



Republic of the Philippines
Supreme Court
Manila

EN BANC

EDUARDO A. ABELLA,
Complainant,

Adm. Case No. 7332

Present:

- versus -

RICARDO G. BARRIOS, JR.,
Respondent.

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, JJ.

Promulgated:

JUNE 18, 2013

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DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is an administrative complaint¹ for disbarment filed by Eduardo A. Abella (complainant) against Ricardo G. Barrios, Jr. (respondent) based on the latter's violation of Rules 1.01 and 1.03, Canon 1, and Rule 6.02, Canon 6 of the Code of Professional Responsibility (Code).

¹ Rollo, pp. 1-11.

The Facts

On January 21, 1999, complainant filed an illegal dismissal case against Philippine Telegraph and Telephone Corporation (PT&T) before the Cebu City Regional Arbitration Branch (RAB) of the National Labor Relations Commission (NLRC), docketed as RAB-VII-01-0128-99. Finding merit in the complaint, Labor Arbiter (LA) Ernesto F. Carreon, through a Decision dated May 13, 1999,² ordered PT&T to pay complainant ₱113,100.00 as separation pay and ₱73,608.00 as backwages. Dissatisfied, PT&T appealed the LA's Decision to the NLRC.

In a Decision dated September 12, 2001,³ the NLRC set aside LA Carreon's ruling and instead ordered PT&T to reinstate complainant to his former position and pay him backwages, as well as 13th month pay and service incentive leave pay, including moral damages and attorney's fees. On reconsideration, it modified the amounts of the aforesaid monetary awards but still maintained that complainant was illegally dismissed.⁴ Consequently, PT&T filed a petition for *certiorari* before the Court of Appeals (CA).

In a Decision dated September 18, 2003 (CA Decision),⁵ the CA affirmed the NLRC's ruling with modification, ordering PT&T to pay complainant separation pay in lieu of reinstatement. Complainant moved for partial reconsideration, claiming that all his years of service were not taken into account in the computation of his separation pay and backwages. The CA granted the motion and thus, remanded the case to the LA for the same purpose.⁶ On July 19, 2004, the CA Decision became final and executory.⁷

Complainant alleged that he filed a Motion for Issuance of a Writ of Execution before the Cebu City RAB on October 25, 2004. At this point, the case had already been assigned to the new LA, herein respondent. After the lapse of five (5) months, complainant's motion remained unacted, prompting him to file a Second Motion for Execution on March 3, 2005. Eight (8) months thereafter, still, there was no action on complainant's motion. Thus, on November 4, 2005, complainant proceeded to respondent's office to personally follow-up the matter. In the process, complainant and respondent exchanged notes on how much the former's monetary awards should be; however, their computations differed. To complainant's surprise, respondent told him that the matter could be "easily fixed" and thereafter, asked "how

² Id. at 12-17.

³ Id. at 19-25. Penned by Presiding Commissioner Irene E. Ceniza, with Commissioner Edgardo M. Enerlan, concurring.

⁴ Id. at 27-30. See Resolution dated October 8, 2002, penned by Presiding Commissioner Irene E. Ceniza, with Commissioners Edgardo M. Enerlan and Oscar S. Uy, concurring.

⁵ Id. at 33-45. Penned by Associate Justice Eugenio S. Labitoria, with Associate Justices Mercedes Gozo-Dadole and Rosmari D. Carandang, concurring.

⁶ Id. at 52-53. See Resolution dated June 22, 2004.

⁷ Id. at 54.

much is mine?" Despite his shock, complainant offered the amount of ₱20,000.00, but respondent replied: *"make it ₱30,000.00."* By force of circumstance, complainant acceded on the condition that respondent would have to wait until he had already collected from PT&T. Before complainant could leave, respondent asked him for some cash, compelling him to give the latter ₱1,500.00.⁸

On November 7, 2005, respondent issued a writ of execution,⁹ directing the sheriff to proceed to the premises of PT&T and collect the amount of ₱1,470,082.60, inclusive of execution and deposit fees. PT&T moved to quash¹⁰ the said writ which was, however, denied through an Order dated November 22, 2005.¹¹ Unfazed, PT&T filed a Supplemental Motion to Quash dated December 2, 2005,¹² the contents of which were virtually identical to the one respondent earlier denied. During the hearing of the said supplemental motion on December 9, 2005, respondent rendered an Order¹³ in open court, recalling the first writ of execution he issued on November 7, 2005. He confirmed the December 9, 2005 Order through a Certification dated December 14, 2005¹⁴ and eventually, issued a new writ of execution¹⁵ wherein complainant's monetary awards were reduced from ₱1,470,082.60 to ₱114,585.00, inclusive of execution and deposit fees.

