

EN BANC

[A.C. No. 4973, March 15, 2010]

**SPOUSES MANUEL C. RAFOLS, JR. AND LOLITA B. RAFOLS,
COMPLAINANTS, VS. ATTY. RICARDO G. BARRIOS, JR.,
RESPONDENT.**

D E C I S I O N

PER CURIAM:

The primary objective of administrative cases against lawyers is not only to punish and discipline the erring individual lawyers but also to safeguard the administration of justice by protecting the courts and the public from the misconduct of lawyers, and to remove from the legal profession persons whose utter disregard of their lawyer's oath has proven them unfit to continue discharging the trust reposed in them as members of the bar. A lawyer may be disbarred or suspended for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, honesty, probity and good demeanor or unworthy to continue as an officer of the court.

- *Rivera v. Corral*, A.C. No. 3548, July 4, 2002, 384 SCRA 1.

By its Board Resolution No. 1 dated March 7, 1998, the South Cotabato-Sarangani-General Santos City (SOCSARGEN) Chapter of the Integrated Bar of the Philippines (IBP) resolved to refer to the IBP Board of Governors in Manila, for appropriate action and investigation, the purported anomaly involving Judge Teodoro Dizon Jr. and Atty. Ricardo G. Barrios, Jr.^[1] Thus, on March 24, 1998, Atty. Joeffrey L. Montefrio, the SOCSARGEN IBP Chapter President, transmitted the referral to the Office of the Court Administrator (OCA).

The matter involving Judge Dizon, Jr., which was docketed as Administrative Matter (AM) No. RTJ-98-1426 entitled *Manuel C. Rafols and Lolita C. Rafols v. Judge Teodoro Dizon, Jr., RTC, General Santos City, Branch 37*,^[2] was resolved in a *per curiam* decision promulgated on January 31, 2006,^[3] whereby the Court *dismissed* Judge Dizon, Jr. from the service, with forfeiture of all benefits, except accrued leave credits, and with prejudice to re-employment in the government or any of its subdivisions, instrumentalities or agencies, including government-owned and government -controlled corporations.

In the same *per curiam* decision, the Court reiterated its resolution of October 21, 1998 for the Office of the Bar Confidant (OBC) to conduct an investigation of the actuations of Atty. Barrios, Jr. (respondent), and to render its report and recommendation.

Hence, this decision.

Antecedents

The anomaly denounced by the SOCSARGEN IBP Chapter was narrated in the joint affidavit dated March 3, 1998 of Spouses Manuel C. Rafols, Jr. and Lolita B. Rafols (complainants),^[4] whose narrative was corroborated by the affidavit dated March 11, 1998 of Larry Sevilla;^[5] the affidavit dated March 16, 1998 of Allan Rafols;^[6] and the affidavit dated March 16, 1998 of Daisy Rafols,^[7] all of which were attached to the letter of the IBP Chapter President. Atty. Erlinda C. Verzosa, then Deputy Clerk of Court and Bar Confidant, referred for appropriate action a copy of the letter and affidavits to then Court Administrator Alfredo L. Benipayo.

In turn, then Senior Deputy Court Administrator Reynaldo L. Suarez filed with the Court an Administrative Matter for Agenda, recommending in relation to Atty. Barrios, Jr., as follows:

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5. The Office of the Bar Confidant be FURNISHED with a copy of the letter-note and its attachments so that it may conduct its own investigation in the matter with respect to the actuations of Atty. Ricardo Barrios, Jr.^[8]

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In the resolution dated October 21, 1998, the Court approved the recommendations,^[9] and directed the Office of the Bar Confidant to investigate the actuations of the respondent, and to render its report and recommendation thereon.

Proceedings of the OBC

Only the respondent appeared during the hearing before the OBC. Denying the charges against him, he sought the dismissal of the complaint and re-affirmed the contents of his comment. Despite notice, the complainants did not appear before the OBC. However, the complainants and the respondent had testified during the administrative hearing involving Judge Dizon, Jr. before Court of Appeals Associate Justice Jose Sabio Jr. as the Investigating Justice. Also testifying thereat were the complainants' witnesses, namely: Allan Rafols, Daisy Rafols and Larry Sevilla.

