

REMEDIOS DY, PETITIONER, VS. RAMON M. MIRANDA AND ROMULO N. DELA VICTORIA, RESPONDENTS.*A.C. No. 577. May 28, 1991*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-577/>**PER CURIAM:**

A verified letter-complaint dated March 3, 1963 was filed with this Court on June 7, 1963 by Remedios Dy for the disbarment of Atty. Ramon M. Miranda and Atty. Romulo N. dela Victoria for acts amounting to gross misconduct allegedly committed by the respondents in relation to Criminal Case No. 5837 for Theft entitled "People of the Philippines v. Endenerio and Gonzaga" of the then Court of First Instance of Negros Oriental where she was the offended party.

After conviction of the accused in Criminal Case No. 5837, the judgment was brought on appeal to the Court of Appeals and assigned to the Second Division. The cash exhibit of P3,105.10 which was part of the original money recovered from the possession of the accused was forwarded to the appellate court and deposited with the cashier for safekeeping.

Remedios Dy alleged that respondents are brothers-in-law; that during the pendency of the appealed case, she received a letter dated October 5, 1959 (Annex "A") from respondent Atty. dela Victoria informing her that he, together with another lawyer from Manila is handling the defense and that if she is willing to meet certain terms and conditions, he can prevail upon defendants-appellants to withdraw the appeal and she could then withdraw her money. The full text of the letter of respondent de la Victoria is hereby quoted as follows:

"October 10, 1959

"MRS. REMEDIOS DY

Bayawan,
Negros Oriental

"Dear Mrs. Dy:

"This is in connection with Criminal Case G.R. No. 25953-R entitled People of the Philippines versus Santiago Endenerio, et al., for the crime of 'THEFT' which has been elevated on appeal to the Court of Appeals from the Court of First Instance of Negros Oriental. As complainant in said case, I presume it will be of interest to you that the undersigned, in collaboration with another lawyer in Manila, is now handling the defense.

"I am writing you because I believe that it will be of great advantage and benefit on your part if the case is terminated at the earliest time possible whereby you could put into use the money now deposited with the court as corpus delicti in the amount of THREE THOUSAND ONE HUNDRED FIVE and 10/100 (P3,105.10) PESOS. Further, that if we go on with the case, I am sure that it will drag on for many years as we are contemplating to elevate same to the Supreme Court in case we will lose in the Court of Appeals. By so doing, you will not only be divested of the use of your money now in deposit with the court during the pendency of the case, but you are going to entail more expenses and efforts as a consequence thereof.

"If you are willing, therefore, to meet certain terms and conditions, I can assure you that I, and my co-counsel,

can prevail upon the defendants-appellants for the withdrawal of the present appeal and thus bring the case to its final termination, in which event you could withdraw your money immediately and at the same time be spared from additional expenses necessary in court litigations.

"If you are amenable to such proposition, I would suggest that you come and meet me personally in my office here in San Carlos.

"Thank you.

"Very truly yours,

ROMULO N. DE LA VICTORIA"

(p. 5, Rollo).

She also alleged that on November 5, 1959, she received a letter (Annex "B") from respondent Atty. Miranda who was then a bailiff in the Second Division of the Court of Appeals demanding the amount of P500.00 in consideration for the withdrawal of the appeal by him. The full text of this letter is likewise quoted herein as follows:

"Nov. 5, 1959

"Mr. & Mrs. Sammy Dy
Bayawan, Negros Oriental

"My dear Mr. & Mrs. Dy,

"In connection with your case in the Court of Appeals, entitled, People vs. Santiago Endenerio et al, and of which you are the complainant for theft, I wish to inform you that I am the counsel for the accused-appellants. I suppose you are very eager for the early termination of the case so that you can get your money in the sum of P3,105.10 deposited in the Court of Appeals as exhibits.

"If you are agreeable, for the consideration for the sum of P500.00, I am going to file a motion for the withdrawal of appellants' appeal. Rest assure that after the dismissal of the appeal, you can get at once the aforesaid money either in the Court of Appeals or in the Court of First Instance of Negros Oriental.

"As counsel for the accused-appellants, you know I can do what I please. I can even delay the disposition of the case. If I file the appellants' brief after one year, who knows that the accused-appellants might even be acquitted, thereby, resulting in the return of the aforesaid money to the appellants.

