NELSON P. VALDEZ, COMPLAINANT, VS. ATTY. ANTOLIN ALLYSON DABON, JR., RESPONDENT.

A.C. No. 7353. November 16, 2015

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PER CURIAM:

This is an administrative complaint for disbarment filed by Nelson P. Valdez (Nelson) against Atty. Antolin Allyson M. Dabon, Jr. (Atty. Dabon) anchored on the ground of grossly immoral and indecent conduct which transgressed the high moral standards required for membership in the Bar.

The Position of the Complainant

Complainant Nelson charged respondent Atty. Dabon, a Division Clerk of Court of the Court of Appeals (CA), with gross immorality for allegedly carrying on an adulterous relationship with his wife, Sonia Romero Valdez (Sonia), which was made possible by sexual assaults and maintained through threat and intimidation.

In his Affidavit-Complaint,[1] dated September 13, 2006, Nelson averred, among others, that he married Sonia on January 28, 1998 in Paniqui, Tarlac; that Sonia was employed as Court Stenographer of the CA from 1992 until her resignation on May 15, 2006;[2] that Sonia admitted to have had an adulterous and immoral relationship with Atty. Dabon, from 2000 to 2006, a span of more than five years; that he came to know of the relationship only on April 18, 2006 after receiving an anonymous text message hinting/stating about the existence of an illicit affair between the two; and that initially, Sonia denied the affair but eventually broke down and admitted her sexual liaison with Atty. Dabon when confronted with a text message he received from Atty. Jocelyn Dabon (Atty. Joy), the wife of the respondent, on May 4, 2006 at about 9:47 o'clock in the morning, which stated:

> Nelson, Jun and I were separating I will file an annulment anytime soon, although I'm in great pain, I ask for your apology and forgiveness for everything he is leaving for US and I hope he evolves into a strong and mature person there. D cya masamang tao, just emotional and easily manipulated. Sana don't blame him entirely bec. he is d type that never initiate things. He is passive and tame. He was honest with me and I hope Sonia would find d courage to tell d truth to you. I just pray for peace and fresh start for all of us. I just want to go on with my life and use above all these for my son's sake. I love jun and I appeal to you n asana wala ka maisip sa atin lahat. Just as I have accepted everything. Salamat sa panahon at pangunawa. God bless.[3]

Nelson also asserted that Sonia confessed her infidelity and described her extramarital affair with Atty. Dabon to have been attended by sexual assaults and maintained through intimidation and threats of exposure, humiliation and embarrassment.

In her own Affidavit,[4] dated September 13, 2006 and attached to the complaint, Sonia narrated that her illicit relationship with Atty. Dabon started sometime in November 2000 and ended in March 2006 when she, bothered by her conscience, decided to break it off; that Atty. Dabon relentlessly pursued her for years and even admitted that he fell in love with her the first time he laid eyes on her; that on November 13, 2000, Atty. Dabon lured her to what appeared to be a mere friendly lunch date, managed to put sleep-inducing drug into her food or drink causing her to feel drowsy and weak and, thereafter, brought her to Victoria Court Motel where he sexually molested her

while she was asleep; that she opted to keep silent about the incident for fear of its adverse repercussions of shame and embarrassment to her and her family; that she pleaded with Atty. Dabon to leave her and forget what had happened, but the respondent instead taunted her by laughing at her misery; that since then, Atty. Dabon succeeded in having repeated carnal knowledge of her once or twice a week through intimidation and threats; that Atty. Dabon threatened her that he would tell everyone that she had been playing around with him, if she would not yield to his lascivious cravings; and that she suffered in silence for years and submitted herself to the bestial desires of Atty. Dabon, until she even thought that she was in love with him.

Sonia further claimed that after years of living in deception and infidelity, she decided to call it quits with Atty. Dabon sometime in March 2006 but he could not let go of their relationship; that Atty. Dabon started pestering and threatening her through phone calls and handwritten messages in vile attempts to persuade her to continue their illicit affair; that despite their break-up, Atty. Dabon still pursued his lustful quest by bringing her to Anito Motel, along Quirino Avenue on March 10, 2006, but she foiled his plan when she went ballistic prompting the respondent to drive her back to the CA; that on March 13, 2006, Atty. Dabon forcibly boarded her car and pleaded for forgiveness and reconciliation but she remained firm in her resolve to end the affair; that she had to seek the assistance of her officemates, Atty. Heiddi Venecia Barrozo (Atty. Barrozo) and Atty. Aileen T. Ligot (Atty. Ligot), just to convince Atty. Dabon to alight from her car as the said incident had already drawn the attention of several employees within the vicinity of the CA parking lot; that Atty. Dabon used the members of his staff to relay his messages and deliver his handwritten letters to her; that Atty. Dabon, angered by her repeated rejection, went berserk and sent her a letter which stated, among others, that he could no longer stand her constant avoidance of him and that he would divulge their illicit relationship to her husband; that it numbed her with fright, so she called Atty. Joy, without disclosing her identity, and told her that Atty. Dabon was harassing an employee at the CA; that Atty. Dabon sent a text message to Nelson telling him of the extramarital affair; that Atty. Joy called up Nelson and informed him that her husband, Atty. Dabon, had confessed to her the illicit relationship; and that when she was asked by Nelson, she initially denied the affair for fear of reprisal but, afterwards, admitted the truth and explained to him that she was merely a victim of Atty. Dabon's threat and intimidation which led to their illicit relationship.

