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[A.C. No. 997. September 10, 1979]

PILAR ABAIGAR, *complainant, vs.* **DAVID D.C. PAZ,** *respondent.*

SYLLABUS

LEGAL ETHICS; ATTORNEYS; DISBARMENT; IN DISBARMENT PROCEEDINGS, THE BURDEN OF PROOF RESTS UPON COMPLAINANT AND THE CASE AGAINST RESPONDENT MUST BE ESTABLISHED BY CONVINCING PROOF; CASE AT BAR.— It has been held that the power of this Court to disbar a lawyer should be exercised with caution because of its serious consequences. The burden of proof rests upon the complainant and the case against a respondent must be established by convincing proof. ... The evidence adduced by the complainant has failed to establish any cause for disciplinary action against the respondent. As the Solicitor General said in his report, "From all indications, there is little room for doubt that she filed his disbarment case not in redress of a wrong, for there was no wrong committed. It was a voluntary act of indiscretion between two consenting adults who were fully aware of the consequences of their deed and for which they were responsible only to their own private consciences."

D E C I S I O N

FERNANDEZ, *J.*:

On April 27, 1971, Pilar Abaigar filed this administrative case for disbarment against David D. C. Paz, a member of the Philippine Bar.

The verified complaint alleged that sometime in March 1970, the complainant, Pilar Abaigar, sought the aid of a legal counsel regarding her divorce case filed by her husband in the Superior Court of California, County of Alameda, U.S.A.; that she called on the telephone the office of Congressman Bagatsing in Manila; that the respondent David D.C. Paz, answered the telephone

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call and volunteered his legal services; that believing that the respondent had the necessary legal experience, the complainant confided her legal problems to him; that after the termination of the divorce case, the respondent became exceedingly friendly with the complainant and started to profess his love for her; that at the start, the complainant was hesitant in continuing the cordial relations between her and the respondent but the respondent made her believe that although he was living with another woman, his relations with said woman were no impediment; that the respondent convinced the complainant that he had been compelled to contract a civil marriage with the woman and that since it was not a marriage under the church laws, it was no bar for him to get married under the church laws with the complainant; that the respondent proposed marriage to the complainant; that believing in his good faith, the complainant accepted the proposal of the respondent; that sometime in the latter part of November 1970, an application for the issuance of a marriage license to the complainant and the respondent was made and executed; that thereafter, the respondent convinced the complainant that since they were going to get married anyway, they should act as husband and wife; that because of the confidence which the complainant reposed upon the respondent, she reluctantly acceded to said demands; that as a result of their being together, the complainant became pregnant but due to causes beyond her control, the pregnancy was lost; that sometime in the third week of April 1971, one Virginia Paz was introduced to the complainant by the respondent; that said Virginia Paz was the woman previously referred to by the respondent as his wife with whom he had contracted a forced civil marriage; that said Virginia Paz, in the course of the meeting, informed the complainant that there had been actually two marriages between Virginia Paz and the respondent, one under the civil law and one under the church law; that upon being confronted by the complainant, the respondent made no explanation whatsoever and merely kept silent; that since that time, the respondent had done nothing to make amends for having deceived the complainant and for having taken advantage of her; and that the complainant has no other recourse but to

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ask for the disbarment of the respondent who is a member of the Philippine Bar and an officer of the courts of justice.[1]

