

EDUARDO M. COJUANGCO, JR., COMPLAINANT, VS. ATTY. LEO J. PALMA, RESPONDENT.*A.C. NO. 2474. June 30, 2005*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-2474/>**PER CURIAM:**

Providing one's children with a comfortable life and good education does not render marriage a *fait accompli*. Leo J. Palma, respondent herein, may have provided well for his children but this accomplishment is not sufficient to wipe away the penalty for his transgression. He ought to remember that before he became a father, he was a husband first. As such, he should have loved, respected and remained faithful to his wife.

At bar is respondent's Motion to Vacate[1] our Decision dated September 15, 2004 finding him guilty of grossly immoral conduct and violation of his oath as a lawyer and imposing upon him the penalty of disbarment from the practice of law.

In resolving the instant motion, a brief revisit of the facts is imperative. On June 22, 1982, respondent, despite his subsisting marriage with Elizabeth Hermosisima, married Maria Luisa Cojuangco, the 22-year old daughter of complainant Eduardo M. Cojuangco, Jr. This prompted the latter to file with this Court, on November 8, 1982, a complaint for disbarment against respondent.

Respondent moved to dismiss the complaint.

In our Resolution[2] dated March 2, 1983, we referred the case to the Office of the Solicitor General (OSG) for investigation, report and recommendation. Then Assistant Solicitor General Oswaldo D. Agcaoili heard the testimonies of the complainant and his witness in the presence of respondent's counsel.

On March 19, 1984, respondent filed with the OSG an urgent motion to suspend proceedings[3] on the ground that the final outcome of Civil Case No. Pq-0401-P,[4] for declaration of nullity of marriage between him and his wife Lisa, poses a prejudicial question to the disbarment proceeding. The motion was denied.

Respondent then filed with this Court an urgent motion for issuance of a restraining order.[5] On December 19, 1984, we issued a Resolution enjoining the OSG from continuing the disbarment proceedings.[6]

In the interim, Rule 139-B of the Rules of Court took effect. Hence, the OSG transferred the disbarment case to the Integrated Bar of the Philippines (IBP). On October 19, 1998, IBP Commissioner Julio C. Elamparo required the parties to manifest within ten (10) days from notice whether they are still interested in pursuing the case.[7]

In his manifestation,[8] complainant confirmed his continuing interest in prosecuting the case.

For his part, respondent moved to postpone the hearing eight (8) times. In one of those instances, particularly on August 28, 2001, complainant moved "that respondent be deemed to have waived his right to present evidence and for the case to be deemed submitted for resolution in view of his continuing failure to present his evidence." However, complainant withdrew such motion upon the promise of the respondent's counsel that on the next hearing, scheduled on October 4, 2001, he would definitely present his client's evidence. But even before that

date, respondent already manifested that he would not be able to return to the Philippines for his direct testimony. Instead, he promised to submit his “direct testimony in affidavit form.”[9] In an Order issued that day, the IBP Commissioner reset the hearing for the last time on January 24, 2002 and warned respondent that should he fail to appear or present his “direct testimony in affidavit form,” the case will be deemed submitted for resolution.[10] On January 24, 2002, respondent neither appeared nor presented his “direct testimony in affidavit form,” hence, the case was deemed submitted for resolution.[11]

On March 20, 2003, the IBP Commissioner submitted a Report and Recommendation finding respondent guilty of gross immoral conduct and violation of his oath as a lawyer and recommending that he be suspended from the practice of law for a period of three (3) years.

The IBP Board of Governors adopted and approved the above Report and Recommendation, but reduced the penalty of suspension to only one (1) year.

On September 15, 2004, we rendered the assailed Decision.

In his motion for reconsideration, respondent raised the following issues:

First, the complaint for disbarment was filed by an improper party, complainant not being the offended party.

Second, he was denied due process because the case was submitted for resolution on January 24, 2002 without his “direct testimony in affidavit form.”

