

EN BANC

[A.C. No. 7578, August 14, 2019]

PAQUITO PELIPEL, JR., COMPLAINANT, VS. ATTY. CIRILO A. AVILA, RESPONDENT.

RESOLUTION

PER CURIAM:

Lawyers serving in government must more conscientiously comply with ethical standards set for lawyers. They are not merely engaged in legal practice, but occupy offices typified by public trust. Extortion and receiving money in exchange for undue benefits reveal a predisposition that falls far too short of the lofty standards of both public service and the legal profession.

This Court resolves a Disbarment Complaint^[1] directly filed before this Court by Paquito Pelipel, Jr. (Pelipel), president of PP Bus Lines, Inc. (PP Bus Lines), charging Atty. Cirilo A. Avila (Atty. Avila), then Director of the Land Transportation Office's Law Enforcement Service, with engaging in unlawful, dishonest, immoral, and deceitful conduct, and with violating the Lawyer's Oath.^[2] Specifically, Atty. Avila is charged with extortion and receiving bribes.

According to Pelipel, in June 2003, a Land Transportation Office team led by Atty. Avila impounded five (5) out-of-line buses operated by PP Bus Lines. The buses were released only upon Pelipel's payment of the prescribed fees, as well as his accession to Atty. Avila's insistence that he be paid a weekly protection money of P3,000.00 and a one-time amount of P150,000.00 "to insure immunity from arrest of [PP Bus Lines'] bus drivers and from [the] impounding of [its] buses."^[3]

Pelipel paid P3,000.00 every week between August and September 2003. However, he had to stop paying in October 2003 because of his "worsening financial situation."^[4]

Atty. Avila insisted that Pelipel pay the P3,000.00 weekly protection money and the P150,000.00 lump sum amount lest his buses be impounded.^[5]

Thus, Pelipel, along with his sister Ida Pelipel, who was also a high-ranking officer at PP Bus Lines, sought assistance from the National Bureau of Investigation. The Bureau's Special Task Force Division then sought to carry out an entrapment operation.^[6]

On February 26, 2004, the entrapment operation was carried out. That day, Atty. Avila was apprehended after receiving marked money during a rendezvous at Barrio Fiesta Restaurant in Ali Mall, Cubao, Quezon City. A subsequent ultraviolet light examination revealed fluorescent specks and smudges on Atty. Avila's hands,

confirming that he received the marked bribe money.^[7]

Following his arrest, two (2) criminal cases were filed against Atty. Avila, namely: (1) Criminal Case No. 04-125092 for direct bribery; and (2) Criminal Case No. 05-134614 for violation of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.^[8] In addition to these criminal cases, Pelipel filed a Disbarment Complaint on July 24, 2007.^[9]

In a September 9, 2009 Resolution,^[10] this Court referred the Complaint to the Integrated Bar of the Philippines for investigation, report, and recommendation.

Before the Integrated Bar of the Philippines, Pelipel submitted copies of the informations filed against Atty. Avila, as well as copies of transcripts of stenographic notes and documentary evidence adduced in the course of the criminal proceedings.^[11] He also submitted a copy of the Report^[12] that the Special Task Force of the National Bureau of Investigation prepared following the entrapment operation against Atty. Avila. This Report explained that: (1) four (4) marked P500.00 bills were prepared along with several unmarked P500.00 bills; (2) Pelipel rendezvoused with Atty. Avila at the Barrio Fiesta Restaurant in Ali Mall; and (3) Atty. Avila was arrested after he "[had taken] the marked money."^[13]

In his defense, Atty. Avila faulted Pelipel for failing to supply enough details such as: (1) the specific dates when PP Bus Lines' buses were impounded for being out of line;^[14] (2) information on the temporary operator's permits and impounding receipts issued to PP Bus Lines for the five (5) instances when its buses were impounded;^[15] and (3) the exact amount of protection money paid to him.^[16] He also ascribed ill motive on Pelipel for supposedly attempting, but failing to secure favors from him.^[17]

In a September 4, 2015 Report and Recommendation,^[18] Investigating Commissioner Erwin L. Aguilera sustained Pelipel's position and concluded that Atty. Avila failed to "live up to [the] exacting standards"^[19] expected of a lawyer.^[20] He recommended that Atty. Avila be suspended from the practice of law for two (2) years.^[21]

In a February 25, 2016 Resolution,^[22] the Board of Governors of the Integrated Bar of the Philippines adopted the Report and Recommendation.