In his answer filed on June 10, 1971, the respondent denied having had any illicit relations with the complainant and alleged that when the complainant called by telephone Congressman Ramon D. Bagatsing, the respondent advised complainant to come to the office; that on the next day when the complainant came to the office of Congressman Bagatsing, she was at first referred to Atty. Geronimo Flores of the Legal Assistance Service to handle the case; that two or three days thereafter, the complainant requested the respondent to personally handle her case; that on October 30, 1970, the respondent prepared a letter to complainant's husband, Samuel L. Navales, which letter was signed by Congressman Bagatsing; that sometime in the latter part of October 1970, the complainant borrowed from the respondent the sum of ₱200.00 to complete the payment for the hospitalization and treatment of her brother, Eric, at the Makati Medical Center; that as an act of pity, the respondent gave her the loan; that after the election for delegates to the Constitutional Convention in November 1970, the complainant called at the residence of the respondent and asked help in filing a case against the assailant of her brother who was stabbed in Olongapo City; that the wound sustained by complainant's brother was only superficial and he could not identify his assailant, hence, no criminal case was filed; that after the trip to Olongapo, the complainant requested the help of the respondent to recommend her admission to a hospital because of abdominal and chest pains; that the respondent recommended complainant to be admitted to the Singian Clinic located at General Solano Street, San Miguel, Manila; that on December 20, 1970, the complainant called up the respondent at his residence by telephone and requested him to assist her mother, Mrs. Cecilia Abaigar, to file a criminal action against her minor sister, Vilma Abaigar, for disobedience; that the respondent prepared a complaint on the same night and a sworn statement of her mother, Mrs. Cecilia Abaigar; that he accompanied the complainant to

[1] *Rollo*, pp. 1-3.

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the Fiscal's Office at Pasig, Rizal and to the Municipal Court of Mandaluyong Rizal, where Criminal Case No. 23994 entitled "*People of the Philippines vs. Vilma Abaigar*" was filed by her mother; that the respondent also helped the mother of the complainant to prepare and file a petition for a writ of habeas corpus in the Court of First Instance of Rizal; that by reason of said petition for *habeas corpus*, the mother of the complainant was able to take Vilma Abaigar into her custody although the petition was denied; that the respondent had never informed the complainant that he was compelled to contract a civil marriage with his wife; that the respondent never proposed marriage to the complainant; that the respondent has no recollection of the supposed application for the issuance of a marriage license in the latter part of November 1970; that respondent and complainant had never acted as husband and wife; and that the respondent had not deceived complainant nor taken advantage of her.[2]

In a resolution dated August 20, 1971, this Court referred this case to the Solicitor General for investigation, report and recommendation.[3]

After hearing the parties, the Solicitor General submitted on June 30, 1973 his report and recommendation containing the following findings:

"The complaint seeks the disbarment of respondent Paz on grounds that may properly fall under the category of deceit and grossly immoral conduct as found in Section 27, Rule 138 of the Rules of Court.

"Assuming for the moment that there had been sexual intercourse between complainant and respondent, the first inquiry, we respectfully submit, is whether respondent Paz practiced deception on complainant by making her believe that notwithstanding their subsisting marriages to their respective spouses, they could legally get married to each other and based on his promise of marriage, she consented to go to bed with him.

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[2] *Rollo*, pp. 11-16.

[3] *Rollo*, p. 31.

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"Complainant admitted that during her alleged romantic liaison with respondent, she was married to a certain Samuel Navales, also a Filipino, who divorced her in the U.S.A. sometime in the middle of 1970 (par. 2, Complaint; p. 46, t.s.n., November 18, 1971). She also admitted that before she submitted herself to his sexual desires, she was informed by him that he had a wife with whom he was civilly married but that the marriage was void because it was either 'fake' or 'forced' (*sic*).

