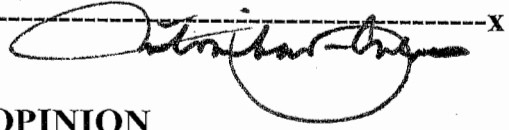


EN BANC

A.C. No. 14228 [Formerly CBD Case No. 23-6845] — MARIA THERESA E. IMPERIAL, Complainant, v. ATTY. PASTOR MARCELO M. REYES, JR., Respondent.

Promulgated: July 15, 2025

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X

CONCURRING OPINION

LEONEN, S.A.J.:

I concur. Immorality should no longer be a basis for disciplining a lawyer unless it interferes with their professional work.

Administrative cases are an avenue for this Court to keep lawyers in check for their professional conduct. As part of its power to regulate membership in the legal profession,¹ this Court can find administrative liability for erring lawyers and impose appropriate penalties in relation to their practice of law. Rules concerning the conduct of lawyers are meant to ensure that lawyers contribute to their important role, one imbued with public interest, in the administration of justice within the bounds of professional ethics. The Court sets unique standards which lawyers should live up to because of this responsibility.

Be that as it may, I reiterate my position that the Court should refrain from exercising its disciplinary power over matters that are purely within the private sphere. An administrative case is not the proper venue to ventilate personal grievances.

Lawyers' oaths are attached to the roles they perform, and because the function of a member of the Bar is intricately connected to the rule of law, their conduct must be regulated. In my Concurring and Dissenting Opinion in *Anonymous Complaint v. Judge Dagala*,² I have already expressed the view that lawyers, as well as judges, have unique oaths of office against which their actions are measured: "A lawyer and a judge take a specific oath of office. A lawyer and a judge should not be required to be saints. We should not confuse the morality of our secular law with the ethical requirements of our religious faiths."³

Charges of immorality against erring lawyers should be decided within the context of a non-religious model of morality. The standard of morality

¹ See CONST., art. VIII, sec. 5(5).

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

³ J. Leonen, Concurring and Dissenting Opinion in *Anonymous Complaint v. Judge Dagala*, 814 Phil. 103, 149 (2017) [*Per Curiam, En Banc*].



against which members of the Bar are measured should be a secular form of morality, for we live in a secular society where the powers of the State and the church are separate.⁴ The Court should be careful not to make pronouncements, much less doctrines, that are essentially grounded on religious sensibilities. Admittedly, there will be overlaps between religious and secular standards of morality. Thus, the difficulty of adjudicating questions of morality lies in grappling with the dangerous tendency to conflate morality as dictated by religion, which is often the majority religion, and the secular morality which the law upholds. In *Perfecto v. Judge Esidera*:⁵

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.⁶

A clear and relevant standard, therefore, is to gauge a lawyer’s actions vis-à-vis their impact on the public’s confidence in the rule of law. While a lawyer’s private life can still be scrutinized, the relevant measure remains to be the effect of their acts on the rule of law. Considerations beyond that may run the risk of overreaching into matters in where the Court should have no business. In my Dissenting Opinion in *Zerna v. Atty. Zerna*,⁷ I stated that “a clear, objective, and secular standard should be applied in cases of gross immorality, so that this Court can avoid imposing arbitrary standards of morality as benchmarks for the legal profession.”⁸

Given these premises, complaints charging lawyers with immorality based on infidelity should be evaluated with strict caution. Not all cases of marital infidelity automatically translate to a ground for administrative liability for immorality. In my view, this reasoning seems too simplistic, which betrays the complex nature of human relationships. This is not to say that marital infidelity should be normalized or justified. But unless shown otherwise, marital infidelity, for the most part, is a private matter that has no direct impact on a lawyer’s ability to discharge their duties or live up to their professional oath.

Thus, in handling these types of cases, I proposed in *Dagala* to not entertain complaints for immorality unless it is initiated by “the betrayed spouse, the paramour who has been misled, or the children who have to live

⁴ See CONST., art. II, sec. 6, which states:

Section 6. The separation of Church and State shall be inviolable.

⁵ 764 Phil. 384 (2015) [Per J. Leonen, Second Division].

⁶ *Id.* at 399–400.

⁷ *Zerna v. Atty. Zerna*, 882 Phil. 19 (2020) [*Per Curiam, En Banc*].

⁸ *Id.* at 30.

with the parent's scandalous indiscretions,"⁹ with the acknowledgement that in some cases:

. . . especially where there is some form of violence against women and children within the families affected, it would be difficult for the victims to come forward. It should only be then that a third party's complaint may be entertained. The third party must show that it acts for the benefit of the victims, not as a means to cause more harm on them. Furthermore, the inability of the victims must be pleaded and proven.¹⁰

This requirement ensures that only those truly damaged by a lawyer's actions have standing to question their character. The right to file a disbarment case, a proceeding which is *sui generis*, is a right reserved to those who were directly damaged and whose rights were violated.¹¹ "There can be no immorality committed when there are no victims who complain."¹² This condition also insulates private relations from the State's overreach through the litigation process.

The question on who has standing to raise issues of immorality relative to marital infidelity has been settled by the *En Banc* in *Yao v. Atty. Aurelio*.¹³ Cautioning against unwarranted intrusions into a lawyer's personal relationships, *Yao* identifies the reason why not anyone can be a complainant in these types of administrative cases:

In this connection, the State must not excessively intrude into the personal relationships of lawyers as it may unduly affect their professional standing. Thus, complaints for immorality must not be entertained unless initiated by the victims. These are "the betrayed spouse, the paramour who has been misled, or the children who have to live with the parent's scandalous indiscretions."

The essence of an administrative case involving gross immorality, in relation to marital relations, are allegations of illicit affairs and allegations that are undoubtedly and deeply private that only these victims "can credibly recount as borne from their own personal knowledge and firsthand experience." Further, these issues "[w]ill put relationships and families in a vulnerable state." Unlike any other person whose concern may be relegated to a mere curiosity, academic, or sentimental desire, the interest of these victims is actual and material.

Thus, "in administrative cases that ostensibly implicate private familial and marital matters, the Court is called upon to take into consideration the very deep sensitivities attendant to such cases that bear down on the victims."

....

⁹ J. Leonen, Concurring and Dissenting Opinion in *Anonymous Complaint v. Dagala*, 814 Phil. 103, 154 (2017) [*Per Curiam, En Banc*].

¹⁰ *Id.*

¹¹ *Id.* at 155.

¹² *Id.*

¹³ 960 Phil. 148 (2024) [*Per Curiam, En Banc*]

The offense of a respondent in an administrative case involving grossly immoral conduct may involve marital infidelity, concubinage, or adultery. In this regard, the policy of affording the aggrieved spouse the decision to seek judicial redress under these circumstances is in recognition of and respect for familial and marital privacy. This Court thus defers to the choice and wisdom of these victims in deciding whether to institute an administrative case against the respondents.¹⁴ (Citations omitted)

Yao involved a disbarment case against Atty. Aurelio filed by his wife's siblings. Particularly on the charge of immorality, the complainants who were Atty. Aurelio's siblings-in-law alleged that he had a child with another woman borne out of an extramarital affair. The Integrated Bar of the Philippines Board of Governors initially suspended Atty. Aurelio from the practice of law "due to siring a child out of wedlock."¹⁵ In his petition before this Court, Atty. Aurelio alleged that his wife had already forgiven him and that she even urged her siblings to drop the charges against him.¹⁶ The Board of Governors even noted the wife's statement that "their relationship was harmonious and that Atty. Aurelio had served her and their family well, showed remorse, recognized his child, and regularly gave financial support."¹⁷

Thus, the Court refused to entertain the question of immorality because it was not raised by the spouse. Before proceeding to the rule on the other charges, *Yao* made this clear:

To clarify, this Court does not condone marital infidelity. Further, our ruling in this case is not intended to apply generally to all administrative cases involving gross immorality. What we aim is to limit legal standing to file a complaint for gross immorality only to the aggrieved spouse and victims only in cases of grossly immoral conduct that involve[] marital infidelity, concubinage[,] or adultery, as in this case where the respondent-spouse engaged in an extramarital affair but where the respondent-spouse appeared to be penitent and has been forgiven by his wife and children. We uphold the autonomy of spouses who have reconciled and moved beyond a spouse's extramarital affair and siring of a child out of wedlock.

This is without prejudice, however, to the inherent power of the Court to act *motu proprio* to discipline any lawyer, judge, or court employee.¹⁸

Similarly, in the present case, complainant cannot be considered a "victim" who can initiate the disbarment complaint. Complainant is not respondent's spouse. As she admits, she had an extramarital affair with him. In other words, she was the paramour, but she was never misled. Respondent

¹⁴ *Id.* at 155–157.

¹⁵ *Id.* at 152.

¹⁶ *Id.* at 150, 153–154.

¹⁷ *Id.* at 152–153.

¹⁸ *Id.* at 157.

did not represent himself to be single. Neither is complainant a third person acting for the benefit of the victims.

In fact, complainant knew from the beginning that respondent was a married man, and “she even conspired to keep their relationship *sub-rosa*.”¹⁹ Complainant therefore had complete knowledge of and fully consented to the kind of illicit relationship they had that endured for 20 years. She was as much a participant and has as much involvement as respondent in the affair; she therefore loses all standing to call it an act of immorality of which she is a victim. The irony is glaring when we see that complainant’s basis for charging respondent is the very same act of which she was an integral part. This requirement, in administrative cases involving charges of immorality, should therefore be clarified to exclude those who took part in the alleged immoral act from being complainants.

Notably, the investigating commissioner’s report also made this observation:

To be emphatic, the [c]omplainant knew that [respondent] was married and conspired with him to hide that illicit affair. It appears that the complaint was filed against [r]espondent after he was found to have engaged in another illicit relationship which of course remains to be an allegation. What is clear is the [r]espondent decided to end that illicit affair.²⁰

The filing of the complaint was seemingly complainant’s response to respondent entering into another relationship. The timing of the events show that this disbarment complaint may have been complainant’s way of getting back at respondent for breaking off their relationship. This is precisely the kind of private issue that the Court should steer clear from. Disbarment cases should not be the avenue to settle these matters.

Guevarra v. Banach,²¹ a case for damages for a breach of promise to marry, acknowledged the limitations of the Court’s jurisdiction on matters that are private to individuals. Although *Guevarra* was about an engagement that had gone sour due to fraud resulting in a cancelled wedding, the same constitutional basis remains true in this case. The freedom to enter into intimate relationships, whatever form they may be, is inherently tied to a person’s dignity and autonomy:

Thus, choosing a person to marry is intimately connected to a person’s autonomy. Any State interest in the institution of marriage must not lead to an unjustified intrusion into one’s individual autonomy and human dignity. It must only be done when public interest is imperiled. It is not within the courts’ competence to reach too far into intimate relations.

¹⁹ *Ponencia*, p. 6.

²⁰ *Id.*

²¹ 916 Phil. 471 (2021) [Per J. Leonen, Third Division].

Courts, through litigation, should not dictate on or even pressure a person into accepting a life of marriage with a person they reject. Courts must, as much as possible, refrain from meddling in these personal affairs.

The Constitution directs the State to “[value] the dignity of every human person and [guarantee] full respect for human rights.” Freedom of choice to associate or to identify forms part of one’s dignity.²² (Citations omitted)

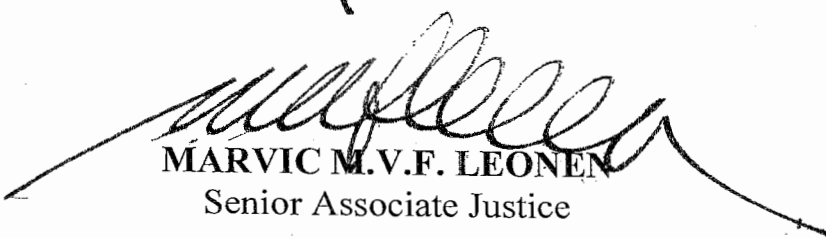
In the same way, incidental choices that come with having a relationship—including the choice to break it up and enter another—are choices that should be left to the individual’s will, free from any State interference or pressure. As in *Guevarra*, “litigation to the sorrows caused by a broken heart and a broken promise must be discouraged.”²³ We should not allow administrative cases against lawyers to be vehicles where litigants ventilate these private affairs, unless there is a showing that the act already interferes with the lawyer’s professional role.

As the *ponencia* observes: “Assuming that respondent committed a deplorable act in maintaining an extramarital affair with complainant, such misconduct had no real measurable impact on his duties as a lawyer.”²⁴ It already recognizes that the act complained of here had no effect on respondent’s duties as a lawyer. There is no reason for this Court to constrain itself in supplying the missing link between respondent’s act and his standing as a lawyer when it does not exist.

In truth, extramarital affairs are a renunciation of a promise made between two persons. They often result in complicated, bitter, and painful experiences, and we recognize that these are unfortunate parts of the complexities of intimate relationships. They are part of being human.

However, complainant in this case was not even a part of that promise; in fact, she was instrumental in the violation of that marital oath. Neither was it shown that respondent’s act interfered with his duties as a lawyer. He should not be held administratively liable.

ACCORDINGLY, I vote to DISMISS the Complaint.



MARVIC M.V.F. LEONEN
Senior Associate Justice

²² *Id.* at 480.

²³ *Id.*

²⁴ *Ponencia*, p. 9.