



Republic of the Philippines  
**Supreme Court**  
 Manila

EN BANC

**MA. CECILIA CLARISSA C. ADVINCULA,**  
 Complainant,

**A.C. No. 9226**  
 (Formerly CBD 06-1749)

Present:

SERENO, *C.J.*,  
 CARPIO,  
 VELASCO, JR.,  
 LEONARDO-DE CASTRO,  
 \*BRION,  
 \*\*PERALTA,  
 BERSAMIN,  
 \*\*\*DEL CASTILLO,  
 PEREZ,  
 MENDOZA,  
 REYES,  
 PERLAS-BERNABE,  
 LEONEN,  
 \*\*\*\*JARDELEZA, and  
 CAGUIOA, *JJ.*

- versus -

**ATTY. LEONARDO C. ADVINCULA,**  
 Respondent.

Promulgated:

June 14, 2016

*[Signature]*

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**DECISION**

**BERSAMIN, J.:**

This administrative case stemmed from the complaint for disbarment dated June 16, 2006 brought to the Integrated Bar of the Philippines (IBP) against Atty. Leonardo C. Advincula (Atty. Advincula) by no less than his wife, Dr. Ma. Cecilia Clarissa C. Advincula (Dr. Advincula).

\* On official leave.  
 \*\* On official leave.  
 \*\*\* On wellness leave.  
 \*\*\*\* On official leave.

In her complaint,<sup>1</sup> Dr. Advincula has averred that Atty. Advincula committed unlawful and immoral acts;<sup>2</sup> that while Atty. Advincula was still married to her, he had extra-marital sexual relations with Ma. Judith Ortiz Gonzaga (Ms. Gonzaga);<sup>3</sup> that the extra-marital relations bore a child in the name of Ma. Alexandria Gonzaga Advincula (Alexandria);<sup>4</sup> that Atty. Advincula failed to give financial support to their own children, namely: Ma. Samantha Paulina, Ma. Andrea Lana, and Jose Leandro, despite his having sufficient financial resources;<sup>5</sup> that he admitted in the affidavit of late registration of birth of Alexandria that he had contracted another marriage with Ms. Gonzaga;<sup>6</sup> that even should Atty. Advincula prove that his declaration in the affidavit of late registration of birth was motivated by some reason other than the fact that he truly entered into a subsequent marriage with Ms. Gonzaga, then making such a declaration was in itself still unlawful;<sup>7</sup> that siring a child with a woman other than his lawful wife was conduct way below the standards of morality required of every lawyer;<sup>8</sup> that contracting a subsequent marriage while the first marriage had not been dissolved was also an unlawful conduct;<sup>9</sup> that making a false declaration before a notary public was an unlawful conduct punishable under the *Revised Penal Code*;<sup>10</sup> and that the failure of Atty. Advincula to provide proper support to his children showed his moral character to be below the standards set by law for every lawyer.<sup>11</sup> Dr. Advincula prayed that Atty. Advincula be disbarred.<sup>12</sup>

In his answer,<sup>13</sup> Atty. Advincula denied the accusations. He asserted that during the subsistence of his marriage with Dr. Advincula but prior to the birth of their youngest Jose Leandro, their marital relationship had deteriorated; that they could not agree on various matters concerning their family, religion, friends, and respective careers; that Dr. Advincula abandoned the rented family home with the two children to live with her parents; that despite their separation, he regularly gave financial support to Dr. Advincula and their children; that during their separation, he got into a brief relationship with Ms. Gonzaga; and that he did not contract a second marriage with Ms. Gonzaga.<sup>14</sup>

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<sup>1</sup> *Rollo*, pp. 1-5.

<sup>2</sup> *Id.* at 1.

<sup>3</sup> *Id.* at 2.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 3.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 4.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at 5.

<sup>13</sup> *Id.* at 14-22.

<sup>14</sup> *Id.*

Atty. Advincula further acknowledged that as a result of the relationship with Ms. Gonzaga, a child was born and named Alexandra;<sup>15</sup> that in consideration of his moral obligation as a father, he gave support to Alexandra;<sup>16</sup> that he only learned that the birth of Alexandra had been subsequently registered after the child was already enrolled in school;<sup>17</sup> that it was Ms. Gonzaga who informed him that she had the birth certificate of Alexandria altered by a fixer in order to enroll the child;<sup>18</sup> that he strived to reunite his legitimate family, resulting in a reconciliation that begot their third child, Jose Leandro; that Dr. Advincula once again decided to live with her parents, bringing all of their children along; that nevertheless, he continued to provide financial support to his family and visited the children regularly; that Dr. Advincula intimated to her that she had planned to take up nursing in order to work as a nurse abroad because her medical practice here was not lucrative; that he supported his wife's nursing school expenses;<sup>19</sup> that Dr. Advincula left for the United States of America (USA) to work as a nurse;<sup>20</sup> that the custody of their children was not entrusted to him but he agreed to such arrangement to avoid further division of the family;<sup>21</sup> that during the same period he was also busy with his law studies;<sup>22</sup> that Dr. Advincula proposed that he and their children migrate to the USA but he opposed the proposal because he would not be able to practice his profession there;<sup>23</sup> that Dr. Advincula stated that if he did not want to join her, then she would just get the children to live with her;<sup>24</sup> that when Dr. Advincula came home for a vacation he was not able to accompany her due to his extremely busy schedule as Chief Legal Staff of the General Prosecution Division of the National Bureau of Investigation;<sup>25</sup> and that when they finally met arguments flared out, during which she threatened to file a disbarment suit against him in order to force him to allow her to bring their children to the USA.<sup>26</sup> Atty. Advincula prayed that the disbarment case be dismissed for utter lack of merit.<sup>27</sup>

### **Findings and Recommendations of the IBP-CBD**

After exhaustive hearings, Commissioner Angelito C. Inocencio of the IBP Commission on Bar Discipline (CBD) rendered the following findings and observations, and recommended the following sanctions, to wit:

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<sup>15</sup> Id.  
<sup>16</sup> Id.  
<sup>17</sup> Id.  
<sup>18</sup> Id.  
<sup>19</sup> Id.  
<sup>20</sup> Id.  
<sup>21</sup> Id.  
<sup>22</sup> Id.  
<sup>23</sup> Id.  
<sup>24</sup> Id.  
<sup>25</sup> Id. at 19.  
<sup>26</sup> Id.  
<sup>27</sup> Id. at 22.

### FINDINGS AND CONCLUSIONS

Based on Rule 1.01, Canon 1, Code of Professional Responsibility for Lawyers comes this provisions (sic): “A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.”

This means that members of the bar ought to possess good moral character. Remember we must (sic) that the practice of law is a mere privilege. The moment that a lawyer no longer has the required qualifications foremost of which is the presence of that character earlier mentioned, the Honorable Supreme Court may revoke the said practice.

No doubt, Respondent Leonardo (sic) C. Advincula, probably due to the weakness of the flesh, had a romance outside of marriage (sic) with Ma. Judith Ortiz Gonzaga. This he admitted.

From such affair came a child named Ma. Alexandria. He supported her as a moral obligation.

How, then, must we categorize his acts? It cannot be denied that he had committed an adulterous and immoral act.

Was his conduct grossly immoral?

Before answering that, let us recall what the highest Court of the Land defined as immoral conduct: “that conduct which is willful, flagrant or shameless and which shows a moral indifference to the opinion of the good and respectable members of the community.”<sup>28</sup>

x x x x

It is the Commissioner’s view that what he did pales when compared to Respondent Leo Palma’s case earlier cited.

In that case, the Honorable Supreme Court stressed that Atty. Palma had made a mockery of marriage, a sacred institution demanding respect and dignity.

The highest Court of the Land intoned in the same case: “But what respondent forgot is that he has also duties to his wife. As a husband, he is obliged to live with her; observe mutual love, respect and fidelity; and render help and support.”

Deemed favorable to Respondent’s cause were the various exhibits he presented evidencing the fact that he supported their children financially. Such conduct could not illustrate him as having championed a grossly immoral conduct.

Another factor to consider is this: Complainant should share part of the blame why their marriage soured. Their constant quarrels while together would indicate that harmony between them was out of the question.

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<sup>28</sup> Id. at 252.

The possibility appears great that she might have displayed a temper that ignited the flame of discord between them.

Just the same, however, while this Commissioner would not recommend the supreme penalty of disbarment for to deprive him of such honored station in life would result in irreparable injury and must require proof of the highest degree pursuant to the Honorable Supreme Court's ruling in *Angeles vs. Figueroa*, 470 SCRA 186 (2005), he must be sanctioned.

And the proof adduced is not of the highest degree.

## VI. RECOMMENDATION

In the light of the foregoing disquisition, having, in effect, Respondent's own admission of having committed an extra-marital affair and fathering a child, it is respectfully recommended that he be suspended from the practice of law for at least one month with the additional admonition that should he repeat the same, a more severe penalty would be imposed.

It would be unjust to impose upon him the extreme penalty of disbarment. What he did was not grossly immoral.<sup>29</sup>

The IBP Board of Governors unanimously adopted the findings and recommendations of the Investigating Commissioner with slight modification of the penalty, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in 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 considering respondent's admission of engaging in a simple immorality and also taking into account the condonation of his extra-marital affair by his wife, Atty. Leonardo C. Advincula is hereby **SUSPENDED** from the practice of law for two (2) months.<sup>30</sup>

Atty. Advincula accepted the Resolution of the IBP Board of Governors as final and executory, and manifested in his compliance dated February 26, 2013, as follows:

1. That on 28 November 2011 this Honorable Court issued a resolution suspending the undersigned Attorney from the practice of law for two (2) months under "A.C. No. 9226 (formerly CBD Case No. 06-1749) (Ma. Cecilia Clarissa C. Advincula vs. Atty. Leonardo C. Advincula) x x x

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<sup>29</sup> Id. at 253-254.

<sup>30</sup> Id. at 244.

2. That on 30 October 2012 in faithful compliance with the above order, the undersigned attorney applied for Leave for two (2) months starting November up to December thereby refraining himself from the practice of law as Legal Officer on the National Bureau of Investigation (NBI) x x x
3. That the undersigned Attorney would like to notify this Honorable Court of his compliance with the above resolution/order so that he may be able to practice his law profession again.<sup>31</sup>

### **Ruling of the Court**

The good moral conduct or character must be possessed by lawyers at the time of their application for admission to the Bar, and must be maintained until retirement from the practice of law. In this regard, the *Code of Professional Responsibility* states:

Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

x x x x

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.

x x x x

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.

Accordingly, 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. More 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 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 enrolled in its ranks should not only master its tenets and principles but should 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.<sup>32</sup>

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<sup>31</sup> *Rollo*, unpaginated.

<sup>32</sup> *Dantes v. Dantes*, A.C. No. 6486, September 22, 2004, 438 SCRA 582, 588-589.

Immoral conduct has been described as conduct that is so willful, flagrant, or shameless as to show indifference to the opinion of good and respectable members of the community. To be the basis of disciplinary action, such conduct must not only be immoral, but grossly immoral, that is, it must be so corrupt as to virtually 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.<sup>33</sup>

On different occasions, we have disbarred or suspended lawyers for immorality based on the surrounding circumstances of each case. In *Bustamante-Alejandro v. Alejandro*,<sup>34</sup> the extreme penalty of disbarment was imposed on the respondent who had abandoned his wife and maintained an illicit affair with another woman. Likewise, disbarment was the penalty for a lawyer who carried on an extra-marital affair with a married woman prior to the judicial declaration that her marriage was null and void, while he himself was also married.<sup>35</sup> In another case we have suspended for two years, a married attorney who had sired a child with a former client.<sup>36</sup> In *Samaniego v. Ferrer*,<sup>37</sup> suspension of six months from the practice of law was meted on the philandering lawyer.

Yet, we cannot sanction Atty. Advincula with the same gravity. Although his siring the child with a woman other than his legitimate wife constituted immorality, he committed the immoral conduct when he was not yet a lawyer. The degree of his immoral conduct was not as grave than if he had committed the immorality when already a member of the Philippine Bar. Even so, he cannot escape administrative liability. Taking all the circumstances of this case into proper context, the Court considers suspension from the practice of law for three months to be condign and appropriate.

As a last note, Atty. Advincula manifested in his compliance dated February 26, 2013 that he had immediately accepted the resolution of the IBP Board of Governors suspending him from the practice of law for two months as final and executory; that he had then gone on leave from work in the NBI for two months starting in November and lasting until the end of December, 2012; and that such leave from work involved refraining from performing his duties as a Legal Officer of the NBI.

The manifestation of compliance is unacceptable. A lawyer like him ought to know that it is only the Court that wields the power to discipline

<sup>33</sup> *Narag v. Narag*, A.C. No. 3405, June 29, 1998, 291 SCRA 451, 464.

<sup>34</sup> A.C. No. 4256, February 13, 2004, 422 SCRA 527, 533.

<sup>35</sup> *Guevarra v. Eala*, A.C. No. 7136, August 1, 2007, 529 SCRA 1, 4.

<sup>36</sup> *Ferancullo v. Ferancullo*, A.C. No. 7214, November 30, 2006, 509 SCRA 1, 17.


<sup>37</sup> A.C. No. 7022, June 18, 2008, 555 SCRA 1, 7.

lawyers. The IBP Board of Governors did not possess such power, rendering its recommendation against him incapable of finality. It is the Court's final determination of his liability as a lawyer that is the reckoning point for the service of sanctions and penalties. As such, his supposed compliance with the recommended two-month suspension could not be satisfied by his going on leave from his work at the NBI. Moreover, his being a government employee necessitates that his suspension from the practice of law should include his suspension from office. A leave of absence will not suffice. This is so considering that his position mandated him to be a member of the Philippine Bar *in good standing*. The suspension from the practice of law will not be a penalty if it does not negate his continuance in office for the period of the suspension. If the rule is different, this exercise of reprobation of an erring lawyer by the Court is rendered inutile and becomes a mockery because he can continue to receive his salaries and other benefits by simply going on leave for the duration of his suspension from the practice of law.


**WHEREFORE**, the Court **FINDS AND DECLARES ATTY. LEONARDO C. ADVINCULA GUILTY** of immorality; and **SUSPENDS** him from the practice of law for a period of **THREE MONTHS EFFECTIVE UPON NOTICE HEREOF**, with a **STERN WARNING** that a more severe penalty shall be imposed should he commit the same offense or a similar offense; **DIRECTS ATTY. ADVINCULA** to report the date of his receipt of the Decision to this Court; and **ORDERS** the Chief of the Personnel Division of the National Bureau of Investigation to implement the suspension from office of **ATTY. ADVINCULA** and to report on his compliance in order to determine the date of commencement of his suspension from the practice of law.

Let a copy of this Decision be made part of the records of the respondent in the Office of the Bar Confidant; and furnished to the Integrated Bar of the Philippines and the Civil Service Commission for their information and guidance.

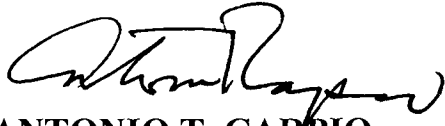
**SO ORDERED.**

  
LUCAS P. BERSAMIN  
Associate Justice

**WE CONCUR:**

  
MARIA LOURDES P. A. SERENO  
Chief Justice





**ANTONIO T. CARPIO**  
Associate Justice




**PRESBITERO J. VELASCO, JR.**  
Associate Justice

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

(On Official Leave)  
**ARTURO D. BRION**  
Associate Justice

(On Official Leave)  
**DIOSDADO M. PERALTA**  
Associate Justice


(On Wellness Leave)  
**MARIANO C. DEL CASTILLO**  
Associate Justice



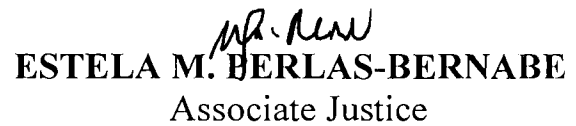
**JOSE PORTUGAL PEREZ**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice

*Ms. Bern*  


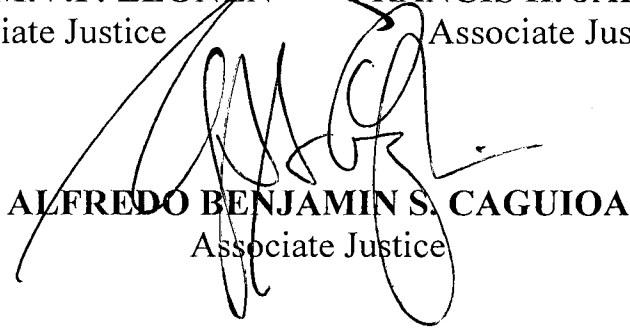
**ESTELA M. BERLAS-BERNABE**  
Associate Justice

*See separate concurring opinion*




**MARVIC M.V.F. LEONEN**  
Associate Justice

(On Official Leave)  
**FRANCIS H. JARDELEZA**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

CERTIFIED XEROX COPY:

  
**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT

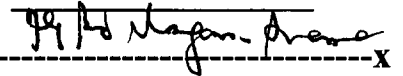


EN BANC

A.C. No. 9226 [Formerly CBD No. 06-1749] – MA. CECILIA CLARISSA C. ADVINCULA, *complainant*, v. ATTY. LEONARDO C. ADVINCULA, *respondent*.

Promulgated:

June 14, 2016



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CONCURRING OPINION

LEONEN, J.:

Before his admission to the bar, respondent Atty. Leonardo C. Advincula—who was married to complainant Dr. Ma. Cecilia Clarissa C. Advincula—entered into a brief extra-marital relationship with Ma. Judith Gonzaga, with whom he had a child.<sup>1</sup>

The standard of morality and the rules of conduct under the Code of Professional Responsibility are applicable only to lawyers. These are not enforced against persons who have not taken the lawyer's oath.

A lawyer's commitment to the lawyer's oath or any standard of morality and conduct under the Code of Professional Responsibility starts only upon taking that oath.

Oaths are not senseless utterances. Lawyers who take their oath consent to this Court's administrative jurisdiction over their actions. The oath is essentially a promise to act consistently with the value-expectations of this Court.

The significance of the oath rests on many assumptions. Taking the oath implies notice to the person of the standards he or she is expected to abide by. It not only implies consent to, but also assumes consciousness of those standards. The person allowed to take the oath is assumed to have the capacity to consider and control his or her actions accordingly.

For these reasons, violation of the oath or of the Code of Professional Responsibility is deemed to merit this Court's imposition of a penalty.

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<sup>1</sup> Ponencia, p. 2.



When a lawyer takes the oath, any action inconsistent with the oath or with the Code of Professional Responsibility may be interpreted as a willful disregard of the standards embodied in the oath or the Code of Professional Responsibility. As expressed in our Rules of Evidence, a person is presumed to know and intend “the ordinary consequences of his [or her] voluntary act.”<sup>2</sup> The oath places “penalty” under the great scope of “ordinary consequence” of a lawyer’s actions.

On the other hand, without the taking the oath, we cannot presume a person’s conscious and careful consideration of his or her acts in conforming with this Court’s moral and behavioral standards. Without the taking the oath, administrative penalties do not rise to the level of ordinary consequence of a person’s actions.

This Court, as guardian of constitutional rights, should lead other institutions by exemplifying through its processes the import of the principle of due process.<sup>3</sup> A person cannot adjust his or her past actions now to conform to the standards imposed by an oath he or she takes after. It is unreasonable to expect a person to abide by standards that he or she cannot be presumed to know and apply to actions he or she can no longer control.

Respondent cannot be expected to abide by the standards imposed by the lawyer’s oath or by the Code of Professional Responsibility. At that time, this Court had no administrative jurisdiction over his actions. He was not yet a lawyer when he entered into a relationship with Ma. Judith Gonzaga during his marriage with complainant.

Imposing a penalty for respondent’s actions before he took the lawyer’s oath reduces the oath to nothing but a frivolous ceremony. We undermine the significance of the oath if, on that basis, we penalize a person for his or her actions, whether or not he or she subscribed to that oath.

While possession of good morals is required before and during one’s membership to the bar,<sup>4</sup> the bases and effects of the finding that one meets or does not meet the standard of morality are different in these instances.

For admission to the bar, good morals are solely based on a person’s actions before his or her admission. A person found to be lacking of the required good morals is disqualified from membership in the bar. A person’s actions, on which the finding that a person has met the required

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<sup>2</sup> RULES OF COURT, Rule 131, sec. 3(c).

<sup>3</sup> CONST., art. III, sec. 1 provides:

SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

<sup>4</sup> See *Cordova v. Cordova*, 259 Phil. 278, 281 (1989) [Per Curiam, En Banc]. See also *Montagne v. Dominguez*, 3 Phil. 577, 589 (1904) [Per J. McDonough, En Banc].

good morals is based, are looked into for purposes of admission—not penalty.

On the other hand, for retaining membership in the bar, the lawyer's actions while he or she is a member are looked into. These acts may be the bases of administrative penalty.

However, this is not to say that a lawyer's actions before his or her admission cannot be the bases of his or her removal from the bar. After all, a person who has not met the moral standards before admission should not even be admitted to the bar. Thus, if for some reason, grossly immoral acts not considered by this Court during application are later made known and proved to this Court, this Court may choose to remove him or her without disregarding evidence of any possible moral transformation that could have taken place later.<sup>5</sup>

However, this Court should not be too quick to judge a person's actions as grossly immoral so as to constitute unfitness to become a member of the bar.

In *Reyes v. Wong*,<sup>6</sup> this Court has ruled that for an act to be administratively punishable for gross immorality, "it must be so corrupt and false as to constitute a criminal act or so unprincipled as to be reprehensible to a high degree."<sup>7</sup> Further:

[T]he same must be established by clear and convincing proof, disclosing a case that is free from doubt as to compel the exercise by the Court of its disciplinary power. . . . Likewise, the dubious character of the act done as well as the motivation thereof must be clearly demonstrated.<sup>8</sup>

There are different aspects of morality. Morality may be religious or secular. In *Perfecto v. Esidera*:<sup>9</sup>

Morality refers to what is good or right conduct at a given circumstance. In *Estrada v. Escritor*, this court described morality as "how we ought to live' and why."

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<sup>5</sup> See *Vitug v. Atty. Rongcal*, 532 Phil. 615, 633 (2006) [Per J. Tinga, Third Division].

<sup>6</sup> 159 Phil. 171 (1975) [Per J. Makasiar, First Division].

<sup>7</sup> *Id.* at 177, citing RULES OF COURT (1964), Rule 138, sec. 27; *Soberano v. Villanueva*, 116 Phil. 1208, 1212 (1962) [Per J. Concepcion, En Banc]; *Mortel v. Aspiras*, 100 Phil. 587, 591–593 (1956) [Per J. Bengzon, En Banc]; *Royong v. Oblena*, 117 Phil. 865, 874 (1963) [Per J. Barrera, En Banc]; *Bolivar v. Simbol*, 123 Phil. 450, 457–458 (1966) [Per J. Sanchez, En Banc]; and *Quingwa v. Puno*, 125 Phil. 831, 838 (1967) [Per J. Regala, En Banc].

<sup>8</sup> *Id.* at 178, citing *Go v. Candoy*, 128 Phil. 461, 465 (1967) [Per J. Castro, En Banc].

<sup>9</sup> A.M No. RTJ-15-2417, July 22, 2015  
<<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/july2015/RTJ-15-2417.pdf>>  
[Per J. Leonen, Second Division].

Morality may be religious, in which case what is good depends on the moral prescriptions of a high moral authority or the beliefs of a particular religion. Religion, as this court defined in *Aglipay v. Ruiz*, is “a profession of faith to an active power that binds and elevates man to his Creator.” A conduct is religiously moral if it is consistent with and is carried out in light of the divine set of beliefs and obligations imposed by the active power.

Morality may also be secular, in which case it is independent of any divine moral prescriptions. What is good or right at a given circumstance does not derive its basis from any religious doctrine but from the independent moral sense shared as humans.<sup>10</sup> (Citations omitted)

In the same case, this Court stated that the rule against immorality should have a secular basis. Our jurisdiction to determine what is moral or immoral should only be limited to conduct that affects public interest. Immoral conduct, if made the basis for imposing administrative penalty, should refer to conduct as officers of the court. It must be of such depravity as to reduce the public’s confidence in our laws and in our judicial system,<sup>11</sup> thus:

The non-establishment clause bars the State from establishing, through laws and rules, moral standards according to a specific religion. Prohibitions against immorality should be based on a purpose that is independent of religious beliefs. When it forms part of our laws, rules, and policies, morality must be secular. Laws and rules of conduct must be based on a secular purpose.

In the same way, this court, in resolving cases that touch on issues of morality, is bound to remain neutral and to limit the bases of its judgment on secular moral standards. When laws or rules refer to morals or immorality, courts should be careful not to overlook the distinction between secular and religious morality if it is to keep its part in upholding constitutionally guaranteed rights.

There is the danger of “compelled religion” and, therefore, of negating the very idea of freedom of belief and non-establishment of religion when religious morality is incorporated in government regulations and policies. As explained in *Estrada v. Escritor*:

Otherwise, if government relies upon religious beliefs in formulating public policies and morals, the resulting policies and morals would require conformity to what some might regard as religious programs or agenda. The non-believers would therefore be compelled to conform to a standard of conduct buttressed by a religious belief, *i.e.*, to a “compelled religion” anathema to religious freedom. Likewise, if government based its actions upon religious

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<sup>10</sup> Id. at 7–8.

<sup>11</sup> Id. at 9.

beliefs, it would tacitly approve or endorse that belief and thereby also tacitly disapprove contrary religious or non-religious views that would not support the policy. As a result, government will not provide full religious freedom for all its citizens, or even make it appear that those whose beliefs are disapproved are second-class citizens. Expansive religious freedom therefore requires that government be neutral in matters of religion; governmental reliance upon religious justification is inconsistent with this policy of neutrality.

....

... We have jurisdiction over matters of morality only insofar as it involves conduct that affects the public or its interest.

Thus, for purposes of determining administrative liability of lawyers and judges, "immoral conduct" should relate to their conduct as officers of the court. To be guilty of "immorality" under the Code of Professional Responsibility, a lawyer's conduct must be so depraved as to reduce the public's confidence in the Rule of Law. Religious morality is not binding whenever this court decides the administrative liability of lawyers and persons under this court's supervision. At best, religious morality weighs only persuasively on us.<sup>12</sup> (Citations omitted)

Respondent had a relationship with another woman during his marriage with complainant. Out of that extra-marital relationship, a child was born. All these had happened before he became a lawyer.

Indeed, some may find respondent's actions before becoming a lawyer immoral. However, these do not constitute grossly immoral conduct that is so corrupt and reprehensible for this Court to consider him unfit to be a member of the bar.

The dubious character of respondent's actions and his ill-motive were not clearly demonstrated. Respondent's extra-marital relationship happened during his and complainant's temporary separation. At the time of respondent's application for bar admission, his relationship with his alleged mistress, whom he claimed he did not marry, had already ended. He was already reunited with complainant, his wife. As a result of their reconciliation, they even had their third child, Jose Leandro.

In light of respondent's reconciliation with complainant prior to becoming a lawyer, his actions cannot be described as so depraved as to possibly reduce the public's confidence in our laws and judicial system.

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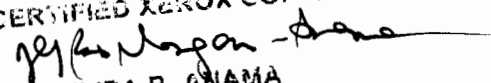
<sup>12</sup> Id. at 8-9.

ACCORDINGLY, I concur in the result.



MARVIC M.V.F. LEONEN  
Associate Justice

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SUPREME COURT