"Whether there was deceit hinges on whether complainant actually believed the representation of respondent that they could legally marry. Highly intelligent that she is and with the educational background that she has, it is difficult to accept the proposition that she swallowed hook, line and sinker his supposed assurances that notwithstanding full awareness by both of the existence of each other's previous marriages, no legal impediment stood in the way of their getting married ecclesiastically. It is worthwhile repeating that complainant was a fifth placer in the Board Examinations for Chemical Engineering. She was licensed as a chemical engineer in 1964 or 1965, after which she taught at one time or another in different schools and colleges in Manila. In 1970 or 1971 when she was supposedly tricked into surrendering her body on a promise of marriage, she was already in her late twenties. It is improbable that at this age, she was still ignorant of the law regarding indissolubility of marriage. Before jumping headlong into accepting respondent's proposal that they act as husband and wife, she should have pondered upon the serious legal implications and complications of a second marriage for both of them. She could have easily asked a lawyer for advice on the matter. Complainant's own neighbor in Mandaluyong, Rizal, is a lawyer by the name of Atty. Paler whose wife testified on her behalf. According to Mrs. Paler, her husband and complainant used to converse (p. 18, t.s.n., November 23, 1971). In these conversations, complainant could have asked, perhaps in a casual manner, Mrs. Paler's husband as to the legal effects of a divorce obtained abroad by a Filipino citizen or the effects of a marriage brought about through the use of force and intimidation in order to settle whatever doubts she had in her mind.

"The truth, however, of the matter is that complainant did not even have to consult a lawyer to know that she could not legally marry respondent. It is of no little significance that some persons utilized by complainant as witnesses on her behalf because of their supposed knowledge of her relations with respondent, were

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themselves aware that divorce is not recognized in this country. Thus Mrs. Paler categorically stated that she knew for a fact that divorce obtained abroad is not recognized in the Philippines (p. 19, t.s.n., November 23, 1971). The same admission was elicited from Fr. Troy de los Santos, another witness for the complainant. Fr. de los Santos who used to be her spiritual adviser admitted at one point of his testimony that divorce obtained abroad cannot be recognized in the Philippines insofar as state laws are concerned and complainant knew about this (pp. 33-34, t.s.n., November 23, 1971). Thus, the Jesuit priest declared under cross-examination:

'Q Do you know that complainant's husband is still alive?
A Yes.

Q Up to the present?
A Yes.

Q Do you know that divorce is not recognized in the Philippines?
A I know, but the church does not recognize divorce.

Q How about the State, do you know that the State recognize divorce?
A As far as my knowledge, I do not think that our laws permit divorce.'

Continuing with his testimony, Fr. de los Santos stated:

'Q Did not the fact that complainant's husband is still alive and that divorce is not recognized in the Philippines be considered an impediment to complainant's marriage to anyone?
A Yes.

Q Did you inform her so?
A She knows about that.' (pp. 33, 34, t.s.n., *id.*)

"Again, granting that complainant did not actually comprehend to existence of a legal bar to her remarriage, 'not being steeped in the intricacies of the law,' just the mere realization that both respondent's wife and her own husband being still alive was enough to stir her mind and to impel her to make her own investigation. She could have, for instance, made discreet inquiries as to who was the woman respondent was married to and verified his claim whether he was forced into the marriage. Or, perhaps, she could simply have asked Congressman Bagatsing about respondent's personal status. After all, she was competent enough to prepare, without anyone's

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help her own affidavit, Exhibit 'A', and resourceful enough to make research in the Supreme Court's Library on the subject of disbarment (pp. 63, 89, t.s.n., November 18, 1971)

"What conclusion then can a reasonable mind draw from the given premises? Either complainant was so helplessly naive as to be beguiled by respondent's blandishments, or, comprehending fully the legal impossibility of the fulfillment of his marriage proposals, she unconditionally laid herself prostrate to his charms, too much enamored of him to care about anything else. For, as philosopher Blaise Pascal has so pithily stated of the profundity of human love, 'love has reasons that reason cannot explain.' Since complainant cannot hide behind the camouflage of innocence, considering her intellectual capacity and educational background, no other conclusion is possible except that she voluntarily submitted to sexual intimacy with respondent without entertaining any illusion or hope of sublimating the illicit relations by legal union.

