

Title: Re: Disturbing Social Media Posts of Lawyers/Law Professors (En Banc)

Facts:

The Supreme Court *motu proprio* issued a Resolution on June 29, 2021, requiring Atty. Noel V. Antay, Jr., Atty. Ernesto A. Tabujara III, Atty. Israel P. Calderon, Atty. Morgan Rosales Nicanor, and Atty. Joseph Marion Peña Navarrete to explain why no disciplinary action should be taken against them for specific derogatory Facebook posts concerning a member of the LGBTQIA+ community and certain judges. These posts insinuated bigotry and discriminatory stereotypes.

Upon receiving the Court's notice, each respondent offered an explanation, with most expressing remorse for their actions and seeking leniency. They emphasized that they harbored no ill intent against the Judiciary or members of the LGBTQIA+ community. Additionally, some invoked privacy concerns as their social media profiles were supposedly private and inaccessible by outsiders.

After reviewing the submissions, the Supreme Court referred the case to the Office of the Bar Confidant (OBC) for investigation, report, and recommendation. The OBC recommended that the lawyers be admonished, considering the lawyers' apologies and alleged lack of intent to disrespect.

Issues:

1. Whether the erring lawyers' right to privacy can shield them from administrative liability.
2. Determining the specific violations committed by the respondents against the Code of Professional Responsibility (CPR).

Court's Decision:

The Court ruled that the lawyers' right to privacy, particularly concerning social media, is not absolute and cannot be used as a defense for their actions. Referencing '*Belo-Henares v. Atty. Guevarra*,' it clarified that social media posts are not assured privacy even when profiles are set to "private," especially considering the virality and shareable nature of content online.

On the second issue, the Court found the lawyers breached Rule 7.03 of the CPR, which admonishes lawyers from engaging in conduct that adversely reflects on their fitness to practice law or behaving scandalously to the discredit of the legal profession. The derogatory posts revealed a lack of respect for individual dignity, promoting stigma against the LGBTQIA+ community and undermining public confidence in the Judiciary.

Accordingly, the Court reprimanded Atty. Nicanor, Atty. Navarrete, Atty. Antay, Jr., and Atty. Calderon with a stern warning against repetition. A fine was imposed on Atty. Tabujara III, notably more severe due to his lack of remorse and the maliciousness of his statements.

Doctrine:

The case reiterated the following doctrines:

1. The right to privacy, particularly online, is not absolute for lawyers. They cannot invoke it to excuse misconduct.
2. Under Rule 7.03 of the CPR, lawyers are required to conduct themselves in such a manner as to reflect the dignity of the legal profession both in their professional and private conduct.

Class Notes:

Key legal elements from the case:

- Rule 7.03 of the CPR (a lawyer shall not engage in conduct that adversely reflects on their fitness to practice law or behave in a scandalous manner to the discredit of the legal profession).
- Lawyers' duty to uphold the Constitution and obey laws, along with respecting every individual's dignity, particularly for LGBTQIA+ members.

Relevant legal statutes cited:

- "Belo-Henares v. Atty. Guevarra," emphasizing the limitation of privacy expectations in social media usage and the potential public nature of restricted posts.
- "Ang Ladlad LGBT Party v. COMELEC," highlighting freedom of expression includes the expression of one's SOGIESC.
- "Safe Spaces Act" (Republic Act No. 11313), stating gender-based harassment is punishable by law.

Historical Background:

This case reflects modern challenges in the legal profession regarding social media usage, privacy, and the evolving expectations of lawyers' conduct both online and offline. The decision enforces the principle that personal posts by legal professionals can have public consequences, especially when they touch upon issues of discrimination and public office criticism. It underscores the crucial balance between free expression and professional decorum adherent to ethical standards.