

EN BANC

A.C. No. 12702 – DIVINE GRACE P. CRISTOBAL, *Petitioner* v.  
ATTY. JONATHAN A. CRISTOBAL, *Respondent*.

Promulgated:

November 10, 2020

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SEPARATE OPINION

LEONEN, J.:

Indeed, imposing sanctions in disciplinary cases is discretionary upon this Court. Nonetheless, in meting out the appropriate penalty, a lawyer's blatant display of immorality cannot be ignored. To perpetrate violence against women, let alone one's own wife, is to disregard the sanctity of marriage and the dignity of women. Certainly, this warrants a penalty more severe than the three-month suspension imposed by the majority.

Divine Grace P. Cristobal (Divine) filed this disbarment complaint against her husband, Atty. Jonathan A. Cristobal (Atty. Cristobal), alleging that the lawyer violated Canon 7 of the Code of Professional Responsibility and the Lawyer's Oath.<sup>1</sup> In her Complaint, Divine illustrated six occasions showing that Atty. Cristobal committed verbal, emotional, psychological, and physical abuse against her.<sup>2</sup>

Of the six instances, the majority recognized three to be supported by preponderant evidence, meriting disciplinary action.<sup>3</sup>

The first of these occurred on January 30, 2005.<sup>4</sup> Divine narrated that she and Atty. Cristobal were allegedly arguing about money in front of their children and her husband's mother, siblings, and cousins, when things heated up. Atty. Cristobal choked Divine and punched her, shouting, "*Mayabang ka, akala mo ikaw ang gumagastos (sic) ng lahat!*" Divine reported this to the police and secured a medical certificate.<sup>5</sup>

The second instance happened in 2009. Divine had been suspecting that Atty. Cristobal was having an affair with his student. When she

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

<sup>2</sup> Id. at 2-4.

<sup>3</sup> Id. at 16.

<sup>4</sup> Id. at 16-17.

<sup>5</sup> Id. at 2.

confronted him about it on May 15, 2009, Atty. Cristobal pushed her while shouting, "*Lumayas ka na ayaw na kita!*" Divine fell and hit her forehead on their house gate. She submitted pictures of her injuries.<sup>6</sup>

The third instance happened on December 11, 2009. Divine allegedly visited Atty. Cristobal in his office only for her husband to greet her with hostility and misinterpret her intentions, punching her in her right eye. Again, Divine reported this to the police, and had the black eye she sustained documented.<sup>7</sup>

Divine recounted other instances, though she failed to substantiate them. These involved Atty. Cristobal throwing a beer bottle at her,<sup>8</sup> pulling her hair, punching her, and shouting at her as their children watched.<sup>9</sup> On another occasion, Divine said that her husband threatened her with a gun and forced her to alight from their car in front of their children and her sister-in-law.<sup>10</sup>

Atty. Cristobal denied Divine's allegations and rejected the imputation of grossly immoral conduct against him. He asserted that Divine was a difficult person who disrespected everyone, but even then, he never physically or verbally abused her.<sup>11</sup>

According to him, on January 30, 2005, he was asleep on his mother's couch when Divine started kicking him. Startled, he said, "*Ang bastos mo naman. Hindi pa ginawa ng papa ko sa akin yan!*" He denied choking or punching his wife, a claim that was corroborated by his mother, sister, and brother, whom he said were present in the incident.<sup>12</sup> He also claimed that there could have been no argument about money since he would give Divine his salary and access to his bank accounts.<sup>13</sup>

Atty. Cristobal also claimed that the May 15, 2009 altercation never occurred and that the photos presented were fabricated. He also denied having any affair, saying that Divine would just be suspicious of anyone, manifesting "her unjustified fits of jealousy."<sup>14</sup>

Atty. Cristobal likewise denied Divine's recounting of the events on December 11, 2009. He said that after a full day of running errands, he arrived at their house where Divine aggressively interrogated him on his whereabouts and supposed paramour. She even harassed him by grabbing

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<sup>6</sup> Id. at 3.

<sup>7</sup> Id. at 3-4.

<sup>8</sup> Id. at 2.

<sup>9</sup> Id. at 3.

<sup>10</sup> Id.

<sup>11</sup> Id. at 4-5.

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

<sup>13</sup> Id. at 4.

<sup>14</sup> Id. at 6.

his crotch to force an answer out of him, as well as hitting him and scratching his face. To defend himself, Atty. Cristobal closed his eyes and stretched his arms to block Divine's punches but accidentally hit her in the eye in the process.<sup>15</sup>

The Investigating Commissioner recommended the complaint's dismissal, stating that domestic issues are not grounds for disciplinary action when these are not scandalous.<sup>16</sup> This was reversed by the Board of Governors, which recommended Atty. Cristobal's disbarment after finding that his acts were "prohibited, immoral, and scandalous behavior" in violation of Canons 1 and 7 of the Code of Professional Responsibility.<sup>17</sup> Atty. Cristobal sought reconsideration, but his motion was denied.<sup>18</sup>

The majority has affirmed the Board of Governors' findings, holding that Atty. Cristobal was guilty of grossly immoral conduct. It declared that "Atty. Cristobal's actions fall short of the exacting moral standard required of the noble profession of law."<sup>19</sup> It held:

The instant administrative case is hinged on Atty. Cristobal's violent and abusive behavior towards his wife, Divine. The dismissal of the criminal case filed by Divine against him does not exculpate him from administrative liability. What is required to hold a member of the Bar administratively liable is preponderant proof or evidence on one side "that is, as a whole, superior to or has greater weight than that of the other." It necessitates "evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto."

Of the incidences reported by Divine against Atty. Cristobal, those that happened on January 30, 2005; May 15, 2009; and December 11, 2009 are accompanied by preponderant evidence that Atty. Cristobal became physically violent with Divine. While we do not necessarily dismiss the other allegations of abuse, the evidence presented in the abovementioned 3 instances are sufficient to merit disciplinary action.

....

Therefore, Atty. Cristobal's actions display his unlawful and immoral conduct, in violation of Rule 1.01 of the CPR.

Atty. Cristobal's violence towards his spouse shows his lack of respect for the sanctity of marriage. It is violative of his legal obligation to respect Divine. Even negating their relationship as husband and wife, Atty. Cristobal's actions may clearly be subject of a criminal proceeding – had it not been for Divine's desistance. Divine's alleged attempts to reconcile with Atty. Cristobal will not erase the fact that Atty. Cristobal

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<sup>15</sup> Id. at 7–9.

<sup>16</sup> Id. at 9.

<sup>17</sup> Id. at 10.

<sup>18</sup> Id. at 12.

<sup>19</sup> Id. at 15.

did not conduct himself in the manner required of him as a member of the bar.<sup>20</sup> (Citations omitted)

However, the majority went on to say that disbarment is too harsh a penalty for Atty. Cristobal. Thus, it proceeded to impose a much lighter penalty instead:

Because disbarment proceedings are to be “exercised on the preservative and not on the vindictive principle,” the Court, in its discretion, may impose a lower penalty. As in this case, there are mitigating circumstances that militate against the imposition of the extreme penalty of disbarment.

We cannot turn a deaf ear on Atty. Cristobal’s claim that Divine is abrasive, boorish, insolent, and disrespectful towards Atty. Cristobal, Atty. Cristobal’s relatives, the spouses’ household help, their children, the people tasked to renovate their house, and even their children’s teachers.

....

Moreover, this Court notes Atty. Cristobal’s claim that he has solely provided for their four children’s education, sustenance, and support for the past decade. Of their four children, their first three children have been living with Atty. Cristobal from the time Divine left the conjugal abode on December 9, 2009. Their youngest son, although within Divine’s custody, is supported by Atty. Cristobal via monthly financial support in accordance with the spouses’ Compromise Agreement.

Given the aforementioned mitigating circumstances, this Court finds a suspension of three (3) months appropriate.<sup>21</sup>

I disagree.

A three-month suspension, as the majority has determined, is too light a consequence for the physical, emotional, and verbal abuse that Atty. Cristobal committed against Divine. I do not agree that since disbarment proceedings are “exercised on the preservative and not on the vindictive principle,” a lower penalty may be imposed.

In deciding the appropriate sanction in disciplinary proceedings, this Court must ensure that its lawyers are competent, honorable, and worthy of the confidence reposed in them by their clients and the public.<sup>22</sup> As *Tiong v. Florendo*<sup>23</sup> teaches, all lawyers must display the utmost degree of morality, not only to get admitted to the profession, but throughout their careers as members of the Bar:

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<sup>20</sup> Id. at 16–20.

<sup>21</sup> Id. at 20–25.

<sup>22</sup> *Advincula v. Macabata*, 546 Phil. 431, 439–440 (2007) [Per J. Chico-Nazario, Third Division].

<sup>23</sup> 678 Phil. 195 (2011) [Per J. Perlas-Bernabe, Third Division].

It has been consistently held by the Court that possession of good moral character is not only a condition for admission to the Bar but is a continuing requirement to maintain one's good standing in the legal profession. It is the bounden duty of law practitioners to observe the highest degree of morality in order to safeguard the integrity of the Bar. Consequently, any errant behaviour on the part of a lawyer, be it in his public or private activities, which tends to show him deficient in moral character, honesty, probity or good demeanor, is sufficient to warrant his suspension or disbarment.<sup>24</sup>

This Court has the duty to demand the highest standard from its officers, even if it means imposing penalties that may be seen as harsh. In *Advincula v. Macabata*,<sup>25</sup> this Court explained that while caution is generally exercised in meting out sanctions, serious misconduct still deserves graver penalties:

The power to disbar or suspend ought always to be exercised on the preservative and not on the vindictive principle, with great caution and only for the most weighty reasons and only on clear cases of misconduct which seriously affect the standing and character of the lawyer as an officer of the court and member of the Bar. Only those acts which cause loss of moral character should merit disbarment or suspension, while those acts which neither affect nor erode the moral character of the lawyer should only justify a lesser sanction unless they are of such nature and to such extent as to clearly show the lawyer's unfitness to continue in the practice of law. The dubious character of the act charged as well as the motivation which induced the lawyer to commit it must be clearly demonstrated before suspension or disbarment is meted out. The mitigating or aggravating circumstances that attended the commission of the offense should also be considered.<sup>26</sup> (Citation omitted)

Doubtless, Atty. Cristobal's actions were immoral, illegal, and unbecoming of an officer of this Court. His actions revealed not only his disregard for the sanctity of marriage, but also his blatant disrespect for his own wife and children. These acts were similar, if not worse than, extramarital affairs, which this Court has consistently held to be deserving of at least one-year suspension to the ultimate penalty of disbarment.<sup>27</sup> As highlighted in *Valdez v. Dabon, Jr.*:<sup>28</sup>

<sup>24</sup> Id. at 199–200 citing *Advincula v. Macabata*, 546 Phil. 431 (2007) [Per J. Chico-Nazario, Third Division].

<sup>25</sup> 546 Phil. 431 (2007) [Per J. Chico-Nazario, Third Division].

<sup>26</sup> Id. at 447–448.

<sup>27</sup> *Panagsagan v. Panagsagan*, A.C. No. 7733, October 1, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65811>> [Per Curiam, En Banc].

<sup>28</sup> 773 Phil. 109 (2015) [Per Curiam, En Banc].

In the case at bench, Atty. Dabon'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 deliberate disregard of the sanctity of marriage and the marital vows protected by the Constitution and affirmed by our laws.<sup>29</sup> (Citation omitted)

If the depravity and immorality that attend illicit affairs while a marriage is subsisting merit severe penalties for the sheer mockery it makes of a marriage, the same principle must apply to the commission of violent acts against one's spouse. We have suspended and disbarred colleagues in the profession for far less.

In imposing a three-month suspension, the majority considered Divine's abrasive personality, as corroborated by Atty. Cristobal's relatives, household help, and even the teachers of the spouses' children.<sup>30</sup> Yet, such provocation can never be answered with violence. In no instance can this be excused or condoned. That Divine may be uncouth or ill-mannered should not obviate the consequences of Atty. Cristobal's actions.

Ostensibly, the three-month suspension is not commensurate to the grossly immoral nature of Atty. Cristobal's actions. His lack of remorse for what he has done to his wife displays his utter disregard for the dignity of women. The violence he had brazenly inflicted on Divine, in the presence of his family and children no less, shows that he did not meet the standards of morality required by the legal profession.

Nonetheless, I recognize that Atty. Cristobal is the sole breadwinner of the family, which the majority has likewise deemed a mitigating circumstance.<sup>31</sup> Thus, the penalty should instead be a suspension of at least two years. While his actions justify perpetual disqualification from the Bar, a two-year suspension will allow him an opportunity to redeem himself by providing for his children and ensuring their future.


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<sup>29</sup> Id. at 126-127.

<sup>30</sup> Ponencia, p. 21.

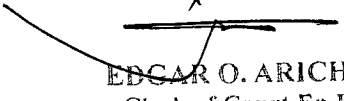
<sup>31</sup> Id. at 25.

**ACCORDINGLY**, I vote that respondent Atty. Jonathan A. Cristobal be **SUSPENDED** for two (2) years, with a **WARNING** that a repetition of the same or similar acts in the future shall be dealt with more severely.



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

CERTIFIED TRUE COPY



**EDGAR O. ARICHETA**  
Clerk of Court En Banc  
Supreme Court