

AILEEN A. FERANCULLO, COMPLAINANT, VS. ATTY. SANCHO M. FERANCULLO, JR., RESPONDENT.

A.C. NO. 7214. November 30, 2006

Ponente: TINGA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-7214/>

TINGA, J.

Tell the truth and shame the DevilShakespeare-Henry IV, Part I, III-1

Before the Court is an administrative complaint for disbarment filed by Aileen Ferancullo (petitioner) against Atty. Sancho M. Ferancullo, Jr. (respondent) grounded on his alleged commission of estafa, bigamy and violation of the lawyer's oath. Both parties have starkly contrasting stories to tell. Hence, the necessity of presenting both versions.

In a verified complaint dated December 17, 2004,[1] complainant narrated how respondent allegedly took advantage of their attorney-client relationship to extort money from her in consideration of the out-of-court settlement of her criminal cases and deceived her into marrying him by concealing his previous marriage.

Her complaint-affidavit narrated that sometime in February 2004, a certain SPO1 Lino Taytay referred her to respondent as she was in need of legal aid concerning a string of complaints for estafa filed against her. They allegedly agreed to a monthly retainer fee of P10,000.00 in consideration for respondent's legal services; the first payment thereof made in the same month of February at her residence in Central Park Condominium, Pasay City. Respondent purportedly advised complainant to stay for the meantime at his office located at GF-7, Elenel Apt., 2243 Luna corner Mabolo Sts., Pasay City, to avoid arrest and to keep her safe from the people suing and threatening her. He allegedly went to the extent of sending his cousin, Felix Reyes, to fetch complainant from her residence. At night, complainant and respondent, together with the latter's office staff, went out for dining and relaxation.[2]

Complainant recounted further that respondent prodded her to move into a more secure location, the Youth and Student Travel Association of the Philippines in Parañaque.[3] That allegedly became the start of his courtship. Complainant averred that respondent would send her breakfast and flowers. When asked about his personal circumstances, respondent supposedly told complainant that he was still single although he had a child out of wedlock. Complainant also maintained that she saw no apparent indications suggesting that respondent was married.[4]

As indicative of their romantic relationship, respondent and complainant allegedly traveled to different places. According to complainant, respondent took her to Antipolo to meet his relatives and to Mindoro to attend the birthday celebration of his mother. They also purportedly went to Cebu City to meet complainant's eldest child.[5]

Complainant claimed that in the beginning, respondent diligently attended to her cases and advised her not to appear at the hearings before the Office of the Prosecutor, assuring her that he would attempt at a compromise agreement with the adverse parties. For this purpose, between February and July 2004, complainant purportedly

entrusted to respondent varying amounts of money totaling Four Hundred Thirty One Thousand Pesos (P431,000.00) based on his assurance that her cases merely involved money claims which can be settled amicably. Complainant claimed that she had to ask this amount from her parents. Complainant did not ask from respondent for any receipt evidencing the transaction.[6]

Complainant further alleged that she and respondent moved to a unit at Parrison Tower at F.B. Harrison, Pasay City sometime in April 2004, where they started living together as husband and wife. The unit was purportedly owned by a client of respondent who agreed to offset the amount of rental with the legal fees due him.[7]

To corroborate her allegation that they lived together as husband and wife, complainant annexed to her complaint-affidavit five (5) photographs, three of which show intimate poses of complainant and respondent.[8] Complainant also recounted that during respondent's birthday celebration held on May 28, 2004 at the rooftop of the Parrison Tower, he supposedly introduced complainant as his wife to his guests.[9] Complainant attached a VCD copy documenting the event to her reply to respondent's answer.[10] As averred, at the start of the video, complainant can be seen entertaining the guests and overseeing the food preparation. Early in the party, complainant's three children arrived. While respondent was walking around and entertaining the guests, complainant stood behind the buffet table supervising last minute preparation before the food was served. As the guests started to get food from the buffet table, complainant approached respondent. Respondent placed his hand on the hips of complainant while the latter whispered at him. All throughout the video, complainant was either standing behind the buffet table or conversing with respondent and the guests.

