

EN BANC

[A.C. No. 7940, April 24, 2012]

**RE: SC DECISION DATED MAY 20, 2008 IN G.R. NO. 161455
UNDER RULE 139-B OF THE RULES OF COURT, VS. ATTY.
RODOLFO D. PACTOLIN, RESPONDENT.**

DECISION

PER CURIAM:

This case resolves the question of whether or not the conviction of a lawyer for a crime involving moral turpitude constitutes sufficient ground for his disbarment from the practice of law under Section 27, Rule 138 of the Rules of Court.

The Facts and the Case

In May 1996, Elmer Abastillas, the playing coach of the Ozamis City volleyball team, wrote Mayor Benjamin A. Fuentes of Ozamis City, requesting financial assistance for his team. Mayor Fuentes approved the request and sent Abastillas' letter to the City Treasurer for processing. Mayor Fuentes also designated Mario R. Ferraren, a city council member, as Officer-in-Charge (OIC) of the city while Mayor Fuentes was away. Abastillas eventually got the P10,000.00 assistance for his volleyball team.

Meanwhile, respondent lawyer, Atty. Rodolfo D. Pactolin, then a *Sangguniang Panlalawigan* member of Misamis Occidental, got a photocopy of Abastillas' letter and, using it, filed on June 24, 1996 a complaint with the Office of the Deputy Ombudsman-Mindanao against Ferraren for alleged illegal disbursement of P10,000.00 in public funds. Atty. Pactolin attached to the complaint a copy of what he claimed was a falsified letter of Abastillas, which showed that it was Ferraren, not Mayor Fuentes, who approved the disbursement.

Aggrieved, Ferraren filed with the Sandiganbayan in Criminal Case 25665 a complaint against Atty. Pactolin for falsification of public document.^[1] On November 12, 2003 the Sandiganbayan found Atty. Pactolin guilty of falsification under Article 172 and sentenced him to the indeterminate penalty of imprisonment of 2 years and 4 months of *prision correccional* as minimum to 4 years, 9 months and 10 days of *prision correccional* as maximum, to suffer all the accessory penalties of *prision correccional*, and to pay a fine of P5,000.00, with subsidiary imprisonment in case of insolvency.

Atty. Pactolin appealed to this Court but on May 20, 2008 it affirmed his conviction.^[2] Since the Court treated the matter as an administrative complaint against him as well under Rule 139-B of the Rules of Court, it referred the case to the Integrated Bar of the Philippines (IBP) for appropriate action.

Because complainant Ferraren neither appeared nor submitted any pleading during

the administrative proceedings before the IBP Commission on Bar Discipline, on October 9, 2010 the IBP Board of Governors passed Resolution XIX-2010-632, adopting and approving the Investigating Commissioner's Report and Recommendation that the case against Atty. Pactolin be dismissed for insufficiency of evidence.

The Issue Presented

The only issue presented in this case is whether or not Atty. Pactolin should be disbarred after conviction by final judgment of the crime of falsification.

The Court's Ruling

In his pleadings before the Commission on Bar Discipline, Atty. Pactolin reiterated the defenses he raised before the Sandiganbayan and this Court in the falsification case. He claims that the Court glossed over the facts, that its decision and referral to the IBP was "factually infirmed"^[3] and contained "factual exaggerations and patently erroneous observation,"^[4] and was "too adventurous."^[5]

To recapitulate, this Court upheld the finding of the Sandiganbayan that the copy of Abastillas' letter which Atty. Pactolin attached to his complaint was spurious. Given the clear absence of a satisfactory explanation regarding his possession and use of the falsified Abastillas' letter, this Court held that the Sandiganbayan did not err in concluding that it was Atty. Pactolin who falsified the letter. This Court relied on the settled rule that in the absence of satisfactory explanation, one found in possession of and who used a forged document is the forger and therefore guilty of falsification.^[6]

This Court's decision in said falsification case had long become final and executory. In *In Re: Disbarment of Rodolfo Pajo*,^[7] the Court held that in disbarment cases, it is no longer called upon to review the judgment of conviction which has become final. The review of the conviction no longer rests upon this Court.

Under Section 27, Rule 138 of the Rules of Court, a lawyer may be removed or suspended on the following grounds: (1) deceit; (2) malpractice; (3) gross misconduct in office; (4) grossly immoral conduct; (5) conviction of a crime involving moral turpitude; (6) violation of the lawyer's oath; (7) willful disobedience of any lawful order of a superior court; and (8) corruptly or willfully appearing as a lawyer for a party to a case without authority so to do.

This Court has ruled that the crime of falsification of public document is contrary to justice, honesty, and good morals and, therefore, involves moral turpitude.^[8] Moral turpitude includes everything which is done contrary to justice, honesty, modesty, or good morals. It involves an act of baseness, vileness, or depravity in the private duties which a man owes his fellowmen, or to society in general, contrary to the accepted and customary rule of right and duty between man and woman, or conduct contrary to justice, honesty, modesty, or good morals.^[9]

Having said that, what penalty should be imposed then on Atty. Pactolin?

As a rule, this Court exercises the power to disbar with great caution. Being the