Nelson further stated that Atty. Dabon's willful, flagrant and shameless conduct was in gross defiance of the customs, values and sense of morality of the community. He prayed for the disbarment of Atty. Dabon whose immoral acts showed his lack of moral character, honesty, probity, and good demeanor and, hence, unworthy to continue as an officer of the court. Nelson alleged that he had previously filed an administrative complaint for "Gross Immorality" against Atty. Dabon before the CA.

Together with Sonia's Affidavit, Nelson also attached to his Affidavit-Complaint for disbarment, the Joint Affidavit[5] executed by Atty. Barrozo and Atty. Ligot on May 19, 2006; the Affidavit[6] of Virginia D. Ramos (Ramos), dated May 19, 2006; and the Affidavit[7] of Marie Iris Magdalene Minerva (Minerva), dated May 22, 2006, wherein the said affiants corroborated the declaration of Sonia in her affidavit.

The Position of Atty. Dabon

Respondent Atty. Dabon strongly refuted the accusation against him claiming that the same was baseless and unfounded and that the complaint for disbarment was merely calculated to harass, annoy and besmirch his reputation.

In his Comment,[8] Atty. Dabon denied the charges of grossly immoral and unlawful acts through sexual assaults, abuses, threats and intimidation. He posited that the allegations of spouses Nelson and Sonia in their respective affidavits were nothing but pure fabrication solely intended to malign his name and honor. In support of his prayer

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for the dismissal of the present disbarment case, Atty. Dabon proffered the following arguments:

First, complainant Nelson had no personal knowledge of the alleged illicit relationship between him and Sonia. He relied heavily on the sworn statement of Sonia which was replete with inconsistencies and incredible and preposterous claims which defied logic and common sense, thus, revealing the fallacy of the subject complaint. He contended that it was highly improbable for him, a married lawyer at that, to suddenly turn crazy and abandon all cares just to satisfy his purported lustful hungerness by sexually assaulting Sonia, "an ordinary plain-looking 43-year old woman with two (2) teen aged children."[9]

Second, nowhere in the administrative complaint of Nelson previously filed before the CA was there any mention of any sexual assault he allegedly committed against Sonia or of an adulterous relationship that was maintained through threats and intimidation. Surprisingly, such allegations were included in the present complaint for disbarment. He also pointed out that Nelson did not attach to his administrative complaint before the CA the September 13, 2006 Affidavit of Sonia containing grave imputations against him. Such omissions were indicative that the serious charges against him were mere concoctions and afterthoughts designed to attain Nelson's desire to come up with a graver accusation against him. The filing of the complaint for disbarment was motivated by vengeance against him as Nelson was consummed by his suspicion that he had seduced Sonia which led to the deterioration of their marriage. He was a victim caught in the crossfire between the troubled couple, Nelson and Sonia.

Third, there was no truth to Sonia's allegation that he was attracted to her from the first time he saw her much less pursued her relentlessly. He and Sonia were just close friends. He was Sonia's confidante. She would usually confide in him her personal woes and problems especially those concerning her husband, Nelson. It was Sonia who aggressively sought his companionship and frequented his office, bringing food, fruits and other goodies. The said visits were attested to by Mary Jane Tulalian and Imelda Adan in their respective affidavits,[10] both dated April 30, 2008. His friendship with Sonia turned sour when she learned of his plan to settle for good in the Unites States with his family. Sonia began to avoid him. He exerted efforts to make her understand his decision, but to no avail.

Fourth, the cards expressing Sonia's affection towards him as well as the expensive gifts she gave him belied her claim that she was sexually assaulted and that she resisted his alleged sexual advances.

Fifth, it was unlikely that Sonia would not tell anyone the grave injustice and abuses that she allegedly suffered in his hands or report the matter to the police considering her length of service in the Judiciary and her familiarity on how the criminal justice system worked.

Sixth, he denied Nelson's allegation that he confessed to his wife, Atty. Joy, his illicit relationship with Sonia. He also denied that the alleged text messages, quoted by Nelson and Sonia in their respective affidavits, were sent by him or his wife. All were part of an elaborate scheme to force him to immediately resign as Division Clerk of Court from the CA.

Lastly, it was not true that he harassed Sonia through text messages and phone calls. It was he who was the victim of harassment from Nelson, who orchestrated a series of events that compelled him to leave the country earlier than scheduled for fear that an untoward incident might happen to him.

On August 15, 2007, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[11]

After the parties had submitted their respective verified position papers, Investigating Commissioner Manuel T. Chan (Investigating Commissioner Chan) of the IBP Commission on Bar Discipline (IBP-CBD) rendered his

Report and Recommendation,[12] dated October 2, 2008, finding that the charge against respondent Atty. Dabon had been sufficiently proven. The recommendatory portion of the report reads:

> WHEREFORE, this Commissioner, after a thorough and exhaustive review of the facts and applicable legal provisions, recommends that respondent be found guilty of gross immoral conduct and, accordingly, be disbarred and dropped from the Roll of Attorneys.[13]

On December 11, 2008, the Board of Governors of the IBP adopted and approved the recommendation and issued Resolution No. XVIII-2008-653, the pertinent portion of which reads:

> RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and finding Respondent guilty of gross immoral conduct, Atty. Antolin Allyson M. Dabon, Jr. is hereby DISBARRED and his name be stricken off from the Roll of Attorneys.[14]

Atty. Dabon filed a motion for reconsideration of Resolution No. XVIII-2008-653, but it was denied by the IBP Board of Governors in its Resolution No. XX-2012-550,[15] dated December 14, 2012.

