

**SPOUSES MANUEL C. RAFOLS, JR. AND LOLITA B. RAFOLS,  
COMPLAINANTS, VS. ATTY. RICARDO G. BARRIOS, JR., RESPONDENT.***A.C. No. 4973. March 15, 2010*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-4973/>**PER CURIAM:**

The primary objective of administrative cases against lawyers is not only to punish and discipline the erring individual lawyers but also to safeguard the administration of justice by protecting the courts and the public from the misconduct of lawyers, and to remove from the legal profession persons whose utter disregard of their lawyer's oath has proven them unfit to continue discharging the trust reposed in them as members of the bar. A lawyer may be disbarred or suspended for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, honesty, probity and good demeanor or unworthy to continue as an officer of the court.

- Rivera v. Corral, A.C. No. 3548, July 4, 2002, 384 SCRA 1.

By its Board Resolution No. 1 dated March 7, 1998, the South Cotabato-Sarangani-General Santos City (SOCSARGEN) Chapter of the Integrated Bar of the Philippines (IBP) resolved to refer to the IBP Board of Governors in Manila, for appropriate action and investigation, the purported anomaly involving Judge Teodoro Dizon Jr. and Atty. Ricardo G. Barrios, Jr.[1] Thus, on March 24, 1998, Atty. Joeffrey L. Montefrio, the SOCSARGEN IBP Chapter President, transmitted the referral to the Office of the Court Administrator (OCA).

The matter involving Judge Dizon, Jr., which was docketed as Administrative Matter (AM) No. RTJ-98-1426 entitled Manuel C. Rafols and Lolita C. Rafols v. Judge Teodoro Dizon, Jr., RTC, General Santos City, Branch 37,[2] was resolved in a per curiam decision promulgated on January 31, 2006,[3] whereby the Court dismissed Judge Dizon, Jr. from the service, with forfeiture of all benefits, except accrued leave credits, and with prejudice to re-employment in the government or any of its subdivisions, instrumentalities or agencies, including government-owned and government -controlled corporations.

In the same per curiam decision, the Court reiterated its resolution of October 21, 1998 for the Office of the Bar Confidant (OBC) to conduct an investigation of the actuations of Atty. Barrios, Jr. (respondent), and to render its report and recommendation.

Hence, this decision.

**Antecedents**

The anomaly denounced by the SOCSARGEN IBP Chapter was narrated in the joint affidavit dated March 3, 1998 of Spouses Manuel C. Rafols, Jr. and Lolita B. Rafols (complainants),[4] whose narrative was corroborated by the affidavit dated March 11, 1998 of Larry Sevilla;[5] the affidavit dated March 16, 1998 of Allan Rafols;[6] and the affidavit dated March 16, 1998 of Daisy Rafols,[7] all of which were attached to the letter of the IBP Chapter President. Atty. Erlinda C. Verzosa, then Deputy Clerk of Court and Bar Confidant, referred for appropriate action a copy of the letter and affidavits to then Court Administrator Alfredo L. Benipayo.

In turn, then Senior Deputy Court Administrator Reynaldo L. Suarez filed with the Court an Administrative Matter for Agenda, recommending in relation to Atty. Barrios, Jr., as follows:

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5. The Office of the Bar Confidant be FURNISHED with a copy of the letter-note and its attachments so that it may conduct its own investigation in the matter with respect to the actuations of Atty. Ricardo Barrios, Jr.[8]

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In the resolution dated October 21, 1998, the Court approved the recommendations,[9] and directed the Office of the Bar Confidant to investigate the actuations of the respondent, and to render its report and recommendation thereon.

#### Proceedings of the OBC

Only the respondent appeared during the hearing before the OBC. Denying the charges against him, he sought the dismissal of the complaint and re-affirmed the contents of his comment. Despite notice, the complainants did not appear before the OBC. However, the complainants and the respondent had testified during the administrative hearing involving Judge Dizon, Jr. before Court of Appeals Associate Justice Jose Sabio Jr. as the Investigating Justice. Also testifying thereat were the complainants' witnesses, namely: Allan Rafols, Daisy Rafols and Larry Sevilla.

#### A. Evidence for the Complainants

The complainants were the plaintiffs in Civil Case No. 6209 of the Regional Trial Court (RTC) in General Santos City, wherein they sought the cancellation of a deed of sale. Civil Case No. 6209 was assigned to Branch 37 of the RTC, presided by Judge Dizon, Jr. The complainants were represented by the respondent, paying to him P15,000.00 as acceptance fee.