Aggrieved, complainant filed on December 16, 2005 a Petition for Injunction before the NLRC. In a Resolution dated March 14, 2006,¹⁶ the NLRC annulled respondent's December 9, 2005 Order, stating that respondent had no authority to modify the CA Decision which was already final and executory.¹⁷

Aside from instituting a criminal case before the Office of the Ombudsman,¹⁸ complainant filed the instant disbarment complaint¹⁹ before the Integrated Bar of the Philippines (IBP), averring that respondent violated the Code of Professional Responsibility for (a) soliciting money from complainant in exchange for a favorable resolution; and (b) issuing a wrong decision to give benefit and advantage to PT&T.

⁸ Id. at 304-305, 352.

⁹ Id. at 55-59.

¹⁰ Id. at 64-66.

¹¹ Id. at 67-68.

¹² Id. at 69-71.

¹³ Id. at 72-76.

¹⁴ Id. at 77-78.

¹⁵ Id. at 79-81.

¹⁶ Id. at 83-93.

¹⁷ Id. at 91-92, 353.

¹⁸ Id. at 353. Complainant filed a criminal complaint against respondent before the Office of the Ombudsman, which issued an order of preventive suspension and thereafter indicted him for violation of Section 3(c) of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act."

¹⁹ Id. at 1-11.

In his Comment,²⁰ respondent denied the abovementioned accusations, maintaining that he merely implemented the CA Decision which did not provide for the payment of backwages. He also claimed that he never demanded a single centavo from complainant as it was in fact the latter who offered him the amount of ₱50,000.00.

The Recommendation and Action of the IBP

In the Report and Recommendation dated May 30, 2008,²¹ IBP Investigating Commissioner Rico A. Limpingo (Commissioner Limpingo) found that respondent tried to twist the meaning of the CA Decision out of all logical, reasonable and grammatical context in order to favor PT&T.²² He further observed that the confluence of events in this case shows that respondent deliberately left complainant's efforts to execute the CA Decision unacted upon until the latter agreed to give him a portion of the monetary award thereof. Notwithstanding their agreement, immoral and illegal as it was, respondent later went as far as turning the proceedings into some bidding war which eventually resulted into a resolution in favor of PT&T. In this regard, respondent was found to be guilty of gross immorality and therefore, Commissioner Limpingo recommended that he be disbarred.²³

On July 17, 2008, the IBP Board of Governors passed Resolution No. XVIII-2008-345 (IBP Resolution),²⁴ adopting and approving Commissioner Limpingo's recommendation, to wit:

*RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for Respondent's violation of the provisions of the Code of Professional Responsibility, the Anti-Graft and Corrupt Practices Act and the Code of Ethical Standards for Public Officials and Employees, Atty. Ricardo G. Barrios, Jr. is hereby **DISBARRED**.*²⁵

Issue

The sole issue in this case is whether respondent is guilty of gross immorality for his violation of Rules 1.01 and 1.03, Canon 1, and Rule 6.02, Canon 6 of the Code.

²⁰ Id. at 101-115.

²¹ Id. at 420-429.

²² Id. at 428.

²³ Id. at 428-429.

²⁴ Id. at 419.

²⁵ Id.

The Court's Ruling

The Court concurs with the findings and recommendation of Commissioner Limpingo as adopted by the IBP Board of Governors.

The pertinent provisions of the Code provide:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

X X X X

Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

CANON 6 - THESE CANONS SHALL APPLY TO LAWYERS IN GOVERNMENT SERVICE IN THE DISCHARGE OF THEIR OFFICIAL TASKS.

X X X X

Rule 6.02 - A lawyer in the government service shall not use his public position to promote or advance his private interests, nor allow the latter to interfere with his public duties.

