

Republic of the Philippines
Supreme Court
Manila

EN BANC

PAQUITO PELIPEL, JR.,
Complainant,

A.C. No. 7578

Present:

-versus-

BERSAMIN, J., *Chief Justice*,
CARPIO,
PERALTA,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
REYES, A., JR.,
GISMUNDO,
REYES, J., JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING, and
ZALAMEDA, JJ.

ATTY. CIRILO A. AVILA,
Respondent.

Promulgated:
August 14, 2019

X-----X

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 Complaint¹ 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 ₱3,000.00 and a one-time amount of ₱150,000.00 "to insure immunity from arrest of [PP Bus Lines'] bus drivers and from [the] impounding of [its] buses."³

Pelipel paid ₱3,000.00 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 ₱3,000.00 weekly protection money and the ₱150,000.00 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

¹ *Rollo*, pp. 1-5.

² I, . . . do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same. I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients; and I impose upon myself these voluntary obligations without any mental reservation or purpose of evasion. So help me God.

³ *Rollo*, p. 2.

⁴ *Id.*

⁵ *Id.* at 3.

⁶ *Id.*

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 Report¹² 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 ₱500.00 bills were prepared along with several unmarked ₱500.00 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

⁷ Id.

⁸ Id. at 3-4.

⁹ Id. at 1.

¹⁰ Id. at 52.

¹¹ Id. at 66-68.

¹² Id. at 140-141.

¹³ Id. at 141.

¹⁴ Id. at 32.

¹⁵ Id. at 33.

¹⁶ Id. at 37.

¹⁷ Id. at 40-45.

¹⁸ Id. at 161-169.

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.

I

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

¹⁹ Id. at 167.

²⁰ Id.

²¹ Id. at 169.

²² Id. at 159–160.

²³ *In re: Almacen v. Yaptinchay*, G.R. No. L-27654, February 18, 1970, 31 SCRA 562, 600 [Per J. Castro, First Division].

²⁴ A.C. No. 9257, March 5, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/63986>> [Per J. Peralta, Second Division].

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

²⁵ Id.

²⁶ 807 Phil. 1 [Per J. Leonen, Second Division].

²⁷ Id. at 14-15 citing *Ramos v. Imbang*, 557 Phil. 507, 513 (2007) [Per Curiam, En Banc]; *Far Eastern Shipping Company v. Court of Appeals*, 357 Phil. 703, 723 (1998) [Per J. Regalado, En Banc]; and Republic Act No. 6713 (1989), sec. 4.

²⁸ 277 Phil. 668 (1991) [Per Curiam, En Banc].

²⁹ Id. at 674.

³⁰ Id.

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.

³¹ See *Macayan, Jr. v. People*, 756 Phil. 202 (2015) [Per J. Leonen, Second Division].

III

It is clear that respondent engaged in unlawful, dishonest, immoral, and deceitful conduct, thereby violating Rule 1.01 of the Code of Professional Responsibility.³² As a public officer, respondent also acted in such a disgraceful manner and brought ignominy to his being a lawyer. Thus, he violated Rule 7.03³³ of the Code of Professional Responsibility. His actions run afoul his solemn oath as a lawyer.

All that remains for this Court to resolve is the penalty that respondent must suffer. To address this, we look to prior similar instances when this Court penalized lawyers serving in government who were shown to have been involved in extortion or bribery, or both.

*Lim v. Atty. Barcelona*³⁴ involved very similar facts. Complainant Dan Joel V. Lim (Lim) alleged that:

. . . on the first week of August 2000, respondent [Atty. Edilberto Barcelona] phoned him and introduced himself as a lawyer and chief of the Public Assistance Center, [National Labor Relations Commission]. Respondent informed him that his employees filed a labor complaint against him in his office and it was necessary for him to see and talk with respondent. From then on respondent would often call him. Respondent visited him in his office and told him to settle the case or else his business, Top Gun Billiards, would be shut down. Lim recalled that on August 14, 2000, at around 7:30 p.m., respondent again visited his establishment and told him to settle the case for ₱20,000.00.³⁵

On Lim's request for assistance, the National Bureau of Investigation conducted an entrapment operation where respondent Atty. Edilberto Barcelona, was arrested after receiving the marked bribe money.³⁶ He was subsequently indicted for robbery.³⁷ Emphasizing that he was a lawyer serving in government, this Court disbarred³⁸ the respondent, explaining:

We had held previously that if a lawyer's misconduct in the discharge of his official duties as government official is of such a character as to affect his qualification as a lawyer or to show moral delinquency, he may be disciplined as a member of the Bar on such ground. More

³² CODE OF PROFESSIONAL RESPONSIBILITY, Rule 1.01 states:

Rule 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

³³ CODE OF PROFESSIONAL RESPONSIBILITY, Rule 7.03 states:

Rule 7.03 A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

³⁴ 469 Phil. 1 (2004) [Per Curiam, En Banc].

³⁵ Id. at 4.

³⁶ Id. at 6.

