

VICTORIA BARRIENTOS, COMPLAINANT, VS. TRANSFIGURACION DAAROL, RESPONDENT.

A.C. No. 1512. January 29, 1993

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PER CURIAM:

In a sworn complaint filed with this Court on August 20, 1975, complainant Victoria C. Barrientos seeks the disbarment of respondent Transfiguracion Daarol[*] a member of the Philippine Bar, on grounds of deceit and grossly immoral conduct.

After respondent filed his answer (Rollo, p. 12), the Court Resolved to refer the case to the Solicitor General for investigation, report and recommendation (Rollo, p. 18).

As per recommendation of the Solicitor General and for the convenience of the parties and their witnesses who were residing in the province of Zamboanga del Norte, the Provincial Fiscal of said province was authorized to conduct the investigation and to submit a report, together with transcripts of stenographic notes and exhibits submitted by the parties, if any (Rollo, p. 20).

On November 9, 1987, the Office of the Solicitor General submitted its Report and Recommendation, viz.:

"Evidence of the complainant:

"...complainant Victoria Barrientos was single and a resident of Bonifacio St., Dipolog City; that when she was still a teenager and first year in college she came to know respondent Transfiguracion Daarol in 1969 as he used to go to their house being a friend of her sister Norma; that they also became friends, and she knew the respondent as being single and living alone in Galas, Dipolog City; that he was the General Manager of Zamboanga del Norte Electric Cooperative, Inc. (ZANECO) and subsequently transferred his residence to the ZANECO compound at Laguna Blvd. at Del Pilar St., Dipolog City (pp. 109-111, tsn, September 30, 1976).

"That on June 27, 1973, respondent came to their house and asked her to be one of the usherettes in the Mason's convention in Sicayab, Dipolog City, from June 28 to 30, 1973 and, she told respondent to ask the permission of her parents, which respondent did, and her father consented; that for three whole days she served as usherette in the convention and respondent picked her up from her residence every morning and took her home from the convention site at the end of each day (pp. 112-114, tsn, id.).

"That in the afternoon of July 1, 1973, respondent came to complainant's house and invited her for a joy ride with the permission of her mother who was a former classmate of respondent; that respondent took her to Sicayab in his jeep and then they strolled along the beach, and in the course of which respondent proposed his love to her; that respondent told her that if she would accept him, he would marry her within six (6) months from her acceptance; complainant told respondent that she would think it over first; that from then on respondent used to visit her in their house almost every night, and he kept on courting her and pressed her to make her decision on respondent's proposal; that on July 7, 1973, she finally accepted respondent's offer of love and respondent continued his usual visitations almost every night there-after; they agreed to get married in December 1973 (pp. 115-119, tsn, id.).

"That in the morning of August 20, 1973, respondent invited her, with the consent of her father, to a party at the Lopez Skyroom; that at 7:00 p.m. of that day respondent fetched her from her house and went to the Lopez Skyroom (pp. 119--121, tsn, id); that at about 10:00 p.m. of that evening they left the party at the Lopez Skyroom, but before taking her home respondent invited her for a joy ride and took her to the airport at Sicayab, Dipolog City; respondent parked the jeep by the beach where there were no houses around; that in the course of their conversation inside the jeep, respondent reiterated his promise to marry her and then started caressing her downward and his hand kept on moving to her panty and down to her private parts (pp. 121-122, tsn, id.); that she then said: 'What is this Trans?', but he answered: 'Day, do not be afraid of me, I will marry you' and reminded her also that 'anyway, December is very near, the month we have been waiting for' ([p. 122, tsn, id.), then he pleaded, 'Day, just give this to me, do not be afraid' (ibid), and again reiterated his promise and assurances, at the same time pulling down her panty; that she told him that she was afraid because they were not yet married, but because she loved him she finally agreed to have sexual intercourse with him at the back seat of the jeep; that after the intercourse she wept and respondent again reiterated his promises and assurances not to worry because anyway he would marry her; and at about 12:00 midnight they went home (pp. 122-124, tsn, id.).

