

EN BANC

[A.C. No. 9608, November 27, 2012]

**MARIA VICTORIA B. VENTURA, COMPLAINANT, VS. ATTY.
DANILO S. SAMSON, RESPONDENT.**

D E C I S I O N

PER CURIAM:

The Court has often reminded members of the bar to live up to the standards and norms of the legal profession by upholding the ideals and principles embodied in the Code of Professional Responsibility. Lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity and fair dealing. Lawyers are at all times subject to the watchful public eye and community approbation. Needless to state, those whose conduct – both public and private – fail this scrutiny have to be disciplined and, after appropriate proceedings, accordingly penalized.^[1]

Complainant Maria Victoria B. Ventura filed on July 29, 2004 a Complaint^[2] for Disbarment or Suspension before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline against respondent Atty. Danilo S. Samson for “grossly immoral conduct.”

In her complaint, complainant alleged that

2. The herein Complainant **MARIA VICTORIA B. VENTURA** executed a Sworn Statement dated 19 April 2002 and a Supplemental-Complaint dated 10 May 2002 stating therein that the crime of RAPE was committed against her person sometime in December, 2001 and on 19 March 2002 when she was merely **thirteen (13) years of age** by herein Respondent **ATTY. DANILO S. SAMSON**, then thirty eight (38) years old, married to Teresita B. Samson, Filipino and resident of Barangay 5, San Francisco, Agusan Del Sur, Philippines....

3. In his Counter-Affidavit, herein Respondent **ATTY. DANILO S. SAMSON** admitted that sexual intercourse indeed transpired between the herein Complainant **MARIA VICTORIA B. VENTURA** and himself....

4. After the conduct of preliminary investigation, the Office of the Provincial Prosecutor of Agusan Del Sur, Philippines issued a RESOLUTION dated 10 June 2002 dismissing the charge of RAPE and finding the existence of probable cause for the crime of QUALIFIED SEDUCTION and issued the corresponding INFORMATION for QUALIFIED SEDUCTION on 04 July 2002....

5. Thereafter, the herein Complainant filed a MOTION FOR RECONSIDERATION dated 26 August 2002 which was denied in the RESOLUTION dated 02 October 2002 of the Office of the Provincial Prosecutor of Agusan Del Sur...

6. The aforesaid RESOLUTION dated 02 October 2002 was elevated to [the Department of Justice], by way of a PETITION FOR REVIEW, and is pending resolution by the Department of Justice.

x x x x

8. The act/s committed by the herein Respondent Atty. Danilo S. Samson against the herein Complainant **MARIA VICTORIA B. VENTURA** as hereinbefore stated clearly constitute ... "**grossly immoral conduct**" under Section 27 of Rule 138 of the Rules of Court of the Philippines which provides for a penalty of "**DISBARMENT or SUSPENSION of an Attorney by the SUPREME COURT.**"

Complainant narrated in her Sworn Statement^[3] that sometime in December 2001, at around midnight, she was sleeping in the maid's room at respondent's house when respondent entered and went on top of her. Respondent kissed her lips, sucked her breast, and succeeded in having sexual intercourse with her. She felt pain and found blood stain in her panty. She stated that another incident happened on March 19, 2002 at respondent's poultry farm in Alegria, San Francisco, Agusan del Sur. Respondent asked her to go with him to the farm. He brought her to an old shanty where he sexually abused her. Thereafter, respondent gave her five hundred pesos and warned her not to tell anyone what had happened or he would kill her and her mother.

In her Supplemental-Complaint,^[4] complainant averred that respondent allowed her to sleep in his house after her mother agreed to let her stay there while she studied at the Agusan National High School. She further stated that on the night she was sexually abused, she was awakened when respondent went on top of her. She struggled to free herself and shouted, but respondent covered her mouth and nobody could hear as nobody was in the house. Complainant also claimed that on March 19, 2002, between 5:00 p.m. to 6:00 pm, respondent forced her to ride a multi-cab. When they arrived at his poultry farm in Alegria, respondent dragged her to a dilapidated shack. She resisted his advances but her efforts proved futile.

Respondent alleged in his Answer^[5] that

2. Respondent admits the allegations in paragraph 2 of the complaint to the effect that Maria Victoria Ventura filed a complaint against him for Rape at the Provincial Prosecutor's Office with qualification that the said complaint for Rape was dismissed. Respondent, however, has no knowledge or information as to the truth of the allegation that she was 13 years....

x x x x

5. Respondent vehemently denies the truth of the allegations in paragraph 8 of the complaint to the effect that the acts of respondent in having sex with complainant constitute ... grossly immoral conduct. The truth is that [the] act of respondent in having sex with complainant was done [with] mutual agreement after respondent gave money to complainant. Respondent respectfully submit[s] that his act of having sex with complainant once does not constitute ... gross[ly] immoral conduct. There is no human law that punishes a person who [has] sex with a woman with mutual agreement and complainant [accepts] compensation therefore. Having sex with complainant once with just compensation does not amount to immoral conduct....

x x x x

6. The complaint is instigated by Corazon Ventura who was an employee at the Law Office of respondent herein. The said Corazon Ventura entertained hatred and [had a grudge] against the herein respondent who terminated her services due to misunderstanding....