Complainant found out that she was pregnant sometime in June 2004. On August 4, 2004, complainant and respondent allegedly wed in a rite solemnized in Kawit, Cavite.[11] In support of this averment, complainant annexed to the complaint a photocopy of the marriage certificate.[12]

Two (2) months thereafter, in a casual conversation with a certain Teresita Santos, another client of respondent, Santos told complainant that respondent was already married to a certain Marlin M. Maranan. Complainant then confronted respondent who allegedly admitted that he was married but assured complainant that he was ready to leave his wife so that they can be together. The relationship between complainant and respondent turned sour eventually leading to their separation.[13]

Complainant sought assistance from the Integrated Bar of the Philippines (IBP). In a letter dated 14 October 2006, Atty. Romarico Ayson sent a demand letter to respondent, urging the latter to shoulder complainant's hospitalization until her delivery and provide monthly support for the child in the amount of Thirty Thousand Pesos (P30,000.00) thereafter.[14]

Complainant averred that since their separation, respondent and his agents had been threatening her with arrest and lawsuits. She also discovered that the criminal complaints remained pending filed against her with the Office of the Prosecutor. She claimed that respondent himself had been exerting efforts so that the criminal complaints against her would proceed.[15]

In compliance with the IBP Order dated 6 January 2005, respondent filed an answer,[16] denying the allegations that he committed estafa, maintained an illicit relationship and contracted a bigamous marriage with complainant. While admitting that complainant sought his legal services in connection with the latter's cases for estafa and illegal recruitment pending before the Office of the Prosecutor, respondent insisted that his relationship with complainant was purely professional. In particular, he claimed that the purpose of his visits to complainant's residence was to show her court orders issued in relation to her cases. He also averred that it was complainant who sought refuge in his office and invited him and his legal staff for dinners to discuss her cases.[17]

Respondent maintained that complainant insisted on skipping the scheduled hearings before the Office of the Prosecutor. He also denied receiving P431,000.00 from complainant, arguing that on the alleged dates of payments, he was out for court appearances.[18] He admitted going to Cebu City upon the behest of complainant who shouldered all his expenses, but the visit was only for the purpose of discussing the cases with complainant's parents.[19] Respondent denied meeting complainant's eldest child in Cebu City and all the other alleged trips they took together.[20]

Respondent likewise denied courting complainant asserting that the latter had already known since February 2004 that he was married.[21] He claimed to be happily married to his legal wife. He denied living in together with complainant or providing a residence for complainant. According to him, complainant vacated her residence at Central Park Condominium, Pasay City because her lease application was denied.[22] While he admitted that the unit at Parrison Tower at F.B. Harrison, Pasay City belonged to his client, respondent insisted that his relatives had been occupying the same since March 2004, thus making it impossible for complainant to have transferred to said unit in April 2004.[23]

Respondent described as contrary to human experience the allegation of complainant that he introduced her as his wife during his birthday celebration on 28 May 2004, where his brothers and sisters were also present. To support this claim, he submitted the affidavits of fifteen guests in his party, stating that respondent did not introduce complainant as his wife.[24]

Respondent also denied that a marriage celebration between him and complainant took place on 4 August 2004 or that he signed the marriage certificate and or that he got her pregnant. He had already instituted corresponding criminal complaints against complainant for the alleged falsification of his signature in the marriage certificate. Respondent claimed that complainant was extorting money from him, hence the filing of the administrative complaint.[25]

Complainant submitted a Reply[26] to respondent's answer to rebut his allegations. Annexed to her reply were receipts of payments on utilities to prove that she actually lived at Parrison Tower and a VCD copy showing the video clip of respondent's birthday celebration held on 28 May 2004. Complainant and respondent also filed their respective position papers. In addition, complainant filed a Manifestation and Reply with the following annexes: (1) a blue polo barong and pants allegedly worn by respondent during his birthday celebration on 28 May 2004; (2) the original bank statement reciting the deposits made by complainant's parents of the amount of P431,000.00;[27] (3) the original passbook in the names of complainant and respondent;[28] and (4) the certified xerox copy from the original of their marriage contract.[29]

In response thereto, respondent moved to expunge from the records the annexes to complainant's Manifestation and Reply[30] on the ground that he was not furnished a copy of said annexes and that the Manifestation and Reply was an unsigned pleading. Complainant filed an opposition thereto.[31]

On 20 January 2006, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) issued its Report and Recommendation to dismiss the complaint against respondent for lack of merit. The IBP Board of Governors adopted and approved said Report and Recommendation in a Resolution[32] dated 20 March 2006, finding the recommendation to be fully supported by the evidence on record and the applicable laws and rules, and considering that the complaint lacked merit. The IBP believed that the complainant failed to present a clear, convincing and satisfactory proof to warrant the disbarment or suspension of respondent. The IBP also ruled that the pictures and VCD not having been duly authenticated could not be received in evidence.

