RE: DECISION DATED 17 MARCH 2011 IN CRIMINAL CASE NO. SB-28361 ENTITLED “PEOPLE OF THE PHILIPPINES VS. JOSELITO C. BARROZO”, FORMER ASSISTANT PROSECUTOR JOSELITO C. BARROZO, RES...

A.C. No. 10207. July 21, 2015

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PER CURIAM:

This disbarment case against former Assistant Public Prosecutor Joselito C. Barrozo (respondent) is taken up by this Court motu proprio by virtue of its power to discipline members of the bar under Section I[1] Rule 139-B of the Rules of Court.

Factual Antecedents

Jennie Valeriano (Valeriano) was a respondent in several cases for estafa and violation of Batas Pambansa Blg. 22[2] which were assigned to respondent as Assistant Public Prosecutor of Dagupan City, Pangasinan. According to Valeriano, respondent told her that he would resolve the cases in her favor in exchange for P20,000.00. Hence, Valeriano went to the Office of Regional State Prosecutor to report the matter. The Regional State Prosecutor introduced her to agents of the National Bureau of Investigation (NBI), who, after being told of respondent's demand, immediately planned an entrapment operation. During the operation conducted on February 15, 2005, respondent was caught red-handed by the NBI agents receiving the amount of P20,000.00 from Valeriano.

As a result, a case for direct bribery[3] under paragraph 2, Article 210 of the Revised Penal Code was filed against respondent before the Regional Trial Court of Dagupan City. The case, however, was later on indorsed to the Sandiganbayan as respondent was occupying a position with a salary grade of 27 or higher.

After finding the existence of all the elements[4] of the crime, the Sandiganbayan, in a Decision[5] dated March 17, 2011, found respondent guilty beyond reasonable doubt of direct bribery and sentenced him to suffer the indeterminate penalty of four (4) years, two (2) months and one (1) day of prision correccional maximum, as minimum, to nine (9) years, four (4) months and one (1) day of prision mayor medium, as maximum, and to pay a fine of P60,000.00. In addition, it imposed upon him the penalty of special temporary disqualification.

Respondent filed a Motion for Reconsideration[6] (MR) but was denied in a Resolution[7] dated September 28, 2011.

Undeterred, respondent filed a Petition for Review on Certiorari[8] before this Court but was denied in a Resolution[9] dated December 14, 2011 on the ground that the Petition failed to sufficiently show that the Sandiganbayan committed any reversible error in its challenged issuances as to warrant the exercise of the Court's discretionary appellate jurisdiction. Respondent thrice moved for reconsideration.[10] The first two MRs were denied,[11] while the third one was ordered expunged from the records.[12]

Subsequently, an Entry of Judgment[13] was issued stating that the Court's Resolution of denial had already become final and executory on August 16, 2012.

In October 2013, the Office of the Bar Confidant (OBC) received a letter[14] dated August 14, 2013 from Wat & Co. of Hong Kong stating that its client in Hong Kong received a letter from the Philippines signed by "Atty. Joselito C. Barrozo," asking for long service payment from the employers of domestic helper Anita G. Calub who passed away on March 4, 2013. Upon checking online and discovering that said person was convicted of direct bribery, Wat & Co. requested the OBC to inform it if respondent is still a lawyer qualified to practice law.

Prompted by Wat & Co.'s letter, the OBC inquired from the Department of Justice (DOJ) whether respondent is still connected thereat.[15] In reply, the DOJ informed OBC that respondent had already resigned from his position effective May 3, 2005.[16]

On November 15, 2012, OBC wrote Wat & Co. to confirm that respondent was indeed convicted of direct bribery by final judgment and that the Philippine Court has yet to rule on his disbarment.

In view of the foregoing and considering that respondent's conviction is a ground for disbarment from the practice of law under Section 27, Rule 138 of the Rules of Court, the Court through a Resolution[17] dated December 11, 2013 required respondent to comment on why he should not be suspended/disbarred from the practice of law.

In his Comment[18] respondent identified the issue in this case as whether he can engage in the practice of law despite his conviction. He then argued that he did not engage in the practice of law as his act of signing the claim letter does not constitute such practice. He averred that he signed it not for any monetary consideration, but out of his sincere desire to help the claimants. And since there is no payment involved, no lawyer-client relationship was established between him and the claimants. This therefore negates practice of law on his part.

Subsequently, upon Order of the Court, the OBC evaluated the case and came up with its February 20, 2015 Report and Recommendation[19] recommending the disbarment of respondent.

Our Ruling

The Court adopts the OBC's recommendation.

It must first be clarified that the issue in this case is not what respondent essentially argued about in his Comment, i.e., whether his act of signing the claim letter constitutes practice of law. As aptly stated by the OBC in its recommendation and viewed from proper perspective, the real issue here is whether respondent should be suspended or disbarred by reason of his conviction of the crime of direct bribery. Hence, the Court finds respondent's Comment to be totally without merit as he veered away, whether wittingly or unwittingly, from the crux of the controversy in this case.

Under Section 27, Rule 138 of the Rules of Court, one of the grounds for the suspension or disbarment of a lawyer is his conviction of a crime involving moral turpitude. And with the finality of respondent's conviction for direct bribery, the next question that needs to be answered is whether direct bribery is a crime that involves moral turpitude.

To consider a crime as one involving moral turpitude, the act constituting the same must have been "done contrary to justice, honesty, modesty, or good morals. [It must involve] 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."[20]

In Catalan, Jr. v. Silvosa,[21] the Court already had the occasion to answer the same question posed in this case, viz:

> Moral turpitude is defined as an act of baseness, vileness, or depravity in the private duties which a man owes

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> to his fellowmen, or to society in general, contrary to justice, honesty, modesty, or good morals. Section 27, Rule 138 provides:
> 'Section 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. — A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority [to do so]. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.'
>
> xxxx

[T]he crime of direct bribery is a crime involving moral turpitude. In Magno v. COMELEC,[22] we ruled:

> 'By applying for probation, petitioner in effect admitted all the elements of the crime of direct bribery:
>
> 1. the offender is a public officer;
>
> 2. the offender accepts an offer or promise or receives a gift or present by himself or through another;
>
> 3. such offer or promise be accepted or gift or present be received by the public officer with a view to committing some crime, or in consideration of the execution of an act which does not constitute a crime but the act must be unjust, or to refrain from doing something which it is his official duty to do; and
>
> 4. the act which the offender agrees to perform or which he executes is connected with the performance of his official duties.
>
> Moral turpitude can be inferred from the third element. The fact that the offender agrees to accept a promise or gift and deliberately commits an unjust act or refrains from performing an official duty in exchange for some favors, denotes a malicious intent on the part of the offender to renege on the duties which he owes his fellowmen and society in general. Also, fee fact that the offender takes advantage of his office and position is a betrayal of the trust reposed on him by the public. It is a conduct clearly contrary to the accepted rules of right and duty, justice, honesty and good morals. In all respects, direct bribery is a crime involving moral turpitude.[23] (Emphases and italics in the original)

Clearly, direct bribery is a crime involving moral turpitude which, as mentioned, is a ground for the suspension or disbarment of a lawyer from his office as an attorney.

The Court is mindful that a lawyer's conviction of a crime involving moral turpitude does not automatically call for the imposition of the supreme penalty of disbarment since it may, in its discretion, choose to impose the less severe penalty of suspension. As held, "the determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of sound judicial discretion."[24] Here, however, the circumstances surrounding the case constrain the Court to impose the penalty of disbarment as recommended by the OBC.

It must be recalled that at the time of the commission of the crime, respondent was an Assistant Public Prosecutor of the City of Dagupan. His act therefore of extorting money from a party to a case handled by him does not only violate the requirement that cases must be decided based on the merits of the parties' respective evidence but also lessens the people's confidence in the rule of law. Indeed—

> Respondent's conduct in office fell short of the integrity and good moral character required of all lawyers, specially one occupying a public office. Lawyers in public office are expected not only to refrain from any act or omission which tend to lessen the trust and confidence of the citizenry in government but also uphold the dignity of the legal profession at all times and observe a high standard of honesty and fair dealing. A

> government lawyer is a keeper of public faith and is burdened with a high degree of social responsibility, higher than his brethren in private practice.[25]

Hence, for committing a crime which does not only show his disregard of his oath as a government official but is likewise of such a nature as to negatively affect his qualification as a lawyer, respondent must be disbarred from his office as an attorney.

As a final note, it is well to state that:

> The purpose of a proceeding for disbarment is to protect the administration of justice by requiring that those who exercise this important function be competent, honorable and reliable - lawyers in whom courts and [the public at large] may repose confidence. Thus, whenever a clear case of degenerate and vile behavior disturbs that vital yet fragile confidence, [the Court] shall not hesitate to rid [the] profession of odious members.[26]

WHEREFORE, Atty. Joselito C. Barrozo is hereby DISBARRED and his name is ORDERED STRICKEN from the Roll of Attorneys. Let a copy of this Decision be attached to his personal records and furnished the Office of the Bar Confidant, Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Carpio, (Acting Chairperson),[*] Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Villarama, Jr., Perez, Mendoza, Perlas-Bernabe, Leonen, and Jardeleza, JJ., concur.

Sereno, C.J.[**] and Reyes, J.,[***] on official leave.

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[*] Per Special Order No. 2101 dated July 13, 2015.

[**] Per Special Order No. 2101 dated July 13, 2015.

[***] Per Special Order No. 2112 dated July 16, 2015.

[1] Section 1. How instituted - Proceedings for disbarment, suspension or discipline of attorneys may be taken by the Supreme Court motu proprio, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.

[2] An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds or Credit and for Other Purposes.

[3] Art. 210. Direct bribery. — Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine of not less than the value of the gift and not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of prision correccional, in its

medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of prision correccional in its maximum period and a fine of not less than the value of the gift and not less than three times the value of such gift.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

[4] Elements of Direct Bribery:

(1) that the accused is a public officer;

(2) that he received directly or through another some gift or present, offer or promise;

(3) that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime or to refrain from doing something which is his official duty to do; and

(4) that the crime or act relates to the exercise of his functions as a public officer; Balderama v. People, 566 Phil. 412,419 (2008).

[5] Rollo, pp. 94-123; penned by Associate Justice Maria Cristina J. Cornejo and concurred in by Associat Justices Gregory S. Ong and Jose R. Hernandez.

[6] Id. at 132-145.

[7] Id. at 124-131.

[8] Docketed as G.R. No. 198706, entitled "Joselito C. Barrozo v. People of the Philippines"

[9] Rollo, p. 146.

[10] See MR dated March 14, 2012, id. at 147-210; Second MR dated August 16, 2012, id. at 280-337; no copy of the third MR is attached to the rollo.

[11] See Court Resolution dated June 13,2012 and October 22, 2012, id. at 279 and 423, respectively.

[12] See Court Resolution dated February 20,2013, id. at 425.

[13] Id. at 411.

[14] Id. at 3-4.

[15] Id. at 9.

[16] Id. at 10.

[17] Id. at 426-427.

[18] Id. at 428-434.

[19] Id., unpaginated.

[20] Re: SC Decision Dated May 20, 2008 in G.R. No. 161455 Under Rule 139-B of the Rules of Court v. Atty. Rodolfo D. Pactolin, A.C. No. 7940, April 24,2012,670 SCRA 366, 371.

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[21] A.C. No. 7360, July 24,2012, 677 SCRA 352.

[22] 439 Phil. 339, 346-347 (2002).

[23] Id at 361-362.

[24] Figueras v. Atty. Jimenez, A.C, No. 9116, March 12, 2014.

[25] Ramos v. Atty. Imbang, 557 Phil. 507, 516 (2007).

[26] Soriano v. Atty. Dizon, 515 Phil. 635, 646 (2006).

N O T I C E O F J U D G M E N T
Sirs/Mesdames:

Please take notice that on July 21, 2015 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 24, 2015 at 11:16 a.m.

Very truly yours,

(SGD.)
FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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