

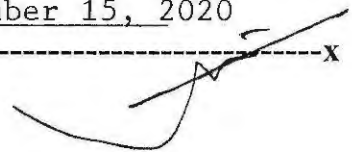
EN BANC

A.C. No. 8866 — CATHERINE V. VILLARENTE, *complainant*, v.
ATTY. BENIGNO C. VILLARENTE, *respondent*.

Promulgated:

September 15, 2020

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DISSENTING OPINION

LEONEN, J.:

I respectfully disagree with the majority's decision to disbar respondent Atty. Benigno C. Villarente (Atty. Villarente) on the ground of immorality.

I have always maintained the position that administrative cases involving immorality should be resolved with caution.¹ Disciplinary cases should not be a license for this Court to police its lawyers' personal lives and intimate relationships, which are often accompanied by very private issues best left outside the scope of this Court's powers.²

Administrative cases against members of the Bar are *sui generis*. Their ultimate goal is the protection of the public good,³ considering the essential role that lawyers play in the administration of justice and their professional duty to uphold the rule of law. In certain instances, lawyers' conduct in both their public and private lives can have an adverse effect on their ability to live up to these roles. As its primary purpose is to protect public interest, disbarment cases should not be allowed by this Court to become the vehicle for asserting private rights.⁴

Thus, administrative cases present an opportunity for this Court to inquire into a lawyer's actions to determine his or her fitness to continue as an attorney. Specifically, in charges of immorality:

¹ See J. Leonen, Concurring and Dissenting Opinion in *Zerna v. Atty. Zerna*, A.C. No. 8700, September 8, 2020, <<https://sc.judiciary.gov.ph/14203/>> [Per Curiam, En Banc]; J. Leonen, Concurring and Dissenting Opinion in *Anonymous Complaint v. Dagala*, 814 Phil. 103 (2017) [Per Curiam, En Banc].

² J. Leonen, Concurring and Dissenting Opinion in *Zerna v. Atty. Zerna*, A.C. No. 8700, September 8, 2020, <<https://sc.judiciary.gov.ph/14203/>> [Per Curiam, En Banc]. See also J. Leonen, Dissenting Opinion in *Sabillo v. Atty. Lorenzo*, A.C. No. 9392, December 4, 2018 [Per Curiam, En Banc].

³ *Kimieng v. Young*, 765 Phil. 926, 944 (2015) [Per J. Leonen, Second Division].

⁴ J. Leonen, Concurring and Dissenting Opinion in *Zerna v. Atty. Zerna*, A.C. No. 8700, September 8, 2020, <<https://sc.judiciary.gov.ph/14203/>> [Per Curiam, En Banc].



“[I]mmoral 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.⁵

In the *ponencia*’s words, a lawyer shall not “engage in conduct that adversely reflects on his [or her] fitness to practice law, nor should he [or she], whether in public [or] private life, behave in a scandalous manner to the discredit of the legal profession.”⁶ Moreover, the grossly immoral conduct must be so gross as to be “willful, flagrant, or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community.”⁷

It is against this backdrop that I have proposed the use of a clear, objective, and secular standard to govern cases of immorality, lest we run the risk of imposing arbitrary benchmarks for professional conduct.⁸ As I have previously stated, “an objective criterion of immorality is that which is tantamount to an illegal act.”⁹

In this case, the *ponencia* faults respondent Atty. Villarente mainly for two things: first, his continued cohabitation with another woman who is not his wife; and second, his siring of two children with the same woman. It then finds respondent guilty of gross immorality and imposes on him the penalty of disbarment.

With due respect, I disagree.

In my separate opinion in *Anonymous Complaint v. Dagala*:¹⁰

The highest penalty should be reserved for those who commit indiscretions that (a) are repeated, (b) result in permanent rearrangements that cause extraordinary difficulties on existing legitimate relationships, or (c) are *prima facie* shown to have violated the law.¹¹

⁵ J. Leonen, Concurring and Dissenting Opinion in *Anonymous Complaint v. Dagala*, 814 Phil. 103, 154 (2017) [Per Curiam, En Banc] citing *Perfecto v. Esidera*, 764 Phil. 384 (2015) [Per J. Leonen, Second Division].

⁶ *Ponencia*, p. 4.

⁷ *Arciga v. Maniwang*, 193 Phil. 730, 735 (1981) [Per J. Aquino, Second Division].

⁸ See *Perfecto v. Esidera*, 764 Phil. 384 (2015) [Per J. Leonen, Second Division]; J. Leonen, Concurring and Dissenting Opinion in *Zerna v. Atty. Zerna*, A.C. No. 8700, September 8, 2020, <<https://sc.judiciary.gov.ph/14203/>> [Per Curiam, En Banc]; J. Leonen, Concurring and Dissenting Opinion in *Anonymous Complaint v. Dagala*, 814 Phil. 103 (2017) [Per Curiam, En Banc].

⁹ J. Leonen, Dissenting Opinion in *Sabillo v. Atty. Lorenzo*, A.C. No. 9392, December 4, 2018 [Per Curiam, En Banc] citing J. Leonen, Separate Opinion in *Anonymous Complaint v. Dagala*, 814 Phil. 103 (2017) [Per Curiam, En Banc].

¹⁰ 814 Phil. 103 (2017) [Per Curiam, En Banc].

¹¹ *Id.* at 155.

In *Ceniza v. Atty. Ceniza*¹² cited in the *ponencia*, I concurred in the disbarment of Atty. Eliseo Ceniza (Ceniza) on the ground of immorality.¹³ In that case, Ceniza, a legal officer in Mandaue City, was suspended from service by the Ombudsman for disgraceful and grossly immoral conduct, in violation of Republic Act No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees. Ceniza was found to have abandoned his legitimate family in order to live with another woman who was also married. He also callously ignored his own children's pleas, resulting to one of his children attempting suicide due to depression. Despite the pain he had caused his family, Ceniza showed no remorse.

Such circumstances clearly exhibiting gross immoral conduct are not present here. The evidence in this case do not meet the required standard to warrant disbarment. At most, respondent is only guilty of gross misconduct.

Atty. Villarente's conduct is not of such degree as would erode the public's confidence in the legal profession and the rule of law. It is important to note that the issues raised in this disbarment complaint are mainly private matters not directly related to respondent's duties as a lawyer. It was also not established how his acts discredit the legal profession and the rule of law. Thus, I cannot agree that he should be disbarred on the ground of gross immorality.

This, however, does not mean that respondent should be absolved of any liability as he committed violations of the Code of Professional Responsibility. In Canon 7, Rule 7.03:

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 shall he whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

As a lawyer, respondent should conduct himself in a manner consistent with the integrity and dignity of the legal profession. This applies in his personal dealings,¹⁴ as he may still be found liable for “gross misconduct not connected with his professional duties, which [show] him to be unfit for the office and unworthy of the privileges which his license and the law confer to him.”¹⁵

¹² A.C. No. 8335, April 10, 2019, <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65158>> [Per Curiam, En Banc].

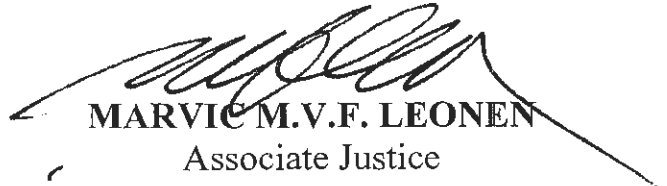
¹³ *Ponencia*, p. 5. The *ponencia* cites *Ceniza* to show that the offense may amount to the crime of concubinage, which justifies disbarment.

¹⁴ See *Agno v. Cagatan*, 580 Phil. 1 (2008) [Per J. Leonardo-De Castro, En Banc].

¹⁵ *Enriquez v. De Vera*, 756 Phil. 1, 13 (2015) [Per J. Leonen, Second Division].

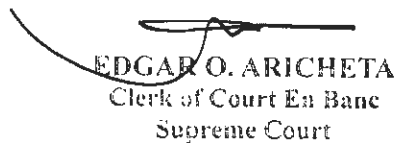
Hence, while I do not find the evidence sufficient to disbar respondent for gross immorality, it is my view that it is enough to hold him liable for gross misconduct and suspend him from the practice of law.

ACCORDINGLY, I vote to **SUSPEND** respondent Atty. Benigno C. Villarente from the practice of law for three (3) years.



MARVIC M.V.F. LEONEN
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Bane
Supreme Court