The above-cited rules, which are contained under Chapter 1 of the Code, delineate the lawyer's responsibility to society: Rule 1.01 engraves the overriding prohibition against lawyers from engaging in any unlawful, dishonest, immoral and deceitful conduct; Rule 1.03 proscribes lawyers from encouraging any suit or proceeding or delaying any man's cause for any corrupt motive or interest; meanwhile, Rule 6.02 is particularly directed to lawyers in government service, enjoining them from using one's public position to: (1) promote private interests; (2) advance private interests; or (3) allow private interests to interfere with public duties.²⁶ It is well to note that a lawyer who holds a government office may be disciplined as a member of the Bar only when his misconduct also constitutes a violation of his oath as a lawyer.²⁷

In this light, a lawyer's compliance with and observance of the above-mentioned rules should be taken into consideration in determining his moral fitness to continue in the practice of law.

To note, "the possession of good moral character is both a condition precedent and a continuing requirement to warrant admission to the Bar and

²⁶ *Olazo v. Tinga*, A.M. No. 10-5-7-SC, December 7, 2010, 637 SCRA 1, 10.

²⁷ *Id.* at 8, citing *Vitriolo v. Dasig*, A.C. No. 4984, 448 Phil. 199, 2007 (2003).

to retain membership in the legal profession.”²⁸ This proceeds from the lawyer’s duty to observe the highest degree of morality in order to safeguard the Bar’s integrity.²⁹ Consequently, any errant behavior on the part of a lawyer, be it in the lawyer’s public or private activities, which tends to show deficiency in moral character, honesty, probity or good demeanor, is sufficient to warrant suspension or disbarment.³⁰

In this case, records show that respondent was merely tasked to recompute the monetary awards due to the complainant who sought to execute the CA Decision which had already been final and executory. When complainant moved for execution – twice at that – respondent slept on the same for more than a year. It was only when complainant paid respondent a personal visit on November 4, 2005 that the latter speedily issued a writ of execution three (3) days after, or on November 7, 2005. Based on these incidents, the Court observes that the sudden dispatch in respondent’s action soon after the aforesaid visit casts serious doubt on the legitimacy of his denial, *i.e.*, that he did not extort money from the complainant.

The incredulity of respondent’s claims is further bolstered by his complete turnaround on the quashal of the November 7, 2005 writ of execution.

To elucidate, records disclose that respondent denied PT&T’s initial motion to quash through an Order dated November 22, 2005 but later reversed such order in open court on the basis of PT&T’s supplemental motion to quash which was a mere rehash of the first motion that was earlier denied. As a result, respondent recalled his earlier orders and issued a new writ of execution, reducing complainant’s monetary awards from ₱1,470,082.60 to ₱114,585.00, inclusive of execution and deposit fees.

To justify the same, respondent contends that he was merely implementing the CA Decision which did not provide for the payment of backwages. A plain and cursory reading, however, of the said decision belies the truthfulness of the foregoing assertion. On point, the dispositive portion of the CA Decision reads:

WHEREFORE, the petition is **PARTIALLY GRANTED**. The decision of public respondent National Labor Relations Commission dated September 12, 2001 and October 8, 2002 are **AFFIRMED** with the **MODIFICATION**, ordering petitioner PT&T to pay private respondent Eduardo A. Abella separation pay (as computed by the Labor Arbiter) in lieu of reinstatement.³¹

²⁸ *Ventura v. Samson*, A.C. No. 9608, November 27, 2012, 686 SCRA 430, 440, citing *Zaguirre v. Castillo*, 446 Phil. 861, 870 (2003).

²⁹ *Advincula v. Macabata*, A.C. No. 7204, March 7, 2007, 517 SCRA 600, 609.

³⁰ *Id.*, citing *Rural Bank of Silay, Inc. v. Pilla*, 403 Phil. 1, 9 (2001).

³¹ *Rollo*, p. 45.

Noticeably, the CA affirmed with modification the NLRC's rulings dated September 12, 2001 and October 8, 2002 which **both explicitly awarded backwages and other unpaid monetary benefits** to complainant.³² The only modification was with respect to the order of reinstatement as pronounced in both NLRC's rulings which was changed by the CA to separation pay in view of the strained relations between the parties as well as the supervening removal of complainant's previous position.³³ In other words, the portion of the NLRC's rulings which awarded backwages and other monetary benefits subsisted and the modification pertained only to the CA's award of separation pay in lieu of the NLRC's previous order of reinstatement. This conclusion, palpable as it is, can be easily deduced from the records.

Lamentably, respondent tried to distort the findings of the CA by quoting portions of its decision, propounding that the CA's award of separation pay denied complainant's entitlement to any backwages and other consequential benefits altogether. In his Verified Motion for Reconsideration of the IBP Resolution,³⁴ respondent stated:

From the above quoted final conclusions, the Court is very clear and categorical in directing PT&T to pay complainant his separation pay **ONLY** in lieu of reinstatement. Clearly, the Court did not direct the PT&T to pay him his backwages, and other consequential benefits that were directed by the NLRC because he could no longer be reinstated to his previous position on the ground of strained relationship and his previous position had already gone, and no equivalent position that the PT&T could offer. x x x .

Fundamental in the realm of labor law is the rule that backwages are separate and distinct from separation pay in lieu of reinstatement and are awarded conjunctively to an employee who has been illegally dismissed.³⁵ There is nothing in the records that could confound the finding that complainant was illegally dismissed as LA Carreon, the NLRC, and the CA were all unanimous in decreeing the same. Being a labor arbiter, it is hardly believable that respondent could overlook the fact that complainant was entitled to backwages in view of the standing pronouncement of illegal dismissal. In this regard, respondent's defense deserves scant consideration.

Therefore, absent any cogent basis to rule otherwise, the Court gives credence and upholds Commissioner Limpingco's and the IBP Board of

³² Id. at 24 and 29.

³³ Id. at 44-45.

³⁴ Id. at 368.

³⁵ "[A]n illegally or constructively dismissed employee is entitled to: (1) either reinstatement, if viable, or separation pay, if reinstatement is no longer viable; and (2) backwages. **These two reliefs are separate and distinct from each other and are awarded conjunctively.**" *Robinsons Galleria/Robinsons Supermarket Corporation v. Sanchez*, G.R. No. 177937, January 19, 2011, 640 SCRA 135, 144, citing *Siemens v. Domingo*, G.R. No. 150488, July 28, 2008, 560 SCRA 86, 100. (Emphasis supplied)

Governor's pronouncement of respondent's gross immorality. Likewise, the Court observes that his infractions constitute gross misconduct.

Jurisprudence illumines that immoral conduct involves acts that are willful, flagrant, or shameless, and that show a moral indifference to the opinion of the upright and respectable members of the community.³⁶ It treads the line of grossness when it is so corrupt as to constitute a criminal act, or so unprincipled as to be reprehensible to a high degree, or when committed under such scandalous or revolting circumstances as to shock the community's sense of decency.³⁷ On the other hand, gross misconduct constitutes "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not mere error of judgment."³⁸

In this relation, Section 27, Rule 138 of the Rules of Court states that when a lawyer is found guilty of gross immoral conduct or gross misconduct, he may be suspended or disbarred:

SEC. 27. *Attorneys removed or suspended by Supreme Court on what grounds.* — **A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for** any deceit, malpractice, or other **gross misconduct** in such office, **grossly immoral conduct**, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willfull disobedience of any lawful order of a superior court, or for corruptly or willful appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphasis and underscoring supplied)

Thus, as respondent's violations clearly constitute gross immoral conduct and gross misconduct, his disbarment should come as a matter of course. However, the Court takes judicial notice of the fact that he had already been disbarred in a previous administrative case, entitled *Sps. Rafols, Jr. v. Ricardo G. Barrios, Jr.*,³⁹ which therefore precludes the Court from duplicitously decreeing the same. In view of the foregoing, the Court deems it proper to, instead, impose a fine in the amount of ₱40,000.00⁴⁰ in order to

³⁶ *Cojuangco, Jr. v. Palma*, 481 Phil. 646, 656 (2004).

³⁷ *Garrido v. Garrido*, A.C. No. 6593, February 4, 2010, 611 SCRA 508, 518, citing *St. Louis University Laboratory High School (SLU-LHS) and Faculty and Staff v. Dela Cruz*, 531 Phil. 213, 224 (2006).

³⁸ *Sps. Whitson v. Atienza*, 457 Phil 11, 18 (2003).

³⁹ A.C. No. 4973, March 15, 2010, 615 SCRA 206.

⁴⁰ In *Lahm III v. Labor Arbiter Mayor, Jr.* (A.C. No. 7430, February 15, 2012, 666 SCRA 1, 17-18), the Court applied Rule 140 of the Rules of Court to a disciplinary case involving a labor arbiter. Under Section 8 in relation to Section 11 of the same rule, a fine of ₱40,000.00 may be imposed for the serious charges of bribery and immorality:

SEC. 8. *Serious charges.* - Serious charges include:

1. Bribery, direct or indirect;

x x x x

penalize respondent's transgressions as discussed herein and to equally deter the commission of the same or similar acts in the future.