As is usual in cases of this nature, the adverse parties presented conflicting versions. The duty to examine the claims and counterclaims and the evidence to support them ideally lies with the IBP, but in the instant case, its

evaluation leaves much to be desired.

Despite the numerous factual allegations presented by both parties and the affidavits and documents to support them, the IBP made only a general conclusion that complainant must be motivated by greed in filing the instant administrative complaint. Thus, the Court reviewed the records.

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[33] For the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof. Considering the serious consequence of the disbarment or suspension of a member of the Bar, this Court has consistently held that clear preponderant evidence is necessary to justify the imposition of the administrative penalty.[34]

Contrary to the IBP's opinion, there is a preponderance of evidence that respondent maintained an illicit relationship with complainant who was not his legal wife. It also appears that respondent contracted a second marriage with complainant as evidenced by their marriage certificate.

The best proof of marriage between man and wife is a marriage contract.[35] Section 7 of Rule 130 of the Rules of Court reads as follows:

Sec. 7. Evidence admissible when original document is a public record.— When the original of a document is in the custody of a public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof.

The certified copy of the marriage contract, issued by a public officer in custody thereof, was admissible as the best evidence of its contents.[36] The marriage certificate plainly indicates that a marriage was celebrated between respondent and complainant on 4 August 2004, and it should be accorded the full faith and credence given to public documents. The marriage certificate should prevail over respondent's claim that the marriage certificate or his signature therein was falsified. The rule is that a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity.[37]

Respondent contends that the certified true copy of the marriage contract should be expunged from the records because he was not furnished a copy thereof and the Manifestation and Reply to which it was annexed was an unsigned pleading. The records show otherwise. A copy of said marriage certificate, denominated as Annex "G," accompanied the initiatory complaint filed before the IBP and furnished to respondent. In fact, respondent admitted in paragraph 61 of his answer that he received a copy of the marriage contract.[38] A copy of complainant's Manifestation and Reply, to which a certified true copy of the questioned marriage certificate was annexed, was also sent by registered mail to the IBP.

The proscription against unsigned pleadings laid down in Section 3, Rule 7 of the Rules of Court is not applicable in the instant case. In view of its nature, administrative proceedings against lawyers are not strictly governed by the Rules of Court. As we held in *In re Almacen*, a disbarment case is *sui generis* for it is neither purely civil nor purely criminal but is rather an investigation by the court into the conduct of its officers.[39] Hence, an administrative proceeding continues despite the desistance of a complainant, or failure of the complainant to prosecute the same.[40] Moreover, no defect in a complaint, notice, answer, or in the proceeding or the Investigator's Report shall be considered as substantial unless the Board of Governors, upon considering the whole record, finds that such defect has resulted or may result in a miscarriage of justice.[41] That the copy of the Manifestation and Reply furnished to respondent was not signed by either complainant or her counsel is merely an innocuous error. In any case, the copy thereof forming part of the IBP records was signed by complainant.

All told, the Court finds that complainant's version is more credible, with the caveat that the Court is not accepting hook line and sinker every allegation of complainant. There is substantial evidence suggesting that more than a business or professional relationship existed between complainant and respondent. Complainant presented certain evidence either proving her claim or demonstrating as incredible respondent's defense that complainant was merely extorting money from him. For instance, to prove her allegation that she and respondent lived together, complainant presented the original of the retainer agreement between respondent and the owner of the condominium building where they allegedly lived together. Complainant also attached to her reply copies of receipts of payments on utilities and the original passbook of an account in the names of both complainant and respondent. These pieces of evidence were supposed to be under the control or custody of respondent, but the latter offered no explanation as to how complainant was able to produce them. If respondent's claim is to be believed, complainant must have gone to great lengths just to fabricate or steal these pieces of evidence, a theory that is not even suggested by respondent. Incidentally, vis-à-vis complainant's overwhelming allegations, respondent offered only denials which are effectively self-serving and weak under the law on evidence. Other than his general claim that complainant only wanted money from him, respondent did not even bother to create his own version of the supposed extortion.

Moreover, the VCD documenting respondent's birthday celebration on 28 May 2004 belied respondent's claim that he acted as complainant's legal counsel only and the concomitant assumption that she was there herself as a guest only. In said party, complainant entertained the guests and supervised the food preparation. Obviously, these are not the usual actuations of a client or a guest merely invited to a party.

Respondent would have this Court disregard the contents of the VCD and of the intimate photos of respondent and complainant on the ground that under the rules of evidence, the person who took the pictures or videotaped the birthday party should identify and authenticate the picture and VCD.

Respondent's objection will be sustained in civil or criminal litigation, but not in an administrative proceeding as in the instant case. In administrative proceedings, technical rules of procedure and evidence are not strictly applied; administrative due process cannot be fully equated to due process in its strict judicial sense.[42]

The Court, however, finds no sufficient evidence indicating that respondent falsely promised the settlement of complainant's criminal cases in consideration of the amount of P431,000.00. The bank statements showing the deposits made by complainant's parents are not conclusive of said claim because they do not prove that said amounts were received by respondent.

For what ethical breaches then may respondent be held liable?

The Code of Professional Responsibility provides:

Rule 1.01- A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Canon 7- A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the Integrated Bar.

Rule 7.03- A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

On several occasions, the Court has held that an illicit relation is considered disgraceful and immoral conduct which is subject to disciplinary action.[43] In *Tucay v. Atty. Tucay*,[44] it was held:

x x x indeed respondent has been carrying on an illicit affair with a married woman, grossly immoral conduct and only indicative of an extremely low regard for the fundamental ethics of his profession. This detestable

behavior renders him regrettably unfit and undeserving of the treasured honor and privileges which his license confers upon him.

A lawyer may be disbarred or suspended for any violation of his oath, a patent disregard of his duties, or an odious deportment unbecoming of an attorney. The grounds enumerated in Section 27, Rule 138, of the Rules of Court, including deceit, malpractice, or other gross misconduct in 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 the practice of law, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case

without authority to do so, are not preclusive in nature even as they are broad enough as to cover practically any kind of impropriety that a lawyer does or commits in his professional career or in his private life. A lawyer at no time must be wanting in probity and moral fiber which not only are conditions precedent to his entrance to, but are likewise essential demands for his continued membership in, a great and noble profession.[45]

In *Dantes v. Dantes*,[46] the Court ordered the disbarment of a lawyer, describing as grossly immoral his conduct of engaging in illicit relationships and abandoning his family. The Court exhorted lawyers to refrain from scandalous behavior, thus:

In *Barrientos vs. Daarol*, we ruled that 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 leading lives in accordance with the highest moral standards of the community. More specifically, a member of the Bar and officer of the court is not only required to refrain from adulterous relationships or keeping mistresses but must also so behave himself as to avoid scandalizing the public by creating the belief that he is flouting those moral standards. If the practice of law is to remain an honorable profession and attain its basic ideals, those enrolled in its ranks should not only master its tenets and principles but should also, in their lives, accord continuing fidelity to them. The requirement of good moral character is of much greater import, as far as the general public is concerned, than the possession of legal learning.

It should be noted that the requirement of good moral character has three ostensible purposes, namely: (i) to protect the public; (ii) to protect the public image of lawyers; and (iii) to protect prospective clients. A writer added a fourth: to protect errant lawyers from themselves.[47]

Respondent's intimate relationship with a woman other than his wife shows his moral indifference to the opinion of the good and respectable members of the community.[48] It is a time-honored rule that good moral 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.[49] However, the power to disbar must be exercised with great caution, and only in a clear case of misconduct that seriously affects the standing and character of the lawyer as an officer of the Court and as a member of the bar. Disbarment should never be decreed where any lesser penalty, such as temporary suspension, could accomplish the end desired.[50]

The penalty for maintaining an illicit relationship may either be suspension or disbarment, depending on the circumstances of the case. In case of suspension, the period would range from one year[51] to indefinite suspension, as in the case of *Cordova v. Cordova*,[52] where the lawyer was found to have maintained an adulterous relationship for two years and refused to support his family.

In *Dantes v. Atty. Dantes*,[53] disbarment was imposed as a penalty on the lawyer who maintained illicit relationships with at least two women during the subsistence of his marriage. And so was the case in *Toledo v. Toledo*[54] and *Obusan v. Obusan, Jr.*,[55] where the lawyers subject of disciplinary actions were found to have abandoned their legal wives and cohabited with other women.

The exacerbating circumstances present in the cited cases are absent in this case. Moreover, complainant failed to

prove that respondent misappropriated her money. Thus, the Court finds that suspension from the practice of law is adequate to penalize respondent for his grossly immoral conduct.

WHEREFORE, Atty. Sancho M. Ferancullo, Jr. is found GUILTY of gross immorality and is hereby SUSPENDED from the practice of law for a period of two (2) years effective upon notice hereof, with the specific WARNING that a more severe penalty shall be imposed should he commit the same or a similar offense hereafter.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, Chico-Nazario, Garcia, and Velasco, Jr., JJ., concur.

[1] Rollo, Vol. 1, pp. 1-8.

[2] Id. at 1-2.

[3] Id. at 3.

[4] Rollo, p. 3.

[5] Id.

[6] Id. at 2-3.

[7] Id. at 3.

[8] Id. at 27.

[9] Id. at 4.

[10] Rollo, Vol. II, p. 3.

[11] Id. at 4.

[12] Id. at 22.

[13] Id. at 5.

[14] Id. at 23.

[15] Id. at 6.

[16] Id. at 40.

[17] Id. at 43.

[18] Id. at 48.

[19] Id. at 52.

[20] Id. at 53.

[21] Id. at 46.

[22] Id.

[23] Id. at 54.

- [24]Id. at 133-148.
- [25]Id. at 58-59.
- [26] Id. at 179.
- [27]Id. at 193-94.
- [28]Id. at 192.
- [29] Id. at 195.
- [30]Rollo, Vol. II, pp. 189-191.
- [31] Id. at 206.
- [32] Rollo, Vol. I, p. 76.
- [33] Fr. Sinnott, v. Judge Barte, 423 Phil. 522, 536 (2001).
- [34] Concepcion v. Atty. Fandiño, Jr., 389 Phil. 474, 481 (2000).
- [35] Villanueva, et al. v. Court of Appeals, G.R. No. 84464, June 21, 1991, 198 SCRA 472; Vda. De Chua v. Court of Appeals, 350 Phil. 465 (1998); People v. Alejo, G.R. No. 149370, September 23, 2003, 411 SCRA 563; Tenebro v. Court of Appeals, G.R. No. 150758, February 18, 2004, 423 SCRA 272.
- [36] Tenebro v. Court of Appeals, supra.
- [37] Loyola v. Court of Appeals, 383 Phil. 171, 181 (2000).
- [38] Rollo, p. 70.
- [39] Cojuangco, Jr. v. Atty. Palma, A. C. No. 2474, September 15, 2004, 438 SCRA 306.
- [40] RULES OF COURT, Rule 139-B, Sec. 5.
- [41] RULES OF COURT, Rule 139-B, Sec. 11.
- [42] Ocampo v. Ombudsman, 379 Phil. 21, 28 (2000).
- [43] Dela Torre- Yadao v. Cabanatan, A.M. No. P-05-1953, June 8, 2005, 459 SCRA 332.
- [44]376 Phil. 336 (1999).
- [45] Id. at 340.
- [46]A.C. No. 6486, September 22, 2004, 438 SCRA 582.
- [47]Id. at 588-589Supra.
- [48] Sinnott v.Barte, supra note 30, at 293.
- [49] Paras v. Atty. Paras, 397 Phil. 462, 475 (2000).
- [50]Id.
- [51] Re: Initial Reports On The Grenade Incident, 419 Phil. 267 (2001).
- [52]A.C. No. 3249, November 29, 1989, 179 SCRA 680.

[53] Supra note 43.

[54] 117 Phil. 768 (1963).

[55] 213 Phil. 437 (1984).

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.