"The question is intriguing whether respondent ever made vehement protestations of love and actually made an offer of marriage to complainant. If there was, the evidence adduced does not clearly show. Complainant asserted that she had evidence in the form of love letters and the marriage application form showing respondent's sustained courtship and offer of marriage. However, such purported documents were not presented, complainant making the excuse that respondent tricked her into giving him the envelope containing the evidence. Such explanation, however, staggers human credulity considering that the supposed documents were vital to establish the case. It is simply preposterous that she would easily part with the documents and give them to no other than the respondent himself. Be that as it may, if respondent had made an offer of marriage, it is not clearly established that complainant's submission to his sexual desires was not on account of the offer but for the gratification of her mundane human longings.

"The next question is whether there was sexual intimacy between complainant and respondent. Complainant testified that she acceded to his proposal that they live as husband and wife and as a matter of fact they had three sexual intercourses that took place in the Tower Hotel and Singian Clinic in Manila and in the Sulo Hotel in Quezon City. While there is no proof that sexual intimacy took place in Singian Clinic except her testimony, her allegation that they had trysts at the Tower Hotel and Sulo Hotel was supported by the guest cards

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at said hotels, Exhibits 'A' and 'B'. Notwithstanding respondent's denial that the 'Mrs.' stated in the entry in said guest cards was a 'good-time' woman, not the complainant, common sense will tell us that complainant could not have known that respondent lodged in said hotels on those particular dates unless she was the woman whom respondent brought there. On this score, we are inclined to believe that evidence has been sufficiently adduced to establish that intimacy between complainant and respondent took place once in the Tower Hotel and once in the Sulo Hotel. As the Honorable Court has stated, when the lawyer's integrity is challenged by evidence, it is not enough that he denies the charges against him; he must meet the issues and overcome the evidence for the relator and to show proof that he still maintains the highest degree of morality and integrity which at all times he is expected of him (*Quingwa vs. Puno*, Adm. Case No. 389, Feb. 28, 1967; 19 SCRA 439). Insofar as this point is concerned, the evidence of the complainant as to the trysts they had in the two hotels has not been met and overthrown by respondent."[4]

Upon considering the report and recommendation filed by the Solicitor General, this Court, in a resolution dated July 29, 1972, resolved to require the Solicitor General to file the corresponding complaint against the respondent, David D.C. Paz, pursuant to Section 5 of Rule 139 of the Revised Rules of Court.[5]

On September 4, 1975, the Solicitor General filed the corresponding complaint against David D.C. Paz praying that the respondent be suspended for a period of at least six months from the practice of law, with a warning that similar transgressions in the future will be dealt with more severely.

Meanwhile the complainant sent a verified letter-petition dated March 29, 1974 to the then Chief Justice Querube C. Makalintal wherein the complainant asked this Court to look into the suspicious activities of a certain Rodolfo del Prado, who allegedly in connivance with the respondent, David D.C. Paz, made her

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[4] *Rollo*, pp. 45-51.

[5] *Rollo*, p. 59.

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sign an affidavit prejudicial to her interest. Among other allegations, the complainant stated in her verified complaint the following:

"6. That there never is an illicit relationship between Atty. Paz and me at present because I believed all along that he was single and able to marry me. In fact, our relationship is above-board just like any engaged couple.

7. That I was made to understand by the Citizens Legal Assistant Office that the tenor of the affidavit made by Mr. Rudolfo Del Prado is such that the consideration for the illicit relationship was promissory note which to all intents and purposes is immoral and illegal.

8. That I am only after the collection of the loan which Atty. Paz got from me and not revenge for his deception."[6]

The foregoing portions of her letter militate against the credibility of the complainant.

In her complaint for disbarment, she pictured the respondent as morally perverse. However, in the aforementioned letter, she states that there never was an illicit relationship between her and the respondent, Atty. David D.C. Paz, and that their relationship was above-board just like any engaged couple. And finally, she avers that she was only after the collection of the loan which the respondent got from her and not for revenge for his deception.

It has been held that the power of this Court to disbar a lawyer should be exercised with caution because of its serious consequences.[7] The burden of proof rests upon the complainant and the case against a respondent must be established by convincing proof.[8]

In *Arboleda vs. Gatchalian*, this Court held:

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[6] Adm. Case No. 539-SBC (*Pilar V. Abaigar vs. Rodolfo P. del Prado*).