"So whatever be your comment, please get in contact with me at the earliest possible time.

"Very respectfully,

R.M. MIRANDA"

(p. 6, Rollo).

Complainant alleged further that thru a falsified motion to withdraw the appeal which was granted by the Court on February 1, 1960 and a falsified motion to withdraw cash exhibits, on February 16, 1960, the Court issued an order authorizing the return to the offended party of the cash exhibits deposited with the cashier; that on February 17, 1960 the cash exhibits were fraudulently withdrawn by a person who represented himself as Atty. Deloria, the private prosecutor and that it was respondent Atty. Ramon Miranda who accompanied the alleged impostor and identified him to the cashier as the real Atty. Deloria; and that after an investigation was conducted by the NBI regarding the fraudulent withdrawal and upon its recommendation, the City Fiscal of Manila filed an information against the two (2) respondents for "Estafa thru Falsification of Public Document" in Criminal Case No. 58954 with the Court of First Instance of Manila (now Regional Trial Court) wherein the accused, however, were acquitted on the ground of reasonable doubt.

Respondent Miranda in his answer to the complaint made a general denial of the charges against him and pointed out that the letter he allegedly sent to the complainant demanding P500.00 was not given any probative value in the criminal case filed against them and that the complainant Remedios Dy did not suffer any material damage because she was reimbursed of the cash exhibits out of the fidelity bond of the cashier of the Court of Appeals (pp. 125-127, Rollo).

The other respondent, dela Victoria, admitted in his answer that he wrote the letter dated October 5, 1959, but denied having anything to do with the motion to withdraw and the actual withdrawal of the cash exhibits (pp. 129-131, Rollo).

We forwarded the case to the Office of the Solicitor General, for investigation, report and recommendation. The case was then referred to the Provincial Fiscal of Negros Oriental for investigation. The Provincial fiscal subsequently submitted a report to the Solicitor General indicating that there are "reasonable grounds for disciplinary action" against respondent Miranda, an employee of the Court of Appeals in 1959 and 1960. The report also showed the complainant had manifested that she had dropped her charges against respondent dela Victoria. Thereupon, the Solicitor General submitted a report to this Court, which reads:

"EVIDENCE FOR COMPLAINANT

"At the hearing of this case on August 11, 1964, counsel for complainant manifested that they will exclude respondent Romulo dela Victoria from the charges and instead utilize him as their witness. Complainant herself, when asked by the investigating Fiscal if she agrees to the dropping of charges against respondent de la Victoria, answered affirmatively (pp. 2-6, tsn, Aug. 11, 1964).

"Respondent Romulo de la Victoria, as witness for complainant, testified that he is a resident of San Carlos City and that respondent Ramon Miranda is his brother-in-law. He denied that he was one of the counsels for the accused in the appealed case (CA-G.R. No. 25953-R where the cash exhibits were deposited with the Court of Appeals cashier). He knew that respondent Miranda was then a bailiff in the Court of Appeals. He admitted that he sent the letter dated October 10, 1959 (Exh. 'A') to complainant upon the written request of respondent Miranda who also informed him 'that he was already handling the case on appeal.' In this letter, respondent de la Victoria told complainant that if she could 'meet certain terms and conditions,' he and his 'co-counsel can prevail upon the defendants-appellants for the withdrawal of the appeal.' Since complainant did not answer, he totally forgot all about it. However, he later on received a second letter dated February 23, 1960 (Exh. 'C') from respondent Miranda who cautioned him against ever mentioning Miranda as handling the case for the defense in that appealed case involving herein complainant, Remedios Dy, because it is a matter of regulation and policy that an employee of the Court of Appeals must not in any way be interested or involved in any case pending before said court. Respondent de la Victoria further testified that he likewise received another letter dated March 15, 1960 (Exh. 'D') from respondent Miranda where the latter practically pleaded that de la

Victoria should not mention him as having anything to do with the appealed case and, even to deny that he knows, or is in any way related with, him (pp. 16-38, tsn, Sept. 1, 1965).

"Complainant Remedios Dy, resident of Bayawan, Negros Oriental, testified that she received a letter dated November 5, 1959 (Exh. 'B') purportedly from respondent Miranda asking money in consideration of the withdrawal of the appeal (involving the cash exhibits). However, she admitted that she had never confronted said respondent nor secured from him any admission that he was the writer of the letter. She confirmed having received the letter dated October 10, 1959 (Exh. 'A') from respondent de la Victoria. Subsequently, when she went to the Court of Appeals, she discovered that the cash exhibits of P3,105.10 had already been 'withdrawn by a certain Mrs. Dy' and the appealed case also already terminated. She reported this discovery to the appellate court which referred the matter to the NBI. She was later reimbursed for the amount out of government funds (pp. 39-49, tsn, Sept. 3, 1965).

"Aside from the letters of respondents, the complainant presented in evidence a copy of the decision dated June 28, 1962 of the then Court of First Instance of Manila in Criminal Case No. 58954 entitled 'People of the Philippines vs. Ramon M. Miranda and Romulo de la Victoria' for estafa thru falsification of public documents, acquitting both accused on the ground of reasonable doubt (Exh. 'E'); and a 'badly faded' thermofax copy of the NBI report on the alleged fraudulent withdrawal of the cash exhibits (Exh. 'F'). Petitioner also requested the investigating Fiscal to consider the stenographic notes of the testimonies of some witnesses in Criminal Case No. 58954, which include the testimony of the Court of Appeals Disbursing Officer - Corazon del Rosario - and which are annexed to her complaint for disbarment, as part of her evidence (these tsns were not however marked).

"ON RESPONDENT MIRANDA

"The Provincial Fiscal of Negros Oriental in his letter-report to the Solicitor General states as follows:

'It took some time before the investigation could actually be had and terminated, on account of the difficulty in contacting the respondent Ramon M. Miranda. Our office was not able to definitely establish his whereabouts until January 12, 1965 when from his address, which is No. 127-B Baltazar St., in Gran Park, Caloocan City, he requested postponement of the investigation that had been set for January 12 and 13, 1965. He never appeared thereafter, or communicated to our office, notwithstanding the notices sent to him in San Carlos City, so this office proceeded with the investigation.'

"At the hearing of the case on June 28, 1965, the investigating Fiscal noted that notwithstanding receipt of notice of the hearing on February 17 and 18, 1965 and without any motion for postponement whatsoever, respondent Miranda failed to appear. He was also duly notified of the June 26, 1965 hearing but he still failed to appear, prompting the Fiscal to rule that in view of the implied waiver by said respondent (Miranda) of his right to be present in this investigation, we shall go on with the investigation as scheduled today' (p. 7, tsn, June 28, 1965).

"FINDINGS

"As far as respondent Ramon M. Miranda is concerned, the evidence clearly established the following:

"1. He requested respondent Romulo de la Victoria, his brother-in-law, then residing and practising law in San Carlos City (Negros Oriental), to write complainant Remedios Dy, then also a resident of Bayawan, Negros Oriental, of the possibility of withdrawing the appealed case where complainant was the offended party.

"2. He confirmed his interest and involvement in the appealed case, notwithstanding that he was then the bailiff of the Second Division of the Court of Appeals where the appealed case was docketed and/or pending disposition, by his letters dated February 23, 1960 (Exh. 'C') and March 15, 1960 (Exh. 'D') to respondent de la Victoria.

"3. While the decision in Criminal Case No. 58954 - which was not disputed by respondents in their respective

answers to the complaint - acquitted them of the crime charged, nonetheless, the decision found as duly established the fact that it was respondent Miranda who assured the cashier of the Court of Appeals 'that a certain person was Atty. Deloria' and 'on this assurance, Mrs. del Rosario (cashier) paid to him (Atty. Deloria) the sum of P3,105.10 which had been authorized by the Court of Appeals in a resolution to return to the offended party, Remedios Dy' (page 10 of Exh. 'E').

"The general rule is that a lawyer who holds a government office may not be disciplined as a member of the bar for misconduct the discharge of his duties as a government official (*Garcia v. Milia*, May 25, 1965, 14 SCRA 67). However, if the misconduct as a government official is of such a character as to affect his qualification as a lawyer or to show moral delinquency, he may be disciplined as a member of the bar on such ground (*In Re Lanuevo*, G.R. