



SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
FEB 22 2021
BY: YCA
TIME: 2:50 pm

Republic of the Philippines
Supreme Court
Manila

EN BANC

DIVINE GRACE P. CRISTOBAL,
Complainant,

A.C. No. 12702

Present:

PERALTA, *CJ.*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,*
INTING,*
ZALAMEDA,*
LOPEZ,
DELOS SANTOS,
GAERLAN,
ROSARIO, *JJ.*

-versus-

ATTY. JONATHAN A. CRISTOBAL, Promulgated:
Respondent.

November 10, 2020

X ----- X

DECISION

CARANDANG, J.:

This case involves a Complaint¹ for disbarment filed by Divine Grace P. Cristobal (Divine) against her husband, Atty. Jonathan A. Cristobal (Atty. Cristobal; collectively, the spouses). Divine accused Atty. Cristobal of violating Canon 7² of the Code of Professional Responsibility (CPR) and the lawyer's oath.

* On official leave.

¹ *Rollo*, Vol. 1, pp. 1-3.

² 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.

9

Version of the Complainant

Divine and Atty. Cristobal were married on May 1, 1999 and were blessed with four (4) children. They did not encounter any major marital problem during the early years of their married life. However, Atty. Cristobal's behavior changed when he became a lawyer in March 2003. He became abusive and irresponsible towards his family and subjected Divine to verbal, emotional, psychological, and physical abuse. Divine described six (6) particular instances of such abuse.³

On January 30, 2005, the spouses had a heated argument over money. In the presence of two (2) of their children, Atty. Cristobal's mother (Araceli), his brother (Jay), his sister (Joyce), and his cousins, Atty. Cristobal choked and pushed Divine, punched her at the back, and shouted "*mayabang ka, akala mo ikaw ang gumastos [sic] ng lahat!*" Divine reported the incident at the Ilagan Police Station and secured a Medical Certificate on the same day.⁴

Sometime in April 2006, Atty. Cristobal threw a Red Horse beer bottle at Divine because she protested Atty. Cristobal's payment of his family's utility bills. The argument started when Divine asked for money to buy food but was not given money by Atty. Cristobal because he paid for the said utility bills. It was then that Atty. Cristobal threatened that they separate and uttered, "you may get the car, the house, the children but you can never have me!"⁵

Sometime in April 2007, Divine requested Atty. Cristobal to purchase milk for their son. Atty. Cristobal retorted, "*eh di ikaw ang mag-utos, leche ka!*" He then pulled Divine's hair and punched her back, causing Divine to fall down the stairs. Atty. Cristobal shouted, "*umuwi na kayo! Ayaw ko na kayong makita! Lumayas ka dito! [sic]*" in the presence of their children.⁶ Since they were at Araceli's house at the time of the incident, Divine and her children returned to their rented place in Bagumbayan, Ilagan, Isabela. For one month, Atty. Cristobal did not go home to their rented house. Divine went back to Araceli's house with her children when she realized she was solely paying for the rent in addition to the family loan she took out in July 2004.⁷

On May 15, 2009, Divine confronted Atty. Cristobal about her suspicions that he was having an affair with one of his students in St. Ferdinand College. Atty. Cristobal responded, "*lumayas ka na ayaw na kita!*" He then pushed her, causing her to lose her balance and hit her forehead on their house's gate.⁸ Pictures of her injury were attached to the instant disbarment complaint.⁹

During a car ride on July 17, 2009, the spouses were with Joyce and three of their children when Atty. Cristobal ordered Divine to step out of the car. He pulled her hair, yelled, "*umuwi ka na sa nanay mo!*" "*ayaw na kitang*

³ *Rollo*, Vol. 1, pp. 1-2.

⁴ *Id.* at 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.* at 167.

⁸ *Id.*

⁹ *Id.* at 12.

makita!;” and “*papatayin kita!*” Atty. Cristobal then drew out his hand gun and threatened to shoot her.¹⁰

On December 11, 2009, Atty. Cristobal boxed Divine’s right eye. According to Divine, she simply followed Atty. Cristobal to his law office to chat but Atty. Cristobal was hostile and misinterpreted everything Divine said. It was because of this incident that Divine filed with the Office of the Provincial Prosecutor of Ilagan, Isabela a Complaint against Atty. Cristobal for violation of the Anti-Violence Against Women and Their Children Act of 2004 (AVAWC) on December 14, 2009. Pictures of her black (right) eye, the police blotter, and a medico-legal report were attached to the instant disbarment complaint.¹¹

Version of the Respondent

In his Answer¹² dated September 8, 2010, Atty. Cristobal denied having a peaceful relationship during the early stages of their marital life as they often quarrelled even before they got married. He described Divine as disrespectful to everyone – his relatives, their children, their children’s teachers, their household help, and Divine's officemates.¹³

Atty. Cristobal denied arguing about money because he gave his salary to Divine. His pay checks as the Clerk of Court of the Regional Trial Court of Santiago City, Branch 35 were given to Divine. When he resigned as a Clerk of Court and became the Dean of St. Ferdinand College, his salary from the school was deposited to his Metro Bank account – the bank where Divine worked. Divine had control of his earnings as Dean because she had possession of his ATM card.¹⁴

Atty. Cristobal vehemently denied physically and verbally abusing Divine and explained his version of the events between January 30, 2005 and December 11, 2009.¹⁵

On January 30, 2005, the spouses were occupying the third floor of Araceli’s house. Since it was a Sunday, he went down to Araceli’s place at the second floor to take a nap on the sofa located inside the living room. While he was sleeping, Divine suddenly woke him up by repeatedly kicking his legs and feet and angrily said, “*hoy gising!*” Annoyed, Atty. Cristobal responded, “*ang bastos mo naman. Hindi pa ginawa ng papa ko sa akin yan!*” Because of their elevated voices, Araceli, Jay, and Joyce went to them and asked what was going on. When Atty. Cristobal explained that Divine was kicking him to wake up, Araceli asked Divine why the latter needed to resort to such behavior. Divine then denied kicking him. Frustrated over Divine’s denial, he lost his composure and pushed Divine back up to the third floor. However, he

¹⁰ Id. at 3.
¹¹ Id. at 169.
¹² Id. at 24-36.
¹³ Id. at 24-25.
¹⁴ Id. at 26-28.
¹⁵ Id. at 26-36.

did not choke or punch her back.¹⁶ This was attested to by Araceli,¹⁷ Jay,¹⁸ and Joyce,¹⁹ in separate affidavits all dated September 6, 2010.

In April 2006, Atty. Cristobal manifested that he was new in private practice and was barely earning enough for the family. However, his earnings as Dean of St. Ferdinand College were at Divine's disposal for food and other expenses. Atty. Cristobal recalled that upon reaching the house after a tennis match with one of his clients, he asked Divine what their breakfast would be. Out of the blue, Divine shouted, "*magbigay ka ng pera mo! Akin na!*" When Atty. Cristobal said he had no money because he paid for his family's electricity bills, she got angry and threatened to leave the house if he didn't give her money. Divine then proceeded to pack her and their children's belongings and pointed at the number of household items she will get. Irked, Atty. Cristobal shouted, "you can have the car, you can have the house, you can have the children but you cannot have me!" However, Atty. Cristobal denied having thrown a beer bottle at Divine as he was not drinking at that time.²⁰

As for the April 2007 incident where the spouses allegedly fought over purchasing their child's milk, Atty. Cristobal denied physically hurting and shouting at Divine over such issue. He claimed that Divine's version of what happened is too vague and failed to specify the exact date of the said incident.²¹

Atty. Cristobal averred that it was impossible for them to argue last May 15, 2009 because he attended a court hearing in the morning and proceeded to the Office of the City Prosecutor in the afternoon. Any argument the spouses had over Atty. Cristobal's alleged affairs were fabricated by Divine because of her unjustified fits of jealousy. Atty. Cristobal claimed that Divine would be suspicious of almost anyone – his relatives, clients, students, officemates at the RTC, employees in the law firm, and even a guest at their child's baptism. Divine's pictures of her May 15, 2009 injury were alleged to be digitally altered and new.²²

Atty. Cristobal gave a lengthy account of what happened on July 17, 2009. On that day, Atty. Cristobal dropped Divine and their youngest child off at Isabela General Hospital and informed Divine that he cannot pick them up because of a testimonial luncheon for new lawyers hosted by the Integrated Bar of the Philippines (IBP) – Isabela Chapter. During the luncheon, Divine would berate Atty. Cristobal *via* text messages and insisted that he pick them up from the hospital. He was forced to leave the luncheon to fetch them and bring them back home.²³ However, Divine ordered him to bring them back to the hospital at 4:00 p.m. Anticipating that he would have imbibed a few alcoholic drinks by then, he suggested that any of their two part-time drivers

¹⁶ Id. at 27.

¹⁷ Id. at 39-40.

¹⁸ Id. at 44.

¹⁹ Id. at 40-43.

²⁰ Id. at 28-29.

²¹ Id. at 30.

²² Id. at 30-31.

²³ Id. at 32.

(Franklin or Rolly) bring her and their son to the hospital. Still, Divine insisted that Atty. Cristobal accompany them. Upon returning home at 5:00 p.m., Atty. Cristobal acceded to Divine's demands to bring them back to the hospital despite his earlier advice. It was during this second trip to the hospital that Joyce and three of their children rode the car with the spouses. On the ride to the hospital, Divine was picking fights with Atty. Cristobal and was nagging him about his drinking during the luncheon. At wits' end, Atty. Cristobal stopped the car, took his things, told Divine to drive the car herself, and rode a tricycle to his uncle's house to cool down. Contrary to Divine's allegations, he could not have pulled her hair while they were in the car because Divine was seated in between Joyce and the spouses' daughter at the back seat. He also denied carrying a gun in the car, as attested by Franklin and Rolly.²⁴

Atty. Cristobal gave a different version of what transpired on December 11, 2009. On that fateful day, Atty. Cristobal attended seven hearings. Afterwards, he reported for work at St. Ferdinand College until 7:30 p.m. Before heading home for the evening, he passed by his cousin's store where he ate dinner with his daughter.²⁵ Around 9:00 p.m., he instructed his daughter to return to his law office (located at the third floor of Araceli's residential building) where he and his daughter slept. As he was beginning to feel pain in his right eye, he went to Mercury Drugstore with his cousin's husband to purchase eye drops. Upon entering the gate of their house, Divine was already waiting for him (*nag-aabang*) at the ground floor. She then followed him to the third floor. Atty. Cristobal proceeded to take his glaucoma maintenance medicine and prepare for bed. When he lied down on the bed, Divine sat beside him and asked about his whereabouts on previous days.²⁶ She told him that she saw a piece of scratch paper with scribbles of Atty. Cristobal's paramour in the pocket of Atty. Cristobal's pants. Divine then reached into Atty. Cristobal's shorts, grabbed his crotch, pulled his penis, and said, "*pinalabas na ba nila ito ha? Pinalabas na ba nila?*" Appalled by Divine's behavior, Atty. Cristobal brushed her hand away. Still, Divine placed her right hand on top of Atty. Cristobal's shorts, shook his crotch, and asked the same question. He requested her to stop nagging him. Divine then told one of their sons to bring up their crying child. In the presence of all their children, Divine would accuse Atty. Cristobal of having an affair. Divine also berated him about her labor case with her former employer.²⁷ Unsatisfied, Divine proceeded to slap Atty. Cristobal and punch his chest. She then put down their youngest child (who she was previously carrying), took Atty. Cristobal's belt and hit him with it. She also scratched Atty. Cristobal's face. Feeling his blood pressure rising, he closed his eyes, shielded his face, and defended himself by extending his arms to parry Divine's blows. When Divine stopped hitting him, he opened his eyes and saw Divine standing by the wall with an injury on her eye. Atty. Cristobal said, "*ayan kasi eh, sinabi ko ng tama na, nasaktan ka tuloy,*" Divine vindictively uttered, "*wala na talagang mangyayari sa atin. Kaya hintayin mo ang bawi ko, tingnan mo magmakaawa ka din sa akin! Aalis na ako!*" Atty. Cristobal did not bother going to the hospital for his bruises as

²⁴ Id. at 33-34.

²⁵ Id. at 61-62.

²⁶ Id. at 63-64.

²⁷ Id. at 65-67.



they were only minor injuries and were the result of a normal quarrel between spouses.²⁸

Atty. Cristobal then questioned the credibility of Divine's pictures evidencing Divine's black eye from the December 11, 2009 incident. He pointed out that these pictures were never presented in the criminal case filed against him, thus, alleging that these pictures were new and the injury shown in the pictures were digitally produced.²⁹

Ruling of the Integrated Bar of the Philippines

In his Report and Recommendation³⁰ dated January 12, 2016, Investigating Commissioner Mario V. Andres (Commissioner Andres) recommended the dismissal of the administrative complaint for lack of merit.³¹

Commissioner Andres agreed with Atty. Cristobal and held that domestic squabbles cannot be a ground for disciplinary action when such squabbles are not scandalous in nature and would not affect the integrity or perception of the legal profession. The evidence presented by Divine failed to prove that Atty. Cristobal's actions merit the penalty of disbarment. Commissioner Andres noted that Divine's allegations are self-serving and ill motivated. Commissioner Andres ruled that Atty. Cristobal cannot be administratively sanctioned for the December 11, 2009 incident in the absence of a conviction in the criminal case filed by Divine against Atty. Cristobal.³²

In Resolution No. XXI-2014-790³³ dated October 11, 2014, the IBP – Board of Governors (IBP-BOG) reversed the Report and Recommendation. The IBP-BOG recommended Atty. Cristobal's disbarment and his name stricken off the Roll of Attorneys. Pursuant to the IBP-BOG's Resolution, an Extended Resolution³⁴ dated January 12, 2016 was then submitted by Director Ramon S. Esguerra (Director Esguerra) on behalf of the IBP-BOG.³⁵

Citing *In Re: Query of Atty. Silverio-Buffe*,³⁶ Director Esguerra explained that a lawyer may still be held administratively liable despite the absence of any criminal intent. Atty. Cristobal's acts of physical violence were found to be prohibited, immoral, and scandalous behavior, thus, violating Canons 1 and 7 of the CPR. Director Esguerra noted Atty. Cristobal's admission that there were verbal altercations between the spouses, which led to physical violence. However, Director Esguerra did not believe that the injuries inflicted on Divine by Atty. Cristobal were accidental because Atty. Cristobal's version of the events were contrary to human experience. Atty. Cristobal cannot utilize

²⁸ Id. at 68.

²⁹ Id. at 26.

³⁰ Id. at 3-8.

³¹ Id. at 6.

³² Id. at 7-8.

³³ Id. at 1.

³⁴ Id. at 9-17. In the said Extended Resolution, Director Ramon S. Esguerra explained that such was belatedly submitted because previous Directors were not able to submit any such Resolution.

³⁵ Id.

³⁶ 613 Phil. 1 (2009).

domestic squabbles as an excuse for his conduct because violence and abuse are norms eschewed by society – much more by the legal profession.³⁷

With Atty. Cristobal's failure to refute and disprove Divine's allegations, coupled with a pending criminal case filed against him, the IBP-BOG found him guilty of violating Canons 1 and 7 of the CPR and recommended Atty. Cristobal's disbarment.³⁸

Atty. Cristobal filed a Motion for Reconsideration³⁹ dated February 18, 2016. He claimed that the IBP-BOG grossly misappreciated the facts and questioned the probative value of Divine's police blotter, medical certificate, and pictures. Atty. Cristobal manifested the dismissal of the criminal case filed by Divine against him *via* an Order dated October 5, 2015, concluding that the allegations made against him were specious and unsubstantiated.⁴⁰ On the slight physical injury caused by Atty. Cristobal on December 11, 2009,⁴¹ Atty. Cristobal averred that disbarment is too harsh a penalty to be imposed on him for such act, especially since he has full custody of three of their children and shoulders all their expenses.⁴² Also, Atty. Cristobal has not been remiss in sending his financial support to Divine for the monthly expenses of his youngest child, in accordance with the Compromise Agreement⁴³ dated September 19, 2014 executed by the spouses in connection with the criminal case filed by Divine against him.⁴⁴

Atty. Cristobal disclosed subsequent text messages sent to him by Divine from October 14, 2014 to August 14, 2015 manifesting Divine's love for him and her desire to reunite their family.⁴⁵

In her Comment/Opposition to the Motion for Reconsideration,⁴⁶ Divine asserted that her desistance to the criminal case does not merit the dismissal of the administrative case – the latter being *sui generis* and requiring only preponderant evidence. Thus, she prayed that Atty. Cristobal's motion for reconsideration be denied.⁴⁷

In Resolution No. XXII-2017-1174⁴⁸ dated June 17, 2017, the IBP-BOG denied Atty. Cristobal's motion for reconsideration. This prompted Atty. Cristobal to file another Motion for Reconsideration⁴⁹ dated November 18, 2017. Atty. Cristobal raised the same issues as those in his first motion for reconsideration.⁵⁰

³⁷ *Rollo*, Vol. II, pp. 14-17.

³⁸ *Id.* at 17.

³⁹ *Id.* at 18-35.

⁴⁰ *Id.* at 28.

⁴¹ Inadvertently cited by Atty. Cristobal as December 9, 2009.

⁴² *Rollo*, Vol. II, pp. 29-30.

⁴³ *Id.* at 36-38.

⁴⁴ *Id.*

⁴⁵ *Id.* at 32-34.

⁴⁶ *Id.* at 45-48.

⁴⁷ *Id.* at 45-47.

⁴⁸ *Rollo*, Vol. III, p.1.

⁴⁹ *Id.* at 2-21.

⁵⁰ *Id.*

Ruling of the Court

Time and again, this Court has emphasized the need to regulate the legal profession with the goal of raising the standards of the legal profession, improving the administration of justice, and efficiently discharging one's public responsibility as an officer of the courts.⁵¹ This Court's power to purge the legal profession of people who do not exemplify the traits of honesty, integrity, and good moral character is necessary to promote the public's faith in the legal profession.⁵² Otherwise, the integrity of the judicial system is suspect since lawyers are the bridge between the lay and the courts. "He[/she] is the first one, either as a government lawyer or as a private practitioner, to sit in judgment on every case, and whether the court will be called upon to act depends upon his[/her] decision."⁵³

Citing U.S. jurisprudence,⁵⁴ this Court in *In Re: Cunanan*⁵⁵ succinctly explained:

The relation of the bar to the courts is a peculiar and intimate relationship. The bar is an attaché of the courts. The quality of justice dispensed by the courts depends in no small degree upon the integrity of the bar. An unfaithful bar may easily bring scandal and reproach to the administration of justice and bring the courts themselves to disrepute.⁵⁶

Therefore, a lawyer's duty to comport one's self in a professional and respectful manner is not only confined to professional engagements but extends to one's personal life. This principle is also embodied in Rule 7.03 of the CPR where "[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." Corollary to this standard of conduct is the proscription against engaging in unlawful, dishonest, immoral, or deceitful conduct under Rule 1.01 of the CPR.

Aside from Rules 1.01 and 7.03 and Canon 7 of the CPR, Section 27, Rule 138 of the Rules of Court lists deceit, malpractice, other gross misconduct in the office, grossly immoral conduct, or a violation of the lawyer's oath as grounds for suspension or disbarment. Item no. 29 of the Canons of Professional Ethics directs the reporting of corrupt and dishonest conduct and instructs lawyers to guard against morally deficient candidates. It cannot be gainsaid that the burden imposed on lawyers is in keeping with the Court's objective of obviating the Bar of odious members who tarnish the reputation of and reduce the confidence reposed on the legal profession and the judicial system to which they belong.

⁵¹ See *In Re: Integration of the Bar of the Philippines*, 151 Phil. 132, 134 (1973).

⁵² *Jimenez v. Atty. Francisco*, 749 Phil. 551, 566 (2014).

⁵³ Agpalo (2009), *Legal and Judicial Ethics*, 8th ed., p. 4, citing *Ruckenbrod v. Mullins*, 133 2d. 325, 144 ALR 839 (1943).

⁵⁴ *State v. Canon*, 240 NW 441 (1932).

⁵⁵ 94 Phil. 534 (1954).

⁵⁶ *Id.* at 546.

In the 1923 case of *In Re: Pelaez*,⁵⁷ Justice Malcolm – likewise a noted authority in legal ethics – pointed out the following principle:

[A]s a general rule, a court will not assume jurisdiction to discipline one of its officers for misconduct alleged to have been committed in his private capacity. But this is a general rule with many exceptions. The courts sometimes stress the point that the attorney has shown, through misconduct outside of his professional dealings, a want of such professional honesty as render him unworthy of public confidence, and an unfit and unsafe person to manage the legal business of others.

Despite the significant changes⁵⁸ made in the realm of legal ethics to adapt to the changing times and countless jurisprudence applying its legal principles, this Court will not waver in rebuking deplorable conduct. Lawyers are always mandated to maintain the noble ideas and strictest standards of morality to remain worthy of the office and the privileges which their license and the law confers upon them.⁵⁹

As against this legal philosophy, this Court is now tasked to determine – for the first time – whether domestic squabbles involving a lawyer and his/her spouse are proper subjects of a disbarment proceeding.

We rule, *pro hac vice*, in the positive. Atty. Cristobal's actions fall short of the exacting moral standard required of the noble profession of law.

Although acts amounting to gross immorality cannot be delineated, this Court has held that grossly immoral conduct is one that is “willful, flagrant, or shameless, and which shows a moral indifference to the opinion of the good and respectable members of the community.”⁶⁰ Determining whether one's actions is grossly immoral depends on the attendant circumstances and prevailing norms of conduct.⁶¹

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. While We correct Divine's allegation that a preponderance of evidence is needed in administrative cases, this Court nevertheless finds Atty. Cristobal guilty under Rule 1.01 for unlawful conduct based on substantial evidence – that which is more than a mere scintilla but is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

⁵⁷ 44 Phil. 567 (1923).

⁵⁸ From only having Sections 13-37, Chapter II of Act. No. 190 or an Act Providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands in 1901 to today's Rule 138-139 of the Rules of Court, Code of Professional Responsibility, and Code of Professional Ethics (adopted from the American Bar Association's Code of Professional Ethics in 1917).