For this Court's resolution is the issue of whether or not respondent Atty. Cirilo A. Avila acted in an unethical manner that would justify the imposition of disciplinary sanctions.

This Court sustains the findings made by the Integrated Bar of the Philippines. However, its recommended penalty on respondent—a two-year suspension from the practice of law—is insufficient. Consistent with how this Court ruled on previous complaints involving extortion and bribery involving lawyers serving in government, we deem it proper to disbar respondent.

This Court begins by laying out basic parameters for this Court's ruling on the present Complaint.

First, this Resolution is made independently of the criminal proceedings against respondent for direct bribery and for violation of the Anti-Graft and Corrupt Practices Act.

Disciplinary proceedings are *sui generis*.^[23] They proceed independently of civil and criminal proceedings. Thus, this Court is not bound by the findings made by the courts trying respondent's criminal cases. Moreover, this Resolution does not hinge on establishing respondent's liability beyond reasonable doubt. In *Rico v. Atty. Salutan*:^[24]

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, which is that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Further, the complainant has the burden of proving by substantial evidence the allegations in his complaint. The basic rule is that mere allegation is not evidence and is not equivalent to proof. Likewise, charges based on mere suspicion and speculation cannot be given credence. Besides, the evidentiary threshold of substantial evidence - as opposed to preponderance of evidence - is more in keeping with the primordial purpose of and essential considerations attending this type of cases. As case law elucidates, disciplinary proceedings against lawyers are *sui generis*. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, it also involves neither a plaintiff nor a prosecutor. It may be initiated by the Court *motu proprio*. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor.^[25] (Citation omitted)

Second, this Resolution is written in contemplation of the extraordinary accountability of lawyers serving in government. A lawyer's holding of public office does not deprive this Court of jurisdiction to discipline and impose penalties upon him or her for unethical conduct. On the contrary, holding public office amplifies a lawyer's disciplinary liability. In *Fuji v. Atty. Dela Cruz*:^[26]

Lawyers in government service should be more conscientious with their professional obligations consistent with the time-honored principle of public office being a public trust. The ethical standards under the Code of Professional Responsibility are rendered even more exacting as to

government lawyers because they have the added duty to abide by the policy of the State to promote a high standard of ethics, competence, and professionalism in public service.^[27]

This was demonstrated in this Court's Decision in *Collantes v. Atty. Renomeron*.^[28] Confronted with the issue of "whether the respondent register of deeds, as a lawyer, may also be disciplined by this Court for his malfeasances as a public official[,]"^[29] this Court ruled, "yes, for his misconduct as a public official also constituted a violation of his oath as a lawyer."^[30]

II

There is substantial evidence to conclude that respondent engaged in unethical conduct.

This case is not particularly complicated. Appraising respondent's liability hinges on the straightforward determination of whether he solicited or insisted on receiving protection money, and whether he did receive such money.

The occurrence of the entrapment operation is relevant evidence that sustains the conclusion that respondent indeed met with the complainant at the Barrio Fiesta Restaurant to receive the protection money that he demanded from complainant. His subsequent receipt of the marked money—paid to him in the guise of protection money and confirmed by fluorescent specks and smudges on his hands—attests to how he received a bribe. There cannot be any more barefaced proof of respondent's illicit conduct than his being caught red-handed.

This Court does not see any reason to distrust the conduct of the entrapment operation. Indeed, we have had several occasions when we exonerated individuals charged of wrongdoing based on faulty entrapment operations, as when acquittals arise, for instance, from buy-bust operations that do not conform to statutory standards, or when the documentary evidence clearly disprove the assertions of parties.^[31] Here, however, there is no clear indication that complainant or National Bureau of Investigation agents acted out of an inordinate purpose to pin down respondent.

Respondent's attempt at splitting hairs fails to impress. His defense dwelt on minutiae, like the dates of the five (5) buses' prior impounding and the receipts issued following such impounding. These trivialities do not at all trump the unequivocal import of how he was caught in the act.

Equally unimpressive is respondent's insinuation that complainant had previously asked for favors. This is nothing more than an uncorroborated, self-serving insinuation. Regardless of the truth of this claim, it remains that respondent met with complainant for the sole purpose of accepting bribes, and that he did receive an amount that he understood to be protection money. The veracity of his insinuation may make for a more intricate narrative, but it does not negate his liability.

III

It is clear that respondent engaged in unlawful, dishonest, immoral, and deceitful