"After August 20, 1973, respondent continued to invite her to eat outside usually at the Honeycomb Restaurant in Dipolog City about twice or three times a week, after which he would take her to the airport where they would have sexual intercourse; that they had this sexual intercourse from August to October 1973 at the frequency of two or three times a week, and she consented to all these things because she loved him and believed in all his promises (pp. 125-127, tsn, id.).

"Sometime in the middle part of September, 1973 complainant noticed that her menstruation which usually occurred during the second week of each month did not come; she waited until the end of the month and still there was no menstruation; she submitted to a pregnancy test and the result was positive; she informed respondent and respondent suggested to have the fetus aborted but she objected and respondent did not insist; respondent then told her not to worry because they would get married within one month and he would talk to her parents about their marriage (pp. 129-132, tsn, id.).

"On October 20, 1973, respondent came to complainant's house and talked to her parents about their marriage; it was agreed that the marriage would be celebrated in Manila so as not to create a scandal as complainant was already pregnant; complainant and her mother left for Manila by boat on October 22, 1973 while respondent would follow by plane; and they agreed to meet in Singalong, Manila, in the house of complainant's sister Delia who is married to Ernesto Serrano (pp. 132-135, tsn, id.).

"On October 26, 1973, when respondent came to see complainant and her mother at Singalong, Manila, respondent told them that he could not marry complainant because he was already married (p. 137, tsn, id.); complainant's mother got mad and said; 'Trans, so you fooled my daughter and why did you let us come here in Manila?' (p. 138, tsn, id.). Later on, however, respondent reassured complainant not to worry because respondent had been separated from his wife for 16 years and he would work for the annulment of his marriage and, subsequently marry complainant (p. 139, tsn, id.); respondent told complainant to deliver their child in Manila and assured her of a monthly support of P250.00 (p. 140, tsn, id.); respondent returned to Dipolog City and actually sent the promised support; he came back to Manila in January 1974 and went to see complainant; when asked about the annulment of his previous marriage, he told complainant that it would soon be approved (pp. 141-142, tsn, id.); he came back in February and in March 1974 and told complainant the same thing (p. 142, tsn, id.); complainant wrote her mother to come to Manila when she delivers the child, but her mother answered her that she cannot come as nobody would be left in their house in Dipolog and instead suggested that complainant go to Cebu City which is nearer; complainant went to Cebu City in April 1974 and, her sister Norma took her to the Good Shepherd Convent at Banawa Hill; she delivered a baby girl on June 14, 1974 at the Perpetual Succor Hospital in Cebu City; and the child was registered as 'Dureza Barrientos' (pp. 143-148, tsn, id.).

"In the last week of June 1974 complainant came to Dipolog City and tried to contact respondent by phone and, thru her brother, but to no avail; as she was ashamed she just stayed in their house; she got sick and her father sent her to Zamboanga City for medical treatment; she came back after two weeks but still respondent did not come to see her (pp. 48-150, tsn, id.); she consulted a lawyer and filed an administrative case against respondent with the National Electrification Administration; the case was referred to the Zamboanga del Norte Electric Cooperative (ZANECO) and it was dismissed and thus she filed the present administrative case (pp. 150-151, tsn, id.)."

"Evidence for the Respondent

"The evidence of the respondent consists of his sole testimony and one exhibit, the birth certificate of the child (Exh. 1). Respondent declared substantially as follows: that he was born on August 6, 1932 in Liloy, Zamboanga del Norte; that he married Romualda Sumaylo in Liloy in 1955; that he had a son who is now 20 years old; that because of incompatibility he had been estranged from his wife for 16 years; that in 1953 he was baptized as a moslem and thereby embraced the Islam Religion (pp. 173-180, tsn, Jan. 13, 1977); that he came to know complainant's father since 1952 because he was his teacher; likewise he knew complainant's mother because they were former classmates in high school; that he became acquainted with complainant when he used to visit her sister, Norma, in their house; they gradually became friends and often talked with each other, and even talked about their personal problems; that he mentioned to her his being estranged from his wife; that with the consent of her parents he invited her to be one of the usherettes in the Masonic Convention in Sicayab, Dipolog City held on June 28-30, 1973 (pp. 185-192, tsn, id.); that the arrangement was for him to fetch her from her residence and take her home from the convention site; that it was during this occasion that they became close to each other and after the convention, he proposed his love to her on July 7, 1973; that (sic) a week of courtship, she accepted his proposal and since then he used to invite her (pp. 193-194, tsn, id.).