After due consideration, the Court resolves to adopt the findings and recommendation of the IBP-CBD.

Lawyers have been repeatedly reminded by the Court that possession of good moral character is both a condition precedent and a continuing requirement to warrant admission to the Bar and to retain membership in the legal profession.This proceeds from the lawyer's bounden duty to observe the highest degree of morality in order to safeguard the Bar's integrity,[16] and the legal profession exacts from its members nothing less. Lawyers are called upon to safeguard the integrity of the Bar, free from misdeeds and acts constitutive of malpractice. Their exalted positions as officers of the court demand no less than the highest degree of morality.[17]

The Court explained in Arnobit v. Atty. Arnobit[18] 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. A member of the bar and an officer of the court is not only required to refrain from adulterous relationships or keeping a mistress but must also so behave himself as to avoid scandalizing the public by creating the impression that he is flouting those moral standards." Consequently, any errant behavior of the lawyer, be it in his public or private activities, which tends to show deficiency in moral character, honesty, probity or good demeanor, is sufficient to warrant suspension or disbarment.[19]

In the case at bench, the Court subscribes to the IBP's opinion that there was substantial evidence showing that Atty. Dabon did have an illicit relationship with Nelson's legal wife.

To begin with, the Court notes from the respondent's Comment that he appeared to be perplexed as to whether or not he would admit his extramarital liaisons with Sonia. As Investigating Commissioner Chan stated in his report, Atty. Dabon interposed a blanket denial of the romantic involvement but at the same time, he seemed to have tacitly admitted the illicit affair only that it was not attended by sexual assaults, threats and intimidations. The Court also observed that he devoted considerable effort to demonstrate that the affair did not amount to gross immoral conduct and that no sexual abuse, threat or intimidation was exerted upon the person of Sonia, but not once did he squarely deny the affair itself.

In other words, the respondent's denial is a negative pregnant, a denial coupled with the admission of substantial facts in the pleading responded to which are not squarely denied. Stated otherwise, a negative pregnant is a form of negative expression which carries with it an affirmation or at least an implication of some kind favorable to the adverse party. Where a fact is alleged with qualifying or modifying language and the words of the allegation as so

qualified or modified are literally denied, it has been held that the qualifying circumstance alone is denied while the fact itself is admitted.[20] It is clear from Atty. Dabon's Comment that his denial only pertained as to the existence of a forced illicit relationship. Without a categorical denial thereof, he is deemed to have admitted his consensual affair with Sonia.

More telling of the existence of a romantic relationship are the notes and cards[21] that Sonia sent to Atty. Dabon containing personal and intimate messages in her own handwriting. The messages conveyed Sonia's affection towards him as she even referred to him as "hon" or "honey." There were also gifts she gave him on special occasions such as signature shoes, watch and shirts. It also appeared that Sonia frequently visited him in his office either to bring him food, fruits and other goodies or to invite him to lunch which apparently displayed her emotional attachment to him. Curiously, the foregoing was never refuted by Sonia. Such "ego-boosting admissions"[22] of Atty. Dabon indeed proved that a consensual relationship between him and Sonia existed.

It has not escaped the Court's attention either that Atty. Dabon really tried hard to win back Sonia because he could not let go of their relationship, even to the point of pestering her with his persistent pleas for reconciliation. In one instance, Atty. Dabon boarded Sonia's car and refused to alight unless she would talk to him. Sonia had to seek the assistance of her officemates, Atty. Barrazo and Atty. Ligot, who pleaded with him to alight from the vehicle. Moreover, Atty. Dabon made several attempts to communicate with Sonia in the hope of rekindling their relationship through letters and phone calls but she remained firm in her stand to avoid him. Such incident was recounted by Ramos and Minerva in their respective affidavits.

Incidentally, vis-a-vis Nelson's overwhelming evidence of said harassments, he offered only denials which was self-serving and weak under the law on evidence. Other than his general claim that Atty. Barrazo, Atty. Ligot, Ramos, and Minerva were biased witnessess because they were former officemates of Sonia, the respondent did not even bother to proffer his own version of the supposed harassment incidents.

In light of the above disquisition, the Court finds Sonia's allegation that the illicit relationship was made possible by sexual assaults and maintained through threat and intimidations, to be untrue. Certainly, a sexually abused woman could not be expected to lavish her oppressor with expensive gifts or pay him affectionate compliments or words of endearment. The natural reaction of a victim of a sexual molestation would be to avoid her ravisher. In this case, however, it appeared that Sonia continually remained in the company of Atty. Dabon for more than five years, even inviting him for lunch-outs and frequenting his office to bring food whenever the latter was preoccupied with his workload and could not go out with her to eat. Verily, Sonia's actuations towards Atty. Dabon are in stark contrast to the expected demeanor of one who had been repeatedly sexually abused.

Further, the Court cannot fathom why Sonia never reported the alleged sexual abuse to the police, if such was the truth. She could have placed the respondent behind bars and put an end to her claimed misery. Also, the Court cannot lend credence to Sonia's claim that she merely succumbed to the respondent's sexual advances because of his continuous threats of public exposure and humiliation. It must be stressed that Atty. Dabon would be in a much more precarious situation if he would carry out such threats, as this would exposed himself to countless criminal and administrative charges. The Court believes that Nelson's allegation of sexual assaults and continuing threat and intimidation was not established by clear preponderant evidence. The Court is left with the most logical conclusion that Sonia freely and wittingly entered into an illicit and immoral relationship with Atty. Dabon sans any threat and intimidation.

Consequently, the Court quotes with approval the following observations of Investigating Commissioner Chan on this score, thus:

> Sorting out the maze of technicalities, denials and evasions of the respondent as well as the oftentimes

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> exaggerated language of complainant or his wife, Sonia, and the self-exculpatory declarations of Sonia, this Commissioner considers the following facts as established:
>
> - Respondent and Sonia are both married, not to each other, but to other persons, and each is aware of this fact, or should have known such fact at the start of their illicit relationship because they were officemates at that time;
>
> - Respondent and Sonia engaged in an intimate and sexual relationship, intermittent perhaps, for a period of about six years starting 2000 up to 2006;
>
> - Respondent and Sonia, despite protestations of Sonia that respondent assaulted her using drugs and employing threats and blackmail to maintain the relationship, appeared to have entered into such illicit relationship voluntarily and also appeared to have been fueled by their deep emotional needs, if not mutual lust, as shown by the fact that the illicit relationship lasted for six long years;
>
> - Respondent and Sonia, despite the protestation of Sonia to the contrary, were not really ready to give up the illicit relationship even if they were fully aware of its immorality or its devastating effect on their respective marriages and careers as shown by the fact that both respondent and Sonia did not voluntarily confess to their respective spouses their dark secret, but were only discovered by complainant through other channels.[23]

For what ethical breaches then may Atty. Dabon 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.

Morality in our liberal society today is probably a far cry from what it used to be. Notwithstanding this permissiveness, lawyers, as keepers of public faith, are burdened with a high degree of social responsibility and, hence, must handle their personal affairs with greater caution.[24] Indeed, those who have taken the oath to assist in the dispensation of justice should be more possessed of the consciousness and the will to overcome the weakness of the flesh.

It has been repeatedly held that to justify suspension or disbarment, the act complained of must not only be immoral, but grossly immoral.[25] A grossly immoral act is one that is so corrupt as to constitute a criminal act, or so unprincipled as to be reprehensible to a high degree or committed under such scandalous or revolting circumstances as to shock the common sense of decency. It is willful, flagrant, or shameless as to show indifference to the opinion of good and respectable members of the community.[26]

In the case at bench, Atty. Dabon's intimate relationship with a woman other than his wife showed his moral indifference to the opinion of the good and respectable members of the community. It manifested his disrespect for the laws on the sanctity of marriage and for his own marital vow of fidelity. It showed his utmost moral depravity and low regard for the fundamental ethics of his profession. Indeed, he has fallen below the moral bar. Such detestable behavior warrants a disciplinary sanction. Even if not all forms of extramarital relations are punishable under penal law, sexual relations outside of marriage are considered disgraceful and immoral as they manifest deliberate disregard of the sanctity of marriage and the marital vows protected by the Constitution and affirmed by our laws.[27]

In Advincula v. Macabata,[28] the Court elucidated as to what disciplinary sanction should be imposed against a lawyer found guilty of misconduct. Thus:

> Xxx. "When deciding upon the appropriate sanction, the Court must consider that the primary purposes of disciplinary proceedings are to protect the public; to foster public confidence in the Bar; to preserve the integrity of the profession; and to deter other lawyers from similar misconduct. Disciplinary proceedings are means of protecting the administration of justice by requiring those who carry out this important function to be competent, honorable and reliable men in whom courts and clients may repose confidence. While it is discretionary upon the Court to impose a particular sanction that it may deem proper against an erring lawyer, it should neither be arbitrary and despotic nor motivated by personal animosity or prejudice, but should ever be controlled by the imperative need to scrupulously guard the purity and independence of the bar and to exact from the lawyer strict compliance with his duties to the court, to his client, to his brethren in the profession and to the public.
>
> The power to disbar or suspend ought always to be exercised on the preservative and not on the vindictive principle, with great caution and only for the most weighty reasons and only on clear cases of misconduct which seriously affect the standing and character of the lawyer as an officer of the court and member of the Bar. Only those acts which cause loss of moral character should merit disbarment or suspension, while those acts which neither affect nor erode the moral character of the lawyer should only justify a lesser sanction unless they are of such nature and to such extent as to clearly show the lawyer's unfitness to continue in the practice of law. The dubious character of the act charged as well as the motivation which induced the lawyer to commit it must be clearly demonstrated before suspension or disbarment is meted out. The mitigating or aggravating circumstances that attended the commission of the offense should also be considered.

The penalty for maintaining an illicit relationship may either be suspension or disbarment, depending on the circumstances of the case.[29] In case of suspension, the period would range from one year[30] to indefinite suspension, as in the case of Cordova v. Cordova,[31] where the lawyer was found to have maintained an adulterous relationship for two years and refused to support his family. On the other hand, there is a string of cases where the Court meted out the extreme penalty of disbarment, to wit:

In Toledo v. Toledo,[32] a lawyer was disbarred from the practice of law, when he abandoned his lawful wife and cohabited with another woman who had borne him a child.

In Obusan v. Obusan, Jr.,[33] a lawyer was disbarred after the complainant proved that he had abandoned her and maintained an adulterous relationship with a married woman. The Court declared that the respondent failed to maintain the highest degree of morality expected and required of a member of the Bar.

In Cojuangco, Jr. v. Palma,[34] the respondent lawyer was disbarred when he abandoned his lawful wife and three children, lured an innocent woman into marrying him and misrepresented himself as a "bachelor" so he could contract marriage in a foreign land.

In Dantes v. Dantes,[35] disbarment was imposed as a penalty on the respondent lawyer who maintained illicit relationships with two different women during the subsistence of his marriage to the complainant. The Complainant's testimony, taken in conjunction with the documentary evidence, sufficiently established that the respondent breached the high and exacting moral standards set for members of the law profession.

In Villatuya v. Tabalingcos,[36] the respondent lawyer was disbarred because he was found to have entered into marriage twice while his first marriage was still subsisting. The Court declared that he exhibited a deplorable lack of that degree of morality required of him as a member of the Bar. He made a mockery of marriage, a sacred institution demanding respect and dignity.

In the case at bench, Atty. Dabon's misconduct and unrepentant demeanor clearly showed a serious flaw in his

character, his moral indifference to the sanctity of marriage and marital vows, and his outright defiance of established norms. All these could not but put the legal profession in disrepute and place the integrity of the administration of justice in peril. Accordingly, the Court finds the need for the imposition of the extreme administrative penalty of disbarment.

WHEREFORE, finding the respondent Atty. Antolin Allyson M. Dabon, Jr. GUILTY of Gross Immorality, the Court hereby DISBARS him from the practice of law.

Let respondent's name be stricken from the Roll of Attorneys immediately. Furnish the Bar Confidant, the Integrated Bar of the Philippines and all court throughout the country with copies of this Decision.

SO ORDERED.

Sereno, CJ., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, and Jardeleza, JJ., cocnur.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on November 16, 2015 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 28, 2015 at 3:00 p.m.

Very truly yours,

(SGD)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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[1] Rollo, Vol. I, pp. 3-5.

[2] Id. at 6.

[3] As quoted in the complaint, rollo, Vol. I, p. 4.

[4] Id. at 7-13.

[5] Id. at 27-30.

[6] Id. at 31-32.

[7] Id. at 33-34.

[8] Id. at 98-125.

[9] Id. at 107,

[10] Rollo, Vol. IV, pp. 302-304.

[11] Rollo, Vol. I, p. 166.

[12] Rollo, Vol. II, pp. 197-204.

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[13] Id. at 204.

[14] Id. at 196.

[15] Rollo, Vol. VI, p. 521.

[16] Tiong v. Florendo, 678 Phil. 195 (2011).

[17] Ui v. Bonifacio, 388 Phil. 691, 708 (2000).

[18] 590 Phil. 270 (2008).

[19] Abella v. Barrios, A.C. No. 7332, June 18, 2013, 698 SCRA 683, 692.

[20] Guevarra v. Eala, 555 Phil. 713, 724 (2007).

[21] Rollo, Vol. IV, pp. 305-308.

[22] Rollo, Vol. II, p. 201.

[23] Id. at 201-202.

[24] Ui v. Bonifacio, supra note 17, at 706.

[25] Figueroa v. Barranca, Jr., 342 Phil. 408, 412 (1997).

[26] Zaguirre v. Castillo, 446 Phil. 861, 867 (2003).

[27] Vitug v. Rongcal, 532 Phil. 615, 626-627 (2006).

[28] 546 Phil. 431, 446-447 (2007).

[29] Ferancullo v. Ferancullo, Jr., 538 Phil. 501, 517 (2006).

[30] Re: Initial Report on the Grenade Incident, 419 Phil. 267 (2001).

[31] 259 Phil. 278,283(1989).

[32] 117 Phil. 768, 776 (1963).

[33] 213 Phil. 437, 440(1984).

[34] 481 Phil. 646 (2004).

[35] 482 Phil. 64 (2004).

[36] A.C. No. 6622, July 10, 2012, 676 SCRA 37.

CONCURRING OPINION

LEONEN, J.:

This court resolves an administrative Complaint for disbarment filed by complainant Nelson P. Valdez (Nelson) against respondent Atty. Antolin Allyson M. Dabon, Jr., (Atty. Dabon) for gross immoral and indecent conduct unbecoming of a member of the Bar.[1]

Nelson claims that he and his wife, Sonia Romero Valdez (Sonia), were married on January 28, 1998 in Paniqui, Tarlac.[2] Sonia was a Court Stenographer at the Court of Appeals from 1992 to 2006.[3] She admitted that she

had an adulterous and immoral relationship with Atty. Dabon, a Division Clerk of Court of the Court of Appeals, from 2000 to 2006.[4] According to Nelson, Sonia told him that the illicit affair was carried out through Atty. Dabon's sexual assaults, intimidation, and threats on Sonia.[5]

Sonia's affidavit was attached to Nelson's Complaint. In her affidavit, Sonia claims that her sexual relationship with Atty. Dabon started when they had a friendly lunch date on November 13, 2000.[6] Unknown to her, Atty. Dabon put a sleep-inducing substance in either her food or drink, which caused her to feel drowsy and weak.[7] Atty. Dabon then brought her to a motel and took advantage of her.[8] He sexually assaulted her while she was unconscious.[9]

Sonia felt ashamed of what had happened; thus, she kept the incident to herself.[10] She also feared the ramifications of the incident on her and her family.[11] Sonia asked Atty. Dabon to forget about the incident and leave her alone. However, Atty. Dabon threatened her that he would tell everyone they knew about it.[12] From then on, Atty. Dabon was successful in having carnal knowledge with her once to twice a week.[13] This went on for several years.[14]

In March 2006, Sonia ended her affair with Atty. Dabon.[15] This resulted in a series of unpleasant occasions where Sonia and Atty. Dabon publicly clashed in a motel and inside the Court of Appeals and involved other employees of the judiciary as well as their spouses.[16]

For his part, Atty. Dabon denies the allegations in the Complaint. He denies the acts constituting gross immoral conduct imputed by Nelson and Sonia. He also denies being attracted to Sonia and drugging and sexually assaulting her.[17] At most, they were just good friends.[18] Atty. Dabon also points to the alleged inconsistencies in the claims of Sonia and her husband.[19] Sonia's true feelings for him are evident in the cards she signed and sent to him, together with the expensive gifts such as signature shoes, watches, and shirts she gave him.[20] Sonia even spent time in the United States with him and his sons.[21]

Atty. Dabon further alleges that Sonia had become emotionally dependent on him since he was always there to listen to her problems.[22] According to Atty. Dabon, Sonia started to act strangely when she learned of his plans to settle in the United States for good.[23]

Atty. Dabon also claims that Nelson and Sonia are good friends with the Court of Appeals Presiding Justice Ruben Reyes as Sonia had worked as Court Stenographer for him for three (3) years.[24] The Presiding Justice had allegedly asked Atty. Dabon to resign, else cases would be filed against him.[25]

Moreover, contrary to Nelson and Sonia's claims, it was actually Atty. Dabon who was harassed through text messages and phone calls, which prompted him to leave the country earlier than scheduled.[26]

On August 15, 2007, this court referred the Complaint to the Integrated Bar of the Philippines for investigation, report, and recommendation.[27]

In his October 2, 2008 Report and Recommendation, Integrated Bar of the Philippines Investigating Commissioner Manuel T. Chan found Atty. Dabon guilty of gross immoral conduct.[28] The Commissioner recommended that Atty. Dabon be disbarred and dropped from the Roll of Attorneys.[29]

On December 11, 2008, the Integrated Bar of the Philippines Board of Governors issued Resolution No. XVIII-2008-653, which adopted and approved the recommendations of the Investigating Commissioner:

> RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the

> applicable laws and rules, and finding Respondent guilty of gross immoral conduct, Atty. Antolin Allyson M. Dabon, Jr. is hereby DISBARRED and his name be stricken off from the Roll of Attorneys.[30]

Atty. Dabon filed his motion for reconsideration of the Resolution.[31] However, this was denied by the Integrated Bar of the Philippines Board of Governors in Resolution No. XX-2012-550 dated December 4, 2012:

> RESOLVED to unanimously DENY Respondent's Motion for Reconsideration there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XVIII-2008-653 dated December 11, 2008 is hereby AFFIRMED.[32]

I concur with this court's finding that Atty. Dabon is guilty of gross immoral conduct.[33]

The ponencia declares that Atty. Dabon's illicit relationship with Nelson's wife amounts to gross immoral conduct that transgresses the Code of Professional Responsibility,[34] thus:

> In the case at bench, Atty. Dabon's intimate relationship with a woman other than his wife showed his moral indifference to the opinion of the good and respectable members of the community. It manifested his disrespect for the laws on the sanctity of marriage and for his own marital vow of fidelity. It showed his utmost moral depravity and low regard for the fundamental ethics of his profession. Indeed, he has fallen below the moral bar. Such detestable behavior warrants a disciplinary sanction. Even if not all forms of extramarital relations are punishable under penal law, sexual relations outside of marriage are considered disgraceful and immoral as they manifest deliberate disregard of the sanctity of marriage and the marital vows protected by the Constitution and affirmed by our laws.[35]

However, the ponencia also declared that Sonia's claims of sexual assaults, threats, and intimidation are false:

> In light of the above disquisition, the Court finds Sonia's allegation that the illicit relationship was made possible by sexual assaults and maintained through threat and intimidations, to be untrue. Certainly, a sexually abused woman could not be expected to lavish her oppressor with expensive gifts or pay him affectionate compliments or words of endearment. The natural reaction of a victim of a sexual molestation would be to avoid her ravisher. In this case, however, it appeared that Sonia continually remained in the company of Atty. Dabon for more than five years, even inviting him for lunch-outs and frequenting his office to bring whenever the latter was preoccupied with his workload and could not go out with her to eat. Verily, Sonia's actuations towards Atty. Dabon are in stark contrast to the expected demeanor of one who had been repeatedly sexually abused.
>
> Further, the Court cannot fathom why Sonia never reported the alleged sexual abuse to the police, if such was the truth. She could have placed the respondent behind bars and put an end to her claimed misery. Also, the Court cannot lend credence to Sonia's claim that she merely succumbed to the respondent's sexual advances because of his continuous threats of public exposure and humiliation. It must be stressed that Atty. Dabon would be in a much more precarious situation if he would carry out such threats, as this would exposed [sic] himself to countless criminal and administrative charges. The Court believes that Nelson's allegation of sexual assaults and continuing threat and intimidation was not established by clear and preponderant evidence. The Court is left with the most logical conclusion that Sonia freely and wittingly entered into an illicit and immoral relationship with Atty. Dabon sans any threat and intimidation.[36] (Emphasis supplied)

The relationship between Atty. Dabon and Sonia was consensual. Relationships between men and women traditionally involve power exerted by one against the other. In Garcia v. Drilon,[37] this court recognized the unequal power relationship between a man and a woman, justifying the valid classification provided under Republic Act No. 9262:[38]

> I. R.A. 9262 rests on substantial distinctions.

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> The unequal power relationship between women and men; the fact that women are more likely than men to be victims of violence; and the widespread gender bias and prejudice against women all make for real differences justifying the classification under the law. As Justice Mclntyre succinctly states, "the accommodation of differences . . . is the essence of true equality."
>
> A. Unequal power relationship between men and women
> According to the Philippine Commission on Women (the National Machinery for Gender Equality and Women's Empowerment), violence against women (VAW) is deemed to be closely linked with the unequal power relationship between women and men otherwise known as "gender-based violence". Societal norms and traditions dictate people to think men are the leaders, pursuers, providers, and take on dominant roles in society while women are nurturers, men's companions and supporters, and take on subordinate roles in society. This perception leads to men gaining more power over women. With power comes the need to control to retain that power. And VAW is a form of men's expression of controlling women to retain power.
>
> The United Nations, which has long recognized VAW as a human rights issue, passed its Resolution 48/104 on the Declaration on Elimination of Violence Against Women on December 20, 1993 stating that "violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into subordinate positions, compared with men."[39] (Emphasis in the original, citations omitted)

"Sexual harassment in the workplace is not about a man taking advantage of a woman by reason of sexual desire - it is about power being exercised by a superior officer over his women subordinates."[40] The superior can cause the removal of the subordinate from the workplace if the latter refuses his or, in certain cases, her amorous advances.[41] These acts, which necessarily result in an intimidating, hostile, and offensive working environment for subordinates, constitute sexual harassment.[42]

Under A.M. No. 03-03-13-SC (Re: Rule on Administrative Procedure in Sexual Harassment Cases and Guidelines on Proper Work Decorum in the Judiciary), work-related sexual harassment is defined as an act of:

> an official or employee in the Judiciary who, having authority, influence or moral ascendancy over another in a work environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the latter.[43]

It is committed when:

> (a) The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee. It shall include, but shall not be limited to, the following modes:
> 1. Physical, such as malicious touching, overt sexual advances, and gestures with lewd insinuation.
>
> 2. Verbal, such as requests or demands for sexual favors, and lurid remarks.
>
> 3. Use of objects, pictures or graphics, letters or written notes with sexual underpinnings.
>
> 4. Other acts analogous to the foregoing.

(b) The above acts would impair the employee's rights or privileges under existing laws; or

(c) The above acts would result in an intimidating, hostile or offensive environment for the employee.[44]

While Sonia was technically not a subordinate of Atty. Dabon, his actions nevertheless resulted in an intimidating, hostile, and offensive working environment for Sonia, especially towards the end of their illicit relationship. The gravity of Atty. Dabon's actions should be considered in determining the proper penalty to be imposed in this disbarment case for gross immoral conduct.

As the Integrated Bar of the Philippines found, Atty. Dabon refused to accept that his relationship with Sonia had already ended, to the point of harassing Sonia publicly several times:

> It has not escaped the Court's attention either that Atty. Dabon really tried hard to win back Sonia because he could not let go of their relationship, even to the point of pestering her with his persistent pleas of reconciliation. In one instance, Atty. Dabon boarded Sonia's car and refused to alight unless she would talk to him. Sonia had to seek the assistance of her officemates, Atty. Barrazo and Atty. Ligot, who pleaded with him to alight from the vehicle. Moreover, Atty. Dabon made several attempts to communicate with Sonia in the hope of rekindling their relationship through letters and phone calls but she remained firm in her stand to avoid him. Such incident was recounted by Ramos and Minerva in their respective affidavits. Incidentally, vis-a-vis Nelson's overwhelming evidence of said harassments, he offered only denials which was [sic] self-serving and weak under the law on evidence. Other than his general claim that Atty. Barrazo, Atty. Ligot, Ramos, and Minerva were biased witnesses because they were former officemates of Sonia, the respondent did not even bother to proffer his own version of the supposed harassment incidents.[45]

Conduct is immoral when it is "so willful, flagrant, or shameless as to show indifference to the opinion of good and respectable members of the community."[46] Further:

> [The] conduct [to warrant disciplinary action] must not only be immoral, but grossly immoral. . . . [I]t must be so corrupt as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree or committed under such scandalous or revolting circumstances as to shock the common sense of decency."[47]

Good moral character is a continuing requirement to maintain one's good standing in the legal profession.[48] "It is the bounden duty of law practitioners to observe the highest degree of morality in order to safeguard the integrity of the Bar."[49]

There is no fixed standard of what constitutes gross immoral conduct, or "moral delinquency and obliquity which render a lawyer unworthy of continuing as a member of the bar."[50] Hence, "what appears to be unconventional behavior to the straight-laced may not be the immoral conduct that warrants disbarment."[51]

Disbarment is clearly warranted for gross immoral conduct that entails abuse of power of whatever kind or nature.

In Barrientos v. Daarol,[52] the respondent was held guilty of gross immoral conduct and was disbarred for inducing a female half his age to have sexual relations with him after promising marriage, despite him being married already, and later on abandoning the woman and his child.

In Tucay v. Tucay,[53] this court held that having an illicit affair with a married woman, regardless of whether a bigamous marriage was contracted, constitutes gross immoral conduct that merits the extreme penalty of disbarment.

In Arnobit v. Arnobit,[54] this court disbarred the respondent for abandoning his wife and 12 children to cohabit with another woman.

In Garrido v. Garrido,[55] two lawyers who engaged in an extra-marital affair were disbarred since their actions established a "pattern of grave and immoral misconduct that demonstrates their lack of mental and emotional fitness and moral character to qualify them for the responsibilities and duties imposed on lawyers as professionals and as officers of the court."[56]

In his Comment, Atty. Dabon averred that there could not have been an illicit affair between him and Sonia since Sonia was merely "an ordinary plain-looking middle aged woman with two (2) teen aged children."[57] He alleged that:

> It is an outrage for herein respondent for the complainant and Ms. Valdez to accuse him of sexually assaulting the latter. There is absolutely no iota of truth to this incredible claim of the Valdezes. Why would a man like the respondent, a married lawyer at that with no prior encounter with the law, would suddenly turn crazed with lust despite the aloofness and coldness of Ms. Valdez towards him as alleged in her affidavit, drugging her—then dragging her to his car and sexually assaulting her in a motel? Is Ms. Valdez that irresistibly attractive and compelling that would turn the respondent into an unthinking sex pervert and criminal, risking everything just to get her to satisfy his alleged lust for her?[58] (Emphasis in the original)

This statement is nothing but an attempt to obviate the consequence of his actions by degrading the appearance of another human being. This strongly reveals Atty. Dabon's character and the extent to which he is willing to go to gain impunity for his infractions.

Atty. Dabon carried out illicit relations with Sonia, a married woman and his co-worker in the judiciary, for at least five (5) years. Atty. Dabon's blase attitude towards the affair and its aftermath not only made a mockery of the position he holds as member of the bar and an employee of the judiciary, but also showed his utter disregard for laws protecting and respecting the dignity of women. He failed to meet the high standard of morality required of his profession. He is unfit to be a member of the bar.

ACCORDINGLY, I vote that respondent Atty. Antolin Allyson Dabon, Jr. be DISBARRED and his name be stricken from the Roll of Attorneys.

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[1] Ponencia, p. 1.

[2] Rollo, p. 3 and 6, Affidavit.

[3] Id. at 3, Affidavit, and 526, Report and Recommendation of the IBP.

[4] Id. at 3-4, Affidavit and 525-526, Report and Recommendation of the IBP.

[5] Id.

[6] Id. at 8, Affidavit.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 8-9, Affidavit.

[12] Id. at 9.

[13] Id.

[14] Id.

[15] Id. at 10.

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[16] Id. at 10-12.

[17] Id. at 107-108, Comment.

[18] Id.

[19] Id. at 109, Comment.

[20] Id. at 109-110.

[21] Id. at 113.

[22] Id. at 112.

[23] Id. at 114.

[24] Id. at 115.

[25] Id. at 116.

[26] Id. at 118.

[27] Id. at 166.

[28] Id. at 523-530.

[29] Id. at 530.

[30] Id. at 522.

[31] Id. at 536-555.

[32] Id. at 521.

[33] Ponencia, p. 13.

[34] See CODE OF PROFESSIONAL RESPONSIBILITY, Rule 1.01 and Rule 7.03.

[35] Ponencia, p. 11.

[36] Id. at 9.

[37] G.R. No. 179267, June 25, 2013, 699 SCRA 352 [Per J. Perlas-Bernabe, En Bane].

[38] Rep. Act No. 9262 is entitled An Act Defining Violence Against Women And Their Children, Providing For Protective Measures For Victims, Prescribing Penalties Therefore, And For Other Purposes.

[39] Garcia v. Drilon, G.R. No. 179267, June 25, 2013, 699 SCRA 352, 411-412 [Per J. Perlas-Bernabe, En Banc].

[40] Palste v. Mamenta, Jr., 459 Phil. 10, 24 [Per Curiam, En Banc].

[41] Id.

[42] See Floralde v. Court of Appeals, 392 Phil. 146, 150 (2000) [Per J. Pardo, En Banc].

[43] A.M. No. 03-03-13-SC (2004), sec. 3.

[44] A.M. No. 03-03-13-SC (2004), sec. 4.

[45] Ponencia, pp. 8-9.

[46] Zaguirre v. Castillo, 446 Phil. 861, 867 (2003) [Per Curiam, En Banc], citing Narag v. Narag, 353 Phil. 643, 655 (1998) [Per Curiam, En Banc].

[47] Id.

[48] Tiong v. Florendo, 678 Phil. 195, 199 (2011) [Per J. Perlas-Bernabe, Third Division].

[49] Id. at 199-200.

[50] Advincula v. Macabata, 546 Phil. 431, 442 (2007) [Per J. Chico-Nazario, Third Division].

[51] Id. at 443.

[52] A.C. No. 1512 (Resolution), January 29, 1993, 218 SCRA 30 [Per Curiam, En Banc].

[53] 376 Phil. 336 (1999) [Per Curiam, En Banc].

[54] 590 Phil. 270 (2008) [Per Curiam, En Bane].

[55] 625 Phil. 347 (2010) [Per Curiam, En Banc].

[56] Id. at 366.

[57] Rollo, p. 107.

[58] Id. at 108.

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