[7] *In re MacDougall*, 3 Phil. 70, 78.

[8] *Toquib vs. Tomol, Jr.*, A.C. No. 554, March 25, 1970, 32 SCRA 156.

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"The Court has held that in disbarment proceedings, the burden of proof rests upon the complainant and the charge against the lawyer must be established by convincing proof (*Go vs. Candoy*, A.C. No. 736, Oct. 23, 1967, 21 SCRA 439; *Toquib vs. Tomol, Jr.*, A.C. No. 554, March 25, 1970, 32 SCRA 156; *in re Atty. Felizardo M. de Guzman*, A.C. No. 838, Jan. 21, 1974, 55 SCRA 139). The record must disclose as free from doubt a cage which compels the exercise by this Court of its disciplinary powers. The corrupt character of the act done must be clearly demonstrated. Moreover, considering the serious consequences of the disbarment or suspension of a member of the Bar, We have consistently held that clearly preponderant evidence is necessary to justify the imposition of either penalty (*De Guzman vs. Tadeo*, 68 Phil. 554; *Lim vs. Antonio*, A.C. No. 848, Sept. 30, 1971, 41 SCRA 44). This Court likewise held that where there is no proof that respondent lawyer was guilty of any unethical conduct, harassment and malpractice, the disbarment case against him should be dismissed (*Ricafort vs. Baltazar*, A.C. No. 661, June 26, 1967, 20 SCRA 418; *Delos Santos vs. Bolaños*, A.C No. 483, July 21, 1967, 20 SCRA 763).[9]

The evidence adduced by the complainant has failed to establish any cause for disciplinary action against the respondent. As the Solicitor General said in his report, "From all indications, there is little room for doubt that she filed his disbarment case not in redress of a wrong, for there was no wrong committed. It was a voluntary act of indiscretion between two counting adults who were fully aware of the consequences of their deed and for which they were responsible only to their own private consciences."

WHEREFORE, the administrative complaint for disbarment is hereby DISMISSED.

SO ORDERED.

Barredo, Concepcion Jr., Guerrero, Abad Santos, De Castro, and *Melencio-Herrera, JJ.,* concur.

Aquino, J., in the result.

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[9] 58 SCRA 64. 67-68.

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Makasiar, J., dissents. Suspension for three months of respondent from the practice of law, is justified by the adulterous acts in the hotels as the complainant was and is not legally divorced from her husband.

Antonio, J., reserves his vote.

Fernando, C.J. and *Teehankee, J.*, took no part.

Santos, J., is on leave.

SECOND DIVISION

[G.R. No. L-33015. September 10, 1979]

GOP-CCP WORKERS UNION, GERONIMO TRINIDAD, ROMULO FERNANDEZ, JOSE MEDENILLA, BENJAMIN DEL ROSARIO, LEONILA DE LEON, PEDRO MARCELINO, ISABEL ENRIQUEZ, DIOSDADO MARZAN, FERNANDO SOTELO, JUANITO MECUA, ERNESTO PUNO, ROGELIO MEDEL, ANTONIO LIMPIN, JOSE DUSABAN, ADOLFO DIGNADICE, CRISANTO SEBASTIAN and PEDRO PUYABAN, *petitioners, vs.* **COURT OF INDUSTRIAL RELATIONS, GENERAL OFFSET PRESS, INC., and CONTAINER CORPORATION OF THE PHILIPPINES,** *respondents.*

[G.R. No. L-47776. September 10, 1979]

GENERAL OFFSET PRESS, INC. and CONTAINER CORPORATION WORKERS UNION-PTGWO, REMUS HONOFRE, ANASTACIO SANCHEZ, ANDRES TUATIS & Other Members Listed in Annex "B" of Manifestation dated January 27, 1968, namely: