

EN BANC

[Adm. Case No. 7332, June 18, 2013]

EDUARDO A. ABELLA, COMPLAINANT, VS. RICARDO G. BARRIOS, JR., RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is an administrative complaint^[1] 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).

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 P113,100.00 as separation pay and P73,608.00 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 much is mine?"* Despite his shock, complainant offered the amount of P20,000.00, but respondent replied: *"make it P30,000.00."* 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 P1,500.00.
[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 P1,470,082.60, inclusive of execution and deposit fees. PT&T moved to quash^[10] 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 Order^[13] 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, 2005^[14] and eventually, issued a new writ of execution^[15] wherein complainant's monetary awards were reduced from P1,470,082.60 to P114,585.00, 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 complaint^[19] 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.

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 P50,000.00.

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 Limpingco 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 Limpingco'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.

The Court's Ruling

The Court concurs with the findings and recommendation of Commissioner Limpingco 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 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 re-compute 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 P1,470,082.60 to P114,585.00, inclusive of execution and deposit fees.

To justify the same, respondent contends that he was merely implementing the CA