Third, the disbarment proceedings before the IBP Commission on Bar Discipline is void because our Resolution dated December 19, 1984 restraining the OSG from continuing such proceedings has not been lifted.

Fourth, our Decision is barred by laches because of the lapse of almost fourteen (14) years from December 19, 1984, the date we restrained the OSG from continuing the disbarment proceedings, until October 19, 1998, the date the IBP Commissioner required the parties to “manifest whether or not they are still interested in prosecuting the case.”

Fifth, the Resolution dated June 21, 2003 of the IBP Board of Governors imposing upon him the penalty of one (1) year suspension “has attained finality and should be deemed served already.”

And sixth, he acted under a “firm factual and legal conviction” in declaring before the Hong Kong Marriage Registry that he is a “bachelor” because his first marriage is void even if there is no judicial declaration of nullity.

In his comment, complainant countered that: first, respondent cannot claim denial of due process because his failure to adduce evidence was due to his own fault; second, it is now too late to invoke this Court’s Resolution of December 19, 1984 restraining the OSG from continuing the disbarment proceedings; third, laches does not apply because the 14-year hiatus was brought about by the said Resolution; fourth, the penalty of one-year suspension imposed by the IBP Board of Governors cannot be deemed “final and served already” because it is a mere recommendation to this Court; and fifth, although his previous marriage was annulled, it can not erase the betrayal of trust and abuse of confidence he committed against complainant.

Respondent’s motion is bereft of merit.

We observe that in his motion, respondent alleged new issues[12] which were not considered below. Nonetheless, in view of the caveat that the power to disbar must be exercised with great caution, we shall resolve all these new issues.

I - Improper Party

We find no merit in respondent's contention that the complainant, being the father of the offended party, does not have the standing to file the instant complaint.

Disbarment proceedings are undertaken solely for public welfare. The only question for determination is whether respondent is fit to be a member of the Bar. The complainant or the person who called the attention of this Court to the lawyer's alleged misconduct is in no sense a party and generally has no interest in the outcome except as all good citizens may have in the proper administration of justice.[13] Thus, this Court may investigate charges against lawyers, regardless of complainant's standing. In fact, it can do so *motu proprio*. Our ruling in *Rayos-Ombac vs. Rayos*[14] applies four-square, thus:

“x x x A case of suspension or disbarment may proceed regardless of interest or lack of interest of the complainant. What matters is whether, on the basis of the facts borne out by the record, the charge of deceit and grossly immoral conduct has been duly proven. This rule is premised on the nature of disciplinary proceedings. A proceeding for suspension or disbarment is not in any sense a civil action where the complainant is a plaintiff and the respondent lawyer is a defendant. Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare. They are undertaken for the purpose of preserving courts of justice from the official ministrations of persons unfit to practice in them. The attorney is called to answer to the court for his conduct as an officer of the court. The complainant or the person who called the attention of the court to the attorney's alleged misconduct is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice. Hence, if the evidence on record warrants, the respondent may be suspended or disbarred despite the desistance of complainant or his withdrawal of the charges.”

II – Due Process

Neither do we find merit in respondent's claim that the IBP Commission on Bar Discipline violated his right to due process when it considered the case submitted for resolution on January 24, 2002 without his “direct testimony in affidavit form.” The records show that the case dragged on for three (3) years after the IBP Commission on Bar Discipline resumed its investigation on October 19, 1998. Of the fifteen[15] (15) settings from February 2, 1999 to January 24, 2002, respondent had the hearing postponed for eight (8) times.