That in the evening of August 20, 1973, respondent invited complainant to be his partner during the Chamber of Commerce affair at the Lopez Skyroom; that at about 10:00 p.m. of that evening after the affair, complainant complained to him of a headache, so he decided to take her home but once inside the jeep, she wanted to have a joy ride, so he drove around the city and proceeded to the airport; that when they were at the airport, only two of them, they started the usual kisses and they were carried by their passion; they forgot themselves and they made love; that before midnight he took her home; that thereafter they indulged in sexual intercourse many times whenever they went on joy riding in the evening and ended up in the airport which was the only place they could be alone (p. 195, tsn, id.).

"That it was sometime in the later part of October 1973 that complainant told him of her pregnancy; that they agreed that the child be delivered in Manila to avoid scandal and respondent would take care of the expenses; that during respondent's talk with the parents of complainant regarding the latter's pregnancy, he told him he was married but estranged from his wife; that when complainant was already in Manila, she asked him if he was willing to marry her, he answered he could not marry again, otherwise, he would be charged with bigamy but he promised to file an annulment of his marriage as he had been separated from his wife for 16 years; that complainant consented to have sexual intercourse with him because of her love to him and he did not resort to force, trickery, deceit or cajolery; and that the present case was filed against him by complainant because of his failure to give the money to support complainant while in Cebu waiting for the delivery of the child and, also to meet complainant's medical expenses when she went to Zamboanga City for medical check-up (pp. 198-207, tsn, id.).

FINDING OF FACTS

"From the evidence adduced by the parties, the following facts are not disputed:

"1. That the complainant, Victoria Barrientos, is single, a college student, and was about 20 years and 7 months old during the time (July-October 1975) of her relationship with respondent, having been born on December

23, 1952; while respondent Transfiguracion Daarol is married. General Manager of Zamboanga del Norte Electric Cooperative, and 41 years old at the time of the said relationship, having been born on August 6, 1932;

"2. That respondent is married to Romualda A. Sumaylo with whom he has a son; that the marriage ceremony was solemnized on September 24, 1955 at Liloy, Zamboanga del Norte by a catholic priest, Rev. Fr. Anacleto Pellamo, Parish Priest thereat; and that said respondent had been separated from his wife for about 16 years at the time of his relationship with complainant;

"3. That respondent had been known by the Barrientos family for quite sometime, having been a former student of complainant's father in 1952 and, a former classmate of complainant's mother at the Andres Bonifacio College in Dipolog City; that he became acquainted with complainant's sister, Norma in 1963 and eventually with her other sisters, Baby and Delia and, her brother, Boy, as he used to visit Norma at her residence; that he also befriended complainant and who became a close friend when he invited her, with her parents' consent, to be one of the usherettes during the Masonic Convention in Sicayab, Dipolog City from June 28 to 30, 1973, and he used to fetch her at her residence in the morning and took her home from the convention site after each day's activities;

"4. That respondent courted complainant, and after a week of courtship, complainant accepted respondent's love on July 7, 1973; that in the evening of August 20, 1973, complainant with her parents' permission was respondent's partner during the Chamber of Commerce affair at the Lopez Skyroom in the Dipolog City, and at about 10:00 o'clock that evening, they left the place but before going home, they went to the airport at Sicayab, Dipolog City and parked the jeep at the beach, where there were no houses around; that after the usual preliminaries, they consummated the sexual act and at about midnight they went home; that after the first sexual act, respondent used to have joy ride with complainant which usually ended at the airport where they used to make love twice or three times a week; that as a result of her intimate relations, complainant became pregnant;

"5. That after a conference among respondent, complainant and complainant's parents, it was agreed that complainant would deliver her child in Manila, where she went with her mother on October 22, 1973 by boat, arriving in Manila on the 25th and, stayed with her brother-in-law Ernesto Serrano in Singalong, Manila; that respondent visited her there on the 26th, 27th and 28th of October 1973, and again in February and March 1974; that later on complainant decided to deliver the child in Cebu City in order to be nearer to Dipolog City, and she went there in April 1974 and her sister took her to the Good Shepherd Convent at Banawa Hill, Cebu City; that on June 14, 1974, she delivered a baby girl at the Perpetual Succor Hospital in Cebu City and, named her 'Dureza Barrientos'; that about the last week of June 1974 she went home to Dipolog City; that during her stay in Manila and later in Cebu City, the respondent defrayed some of her expenses; that she filed an administrative case against respondent with the National Electrification Administration, which complaint, however, was dismissed; and then she instituted the present disbarment proceedings against respondent.

"x x x x x

"In view of the foregoing, the undersigned respectfully recommend that after hearing, respondent Transfiguracion Daarol be disbarred as a lawyer." (Rollo, pp. 28-51)

After a thorough review of the case, the Court finds itself in full accord with the findings and recommendation of the Solicitor General.

From the records, it appears indubitable that complainant was never informed by respondent attorney of his real status as a married individual. The fact of his previous marriage was disclosed by respondent only after the complainant became pregnant. Even then, respondent misrepresented himself as being eligible to re-marry for having been estranged from his wife for 16 years and dangled a marriage proposal on the assurance that he would work for the annulment of his first marriage. It was a deception after all as it turned out that respondent never

bothered to annul said marriage. More importantly, respondent knew all along that the mere fact of separation alone is not a ground for annulment of marriage and does not vest him legal capacity to contract another marriage.

Interestingly enough, respondent lived alone in Dipolog City though his son, who was also studying in Dipolog City, lived separately from him. He never introduced his son and went around with friends as though he was never married much less had a child in the same locality. This circumstance alone belies respondent's claim that complainant and her family were aware of his previous marriage at the very start of his courtship. The Court is therefore inclined to believe that respondent resorted to deceit in the satisfaction of his sexual desires at the expense of the gullible complainant. It is not in accordance with the nature of the educated, cultured and respectable, which complainant's family is, her father being the Assistant Principal of the local public high school, to allow a daughter to have an affair with a married man.

But what surprises this Court even more is the perverted sense of respondent's moral values when he said that: "I see nothing wrong with this relationship despite my being married." (TSN. p. 209. January 13, 1977; Rollo, p. 47) Worse, he even suggested abortion. Truly, respondent's moral sense is so seriously impaired that we cannot maintain his membership in the Bar. In *Pangan v. Ramos* (107 SCRA 1 [1981]), we held that:

"(E)ven his act in making love to another woman while his first wife is still alive and their marriage still valid and existing is contrary to honesty, justice, decency and morality. Respondent made a mockery of marriage which is a sacred institution demanding respect and dignity."

Finally, respondent even had the temerity to allege that he is a Moslem convert and as such, could enter into multiple marriages and has inquired into the possibility of marrying complainant (Rollo, p. 15). As records indicate, however, his claim of having embraced the Islam religion is not supported by any evidence save that of his self-serving testimony. In this regard, we need only to quote the finding of the Office of the Solicitor General, to wit:

"When respondent was asked to marry complainant he said he could not because he was already married and would open him to a charge of bigamy (p. 200. tsn, January 13, 1977). If he were a moslem convert entitled to four (4) wives, as he is now claiming, why did he not marry complainant? The answer is supplied by respondent himself. He said while he was a moslem, but, having been married in a civil ceremony, he could no longer validly enter into another civil ceremony without committing bigamy because the complainant is a christian (p. 242. tsn, January 13, 1977). Consequently, if respondent knew, that notwithstanding his being a moslem convert, he cannot marry complainant, then it was grossly immoral for him to have sexual intercourse with complainant because he knew the existence of a legal impediment. Respondent may not therefore, escape responsibility thru his dubious claim that he has embraced the Islam religion." (Rollo, p. 49)

By his acts of deceit and immoral tendencies to appease his sexual desires, respondent Daarol has amply demonstrated his moral delinquency. Hence, his removal for conduct unbecoming a member of the Bar on the grounds of deceit and grossly immoral conduct (Sec. 27, Rule 138, Rules of Court) is in order. Good moral character is a condition which precedes admission to the Bar (Sec. 2, Rule 138, Rules of Court) and is not dispensed with upon admission thereto. It is a continuing qualification which all lawyers must possess (*People v. Tuanda*, 181 SCRA 682 [1990]; *Delos Reyes v. Aznar*, 179 SCRA 653 [1989]), otherwise, a lawyer may either be suspended or disbarred.

As we have held in *Piatt v. Abordo* (58 Phil. 350 [1933] cited in *Leda v. Tabang*, 206 SCRA 395 [1992]):

"It cannot be overemphasized that the requirement of good character is not only a condition precedent to admission to the practice of law; its continued possession is also essential for remaining in the practice of law (*People v. Tuanda*, Adm. Case No. 3360, 30 January 1990, 181 SCRA 692). As aptly put by Mr. Justice George A. Malcolm: As good character is an essential qualification for admission of an attorney to practice,

when the attorney's character is bad in such respects as to show that he is unsafe and unfit to be entrusted with the powers of an attorney, the court retains the power to discipline him (*Piatt v. Abordo*, 58 Phil. 350 [1933]).

Only recently, another disbarment proceeding was resolved by this Court against a lawyer who convinced a woman that her prior marriage to another man was null and void ab initio and she was still legally single and free to marry him (the lawyer), married her was supported by her in his studies, begot a child with her, abandoned her and the child, and married another woman *Terre vs. Terre*, Adm. Case No. 2349 July 3, 1992).

Here, respondent, already a married man and about 41 years old, proposed love and marriage to complainant, then still a 20-year-old minor, knowing that he did not have the required legal capacity. Respondent then succeeded in having carnal relations with complainant by deception, made her pregnant, suggested abortion, breached his promise to marry her, and then deserted her and the child. Respondent is therefore guilty of deceit and grossly immoral conduct.

The practice of law is a privilege accorded only to those who measure up to the exacting standards of mental and moral fitness. Respondent having exhibited debased morality, the Court is constrained to impose upon him the most severe disciplinary action - disbarment.

The ancient and learned profession of Law exacts from its members the highest standard of morality. The members are, in fact, enjoined to aid in guarding the Bar against the admission of candidates unfit or unqualified because deficient in either moral character or education (*In re Puno*, 19 SCRA 439, [1967]; *Pangan vs. Ramos*, 107 SCRA 1 [1981]).

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 must lead life in accordance with the highest moral standards of the community. More specifically, a member of the Bar and an officer of the Court is not only required to refrain from adulterous relationships or the keeping of mistresses but must also behave himself in such a manner as to avoid scandalizing the public by creating the belief that he is flouting those moral standards (*Tolosa vs. Cargo*, 171 SCRA 21, 26 [1989], citing *Toledo vs. Toledo*, 7 SCRA 757 [1963] and *Royong vs. Oblena*, 7 SCRA 859 [1963]).

In Brief, We find respondent Daarol morally delinquent and as such, should not be allowed continued membership in the ancient and learned profession of law (*Quingwa v. Puno*, 19 SCRA 439 [1967]).

ACCORDINGLY, we find respondent Transfiguracion Daarol guilty of grossly immoral conduct unworthy of being a member of the Bar and is hereby ordered DISBARRED and his name stricken off from the Roll of Attorneys. Let copies of this Resolution be furnished to all courts of the land, the Integrated Bar of the Philippines, the Office of the Bar Confidant and spread on the personal record of respondent Daarol.

SO ORDERED.

Narvasa, C.J., Gutierrez, Jr., Cruz, Feliciano, Padilla, Bidin, Grino-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and Campos, Jr., JJ., concur.

[*](Middle initial of respondent is "T", Respondent's Answer dated October 3, 1975, Rollo, p. 16)

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