

EN BANC

[A.C. No. 11139, April 19, 2016]

**PHILCOMSAT* HOLDINGS CORPORATION, DULY REPRESENTED
BY ERLINDA I. BILDNER, COMPLAINANT, VS. ATTY. LUIS K.
LOKIN, JR. AND ATTY. SIKINI C. LABASTILLA, RESPONDENTS.**

D E C I S I O N

PERLAS-BERNABE, J.:

For the Court's resolution is a Complaint^[1] dated August 20, 2009 filed by complainant PHILCOMSAT Holdings Corporation, represented by Erlinda I. Bildner^[2] (complainant), against respondents Atty. Luis K. Lokin, Jr. (Atty. Lokin, Jr.) and Atty. Sikini C. Labastilla (Atty. Labastilla; collectively, respondents) before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP), praying for the disbarment of respondents for insinuating that the Sandiganbayan received the amount of P2,000,000.00 in exchange for the issuance of a temporary restraining order (TRO).

The Facts

The Complaint alleged that sometime in June 2007, the Senate, through its Committee on Government Corporations and Public Enterprises, conducted an investigation concerning the anomalies that plagued the PHILCOMSAT group of companies, which includes complainant, particularly in its huge disbursements of monies and/or assets. In the course of the said investigation, the Senate examined various financial records and documents of the company, which at that time, were under the control and management of Atty. Lokin, Jr. and his co-directors. Among the records examined by the Senate was an entry in complainant's checkbook stub which reads "Cash for Sandiganbayan, tro, potc-philcomsat case - P2,000,000"^[3] (subject checkbook entry). It was then discovered that the check was issued in connection with complainant's injunction case against Philippine Overseas Telecommunications Corporation (POTC) before the Sandiganbayan, which was filed by Atty. Lokin, Jr.'s group, as its representatives, with Atty. Labastilla as its external counsel (POTC case). As the investigation was publicized by the media, the Sandiganbayan learned about the subject checkbook entry and, accordingly, *motu proprio* initiated indirect contempt proceedings against respondents, along several others, which was docketed as Case No. SB-07-SCA-005^[4] (indirect contempt case).^[5]

After due proceedings, the Sandiganbayan promulgated a Resolution^[6] dated May 7, 2009, finding respondents guilty beyond reasonable doubt of indirect contempt and, accordingly, sentenced each of them to pay a fine in the amount of P30,000.00 and to suffer imprisonment for a period of six (6) months.^[7] In finding respondents guilty, the Sandiganbayan opined that: (a) any person reading the subject

checkbook entry would come to the conclusion that a check in the amount of P2,000,000.00 was issued to the Sandiganbayan in exchange for the latter's issuance of a TRO, thereby degrading its integrity and honor; (b) Atty. Lokin, Jr. caused the creation of the said entry in complainant's checkbook which as testified upon by complainant's bookkeeper, Desideria D. Casas, was the proximate cause thereof;^[8] and (c) circumstantial evidence showed that Atty. Labastilla conspired with Atty. Lokin, Jr. in causing such contemptuous entry, considering, inter alia, that the former was the counsel who applied for a TRO and that he admitted receipt of the proceeds of the check, although allegedly for legal fees^[9] and that Sheriffs Manuel Gregorio Mendoza Torio and Romulo C. Barrozo of the Sandiganbayan similarly testified that such TRO was only effected/served upon payment of the corresponding fees.^[10]

Following the promulgation of the Sandiganbayan's May 7, 2009 Resolution, the complainant instituted the instant complaint.

In his defense, Atty. Lokin, Jr. maintained that he did not perform acts violative of the Code of Professional Responsibility (CPR), insisting that the Sandiganbayan's findings in the indirect contempt case were erroneous and contrary to the pertinent evidence and records. He likewise pointed out that the Sandiganbayan ruling was appealed - albeit not by him but by Atty. Labastilla - to the Court, *i.e.*, G.R. No. 187699,^[11] which appeal remains unresolved. Therefore, it cannot be the basis for his administrative liability.^[12]

For his part, Atty. Labastilla harped on the fact that an appeal questioning the Sandiganbayan ruling is still pending before the Court; thus, it was premature to file an administrative complaint against him. He further maintained that he had no participation in the creation of the subject checkbook entry and, even if he had any such participation, there was nothing contemptuous about it.^[13]

The IBP's Report and Recommendation

In a Report and Recommendation^[14] dated January 23, 2013, the IBP Investigating Commissioner found Atty. Lokin, Jr. administratively liable and, accordingly, recommended that he be meted the penalty of suspension from the practice of law for a period of one (1) year. However, Atty. Labastilla was absolved from any administrative liability.^[15]

Similar to the Sandiganbayan, the IBP Investigating Commissioner found Atty. Lokin, Jr. responsible for the creation of the subject checkbook entry. In this relation, it was pointed out that while Atty. Lokin, Jr. offered an explanation regarding the said entry, such explanation was more in the nature of an avoidance and confession posturing, and therefore, was not helpful to his cause as it only served to further implicate him in the making of the aforesaid entry.^[16]

On the other hand, the IBP Investigating Commissioner found no evidence showing that Atty. Labastilla had any participation in the making of the subject checkbook entry, and as such, could not be reasonably implicated therein. In absolving Atty. Labastilla, the IBP Investigating Commissioner stressed that the instant administrative case's concern was only with the actual making of the subject

checkbook entry, and not as to whether Atty. Labastilla actually participated in the disbursement of the proceeds of the check and/or in the attempt to bribe any officials and employees of the Sandiganbayan to obtain a TRO.^[17]

In a Resolution^[18] dated March 21, 2013, the IBP Board of Governors adopted and approved the aforesaid report and recommendation. Atty. Lokin, Jr. moved for reconsideration,^[19] but the same was denied in a Resolution^[20] dated June 6, 2015 with modification increasing the recommended period of suspension from the practice of law to three (3) years.

