

RODORA D. CAMUS, PETITIONER, VS. ATTY. DANILO T. DIAZ, RESPONDENT.*A.C. No. 1616. February 09, 1989*

Ponente: SARMIENTO, J.

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Alleging that the respondent, Atty. Danilo T. Diaz, forcibly had sexual intercourse with her on April 19, 1975 and later, by false promises of support, made her consent to having intimate relationship with him until August of that same year, Rodora D. Camus, who claims that she was the secretary in the respondent law office, and who further avers that she gave birth to a baby boy, the fruit of that illicit affair, on February 22, 1976, filed the instant complaint on April 26, 1976. Annexed to the complaint were two affidavits, one executed by the complainant's mother, Emilia D. Camus, and the other by her neighbor-friend, Anita Lising-de Jesus, and both supporting the allegations in the complaint.

On May 14, 1976, we resolved to require the respondent to file an answer to the complaint within ten (10) days from notice. In his answer filed on June 28, 1976, the respondent denied the charge levied against him by the complainant and branded the same as mere "malevolent and perjurious concoction." According to the respondent, the complainant never applied nor ever became a secretary in his law office located in Meycauayan, Bulacan as he already had a secretary from June 1974 to March 1976 in the person of Carmelita San Roque Pacheco. Refuting the allegation in the complaint that he forcibly had sexual intercourse with the complainant the night of April 19, 1975, the respondent stated that he was at that time in Baguio City with his family entertaining Rolando D. Javier, the manager of the Manila Banking Corporation branch in Caloocan City. The respondent then went to furnish the name of two men - Cipriano de Leon and Domingo Bustamante - whom he claims to be the ones who slept with and had sexual relation with the complainant between the months of April and May 1975. Finally, the respondent claimed that if the complainant gave birth to a baby boy on February 19, 1975, he is certainly not the father of the child and the use of his name by the said child with whom he has no relations is an outright falsification of public documents and should be disallowed and prohibited. The respondent's answer was accompanied by supporting affidavits executed by the following persons: Magdalena Diano Figueroa, the alleged first cousin of the complainant (who, per the complaint, accompanied and introduced the latter to the respondent in applying as secretary) denying the complainant's allegations; Rolando D. Javier, the Manila Banking Corporation, Caloocan City Branch Manager, who attested that on April 19, 1975, he and his family were guests of the respondent in Baguio until April 27, 1975; Patrolman Cipriano de Leon of Meycauayan Police Department and Domingo Bustamante, who respectively admitted having had sexual relations with the complainant at one time or another between the months of April and May in 1975; certain Virgilio A. Nito who affirmed the intimate relationship between the complainant and Patrolman Cipriano de Leon; Carmelita San Roque Pacheco, who acknowledged having served as the secretary in the respondent's law office from July 1975 until March 1, 1976; and Rogelio Conquilla, a court personnel in Meycauayan, Bulacan, who stated that he knew the secretary of the respondent from 1975 to March 1976 to be Carmelita San Roque and not the complainant.

On July 12, 1976, considering the answer of the respondent to the complaint, we resolved to refer the case to the Solicitor General for investigation, report and recommendation. In compliance with our directive, the Solicitor General, conducted an investigation and on October 18, 1988, submitted a report recommending the dismissal of the complaint. After going over the report of the Solicitor General, we find the same in order and the recommendation well taken.

During the investigation, it was admitted by the complainant that the respondent's law office was situated right in front of the Meycauayan Municipal Building where the Meycauayan Police Department was stationed. It is thus shown that if indeed the respondent abused her on that fateful night of April 19, 1975, the complainant could have easily reported the incident to the police authorities and sought their assistance had she only chosen to do so. Unfortunately, she did nothing of that sort and instead opted to further compound things by allegedly consenting into having an illicit affair with the respondent due to the latter's promise of support for her and her child. Considering that the complainant already knew the respondent to be a married man even before he allegedly sexually abused her, and further considering that she has after all the courage to file the instant complaint for disbarment against the said respondent, we find the alleged assurance of support by the respondent, not enough reason for the complainant to have desisted in denouncing the earlier despicable act of her employer if the same were really true. At most the complainant's subsequent action reveals her mercenary motive.

Another thing that greatly militates against the complainant's position is the fact that as testified by her during the investigation, she admitted there was already a secretary working for the respondent when she applied for that job. It is hardly understandable why she would still be hired considering that the respondent's law office appears to employ only one lawyer - the respondent himself.

On the other hand, the respondent's claim that the complainant was a waitress who went out and had sex with male customers for money and pleasure during the period that they (as alleged in the complaint) were having an affair, is more credible. The persons (Patrolman Cipriano de Leon and Domingo Bustamante) pointed to by the respondent as the one's who had sexual relations with the complainant at the time, testified in support of that allegation. And their respective testimonies are corroborated by other persons. Another policeman, Patrolman Virgillio Nito of the Meycauayan Police Force, testified that indeed Pat. de Leon and the complainant became intimate with each other sometime in April 1975. Even Magdalena Figueroa, whom the complainant alleged to be her first cousin and who allegedly accompanied her and introduced her to the respondent when she applied as secretary of the latter, surprisingly testified in support of the respondent's contention and confirmed that the complainant went out with Pat. de Leon and Mr. Bustamante. Also according to her, she and the complainant worked as waitresses in a restaurant located in Valenzuela, Bulacan in March 1975 hence, the said complainant could not had worked as a secretary to the respondent. She likewise denied having accompanied and introduced the complainant to the respondent in applying for job in March of 1975 because at that time, she did not know the respondent yet. Finally, Magdalena Figueroa disclaimed having gone to the office of the respondent at any time much more on April 19, 1975, the date the respondent allegedly abused the complainant as stated in the complaint.

As correctly pointed out by the Solicitor General, in disbarment proceedings the burden of proof rests upon the complainant and the case must be established by clear, convincing, and satisfactory proof. In this instance, however, and in the face of the testimonies taken and the evidence gathered during the investigation made by the Solicitor General, it is clear that the complainant has failed to prove her allegations.

WHEREFORE, the complaint is hereby DISMISSED.

SO ORDERED.

Melencio-Herrera (Chairman), Paras, Padilla, and Regalado, JJ., concur.

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