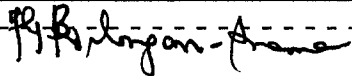


EN BANC

A.C. No. 10758 (*Atty. Rosita L. Dela Fuente Torres v. Socorro D'Marie T. Inting, Ismael R. Garaygay, Edson Solis, et al.*); A.C. No. 10759 (*Glenda Alvaro v. Atty. Bayani P. Dalangin*); A.C. No. 10760 (*Atty. Bayani P. Dalangin v. Atty. Rosita L. Dela Fuente Torres and Atty. Avelino Andres*); and A.C. No. 10761 (*Atty. Bayani P. Dalangin v. Atty. Rosita L. Dela Fuente Torres*)

Promulgated:

December 5, 2017

X -----  ----- X

### SEPARATE OPINION

**PERALTA, J.:**

The *ponencia* finds that there is no sufficient basis to suspend Atty. Bayani P. Dalangin for supposedly having an illicit affair with Julita Pascual, a clerk at the Public Attorney's Office in Talavera, Nueva Ecija, where Dalangin previously worked as district public attorney. It ratiocinated that the existence of such amorous relationship was not adequately proved.

With all due respect, while I agree with the *ponencia*'s finding that there is indeed fault and imprudence on the part of Dalangin, I believe that a mere reprimand is not sufficient to correct his actions, but the more serious penalty of suspension should be imposed, as aptly recommended by the IBP.

Indeed, the quantum of proof required in administrative cases is substantial evidence. Substantial evidence is more than a mere scintilla of evidence. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise.<sup>1</sup>

Certainly, after a thorough investigation, the IBP found the existence of substantial evidence proving the presence of the alleged illicit affair. Several witnesses testified that Pascual was having an affair with Dalangin and even have a child together named Julienne. Complainant Glenda Alvaro testified that Pascual confided to her that she no longer loves her husband

<sup>1</sup> *Miro v. Vda. de Erederos, et al.*, 721 Phil. 772, 787 (2012).



and Julienne would call Dalangin “Papa Attorney.” This is well known in the courts and the whole of Talavera and even in the community of Sto. Domingo, Nueva Ecija. Dalangin would be seen taking care of Julienne when the latter was still a baby and later, would likewise accompany her in school trips and would also attend her graduation. Dalangin, Pascual, and Julienne were likewise photographed while having a vacation in Puerto Princesa, Palawan. When challenged to submit himself for DNA testing, Dalangin refused.

The abovementioned circumstances and findings made by the IBP all support the conclusion that Dalangin has maintained an adulterous affair with Pascual. And when challenged to submit himself for DNA testing to finally disprove all the accusations against him, instead of grabbing the opportunity to clean his name once and for all, Dalangin simply declined. In fact, he himself admitted demonstrating closeness with Pascual’s family, including her children. The *ponencia* even noted that it was such display of affection that could have sparked in the minds of observers the idea of a wrongful relationship and belief that Julienne was a product of said illicit affair.

There is likewise no motive on the part of the witnesses to concoct such a false charge. From all indications, they do not appear to have any ill motive to falsely testify against Dalangin. Absent any proof of motive to fabricate such a story and impute such a grave misconduct, the presumption of regularity in the performance of official duty and the findings of the IBP shall prevail.

Section 41 of Rule 130 of the Rules of Court states:

**Section 41. Common reputation.** — Common reputation existing previous to the controversy, respecting facts of public or general interest more than thirty years old, or respecting marriage or moral character, may be given in evidence. Monuments and inscriptions in public places may be received as evidence of common reputation.<sup>2</sup>

Settled is the principle that evidence of one’s character or reputation must be confined to a time not too remote from the time in question.<sup>3</sup>

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<sup>2</sup> Section 41, Rule 130 of the Rules of Court.

<sup>3</sup> *Civil Service Commission v. Belagan*, 483 Phil. 601, 617 (2004).



Here, Dalangin's relationship with Pascual and Julienne is well known in the courts and the whole of Talavera and even in the community of Sto. Domingo, Nueva Ecija.

The Code of Professional Responsibility provides:

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

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.

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.

Morality in our liberal society today is probably a far cry from what it used to be. Notwithstanding this permissiveness, lawyers, as keepers of public faith, are burdened with a high degree of social responsibility and, hence, must handle their personal affairs with greater caution. Indeed, those who have taken the oath to assist in the dispensation of justice should be more possessed of the consciousness and the will to overcome the weakness of the flesh.<sup>4</sup>

It has been repeatedly held that to justify suspension or disbarment, the act complained of must not only be immoral, but *grossly* immoral. A grossly immoral act is one that is so corrupt as to 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. It is willful, flagrant, or shameless as to show indifference to the opinion of good and respectable members of the community.<sup>5</sup>

In the instant case, Dalangin's intimate relationship with a woman other than his wife showed his moral indifference to the opinion of the good and respectable members of the community. It manifested his disrespect for the laws on the sanctity of marriage and for his own marital vow of fidelity. It showed his utmost moral depravity and low regard for the fundamental ethics of his profession. Indeed, he has fallen below the moral bar. Such detestable behavior warrants a disciplinary sanction. Even if not all forms of extramarital relations are punishable under penal law, sexual relations outside of marriage are considered disgraceful and immoral as they manifest

<sup>4</sup> *Valdez v. Atty. Dabon, Jr.*, A.C. No. 7353, November 16, 2015, 775 SCRA 1, 18.

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



deliberate disregard of the sanctity of marriage and the marital vows protected by the Constitution and affirmed by our laws.<sup>6</sup>

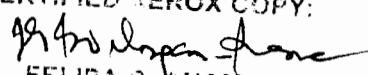
**WHEREFORE, IN VIEW OF THE FOREGOING**, the Integrated Bar of the Philippines' recommendation to suspend Atty. Bayani P. Dalangin from the practice of law for three (3) years should be upheld.



**DIOSDADO M. PERALTA**  
Associate Justice

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<sup>6</sup> *Id.* at 19.

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