7. The filing of the Criminal Case against respondent as well as this Administrative Case is a well orchestrated and planned act of Corazon Ventura as vengeance against respondent as a result of her separation from the employment in the Law Office of the respondent. This claim is supported by the Affidavit of Natividad Ruluna, the former Office Clerk at the Law Office of respondent....

8. To show that Corazon Ventura desires to get back [at] respondent, she demanded from respondent to settle with her and demanded the payment of the amount [of] P2,000,000.00[;] otherwise she will file a case against him in Court for Rape and for disbarment. Respondent did not come across with Corazon Ventura, the latter made good her threats and filed the criminal case for Rape. [sic] When the case [for] rape did not prosper because the Prosecutor dropped the Rape Case, Corazon Ventura [sent word] to respondent that she is amenable for the amount of P400,000.00. In effect, Corazon Ventura wanted to extort from respondent so that she [can] get even with him and his wife for separating her from the employment;

9. Complainant is a woman of loose moral character. This is supported by the Affidavit of Patronio Punayan, Jr. which is hereto attached as Annex "3". And Corazon Ventura can afford to utilize Maria Victoria Ventura as her instrument in putting down the respondent herein because Maria Victoria Ventura is not her biological daughter and she knows before hand that her ward has a questionable reputation. The fact [that] Corazon Ventura is not the biological mother of Maria Victoria Ventura is shown by the pre-trial order in Criminal Case No. 5414....

x x x x

Respondent has not violated any grounds mentioned in this rule. Respondent respectfully submits that his having sex with complainant with just compensation once does not amount to immoral conduct. For

who among men will not yield to temptation when a woman shall invite him for sex?

Attached to respondent's Answer is his Counter-Affidavit^[6] which he submitted to the Provincial Prosecutor. He alleged therein that complainant usually stayed late at night with her male friends when her mother was out of the house. He claimed that he heard rumors that complainant had sexual affairs with different boys. Respondent narrated that on March 19, 2002, he saw complainant with some of her classmates near their rented house. Complainant told him that they wanted to go out to swim but they did not have money. When she asked if he could spare some amount, he gave her money. He told her in jest that he wanted to see her that afternoon and go to a place where they could be alone, and he was surprised when she agreed. He just thought that for complainant, sex is a common thing despite her age. At around 5:00 p.m., he fetched complainant at her house. She casually walked towards the car and boarded it. He told her that they will not check in a lodging house because people might recognize him. Upon reaching his poultry farm, respondent met his farm worker and asked him if he could use the latter's hut. The farm worker agreed and they went straight to the hut.

Inside the farm worker's hut, complainant did not hesitate in entering the room. Respondent did not notice any involuntariness on her part as she undressed herself. He asserted that they had sexual intercourse based on their mutual understanding. Thereafter, the complainant dressed up and walked back to the multi-cab where she waited for him. He told her not to tell anyone about what had happened, to which she replied "*natural buang kay motug-an*" meaning, she's not crazy as to tell anyone. He alleged that she accepted the money he gave because she needed to buy some things but her mother did not give her any allowance. Respondent insisted that what happened between them was the first and the last incident. He claimed that he was able to confirm that complainant is no longer a virgin.

It likewise appears that the Investigating Prosecutors found that probable cause exists for respondent to stand trial for qualified seduction.^[7] The charge of rape, however, was dismissed for insufficiency of evidence. An Information was filed with the Regional Trial Court (RTC) of Agusan del Sur, Branch 6, but complainant who was not satisfied with the dismissal of the rape charge, filed a motion for reconsideration. When said motion was denied, complainant filed a petition for review with the Department of Justice (DOJ). However, the DOJ sustained the findings of the prosecutor.

Then, on December 14, 2006, complainant and her mother appeared before the public prosecutor and executed their respective Affidavits of Desistance.^[8] Complainant stated that what happened between respondent and her in March 2002 was based on mutual understanding. Thus, she was withdrawing the complaint she filed against respondent before the RTC as well as the one she filed before the IBP Commission on Bar Discipline. Accordingly, the criminal case against respondent was dismissed.^[9]

In its Report and Recommendation^[10] dated October 10, 2007, the IBP Commission on Bar Discipline recommended that respondent be suspended for a period of one year from the practice of law for immorality with the warning that repetition of the