A. Evidence for the Complainants

The complainants were the plaintiffs in Civil Case No. 6209 of the Regional Trial Court (RTC) in General Santos City, wherein they sought the cancellation of a deed of sale. Civil Case No. 6209 was assigned to Branch 37 of the RTC, presided by Judge Dizon, Jr. The complainants were represented by the respondent, paying to him P15,000.00 as acceptance fee.

On December 22, 1997, at 9:30 a.m., the respondent visited the complainants at their residence and informed complainant Manuel that the judge handling their case wanted to talk to him. The respondent and Manuel thus went to the East Royal Hotel's coffee shop where Judge Dizon, Jr. was already waiting. The respondent

introduced Manuel to the judge, who informed Manuel that their case was pending in his *sala*. The judge likewise said that he would resolve the case in their favor, assuring their success up to the Court of Appeals, if they could deliver P150,000.00 to him. As he had no money at that time, Manuel told the judge that he would try to produce the amount. The judge then stated that he would wait for the money until noon of that day. Thus, Manuel left the coffee shop together with the respondent, who instructed Manuel to come up with the money before noon because the judge badly needed it. The two of them went to a lending institution, accompanied by Allan Rafols, but Manuel was told there that only P50,000.00 could be released the next day. From the lending institution, they went to the complainants' shop to look for Ditas Rafols, Allan's wife, who offered to withdraw P20,000.00 from her savings account.

On their way to the bank, Manuel, Allan and Ditas dropped off the respondent at the hotel for the latter to assure Judge Dizon, Jr. that the money was forthcoming. Afterwards, Ditas and Manuel withdrew P20,000.00 and P30,000.00 from their respective bank accounts, and went back to the hotel with the cash. There, they saw the judge and his driver, who beckoned to them to go towards the judge's Nissan pick-up then parked along the highway in front of the hotel. Manuel alighted from his car and approached the judge. Manuel personally handed the money to the judge, who told Manuel after asking about the amount that it was not enough. Thereafter, Manuel entered the hotel's coffee shop and informed the respondent that he had already handed the money to the judge.

On December 24, 1997, at about 6:00 a.m., the respondent again visited the complainants. He was on board the judge's Nissan pick-up driven by the judge's driver. The respondent relayed to the complainants the message that the judge needed the balance of P100,000.00 in order to complete the construction of his new house in time for the reception of his daughter's wedding. However, the complainants managed to raise only P80,000.00, which they delivered to the respondent on that same day.

On January 20, 1998, Judge Dizon, Jr. called up the complainants' residence and instructed their son to request his parents to return his call, leaving his cell phone number. When Manuel returned the call the next day, the judge instructed Manuel to see him in his office. During their meeting in his chambers, the judge demanded the balance of P30,000.00. Manuel clarified to the judge that his balance was only P20,000.00 due to the previous amount given being already P80,000.00. The judge informed him that the amount that the respondent handed was short. Saying that he badly needed the money, the judge insisted on P30,000.00, and even suggested that the complainants should borrow in order to raise that amount.

On January 22, 1998, Judge Dizon, Jr. called the complainants to inquire whether the P30,000.00 was ready for pick up. After Manuel replied that he was ready with the amount, the judge asked him to wait for 20 minutes. The judge and his driver later arrived on board his Nissan pick-up. Upon instructions of the judge's driver, the complainants followed the Nissan pick-up until somewhere inside the Doña Soledad Estate, Espina, General Santos City. There, the judge alighted and approached the complainants and shook their hands. At that point, Manuel handed P30,000.00 to the judge. The judge then told Manuel that the RTC judge in Iloilo City before whom the perpetuation of the testimony of Soledad Elevencionado-Provido was made should still testify as a witness during the trial in his *sala* in order for the

complainants to win. The judge persuaded the complainants to give money also to that judge; otherwise, they should not blame him for the outcome of the case.

The complainants were forced to give money to the judge, because they feared that the judge would be biased against them unless they gave in to his demands. But when they ultimately sensed that they were being fooled about their case, they consulted Larry Sevilla, their mediamen friend, and narrated to Sevilla all the facts and circumstances surrounding the case. They agreed that the details should be released to the media. The exposáº» was published in the *Newsmaker*, a local newspaper.

Thereafter, the respondent and Judge Dizon, Jr. made several attempts to appease the complainants by sending gifts and offering to return a portion of the money, but the complainants declined the offers.

