

EN BANC

[A.C. No. 10021, September 18, 2018]

**AAA,^[1] COMPLAINANT, VS. ATTY. ANTONIO N. DE LOS REYES,
RESPONDENT.**

[A.C. No. 10022]

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RESPONDENT.**

D E C I S I O N

PER CURIAM:

Before the Court are two administrative complaints filed by complainant AAA seeking the disbarment of respondent Atty. Antonio De Los Reyes (respondent Atty. De Los Reyes) on the grounds of sexual harassment and gross immoral conduct. AAA claims that respondent Atty. De Los Reyes violated the Code of Professional Responsibility when he committed acts which are unlawful, dishonest, immoral and deceitful which warrant his disbarment.

The Factual Antecedents

In her undated Complainant's Position Paper, AAA narrated the following:

Sometime in February 1997, [AAA] was hired as secretary to [respondent Atty. De Los Reyes], then Vice-President of the Legal and Administrative Group of [National Home Mortgage Finance Corporation] NHMFC.

[AAA] became a permanent employee with a plantilla position of private secretary 1, pay grade 11, on a co-terminus status with [respondent Atty. De Los Reyes]. She later learned that it was [respondent Atty. De Los Reyes] who facilitated her rapid promotion to her position soon after becoming his secretary.

Sometime in the last quarter of 1997, [respondent Atty. De Los Reyes] offered to take [AAA] home in his NHMFC issued service vehicle telling her that her residence on J.P. Rizal Street, Makati was along his route. From then on it became a daily routine between them, which continued even after [AAA] moved to Mandaluyong City.

Sometime in the last quarter of 1998, [AAA] began to feel very uncomfortable with the situation when she realized that [respondent Atty. De Los Reyes] was becoming overly possessive and demanding to the

extent that she could not refuse his offer to bring her home; her telephone calls were being monitored by [respondent Atty. De Los Reyes] who constantly asked her who she was talking with on the telephone and would get mad if she told him that it was a male person; she would be called to his office during office hours just to listen to his stories about his life, how he was raised by a very strict father, a former NBI director, how unhappy he was with his wife who treated him like a mere boarder in their house and sometimes just to sit there doing nothing in particular, simply because he wanted to see her. He also sent or left her love notes.

[AAA] tried to avoid [respondent Atty. De Los Reyes] who vacillated between being verbally abusive toward her, cursing and shouting invectives at her whenever she did, and overly solicitous the next moment, apparently to placate her.

On 11 December 1998, when she refused his offer to take her home, he got angry with her and shouted "*putangina mo.*" She tried to get away from him but he blocked her path, grabbed her arm and dragged her to the parking area and pushed her inside his service vehicle. He drove off, ignoring her cries and pleas to stop and let her get off. He slapped her twice and she became hysterical. She opened the car door and attempted to jump but he was able to grab her jacket and dropped her off somewhere in Makati. She reported the incident to the police.

[AAA] did not file a formal report or complaint against [respondent Atty. De Los Reyes] as she thought that it would be futile. She told Atty. Fermin Arzaga [then Senior Vice-President for Finance at NHMFC] what happened and showed him her bruises on her wrists. She told him of her plan to resign and he asked her not to resign and instead to request for a transfer. Despite his advice, she sent a resignation letter that was received by the Personnel Department on 22 December 1998.

On the same date, both the manager and the assistant manager talked to [AAA] and persuaded her to reconsider her resignation by promising her that she would be re-assigned to the Office of the President, as stated in an Office Order dated 21 January 1999.

On 22 January 1999, [AAA] reported to the Office of the President. But even before she could start working in her new assignment, she was told to return to her former post as private secretary of [respondent Atty. De Los Reyes].

[AAA] later learned from [respondent Atty. De Los Reyes] that he had called up Atty. Arzaga and told him not to interfere ("*huwag kang makialam*"). He told her that her position was co-terminus with his, being his private secretary.

Much as she wanted to pursue her plan to resign, [AAA's] financial position at that time left her with no choice but to continue working as [respondent Atty. De Los Reyes'] secretary. [Respondent Atty. De Los Reyes] knew that [AAA] was the sole breadwinner of her family, as her father had deserted them when she was but 8 years old, leaving her to

care for her sick mother, a two-year-old niece and two sisters who were still in school.

[Respondent Atty. De Los Reyes] exploited his knowledge to force [AAA] to continue working for him as his secretary. He moved in on her steadily, making it plain to all that she was his property, isolating her from the other people in the office who did not want to cross him, dominating and humiliating her. He eventually made it clear to her that he was determined to make her his mistress and overpowered her resistance by leaving her no choice but to succumb to his advances or lose her job.

From then on, she became his sex slave who was at his beck and call at all times for all kinds of sexual services ranging from hand-jobs in his vehicle to sexual intercourse in his office. She could not even refuse him without risking physical, verbal and emotional abuse.

[AAA] became despondent with her situation, knowing that she was the object of gossip and ridicule among her officemates. She felt so helpless and frustrated that she thought of committing suicide on countless occasions. Coming to the office was such an ordeal that she often suffered from all sorts of illnesses such as fever, stomachaches, sore throat, and migraine which gave her a convenient reason to absent herself, but did not deter [respondent Atty. De Los Reyes] from calling and texting her or even coming to her house to personally check on her.

[AAA] attempted to put a stop to [respondent Atty. De Los Reyes's] obsession with her by flaunting an American as her boyfriend. [Respondent Atty. De Los Reyes] went into a jealous rage when he learned about it.