As a final word, the Court staunchly reiterates the principle that the practice of law is a privilege⁴¹ accorded only to those who continue to meet its exacting qualifications. Verily, for all the prestige and opportunity which the profession brings lies the greater responsibility to uphold its integrity and honor. Towards this purpose, it is quintessential that its members continuously and unwaveringly exhibit, preserve and protect moral uprightness in their activities, both in their legal practice as well as in their personal lives. Truth be told, the Bar holds no place for the deceitful, immoral and corrupt.

WHEREFORE, respondent Ricardo G. Barrios, Jr. is hereby found **GUILTY** of gross immoral conduct and gross misconduct in violation of Rules 1.01 and 1.03, Canon 1, and Rule 6.02, Canon 6 of the Code of Professional Responsibility. Accordingly, he is ordered to pay a **FINE** of ₱40,000.00.

Let a copy of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all the courts.

SO ORDERED.

ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:

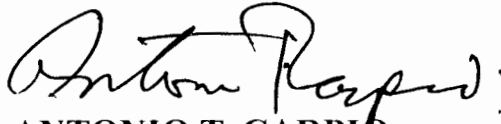
MARIA LOURDES P. A. SERENO
Chief Justice

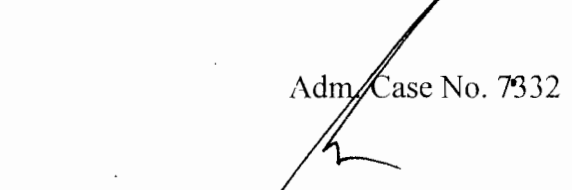
8. Immorality;
x x x x

SEC.11. *Sanctions*.- A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
x x x x

3. A **fine** of more than ₱20,000.00 but not exceeding **₱40,000.00**. (Emphasis and underscoring supplied)

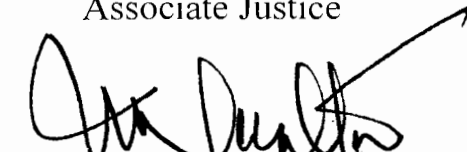
⁴¹ *National Bureau of Investigation v. Reyes*, 382 Phil. 872, 886 (2000).



ANTONIO T. CARPIO
Associate Justice

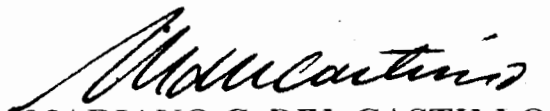

PRESBITERO J. VELASCO, JR.
Associate Justice

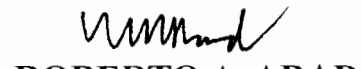

TERESITA J. LEONARDO-DE CASTRO
Associate Justice



ARTURO D. BRION
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATERAL MENDOZA
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Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice


penalize respondent's transgressions as discussed herein and to equally deter the commission of the same or similar acts in the future.

As a final word, the Court staunchly reiterates the principle that the practice of law is a privilege⁴¹ accorded only to those who continue to meet its exacting qualifications. Verily, for all the prestige and opportunity which the profession brings lies the greater responsibility to uphold its integrity and honor. Towards this purpose, it is quintessential that its members continuously and unwaveringly exhibit, preserve and protect moral uprightness in their activities, both in their legal practice as well as in their personal lives. Truth be told, the Bar holds no place for the deceitful, immoral and corrupt.

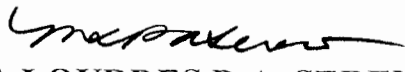
WHEREFORE, respondent Ricardo G. Barrios, Jr. is hereby found **GUILTY** of gross immoral conduct and gross misconduct in violation of Rules 1.01 and 1.03, Canon 1, and Rule 6.02, Canon 6 of the Code of Professional Responsibility. Accordingly, he is ordered to pay a **FINE** of **₱40,000.00**.

Let a copy of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all the courts.

SO ORDERED.


ESTELA M. FERLAS-BERNABE
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice

8. Immorality;
x x x x

SEC.11. *Sanctions*.- A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:
x x x x

3. A fine of more than ₱20,000.00 but not exceeding **₱40,000.00**. (Emphasis and underscoring supplied)

⁴¹ *National Bureau of Investigation v. Reyes*, 382 Phil. 872, 886 (2000).