

EN BANC

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

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

DECISION

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 bee. 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 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 hunger, 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 consumed 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 United 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