⁵⁹ *Supra* note 57.

⁶⁰ *Obusan v. Obusan, Jr.* 213 Phil. 437 (1984).

⁶¹ *See Inocente v. St. Vincent Foundation For Children and Aging, Inc.*, 788 Phil. 62, 78 (2016).

Note that in *Reyes v. Atty. Nieva*,⁶² this Court finally wrote *finis* to the issue of determining the quantum of proof in administrative cases. After perusing through this Court's history of cases, We clarified in *Reyes* that "the evidentiary threshold of substantial evidence – as opposed to preponderance of evidence – is more in keeping with the primordial purpose of and essential consideration attending this type of cases." As against this jurisprudential dictum, We find Atty. Cristobal's acts wanting in the professional conduct expected of him.

Of the incidences reported by Divine against Atty. Cristobal, those that happened on January 30, 2005; May 15, 2009; and December 11, 2009 were accompanied by substantial 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 three instances are sufficient to merit disciplinary action.

Atty. Cristobal never denied hurting Divine on January 30, 2005. Although Atty. Cristobal denied choking and punching her, he admitted pushing her after he "[lost] his composure." The affidavits of his mother, brother, and sister prove that they witnessed Atty. Cristobal pushing Divine. Atty. Cristobal and his witnesses claimed that he merely did so because of Divine's provocation. Furthermore, Atty. Cristobal merely attacks the probative value of Divine's police blotter⁶³ and medical certificate,⁶⁴ stating that the blotter has no probative value and that the medical certificate is a sham for failure to indicate the name of the physician.

Entries in police records made by a police officer in the performance of the duty especially enjoined by law are *prima facie* evidence of the fact therein stated, and their probative value may be either substantiated or nullified by other competent evidence. Although police blotters are of little probative value, they are nevertheless admitted and considered in the absence of competent evidence to refute the facts stated therein."⁶⁵

We find that the January 30, 2005 incident, which was entered in the police blotter was substantiated by other competent evidence. The January 30, 2005 blotter was presented in evidence with a medical certificate. On the other hand, the affidavits presented by Atty. Cristobal failed to refute the fact that an altercation occurred on January 30, 2005 resulting in his physically hurting Divine out of anger.

On May 15, 2009, in an argument between the spouses about Atty. Cristobal's alleged affair, Atty. Cristobal again pushed Divine. This caused Divine to lose her balance and hit the gate of their house. Pictures of Divine's head injuries were attached to the complaint.

⁶² 796 Phil. 360 (2016).

⁶³ *Rollo*, Vol. 1, p. 10.

⁶⁴ *Id.* at 11.

⁶⁵ *Lao v. Standard Insurance Co., Inc.*, 456 Phil. 227, 234 (2003).

9

Atty. Cristobal's defense is a denial that a confrontation occurred on that day. He makes much ado about the absence of proof that he was with another woman or was seen in a scandalous situation with another woman. Instead, Atty. Cristobal claims that the incident was merely fabricated because of Divine's obsessive jealousy. While Divine's jealous behavior is outside the ambit of the instant administrative complaint, what is undisputed is Atty. Cristobal's violent reaction during their argument.

The December 11, 2009 incident, which became the cause for Divine's filing of a criminal case against Atty. Cristobal, also remained unrefuted. As against Divine's four (4) pictures showing her black eye, the police blotter,⁶⁶ and the Medico-Legal Report⁶⁷ (both dated December 15, 2009), Atty. Cristobal simply attached the Counter-Affidavit⁶⁸ he submitted in the criminal case. Again, the police blotter was given weight because the same was presented in evidence with a Complaint for violation of AVAWC, pictures of Divine's black (right) eye, and a medico-legal report. Moreover, Atty. Cristobal admitted that he hit Divine on December 11, 2009, although he claimed that it was merely in an act of self-defense.

Atty. Cristobal alleged in his Counter-Affidavit that although he attempted to brush aside Divine's aggressive behavior (*i.e.*, her tirades about his womanizing, her holding his penis and shouting "*pinalabas na ba nila ito ha? Pinalabas na ba nila?*" and her accusation that Atty. Cristobal caused her to resign from her previous job), he accidentally hit her when he closed his eyes and "move[d] his extended arms forward to parry the complainant's blows and to drive her away."⁶⁹ Upon opening his eyes, he "saw complainant standing [by] the wall with an injury marked [on] her eyes."⁷⁰ According to him, he did not bother to go to the hospital despite the wounds caused by Divine's aggression and did nothing further.

Atty. Cristobal's narration of the facts does not inspire belief. Similar to Director Esguerra's observation, Atty. Cristobal's defense is contrary to human experience. One's acts of parrying an offender's blows and driving the latter away is completely different from directly punching the alleged assailant straight to the face. For Divine to receive a black eye, Atty. Cristobal would have had made a boxing motion. It is incredulous that the first and only action he did immediately hit Divine in the eye. He already admitted that he was angry as he "felt his blood rising up" prior to allegedly closing his eyes. Thus, it is more believable that he deliberately boxed Divine. What's more, he admitted seeing Divine with an injury on her eye yet he did not even bother to attend to her wounds. To him, such fight was a normal quarrel between couples.

Let it be stressed that physical violence is never a normal occurrence when couples argue. Violence is violence. To justify the same is egregious and goes against the very essence of a civilized society.

⁶⁶ Rollo, p. 14.

⁶⁷ Id. at 15.

⁶⁸ Id. at 58-77.

⁶⁹ Id.

⁷⁰ Id.

Atty. Cristobal knew, or at least ought to know, that the injury Divine sustained made him liable for slight physical injuries. To trivialize what happened is appalling considering his standing as a lawyer – a person tasked to uphold the law.

Divine's execution of an Affidavit of Desistance⁷¹ in the criminal case – resulting in its dismissal – does not absolve Atty. Cristobal from any administrative liability. The Whereas Clause of the Compromise Agreement⁷² categorically stated that its execution was “without admitting liability to each other” and was more for “amicably settl[ing] the civil aspect of the [criminal] case.” Divine's desistance in the criminal case did not diminish the veracity of her accusations against Atty. Cristobal.

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.⁷³ 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 did not conduct himself in the manner required of him as a member of the Bar.

However, disbarment is too harsh a penalty given the attenuating circumstances in this case.

In *Alitagtag v. Atty. Garcia*,⁷⁴ this Court warned against the immediate disbarment of errant lawyers, to wit:

Indeed, the power to disbar must be exercised with great caution, and may be imposed only in a clear case of misconduct that seriously affects the standing and the character of the lawyer as an officer of the Court and as a member of the bar. Disbarment should never be decreed where any lesser penalty could accomplish the end desired. Without doubt, a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair.⁷⁵

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.

⁷¹ *Rollo*, Vol. II, p. 39.

⁷² *Id.* at 36-38.

⁷³ FAMILY CODE OF THE PHILIPPINES, Art. 68.

⁷⁴ 451 Phil. 420 (2003).

⁷⁵ *Id.* at 426.

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.

Atty. Cristobal's mother, Araceli, attested that Divine was always disrespectful to her and never held back in speaking ill of her. Divine would brand Araceli as a *pakialamera* (meddlesome) and even cursed her and wished her dead. Even the workers who did some construction work at Araceli's house heard Divine shout at Araceli, "*putang ina mo na matanda ka.*"

Atty. Cristobal's sister, Joyce, described Divine as someone who (1) would insist on berating Atty. Cristobal – even in the presence of Atty. Cristobal's notarial clients – rather than stepping away from an argument to cool off; (2) would bad mouth Atty. Cristobal and constantly yelled at him, "*letche ka!*;" (3) did not care about her child's wellbeing when she was angry with Atty. Cristobal; and (4) was proud that she once threatened Atty. Cristobal with a knife, which she hid under her pillow. Even Joyce and the spouses' household help were not spared from Divine's bad temper. Divine would shout at them and call them stupid. Divine once threw a tantrum by throwing pots and pans when Joyce did not immediately answer her calls to go to her (Divine). Joyce, along with Atty. Cristobal's cousin (Jerocelyn), and Jerocelyn's husband noted how Divine was physically violent with her children – particularly the spouses' third child.

Jerocelyn helped the spouses during the times that they did not have any household help. She recalled how Divine accused her of stealing Divine's jewelry. Divine punched her and threw a pillow at her in an attempt to make Jerocelyn confess to the crime.

Ronald Pascual, one of the construction workers assigned to Araceli's house, revealed that Divine loved to curse and humiliate them. He also recalled how Divine once destroyed plates in a fit of anger over a punchbowl.

Antonio Apostol, another cousin of Atty. Cristobal, recounted how, on December 23, 2008, he and three of the spouses' children were happily preparing *buko* salad when he heard the spouses arguing. He then saw Divine pick up an empty, opened tin can and hurl the same at Atty. Cristobal. Divine then grabbed a knife and was about to throw it at Atty. Cristobal but retracted when her son shouted, "*huwag!*"

In an Incident Report⁷⁶ dated September 23, 2010, Jocelyn M. Claravall (Jocelyn), St. Ferdinand College's elementary principal, narrated how Divine punched the face of her son's Grade 1 adviser (Leticia) during a closed door meeting between Divine, Leticia, and Jocelyn. Divine tried to punch Leticia a second time but was successfully stopped by Jocelyn. The Incident Report also disclosed how Divine called Leticia *gaga* (crazy) in front of grade 1 students just because Leticia texted Divine the day before requesting Divine

⁷⁶ Rollo, pp. 197-198.



to bring her son to Atty. Cristobal's house (as the spouses already lived separately at that time).

Also, a meticulous scrutiny of the evidence presented by both parties shows that most of the incidences complained of were caused by Divine's provocation. *First*, Atty. Cristobal pushed Divine to go up to their house on the third floor because Divine denied kicking Atty. Cristobal while the latter was peacefully sleeping on Araceli's sofa. *Second*, the spouses' altercation in April 2006 was because of Divine's sudden demand for Atty. Cristobal to give her money. Her displeasure over: (1) Atty. Cristobal's payment of Araceli's utility bills; and (2) his failure to give her more money prompted her to pack her belongings and point to several items in their house that she will be getting – all while shouting at Atty. Cristobal. *Third*, the spouses' heated argument on May 15, 2009 was caused by Divine's fits of jealousy. *Fourth*, what happened on July 17, 2009 stemmed from Divine's persistent demand that Atty. Cristobal be the one to bring Divine and their son to and fro the hospital twice despite: (1) knowing that Atty. Cristobal had a prior engagement; (2) being offered to be driven by Franklin or Rolly; and (3) being offered by Joyce to accompany her. Her incessant nagging and bad-mouthing of Atty. Cristobal in the presence of their children and Joyce led Atty. Cristobal to leave the car and ride a tricycle to his uncle's house to cool off. *Fifth*, the events that transpired on December 11, 2009 began when Divine impudently confronted Atty. Cristobal about his suspected affair. Notwithstanding Atty. Cristobal's pleas to rest after an exhausting week, Divine continued to harass Atty. Cristobal – even going so far as to pull his penis, punch his chest, slap him, hit him with his belt, and scratch his face. One of Atty. Cristobal's part-time drivers, Rolly, recalled how he met with Atty. Cristobal the following day and saw the latter's bruises and scratches on his hands. In spite of Atty. Cristobal's detailed account of the aforementioned instances, Divine never refuted Atty. Cristobal's allegations.

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 circumstance, this Court finds a suspension of three (3) months appropriate.

We emphasize that Our act of reducing the administrative penalty due to Divine's disrespect towards Atty. Cristobal is in no way a condonation or justification for Atty. Cristobal's acts of violence toward Divine. The consideration of these circumstances is only for the purpose of reducing the penalty imposed on Atty. Cristobal from disbarment to suspension.



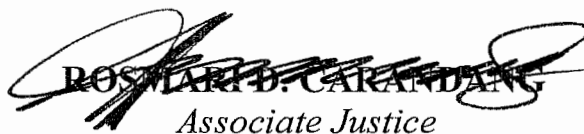
WHEREFORE, premises considered, respondent Atty. Jonathan A. Cristobal is found **GUILTY** of violating Rules 1.01 and 7.03 of the Code of Professional Responsibility, and is hereby **SUSPENDED** for a period of three (3) months from the practice of law, with a **WARNING** that a repetition of the same or similar offense will warrant a more severe penalty.

Let copies of this Decision be furnished all courts, the Office of the Bar Confidant and the Integrated Bar of the Philippines for their information and guidance. The Office of the Bar Confidant is **DIRECTED** to append a copy of this Decision to respondent's record as a member of the Bar.

Respondent Atty. Jonathan A. Cristobal is **DIRECTED** to inform the Court of the date of his receipt of this Decision, so that the Court could determine the reckoning point when his suspension shall take effect.

This Decision is immediately executory.

SO ORDERED.


ROSALINDA B. CARANDANG
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice

I concur with the findings but dissent as to the penalty. see separate opinion

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC MARIO VICTOR T. LEONEN
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ALEXANDER G. GESMUNDO
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

(on official leave)
AMY C. LAZARO-JAVIER
Associate Justice

(on official leave)
HENRI JEAN PAUL B. INTING
Associate Justice

(on official leave)
RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

EDGARDO L. DELOS SANTOS
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO ROSARIO
Associate Justice

CERTIFIED TRUE COPY

EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court