

EN BANC

**[A.C. No. 8866 (Formerly CBD Case No. 12-3385),
September 15, 2020]**

**CATHERINE V. VILLARENTE, COMPLAINANT, VS. ATTY. BENIGNO
C. VILLARENTE, JR., RESPONDENT.**

DECISION

PER CURIAM:

Before the Court is a complaint asking for the disbarment of respondent Atty. Benigno C. Villarente, Jr. (respondent) after the latter continued cohabiting with his mistress and for siring another child, despite the clear warning by the Court against the commission of the same or similar act.

The Antecedents

Catherine V. Villarente (complainant) filed on October 29, 2010 a complaint for Serious Misconduct as a Lawyer and as Judge against her husband, respondent herein, a retired judge, for allegedly delaying Civil Case No. PN-0306 for Nullity of Marriage filed by respondent in the Regional Trial Court (RTC), Branch 17, Palompon, Leyte, and for continuously cohabiting with his concubine and their illegitimate child, despite a previous disbarment case which warned him against continuing such relationship.^[1]

Earlier, complainant filed a disbarment case, A.C. No. 10017, against respondent for gross immorality which was decided by the Court's Second Division on September 23, 2013, approving the recommendation of the Integrated Bar of the Philippines (IBP) to impose upon respondent a penalty of suspension from the practice of law for one year with a stern warning that should evidence surface that his alleged conduct be proven grossly immoral, the matter will be dealt with more severely.^[2]

On February 25, 2015, complainant wrote IBP Commissioner Victor D. Cruz stating that respondent "emboldened by the very light penalty in A.C. No. 10017 (formerly CBD Case No. 05-1620 for Gross Immorality), has flaunted his immorality by siring a second illegitimate child with his mistress with whom he has been openly cohabiting since 2002 at No. 28 Sitio NGA, Lahug, Cebu City."^[3]

The IBP Report and Recommendation

On November 25, 2015, the case was endorsed to Investigating Commissioner Dominica L. Dumangeng-Rosario (Commissioner Dumangeng-Rosario), who submitted her Report and Recommendation^[4] on July 21, 2016.

According to Commissioner Dumangeng-Rosario:

x x x [M]ore than the paralyzing of the Declaration of Nullity of Marriage whose issues brought out by the complainant had been rendered moot

and academic as these had already been resolved by the proper courts, the arguments of both parties centered on the respondent's open and shameless cohabitation with his mistress-concubine and siring two (2) illegitimate sons with her. The younger son was born after the first disbarment case against him, CBD Case No. 05-1620 was filed.

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x x x [A]tty. Villarente, Jr. had been subjected to a disbarment proceeding docketed as CBD Case No. 05-1620 upon complaint for gross immorality, dated December 15, 2005 filed by his wife, complainant herein. There it was alleged that respondent and complainant were married on December 30, 1975 at Pamplona, Leyte and out of such union had four children. Complainant claimed that sometime in 2002, respondent started cohabiting with a certain Maria Ellen Guarin who gave birth to a son, Benigno Junius Guarin on December 25, 2002.

On May 27, 2010, IBP Commissioner Dennis Siapno recommended disbarment for gross immorality committed by respondent who has completely disregarded and made a mockery of the fundamental institutions of marriage and family. On November 19, 2011, the IBP Board of Governors adopted and approved the recommendation with modification finding respondent guilty of gross immorality and imposing the penalty of indefinite suspension. Respondent filed a motion for reconsideration and on March 22, 2013, the IBP Board of Governors passed a resolution unanimously granting the same and modifying the penalty to suspension from the practice of law for one (1) year with stern warning that should evidence surface that his alleged conduct be proven to be grossly immoral conduct, the matter will be dealt with more severely. This Resolution was adopted and approved by the Supreme Court (Second Division) in a Resolution dated September 25, 2013.

Respondent had also been meted out the penalty of fine of equivalent to his six (6) months salary by the Chairman Gerardo Nograles of the NLRC for the case of Gross Immorality which could not be executed because respondent had already retired and received his benefits in 2010.

Despite being previously penalized with one (1) year suspension from the practice of law by the Supreme Court in CBD Case No. 05-1620 for gross immorality, respondent continued to cohabit with Maria Ellen Guarin who was not his legal wife which led to the birth of their second son. It is to be noted that respondent did not deny siring the first child as even the child's certificate of live birth identified him, "Benigno Jr. Clitar Villarente" as the father with his occupation written as "Lawyer (Ret. RTC Judge). While the informant for the data on the Certificate of Live Birth was Maria Ellen T. Guarin, mother of Benigno Junius Guarin, respondent signed the Affidavit of Acknowledgment/Admission of Paternity which was duly notarized. While complainant has alleged that respondent has sired a second child but has not submitted evidence in support of the same, it is of public knowledge that certificates of live birth and other civil registry records, save death certificate, can only be requested by a close kin of the record owner. Be that as it may, this information was proposed by complainant for admission in her Mandatory Conference Brief which was

admitted by respondent. Also, a Certification was issued by the Barangay Captain of Lahug, Cebu City to the effect that "BENIGNO VILLARENTE[, JR.] and MARIA ELLEN T. GUARIN are residents of [No.] 28 Sitio NGA, Lahug, Cebu City.

x x x x

Atty. Villarente, Jr. failed to live up to the standards of the profession, not only as a lawyer but as a judge. He is lacking in moral integrity expected of him without due regard for public decency as he continued his illicit liaison with his concubine. It is to be noted that the penalty imposed on respondent in his first disbarment case carried a caveat that should evidence surface that his alleged conduct be proven to be grossly immoral conduct, the matter will be dealt with more severely."^[5]

On June 17, 2017, Resolution No. XXII-2017-1205^[6] was passed by the IBP Board of Governors:

RESOLVED to ADOPT the findings of fact of the investigating Commissioner imposing the penalty of DISBARMENT.

On November 8, 2018, the IBP Board of Governors issued another Resolution:^[7]

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RESOLVED to DENY the Motion for Reconsideration; and ADOPT the findings of fact and recommendation of the Investigating Commissioner to mete out upon the respondent the penalty of DISBARMENT.

The Issue

Whether respondent Atty. Villarente, Jr., a retired judge, should be disbarred.

The Court's Ruling

We rule in the affirmative.

The Code of Professional Responsibility, which all lawyers have vowed to uphold, clearly states that a lawyer shall not engage in immoral conduct.^[8] Neither shall he 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.^[9]

It is expected that every lawyer, being an officer of the Court, must not only be in fact 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. Specifically, a member of the Bar and officer of the Court is required not only to refrain from adulterous relationships or keeping mistresses, but also to conduct himself in such a way 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, whoever is a member of its ranks should not

only master its tenets and principles, but must 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.^[10]

Not only is herein respondent a lawyer, he was also once a member of the Judiciary, a fact that aggravates his infractions. For having occupied a place of honor in the Bench, respondent knew that a judge's actuations ought to be free from any appearance of impropriety. This is because a judge is the visible representation of the law, and more importantly, of justice. Ordinary citizens consider judges as a source of strength that fortifies their will to obey the law. A judge should therefore avoid the slightest infraction of the law in all of his actuations, lest it be a demoralizing example to others.^[11]

As correctly observed by Commissioner Dumangeng-Rosario and affirmed by the IBP Board of Governors, respondent has been warned unequivocally by no less than this Court that should evidence surface that his alleged conduct be proven to be grossly immoral, the matter shall be dealt with more severely.

Here, complainant was able to show that after the Court slapped respondent with a one-year suspension for immorality, with stern warning against its continued commission, respondent still continued to cohabit with his mistress in Lahug, Cebu City and even begot another child.

Immorality or immoral conduct is that which is so willful, flagrant or shameless as to show indifference to the opinion of good and respectable members of the community.^[12] Grossly immoral conduct is one that is so corrupt that it amounts to a criminal act. It is 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.^[13]

Without a doubt, a married lawyer's abandonment of his spouse in order to live and cohabit with another, constitutes gross immorality.^[14] The offense may even be criminal, amounting to concubinage or adultery.^[15] Here, respondent's offense is compounded by the fact that he sired two children with his mistress, one of whom was born after he was warned by the Court about his illicit relationship.

In keeping with the high standards of morality imposed upon every member of the legal profession, respondent should have desisted with his relationship with his mistress. Instead, he completely ignored the Court's warning and continued with the relationship which even led to the birth of a second child.

Any lawyer guilty of gross misconduct should be suspended or disbarred, even if the misconduct relates to his personal life, for as long as the misconduct evinces his lack of moral character, honesty, probity or good demeanor. Any lawyer who cannot abide by the laws in his private life, cannot be expected to do so in professional dealings.^[16]

Respondent's continuing illicit liaison with a woman other than his lawfully-wedded wife, despite previous sanction and warning, shows his cavalier attitude, even arrogance towards the Court. His act of cohabiting with his mistress while his marriage with complainant subsists, and siring two children with said mistress show his disregard of family obligations, morality and decency, the law and the lawyer's oath. Such misbehavior over a long period of time shows a serious flaw in