On December 22, 1997, at 9:30 a.m., the respondent visited the complainants at their residence and informed complainant Manuel that the judge handling their case wanted to talk to him. The respondent and Manuel thus went to the East Royal Hotel's coffee shop where Judge Dizon, Jr. was already waiting. The respondent introduced Manuel to the judge, who informed Manuel that their case was pending in his sala. The judge likewise said that he would resolve the case in their favor, assuring their success up to the Court of Appeals, if they could deliver P150,000.00 to him. As he had no money at that time, Manuel told the judge that he would try to produce the amount. The judge then stated that he would wait for the money until noon of that day. Thus, Manuel left the coffee shop together with the respondent, who instructed Manuel to come up with the money before noon because the judge badly needed it. The two of them went to a lending institution, accompanied by Allan Rafols, but Manuel was told there that only P50,000.00 could be released the next day. From the lending institution, they went to the complainants' shop to look for Ditas Rafols, Allan's wife, who offered to withdraw P20,000.00 from her savings account.

On their way to the bank, Manuel, Allan and Ditas dropped off the respondent at the hotel for the latter to assure Judge Dizon, Jr. that the money was forthcoming. Afterwards, Ditas and Manuel withdrew P20,000.00 and P30,000.00 from their respective bank accounts, and went back to the hotel with the cash. There, they saw the judge and his driver, who beckoned to them to go towards the judge's Nissan pick-up then parked along the highway in front of the hotel. Manuel alighted from his car and approached the judge. Manuel personally handed the money to the judge, who told Manuel after asking about the amount that it was not enough. Thereafter, Manuel entered the hotel's coffee shop and informed the respondent that he had already handed the money to the judge.

On December 24, 1997, at about 6:00 a.m., the respondent again visited the complainants. He was on board the judge's Nissan pick-up driven by the judge's driver. The respondent relayed to the complainants the message that the judge needed the balance of P100,000.00 in order to complete the construction of his new house in time for the reception of his daughter's wedding. However, the complainants managed to raise only P80,000.00, which they delivered to the respondent on that same day.

On January 20, 1998, Judge Dizon, Jr. called up the complainants' residence and instructed their son to request his parents to return his call, leaving his cell phone number. When Manuel returned the call the next day, the judge instructed Manuel to see him in his office. During their meeting in his chambers, the judge demanded the balance of P30,000.00. Manuel clarified to the judge that his balance was only P20,000.00 due to the previous amount given being already P80,000.00. The judge informed him that the amount that the respondent handed was short. Saying that he badly needed the money, the judge insisted on P30,000.00, and even suggested that the complainants should borrow in order to raise that amount.

On January 22, 1998, Judge Dizon, Jr. called the complainants to inquire whether the P30,000.00 was ready for pick up. After Manuel replied that he was ready with the amount, the judge asked him to wait for 20 minutes. The judge and his driver later arrived on board his Nissan pick-up. Upon instructions of the judge's driver, the complainants followed the Nissan pick-up until somewhere inside the Doña Soledad Estate, Espina, General Santos City. There, the judge alighted and approached the complainants and shook their hands. At that point, Manuel handed P30,000.00 to the judge. The judge then told Manuel that the RTC judge in Iloilo City before whom the perpetuation of the testimony of Soledad Elevecionado-Provido was made should still testify as a witness during the trial in his sala in order for the complainants to win. The judge persuaded the complainants to give money also to that judge; otherwise, they should not blame him for the outcome of the case.

The complainants were forced to give money to the judge, because they feared that the judge would be biased against them unless they gave in to his demands. But when they ultimately sensed that they were being fooled about their case, they consulted Larry Sevilla, their mediamen friend, and narrated to Sevilla all the facts and circumstances surrounding the case. They agreed that the details should be released to the media. The exposé<sup>9</sup> was published in the Newsmaker, a local newspaper.

Thereafter, the respondent and Judge Dizon, Jr. made several attempts to appease the complainants by sending gifts and offering to return a portion of the money, but the complainants declined the offers.

According to the complainants, the respondent demanded P25,000.00 as his expenses in securing the testimony of Soledad Elevecionado-Provido in Iloilo City to be used as evidence in their civil case. In addition, the respondent requested the complainants to borrow P60,000.00 from the bank because he wanted to redeem his foreclosed Isuzu Elf, and because he needed to give P11,000.00 to his nephew who was due to leave for work abroad.

#### B. Evidence for the Respondent

In his verified comment dated March 22, 2006,[10] the respondent confirmed that the complainants engaged him as their counsel in Civil Case No. 6209. His version follows.

