

## **FACUNDO LUBIANO, COMPLAINANT, VS. JOEL G. GORDOLLA, RESPONDENT.**

*A.C. No. 2343. July 30, 1982*

Ponente: ESCOLIN, J.

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### **ESCOLIN, J.:**

The Canons of Professional Ethics imposes upon the lawyer the duty of maintaining a respectful attitude towards the court. He is likewise expected to treat adverse witnesses and suitors with fairness and due consideration. As such, he should never minister to the malevolence or prejudice of a client in a trial or conduct of a cause[1] He should be temperate in acts and words, a paragon in civility.

For what is claimed as a failure of Atty. Joel G. Gordolla to observe this standard, his disbarment is sought by complainant Facundo Lubiano.

Complainant decries the following statements contained in a motion for reconsideration with prayer for restraining order filed by respondent Gordolla, as counsel for Robina Farms, Inc., in NLRC Case No. RB-IV-22635-78-T:

"Meanwhile, the complainant, very eager to get hold of the ill-gotten wealth (thru unknowing award by the Hon. Commission) has used the Sheriff's Office as his partner in 'crime' and the latter thru Sheriff Juanito Atienza, is now and about to enforce the terror (sic) of the award thru Writ of Execution."

While the aforequoted paragraph does not constitute sufficient cause for disbarment of respondent, We are not inclined to disregard the insouciant language used by respondent as merely trivial and innocuous. The language of a lawyer, oral or written, must be respectful and restrained, in keeping with the dignity of the legal profession. It is through a scrupulous preference for respectful language that a lawyer best demonstrates his observance or respect due to the courts and judicial officers, as mandated by Section 20(b) of Rule 138 of the Rules of Court and the Canons of Professional Ethics. Respondent's choice of words manifestly falls short of this criterion. In describing the award of separation pay to complainant Lubiano as "ill-gotten wealth", the decision of the National Labor Relations Commission, an administrative body exercising quasi-judicial functions, as an "unknowing" one, and the sheriff's office as a "partner in 'crime'", respondent precariously ventured beyond the bounds of propriety and civility.

Respondent's attempt to escape responsibility by attributing said statements to his zeal and enthusiasm in the performance of his duty to uphold his client's cause, is unavailing. As this Court said in *Rheem of the Philippines vs. Ferrer*[2].

"It is but to repeat an old idea when we say that enthusiasm, or even excess of it, is not really bad. In fact, the one or the other is no less a virtue, if channelled in the right direction. However, it must be circumscribed within the bounds of propriety and with due regard for the proper place of courts in our system of government."

Respondent became unmindful of the fact that in addressing the National Labor Relations Commission, he

nonetheless remained a member of the Bar, an oath-bound servant of the law, whose first duty is not to his client but to the administration of justice and whose conduct ought to be and must be scrupulously observant of law and ethics[3]

Respondent would argue that the statements in question, being relevant and pertinent to the subject of inquiry in said case, are covered by the mantle of absolute privileged communication; and that, as such, they cannot be used as basis for any action, however false and malicious the statements may be. We find no necessity to dwell at length on the issue as to whether or not the statements in question are relevant, for in either case this Court will not be inhibited from exercising its supervisory authority over lawyers who misbehave or fail to live up to that standard expected of them as members of the Bar. Indeed, the rule of absolute privileged communication absolves beforehand the lawyer from civil and criminal liability based on the statements made in the pleadings. But like the member of the legislature who enjoys immunity from civil and criminal liability arising from any speech or debate delivered in the Batasan or in any committee thereof[4],but nevertheless remains subject to the disciplinary authority of the legislature for said speech or debate[5], a lawyer equally remains subject to this Court's supervisory and disciplinary powers for lapses in the observance of his duty as a member of the legal profession.

PREMISES CONSIDERED, respondent Atty. Joel G. Gordolla is hereby ordered to pay a fine of P200.00, payable to the Clerk of this Court within ten (10) days from notice of this decision, with subsidiary imprisonment in case of insolvency. He is further warned that a repetition of a similar act would be dealt with more severely.

**SO ORDERED.**

Barredo, (Chairman), Aquino, Concepcion, Jr., Guerrero, Abad Santos, and De Castro, JJ., concur.

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[1] Section 18, Canons of Professional Ethics.

**[2] 20 SCRA 441.**

[3] Surigao Mineral Reservation Board vs. Cloribel, 31 SCRA 1.

[4] Article VIII, Section 9 of the Constitution.

[5] Osmeña vs. Pendatun, 109 Phil. 863.

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