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It seemed that [AAA] could never escape from the clutches of [respondent Atty. De Los Reyes] who always found a way to ensure that she would always end up being re-assigned to his office, even after she was assigned to other units. He continued to bring her home, no matter that her residence was now in Canlubang, Laguna. He also continued to see her [in] his office at least twice a day, even sending an assistant to fetch her when she refused to go.

In January 2003, [respondent Atty. De Los Reyes] continued to keep a tight watch over her even when [AAA] went on official study leave to attend her CGFNS review classes. He insisted on personally bringing [AAA] to and from her classes or he made sure that his official driver took her there using his official vehicle when he could not personally accompany her.

[AAA] failed to take her exam in March 2003 and requested a leave of absence to take the July 2003 exam. She stopped seeing [respondent Atty. De Los Reyes] and refused to see or talk to him completely.

[Respondent Atty. De Los Reyes] kept sending [AAA] text messages that

she ignored and even requested for a change of number of her cell phone. After a month of not receiving anything from him, she thought he had already given up on her but she was wrong.

He now trained his sight on [Ma. Victoria] Marivic Alpajaro, a good friend and officemate of [AAA], who had now become the object of his ire and jealousy because of her apparent closeness to [AAA].

His threats to fire Marivic compelled [AAA] to seek him out and plead with him to spare her friends. On 10 July 2003, they met outside the office and he insisted that they go back together to the office to show everyone that everything was still the same between them. She refused and ran out of the restaurant. He followed and wrapped his arms around her but she evaded him. He was shouting "*mahal kita*" in public, to her great embarrassment. He attempted to stop her but she threatened that she will throw herself in the path of oncoming vehicles if he persisted.^[2]

AAA filed another Complaint-Affidavit dated November 19, 2004, with the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP), alleging that respondent Atty. De Los Reyes still continued to harass her and her colleagues (Ma. Victoria Alpajaro and Mercedita Lorenzana) who agreed to be her witnesses in her earlier complaint. According to AAA, respondent Atty. De Los Reyes filed baseless charges against her and her sympathetic officemates before the Office of the Ombudsman, and sought their preventive suspension without affording them due process through an initial administrative investigation at the National Home Mortgage Finance Corporation (NHMFC). She added that because of what respondent Atty. De Los Reyes did to her, she suffered from various illnesses, insomnia, listlessness, suicidal feelings, and was diagnosed as suffering from Major Depressive Disorder with manifested symptoms of Post-Traumatic Stress Disorder by Dr. Norietta Calma-Balderama, a psychiatrist at the Department of Psychiatry and Behavioral Medicine at the University of the Philippines-Philippine General Hospital (UP-PGH).

In his defense, respondent Atty. De Los Reyes denied AAA's allegations relating to the alleged sexual harassment and gross immorality for lack of factual and legal bases. In his Consolidated Position Paper for the Respondent dated May 16, 2005, respondent Atty. De Los Reyes contended that AAA's complaint-affidavits were not sufficient in form and substance as required under the Rules of Court and should be dismissed for being mere scraps of paper. According to respondent Atty. De Los Reyes, the complaints failed to state the ultimate facts or particulars, approximate dates, and other details of the sexual acts or advances that he allegedly committed, in violation of his right to be informed of the nature and cause of the accusations against him. He averred that AAA's lame excuse for her omission allegedly due to her fear that she would be exposing herself to shame and humiliation after her colleagues would know of the details of her complaint is unbelievable.

Respondent Atty. De Los Reyes further stated that AAA's affidavits were replete with inconsistencies and unrealistic statements that are contrary to human nature. Respondent Atty. De Los Reyes denied her allegations and explained the following points:

(a) He offered his service vehicle not only to AAA but also to other employees of NHMFC who lived along his route; and it was AAA herself who requested that she be brought home together with other employees;

(b) NHMFC has corporate policies prohibiting the long use of telephones by the employees for personal purposes;

(c) The incident reported by AAA that she was grabbed and dragged into his service vehicle is highly incredible as it would have been readily noticed by many employees because it was immediately after office hours;

(d) He did not ask for any sexual favors in his office or in his service vehicle considering the location of the office which was very accessible to other employees including the security guard by the door that is always open; and respondent Atty. De Los Reyes always sat on the front passenger side of his service vehicle with his driver;

(e) The requests for transfer of assignment made by AAA did not mention that it was because of respondent Atty. De Los Reyes or of any sexual harassment that she suffered at his hands; and

(f) The complaints for disbarment filed by AAA against respondent Atty. De Los Reyes were purely in retaliation since he was conducting investigations against AAA and her two friends at the NHMFC.

Respondent Atty. De Los Reyes also countered the Certification issued by Dr. Calma-Balderama of the UP-PGH Department of Psychiatry and Behavioral Medicine as a mere scrap of paper and without any probative value since said certification was not made under oath or subscribed to, and was not supported by any clinical or psychological report.

Finally, respondent Atty. De Los Reyes asserted that assuming the alleged grounds for disbarment regarding the claim for sexual harassment were true, the same had already prescribed since they occurred in 1999 or more than three years prior to the institution of the complaints.

The Findings of the IBP

In the Report and Recommendation dated June 6, 2011, the CBD-IBP Commissioner found respondent Atty. De Los Reyes guilty of violating Rule 1.01 of the Code of Professional Responsibility and recommended the penalty of one (1) year suspension. The Investigating Commissioner opined that there was no indication that AAA was not telling the truth, and that she acceded to the numerous incidents of sexual intercourse because of fear of reprisals or consequences if she refused. The Commissioner explained thus:

We also take note that there is an apparent ambivalence or hesitancy in the use of the word "rape" by herein complainant. This is because the numerous sexual intercourse occurred with the complainant's seeming