On December 22, 1997, the respondent introduced Manuel to Judge Dizon, Jr. inside the East Royal Hotel's coffee shop. The respondent stayed at a distance, because he did not want to hear their conversation. Later, Manuel approached the respondent and gave him P2,000.00. When the respondent asked what the money was for, Manuel replied that it was in appreciation of the former's introducing the latter to the judge. The respondent stated that Manuel did not mention what transpired between the latter and the judge; and that the judge did not tell him

(respondent) what transpired in that conversation.

Two days later, the respondent again visited the complainants at their house in General Santos City on board the judge's Nissan pick-up driven by the judge's driver, in order to receive the P80,000.00 from the complainants. The amount was being borrowed by the judge for his swimming pool. Later on, the judge told the respondent to keep P30,000.00 as a token of their friendship. After Manuel handed the P80,000.00, the respondent and the judge's driver headed towards Davao City, where, according to the judge's instruction, they redeemed the judge's wristwatch for P15,000.00 from a pawnshop. The driver brought the remaining amount of P35,000.00 to the judge in his home.

On January 27, 1998, Judge Dizon, Jr. visited the respondent at the latter's house to ask him to execute an affidavit. Declining the request at first, the respondent relented only because the judge became physically weak in his presence and was on the verge of collapsing. Nonetheless, the respondent refused to notarize the document.

In that affidavit dated January 27, 1998,[11] the respondent denied that Judge Dizon, Jr. asked money from the complainants; and stated that he did not see the complainants handing the money to the judge. He admitted that he was the one who had requested the judge to personally collect his unpaid attorney's fees from the complainants with respect to their previous and terminated case; and that the judge did not ask money from the complainants in exchange for a favorable decision in their case.

On January 28, 1998, the respondent returned to the complainants' residence, but was surprised to find complainant Lolita crying aloud. She informed him that the judge was again asking an additional P30,000.00 although they had given him P30,000.00 only the week before. She divulged that the judge had told her that their case would surely lose because: (a) they had engaged a counsel who was mahinang klase; (b) the judge hearing Civil Case No. 5645 in Iloilo and the woman who had testified in Civil Case No. 6029 had not been presented; and (c) they would have to spend at least P10,000.00 for said judge's accommodations in General Santos City.[12]

On January 31, 1998, Judge Dizon, Jr. went to the house of the respondent, but the latter was not home. The judge left a note addressed to the complainants, and instructed the respondent's secretary to deliver the note to the complainants along with a gift (imported table clock).[13] According to the respondent, the complainants consistently refused to accept the gift several times; it was later stolen from his house in Cebu City.

On February 1, 1998, the respondent delivered the note and gift to the complainants, but the latter refused to receive it, telling him that they were no longer interested to continue with the case. At the same time, the complainants assured him that they bore no personal grudge against him, because they had a problem only with Judge Dizon, Jr.

On February 24, 1998, the respondent went to the National Bureau of Investigation Regional Office, Region XI, and the Philippine National Police Regional Office, Region XI, both in Davao City, to request the investigation of the matter.[14]

On March 2, 1998, the respondent paid Judge Dizon, Jr. a visit upon the latter's request. In that meeting, the respondent told the judge about the refusal of the complainants to accept the judge's gift and about their decision not to continue with the case.[15]

On the next day, Judge Dizon, Jr. sent a note to the respondent to inform him that the judge had raised the amount that he had borrowed from the complainants.[16] The judge requested the respondent to tell the complainants that he (Judge Dizon, Jr.) was going to return whatever he had borrowed from them. However, the complainants informed the respondent that he should tell the judge that they were no longer interested in getting back the money.

The respondent made a follow-up at the NBI and PNP Regional Offices in Davao City of his request for assistance after Manuel mentioned to him that he (Manuel) knew of many armed men ready at any time to help him in his problem with the judge.

#### Report and Recommendation of the OBC

In its Report and Recommendation dated May 15, 2008,[17] the OBC opined that the administrative case against the respondent could not be dismissed on the ground of failure to prosecute due to the complainants' failure to appear in the scheduled hearing despite due notice.

Based on the facts already established and identified, as rendered in the decision dated January 21, 2006 in Manuel Rafols and Lolita B. Rafols v. Judge Teodoro A. Dizon,[18] the OBC rejected the respondent's denial of any knowledge of the transaction between his clients and the judge.

The OBC recommended:

"WHEREFORE, in the light of the foregoing premises, it is respectfully recommended that respondent ATTY. RICARDO BARRIOS, Jr. be SUSPENDED from the practice of law for three (3) years with a stern warning that a repetition of similar act in the future will be dealt more severely."