According to the complainants, the respondent demanded P25,000.00 as his expenses in securing the testimony of Soledad Elevencionado-Provido in Iloilo City to be used as evidence in their civil case. In addition, the respondent requested the complainants to borrow P60,000.00 from the bank because he wanted to redeem his foreclosed Isuzu Elf, and because he needed to give P11,000.00 to his nephew who was due to leave for work abroad.

B. Evidence for the Respondent

In his verified comment dated March 22, 2006,^[10] the respondent confirmed that the complainants engaged him as their counsel in Civil Case No. 6209. His version follows.

On December 22, 1997, the respondent introduced Manuel to Judge Dizon, Jr. inside the East Royal Hotel's coffee shop. The respondent stayed at a distance, because he did not want to hear their conversation. Later, Manuel approached the respondent and gave him P2,000.00. When the respondent asked what the money was for, Manuel replied that it was in appreciation of the former's introducing the latter to the judge. The respondent stated that Manuel did not mention what transpired between the latter and the judge; and that the judge did not tell him (respondent) what transpired in that conversation.

Two days later, the respondent again visited the complainants at their house in General Santos City on board the judge's Nissan pick-up driven by the judge's driver, in order to receive the P80,000.00 from the complainants. The amount was being borrowed by the judge for his swimming pool. Later on, the judge told the respondent to keep P30,000.00 as a token of their friendship. After Manuel handed the P80,000.00, the respondent and the judge's driver headed towards Davao City, where, according to the judge's instruction, they redeemed the judge's wristwatch for P15,000.00 from a pawnshop. The driver brought the remaining amount of P35,000.00 to the judge in his home.

On January 27, 1998, Judge Dizon, Jr. visited the respondent at the latter's house to ask him to execute an affidavit. Declining the request at first, the respondent relented only because the judge became physically weak in his presence and was on the verge of collapsing. Nonetheless, the respondent refused to notarize the document.

In that affidavit dated January 27, 1998,^[11] the respondent denied that Judge Dizon, Jr. asked money from the complainants; and stated that he did not see the complainants handing the money to the judge. He admitted that he was the one who had requested the judge to personally collect his unpaid attorney's fees from the complainants with respect to their previous and terminated case; and that the judge did not ask money from the complainants in exchange for a favorable decision in their case.

On January 28, 1998, the respondent returned to the complainants' residence, but was surprised to find complainant Lolita crying aloud. She informed him that the judge was again asking an additional P30,000.00 although they had given him P30,000.00 only the week before. She divulged that the judge had told her that their case would surely lose because: (a) they had engaged a counsel who was *mahinang klase*; (b) the judge hearing Civil Case No. 5645 in Iloilo and the woman who had testified in Civil Case No. 6029 had not been presented; and (c) they would have to spend at least P10,000.00 for said judge's accommodations in General Santos City.^[12]

On January 31, 1998, Judge Dizon, Jr. went to the house of the respondent, but the latter was not home. The judge left a note addressed to the complainants, and instructed the respondent's secretary to deliver the note to the complainants along with a gift (imported table clock).^[13] According to the respondent, the complainants consistently refused to accept the gift several times; it was later stolen from his house in Cebu City.

On February 1, 1998, the respondent delivered the note and gift to the complainants, but the latter refused to receive it, telling him that they were no longer interested to continue with the case. At the same time, the complainants assured him that they bore no personal grudge against him, because they had a problem only with Judge Dizon, Jr.

On February 24, 1998, the respondent went to the National Bureau of Investigation Regional Office, Region XI, and the Philippine National Police Regional Office, Region XI, both in Davao City, to request the investigation of the matter.^[14]

On March 2, 1998, the respondent paid Judge Dizon, Jr. a visit upon the latter's request. In that meeting, the respondent told the judge about the refusal of the complainants to accept the judge's gift and about their decision not to continue with the case.^[15]

On the next day, Judge Dizon, Jr. sent a note to the respondent to inform him that the judge had raised the amount that he had borrowed from the complainants.^[16] The judge requested the respondent to tell the complainants that he (Judge Dizon, Jr.) was going to return whatever he had borrowed from them. However, the complainants informed the respondent that he should tell the judge that they were no longer interested in getting back the money.

The respondent made a follow-up at the NBI and PNP Regional Offices in Davao City of his request for assistance after Manuel mentioned to him that he (Manuel) knew