³⁷ Id. at 7.

³⁸ Id. at 14.

significantly, lawyers in government service in the discharge of their official tasks have more restrictions than lawyers in private practice. *Want of moral integrity is to be more severely condemned in a lawyer who holds a responsible public office.* Rule 1.02 of the Code of Professional Responsibility provides that a lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system. Extortion by a government lawyer, an outright violation of the law, calls for the corresponding grave sanctions. With the aforesaid rule *a high standard of integrity is demanded of a government lawyer as compared to a private practitioner because the delinquency of a government lawyer erodes the people's trust and confidence in the government.*

....

As a lawyer, who was also a public officer, respondent miserably failed to cope with the strict demands and high standards of the legal profession.

In *Montano v. IBP*, this Court said that only in a clear case of misconduct that seriously affects the standing and character of the lawyer may disbarment be imposed as a penalty. In the instant case, the Court is convinced that the evidence against respondent is clear and convincing. He is administratively liable for corrupt activity, deceit, and gross misconduct. As correctly held by the Board of Governors of the Integrated Bar of the Philippines, he should not only be suspended from the practice of law but disbarred.³⁹ (Emphasis supplied, citations omitted)

In *Collantes*, charges of extortion and “[d]irectly receiving pecuniary or material benefit for himself in connection with pending official transaction before him”⁴⁰ were levelled against respondent Atty. Vicente C. Renomeron, Register of Deeds of Tacloban City. He was disbarred after he had been shown to have told “the complainant that he would act favorably on the 163 registrable documents of [a corporation of which the complainant was counsel] if the latter would execute clarificatory affidavits and send money for a round trip plane ticket for him.”⁴¹

In *Atty. Catalan, Jr. v. Atty. Silvosa*,⁴² respondent Atty. Joselito M. Silvosa, the assistant provincial prosecutor of Bukidnon,⁴³ was shown to have bribed another prosecutor, for which he was convicted by the Sandiganbayan of direct bribery.⁴⁴ Before this Court, the respondent was disbarred.⁴⁵

Here, respondent's actions are of such gravity that warrants the consummate penalty of disbarment. They attest to a depravity that makes a

³⁹ Id. at 12–14.

⁴⁰ 277 Phil. 668, 670 (1991) [Per Curiam, En Banc].

⁴¹ Id. at 671.

⁴² 691 Phil. 572 (2012) [Per Curiam, En Banc].

⁴³ Id. at 574.

⁴⁴ Id. at 573.

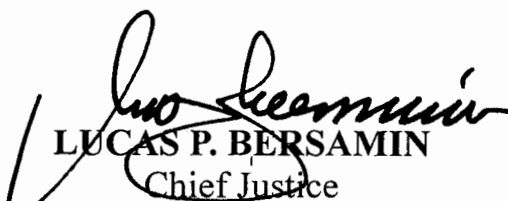
⁴⁵ Id. at 582.

mockery of the high standards of both public service and the legal profession. The totality of what respondent did—from his initial inducements, to his intervening incessant importuning, and finally, to his being caught *in flagrante delicto*—indicates a vicious predisposition to take advantage of his position for personal gain, to dispense undue advantages, and to deny public benefits. It reveals his unfitness to enjoy the privilege of legal practice.


WHEREFORE, respondent Atty. Cirilo A. Avila, having clearly violated the Lawyer's Oath and the Code of Professional Responsibility through his unlawful, dishonest, and deceitful conduct, is **DISBARRED**. His name is ordered **STRICKEN** from the Roll of Attorneys.

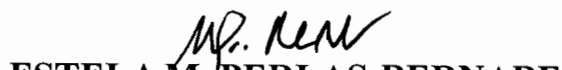
Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be attached to respondent's personal record. Copies of this Resolution are also ordered served on the Integrated Bar of the Philippines for its proper disposition, and the Office of the Court Administrator for circulation to all courts in the country.


SO ORDERED.



LUCAS P. BERSAMIN
Chief Justice

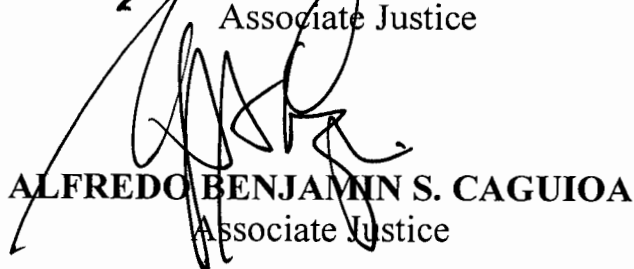

ANTONIO T. CARPIO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

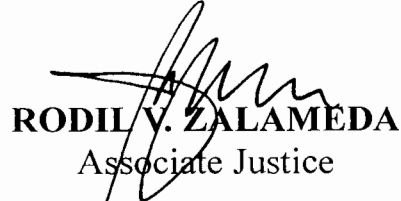

JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARIE D. CARANDANG
Associate Justice


AMY C. LAZARO JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