#### Ruling of the Court

We approve and adopt the report and recommendations of the OBC, which we find to be fully and competently supported by the evidence adduced by the complainants and their witnesses, but we impose the supreme penalty of disbarment, which we believe is the proper penalty.

### I

Section 27, Rule 138 of the Rules of Court, which governs the disbarment and suspension of attorneys, provides:

Section 27. Disbarment and suspension of attorneys by the 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 for 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 constitute malpractice.

The burden of proof in disbarment and suspension proceedings always rests on the shoulders of the complainant. The Court exercises its disciplinary power only if the complainant establishes the complaint by clearly preponderant evidence that warrants the imposition of the harsh penalty.[19] As a rule, an attorney enjoys the legal presumption that he is innocent of the charges made against him until the contrary is proved. An attorney is further presumed as an officer of the Court to have performed his duties in accordance with his oath.[20]

Here, the complainants successfully overcame the respondent's presumed innocence and the presumed regularity in the performance of his duties as an attorney of the complainants. The evidence against him was substantial, and was not contradicted.

To begin with, the respondent's denial of knowledge of the transaction between the complainants and Judge Dizon, Jr. was not only implausible, but also unsubstantiated. It was the respondent himself who had introduced the complainants to the judge. His act of introducing the complainants to the judge strongly implied that the respondent was aware of the illegal purpose of the judge in wanting to talk with the respondent's clients. Thus, we

unqualifiedly accept the aptness of the following evaluation made in the OBC's Report and Recommendation, viz:

xxx Being the Officer of the Court, he must have known that meeting litigants outside the court is something beyond the bounds of the rule and that it can never be justified by any reason. He must have known the purpose of Judge Dizon in requesting him to meet the complainants-litigants outside the chamber of Judge Dizon. By his overt act in arranging the meeting between Judge Dizon and complainants- litigants in the Coffee Shop of the East Royal Hotel, it is crystal clear that he must have allowed himself and consented to Judge Dizon's desire to ask money from the complainants-litigants for a favorable decision of their case which was pending before the sala of Judge Dizon.[21]

Secondly, the respondent's insistence that he did not see the complainants' act of handing the money to the judge is unbelievable. In his comment, the respondent even admitted having himself received the P80,000.00 from the complainants, and having kept P30,000.00 of that amount pursuant to the instruction of the judge as a token of the friendship between him and the judge.[22] The admission proved that the respondent had known all along of the illegal transaction between the judge and the complainants, and belied his feigned lack of knowledge of the delivery of the money to the judge.

Thirdly, his attempt to explain that the complainants had given the money to the judge as a loan, far from softening our strong impression of the respondent's liability, confirmed his awareness of the gross impropriety of the transaction. Being the complainants' attorney in the civil case being heard before the judge, the respondent could not but know that for the judge to borrow money from his clients was highly irregular and outrightly unethical. If he was innocent of wrongdoing, as he claimed, he should have desisted from having any part in the transaction. Yet, he did not, which rendered his explanation unbelievable. Compounding the unworthiness of his explanation was his admission of having retained P30,000.00 of the "borrowed" money upon the judge's instruction.

And, lastly, the OBC has pointed out that the respondent's act of requesting the NBI Regional Office in Davao City to investigate was an afterthought on his part. We agree with the OBC, for the respondent obviously acted in order to anticipate the complainants' moves against him and the judge. To be sure, the respondent sensed that the complainants would not simply forgive and forget the mulcting they had suffered at the hands of the judge and their own attorney from the time that the complainants assured him that they were no longer interested to get back their money despite their being very angry at the judge's greed.

Overall, the respondent's denials were worthless and unavailing in the face of the uncontradicted evidence showing that he had not only personally arranged the meeting between Manuel and Judge Dizon, Jr., but had also communicated to the complainants the judge's illegal reason for the meeting. It is axiomatic that any denial, to be accepted as a viable defense in any proceeding, must be substantiated by clear and convincing evidence. This need derives from the nature of a denial as evidence of a negative and self-serving character, weightless in law and insufficient to overcome the testimony of credible witnesses on affirmative matters.[23]

## II

The practice of law is a privilege heavily burdened with conditions.[24] The attorney is a vanguard of our legal system, and, as such, is expected to

maintain not only legal proficiency but also a very high standard of morality, honesty, integrity, and fair dealing in order that the people's faith and confidence in the legal system are ensured.[25] Thus, he must conduct himself, whether in dealing with his clients or with the public at large, as to be beyond reproach at all times.[26] Any violation of the high moral standards of the legal profession justifies the imposition on the attorney of the appropriate penalty, including suspension and disbarment.[27]