The Issue Before the Court

The essential issue in this case is whether or not respondents should be held administratively liable.

The Court's Ruling

As will be explained hereunder, the Court: (a) concurs with the IBP's findings as to Atty. Lokin, Jr.'s administrative liability; and (b) disagrees with the IBP's recommendation to absolve Atty. Labastilla from administrative liability.

At the outset, the Court notes that the indirect contempt case originally filed before the Sandiganbayan is in the nature of a criminal contempt.^[21] "[C]riminal contempt is conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect."^[22] "[C]riminal contempt, being directed against the dignity and authority of the court, is an offense against organized society and, in addition, is also held to be an offense against public justice which raises an issue between the public and the accused, and the proceedings to punish it are punitive."^[23]

Since the indirect contempt case is criminal in nature, respondents cannot insist that the filing of an administrative case against them on the basis of the Sandiganbayan's ruling in the aforesaid case is premature on the premise that their conviction has not attained finality. It is well-settled that a disbarment proceeding is separate and distinct from a criminal action filed against a lawyer despite being involved in the same set of facts. Case law instructs that a finding of guilt in the criminal case will not necessarily result in a finding of liability in the administrative case. Conversely, the lawyer's acquittal does not necessarily exculpate them administratively.^[24] In *Spouses Saunders v. Pagano-Calde*:^[25]

[A]dministrative cases against lawyers belong to a class of their own. They are distinct from and they may proceed independently of criminal cases. A criminal prosecution will not constitute a prejudicial question even if the same facts and circumstances are attendant in the administrative proceedings. Besides, it is not sound judicial policy to await the final resolution of a criminal case before a complaint against a lawyer may be acted upon; otherwise, this Court will be rendered helpless to apply the rules on admission to, and continuing membership in, the legal profession during the whole period that the criminal case is pending final disposition, when the objectives of the two

proceedings are vastly disparate. **Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare and for preserving courts of justice from the official ministration of persons unfit to practice law.** The attorney is called to answer to the court for his conduct as an officer of the court.^[26] (Emphases and underscoring supplied)

To note, while it is undisputed that Atty. Labastilla indeed filed a petition before the Court questioning the Sandiganbayan ruling, *i.e.*, G.R.. No. 187699, records are bereft of any showing that Atty. Lokin, Jr. joined Atty. Labastilla in said petition or that he separately filed an appeal on his own. Thus, the Sandiganbayan ruling had long become deemed final and executory as to him. Moreover, Atty. Labastilla's appeal before the Court was already resolved through a Minute Resolution^[27] dated August 3, 2009 denying the same for failure to sufficiently show that the Sandiganbayan committed any reversible error in issuing the challenged ruling. Atty. Labastilla twice moved for reconsideration, but were denied with finality in Resolutions dated February 1, 2010^[28] and August 11, 2010.^[29] In light of the foregoing, the Sandiganbayan's ruling that respondents committed contumacious acts which tend to undermine and/or denigrate the integrity of such court has become final and executory and, thus, conclusive as to them, at least in the indirect contempt case.^[30]

In this administrative case, the Court, after a thorough assessment of the merits of the case, finds itself in agreement with the IBP's finding that the subject checkbook entry contained a contumacious imputation against the Sandiganbayan, *i.e.*, that a check in the amount of P2,000,000.00 was issued and given to the Sandiganbayan in order to secure a favorable TRO in the POTC case. As the records show, Atty. Lokin, Jr. was the one who caused the making of the subject checkbook entry, considering that: (a) during the time the said entry was made, complainant's financial records and documents were under his and his co-directors' control and management; (b) the complainant's bookkeeper, Desideria D. Casas, categorically testified that it was Atty. Lokin, Jr. who requested for the issuance and disbursement of the check in the amount of P2,000,000.00, and that he was also the one who instructed her to write the subject checkbook entry in the complainant's checkbook;^[31] (c) Atty. Lokin, Jr. never denied participation and knowledge of the issuance of the check and the consequent creation of the subject checkbook entry;^[32] and (c) when asked to explain during the Senate investigation, Atty. Lokin, Jr. failed to give a credible justification for the making of such entry, and instead, resorted to avoidance and confession posturing.^[33] Thus, the IBP correctly concluded that Atty. Lokin, Jr. caused the making of the subject checkbook entry in complainant's financial records.

However, the Court does not agree with the IBP's finding that Atty. Labastilla could not reasonably be implicated in the making of the subject checkbook entry. The Court is more inclined to concur with the Sandiganbayan's findings in the indirect contempt case that Atty. Labastilla also had a hand, direct or indirect, in the creation of the subject checkbook entry in light of the following circumstances: (a) he was complainant's external counsel who applied for the TRO in the POTC case; (b) he admitted receipt of the proceeds of the check in the amount of P2,000,000.00,