Indisputably, it was respondent's failure to submit his “direct testimony in affidavit form” that caused delay. Since the proceedings had been dragging on a lethargic course, the IBP Commissioner is correct in considering the case submitted for resolution. At this juncture, it must be stressed that the essence of due process in administrative proceedings is the opportunity to explain one's side or seek a reconsideration of the action or ruling complained of. As long as the parties are given the opportunity to be heard before judgment is rendered, the demands of due process are sufficiently met.[16] Here, respondent was given sufficient opportunity to explain his side and adduce his evidence. Despite his sudden “flight into oblivion,” the IBP Commissioner notified him of the proceedings. Significantly, he was duly represented by a counsel who attended the hearings and submitted manifestations and motions on his behalf, the latest of which is the instant Motion to Vacate. In short, the active participation of his lawyer in every stage of the proceedings rules out any badge of procedural deficiency therein. Of course, we need not mention the fact that respondent was able to file with this Court a motion to dismiss the complaint, as well as to confront and cross-examine the complainant and his witness during the investigation in the OSG.

III – Restraining Order

The restraining order was anchored on the ground that the final outcome of Civil Case No. Pq-0401-P poses a prejudicial question to the disbarment proceedings. It appears from complainant's allegation, which respondent does not deny, that Civil Case No. Pq-0401-P was dismissed without prejudice.[17] Necessarily, there is no more prejudicial question to speak of.

IV - Laches

Respondent cannot find solace in the principle of laches. While it is true that there was a hiatus or delay of 14 years before the IBP Commissioner resumed the investigation, the same was pursuant to the said restraining order of December 19, 1984.

V – Finality of the Penalty Imposed

by the IBP-Board of Governors

The penalty of one-year suspension imposed by the IBP Board of Governors cannot attain finality. Section 12 of Rule 139-B provides:

“Section 12. Review and Decision by the Board of Governors.-

x x x x x

(b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case shall forthwith be transmitted to the Supreme Court for final action.”

Clearly, the resolution of the IBP Board of Governors is merely recommendatory. The “power to recommend” includes the power to give “advice, exhortation or indorsement, which is essentially persuasive in character, not binding upon the party to whom it is made.”[18] Necessarily, the “final action” on the resolution of the IBP Board of Governors still lies with this Court. Obviously, respondent's argument that we affirmed such resolution when we “noted” it is certainly misplaced. In *Re: Problem of Delays in Cases Before the Sandiganbayan*,[19] we held that the term “noted” means that the Court has merely taken cognizance of the existence of an act or declaration, without exercising a judicious deliberation or rendering a decision on the matter. It does not imply agreement or approval. The power to disbar belongs to the Court alone.

VI - Good Faith

Respondent's argument that he was of the “firm factual and legal conviction when he declared before the Hong Kong authorities that he was a bachelor since his first marriage is void and does not need judicial declaration of nullity” cannot exonerate him. In *Terre vs. Terre*,[20] the same defense was raised by respondent lawyer whose disbarment was also sought. We held:

“x x x Respondent Jordan Terre, being a lawyer, knew or should have known that such an argument ran counter to the prevailing case law of this Court which holds that for purposes of determining whether a person is legally free to contract a second marriage, a judicial declaration that the first marriage was null and void ab initio is essential. Even if we were to assume, *arguendo* merely, that Jordan Terre held that mistaken belief in good faith, the same result will follow. For if we are to hold Jordan Terre to his own argument, his first

marriage to complainant Dorothy Terre must be deemed valid, with the result that his second marriage must be regarded as bigamous and criminal in character.”

Before we write *finis* to this case, we find it necessary to stress certain points in view of respondent’s additional reason why he should be exonerated – that he loves all his children and has always provided for them. He may have indeed provided well for his children. But this accomplishment is not sufficient to show his moral fitness to continue being a member of the noble profession of law. It has always been the duties of parents – e.g., to support, educate and instruct their children according to right precepts and good example; and to give them love, companionship and understanding, as well as moral and spiritual guidance.[21] But what respondent forgot is that he has also duties to his wife. As a husband, he is obliged to live with her; observe mutual love, respect and fidelity; and render help and support.[22] And most important of all, he is obliged to remain faithful to her until death.