Specifically, the Code of Professional Responsibility enjoins an attorney from engaging in unlawful, dishonest, or deceitful conduct.[28] Corollary to this injunction is the rule that an attorney shall at all times uphold the integrity and dignity of the Legal Profession and support the activities of the Integrated Bar.[29]

The respondent did not measure up to the exacting standards of the Law Profession, which demanded of him as an attorney the absolute abdication of any personal advantage that conflicted in any way, directly or indirectly, with the interest of his clients. For monetary gain, he disregarded the vow to "delay no man for money or malice" and to "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" that he made when he took the Lawyer's Oath.[30] He also disobeyed the explicit command to him as an attorney "to accept no compensation in connection with his client's business

except from him or with his knowledge and approval."[31] He conveniently ignored that the relation between him and his clients was highly fiduciary in nature and of a very delicate, exacting, and confidential character.[32]

Verily, the respondent was guilty of gross misconduct, which is "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not mere error of judgment." [33] Any gross misconduct of an attorney in his professional or private capacity shows him unfit to manage the affairs of others, and is a ground for the imposition of the penalty of suspension or disbarment, because good moral character is an essential qualification for the admission of an attorney and for the continuance of such privilege.[34]

The conclusion that the respondent and the disgraced Judge Dizon, Jr. were conspirators against the former's own clients, whom he was sworn to protect and to serve with utmost fidelity and morality, is inevitable for the Court to make in this administrative case. And, being conspirators, they both deserve the highest penalty. The disbarment of the respondent is in order, because such sanction is on par with the dismissal of Judge Dizon, Jr.

WHEREFORE, Atty. Ricardo G. Barrios, Jr. is disbarred.

This decision shall be entered in the records of Atty. Barrios, Jr. as a member of the Philippine Bar.

Copies of the decision shall be furnished to the Bar Confidant and the Integrated Bar of the Philippines for record purposes; and to the Court Administrator, for circulation to all courts nationwide.

### **SO ORDERED.**

Puno, C.J., Carpio, Corona, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

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[1] Rollo, pp. 4-5.

[2] Formerly OCA IPI No. 98-579-RTJ.

[3] A.M. No. RTJ-98-1426, January 31, 2006, 481 SCRA 92.

[4] Rollo, pp. 6-9.

[5] *Id.*, pp. 10-11.

[6] *Id.*, p. 12.

[7] *Id.*, p. 13.

[8] *Id.*, p. 86.

[9] Id., p. 87.

[10] Id. pp. 185-195.

[11] Id, p. 199.

[12] Id., p. 197.

[13] Id., p. 202.

[14] Id., pp. 204-206.

[15] Id., p. 203.

[16] Id.

[17] Id., pp. 241-249.

[18] Supra at Note 3.

[19] Arma v. Montevilla, A.C. No. 4829, July 21, 2008, 559 SCRA 1.

[20] Id.

[21] Rollo, pp. 247-248.

[22] Id., p. 189.

[23] Rafols, Jr. v. Dizon, A.M. RTJ-98-1426, January 31, 2006, 481 SCRA 92; Orfila v. Arellano, A.M. Nos. P-06-2110 and P-03-1692, February 23, 2006, 482 SCRA 280; Mabini v. Raga, A.M. No. P-06-2150, June 21, 2006, 491 SCRA 525; Re: (1) Lost Checks Issued to the Late Roderick Roy P. Melliza, Former Clerk II, MCTC, Zaragga, Iloilo and (2) Dropping from the Rolls of Ms. Esther T. Andres; A.M. No. 2005-26-SC, November 22, 2006; 507 SCRA 478.

[24] Dumadag v. Lumaya, A.C. No. 2614, June 29, 2000, 334 SCRA 513.

[25] Cham v. Paita-Moya, A.C. No. 7494, June 27, 2008, 556 SCRA 1..

[26] Rule 7.03, Code of Professional Responsibility, to wit:

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.

[27] Cham v. Paita-Moya, supra at Note 25.

[28] Rule 1.01, which states:

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

[29] Canon 7, Code of Professional Responsibility.

[30] In the Lawyer's Oath, the attorney declares that:

x x x 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 this voluntary obligation without any mental reservation or purpose of evasion. So help me God.

[31] Rule 138, Section 20 (e), Rules of Court.

[32] *Barnachea v. Quiocho*, A.C. No. 5925, March 11, 2003, 399 SCRA 1.

[33] *Whitson v. Atienza*, A.C. No. 5535, August 28, 2003, 410 SCRA 10.

[34] *Id.*

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