ang nangyari, iba po ang aking inaasahan. Noong Agosto 10 po dumating po ang aking dalawang Auntie sina Gloria Tolentino at Mrs. Lina Madrazo. Tinatanong po nila ako kung mtoo daw ang relation namin ng aking Uncle tapos hindi po ako nakasagot sa takot ko po dahil may bilin po sa akin si Atty. Madrazo na hindi ko aaminin sa Auntie Lina ko na may relation kami. Kawawa lang daw po ako sa aking Auntie Lina.

"Hindi po ako nakaimik hanggang sinabi ko na ang ama ng bata ay si Atty. Madrazo may inilabas po silang affidavit na ginawa na pinapirmahan po sa akin. Iyon isang ano ko po si Auntie Gloria ay doon natulog sa hinihigaan ko sa Cebu at dahil po noong gabing iyon ay wala na pong available na Fiscal na magso-sworn sa . . . at sabi po sa akin ay kinabukasan daw po kami pupunta.

"Kinabukasan ang araw pong iyon ay Linggo ay pumunta po kami sa isang Fiscal na maalala ko po sa pangalang Fiscal Evangelista. Na maalala ko na nandito ngayon—na pumasok po. Kinunan pa po ako ng litrato na tinatanong ako na kung tutoong hindi ama si Atty. Madrazo.

"Noong una po ay hindi ako sumagot dahil natatakot po ako noong gabing iyon ay ginuardiyahan na po nila ako. Tinakot ako. Wala po akong magawa. Umuwi na po kami sa boarding house ko at nagusapusap kami. Galit na galit si Auntie Lina. Bakit ko raw po inilihim at lahat.

"Pinagsusugatan nga po ako. Katunayan nga ho ay may sugat po ako sa aking paa. Kawawa po ako noon . . . kung maari ko lang po sanang kunin ang mga witness iyong nandoon sa Cebu pero ayaw dahi! natakot po sila hindi po nila" (15-18 tsn June 25, 1975).

Fe continued to reside with the Madrazo family notwithstanding the alleged rapes. She used to go out with her suitors, Rudy Rosa, Jessie Perez de Tagle, Joey Ojero and Deody Abrao.

In August, 1974, Fe promised Mrs. Madrazo when she was in Cebu City that she would return the things which she (Fe) had taken from the Madrazo residence.

When Fe failed to return those things, Mrs. Madrazo charged her with qualified theft in the city fiscal's office of Davao City. Fe countered by filing in the same office the aforementioned charge of rape against Madrazo, her Uncle Joe. Later, Fe filed this disbarment case. The fiscal's office dismissed the theft case (21 tsn June 25, 1975).

Respondent theorized that the rape and disbarment charges were a retaliation by complainant Fe Monton against the accusation for qualified theft filed by Mrs. Madrazo against her (61-63 tsn August 27, 1977).

After a thorough perusal of the record, we have come to the conclusion that complainant's evidence is not sufficient to prove the immorality charge.

Complainant's inconsistencies and contradictory declarations considerably impaired her credibility. Disciplinary action cannot be taken against a lawyer on the basis, of complainant's evidence which, because of her lack of credibility, is not quite trustworthy.

WHEREFORE, as recommended by the Solicitor General in his report of July 8, 1980, this case is dismissed. A copy of this decision should be attached to respondent's personal record in the Bar Confidant's office.

SO ORDERED.

Barredo (Chairman), Conception Jr., Fernandez[*] and De Castro, JJ., concur.
Abad Santos, J., is abroad.

[*] Fernandez, J., was designated to sit in the Second Division.

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