The undeniable truth is that respondent married Lisa while his marriage with Elizabeth Hermosisima was still subsisting. Such act constitutes grossly immoral conduct, a ground for disbarment under Section 27, Rule 138 of the Revised Rules of Court. Obviously, he exhibited a deplorable lack of that degree of morality required of him as a member of the Bar. He made a mockery of marriage, a sacred institution demanding respect and dignity. In *Cordova vs. Cordova*,[23] we held that “The moral delinquency that affects the fitness of a member of the bar to continue as such includes conduct that outrages the generally accepted moral standards of the community, conduct for instance, which makes a mockery of the inviolable social institution of marriage.”

We also reiterate our ruling that respondent’s conduct speaks of a clear case of betrayal of trust and abuse of confidence, thus:

“x x x. It was respondent’s closeness to the complainant’s family as well as the latter’s complete trust in him that made possible his intimate relationship with Lisa. When his concern was supposed to be complainant’s legal affairs only, he sneaked at the latter’s back and courted his daughter. Like the proverbial thief in the night, he attacked when nobody was looking. Moreover, he availed of complainant’s resources by securing a plane ticket from complainant’s office in order to marry the latter’s daughter in Hong Kong. He did this without complainant’s knowledge. Afterwards, he even had the temerity to assure complainant that “everything is legal.” Clearly, respondent had crossed the limits of propriety and decency.

Indeed, we are not prepared to exonerate respondent or reduce the penalty we imposed on him as it will denigrate the standard of the law profession.

WHEREFORE, respondent’s Motion to Vacate our Decision dated September 15, 2004 is hereby DENIED.

SO ORDERED.

Davide, Jr., C.J., Puno, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Garcia, JJ., concur.

[1] Which we treat as a motion for reconsideration.

[2] Rollo, at 354.

[3] Rollo at 199 - 201.

[4] Then pending in the Court of First Instance (CFI), Branch 27, Pasay City, Annex “D” of the Complaint, *id.* at 13-19.

- [5] Dated December 13, 1984.
- [6] OSG Records at 5. The OSG issued the Order dated December 20, 1984 suspending the scheduled hearing until the Court orders otherwise. (OSG Records at 1)
- [7] Records of the Commission on Bar Discipline at 11.
- [8] Dated November 13, 1998, id. at 13.
- [9] Manifestation with Motion, Records of the Commission on Bar Discipline at 45
- [10] Order dated December 4, 2001, Records of the Commission on Discipline at 51.
- [11] Order dated January 24, 2002, Records of the Commission on Discipline at 97.
- [12] Except the 5th issue mentioned earlier.
- [13] Pimentel, Jr. vs. Llorente, A.C. No. 4680, August 29, 2000, 339 SCRA 154.
- [14] A.C. No. 2884, January 28, 1998, 285 SCRA 93.
- [15] Hearings set on February 2, 1999, May 7, 1999, May 16, 2000, June 15, 2000, August 24, 2000, November 21, 2000, January 18, 2001, February 20, 2001, April 24, 2001, May 17, 2001, June 28, 2001, August 28, 2001, October 4, 2001, December 4, 2001, and January 24, 2002.
- [16] Montemayor vs. Bundalian, G.R. No. 149335, July 1, 2003, 405 SCRA 264.
- [17] Comment to Respondent's Motion to Vacate, at 2.
- [18] Cuyegkeng vs. Cruz, No. L- 16263, July 26, 1960, 108 Phil. 1147.
- [19] A.M. No. 00-8-05-SC, January 31, 2002, 375 SCRA 339.
- [20] A.C. No. 2349, July 3, 1992, 211 SCRA 6.
- [21] Art. 220, Family Code. See also Art. 356 of the Civil Code and Art. 3 of the Child and Youth Welfare Code (or PD 603).
- [22] Art. 68, Family Code.
- [23] Adm. Case No. 3249, November 29, 1989, 179 SCRA 680.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.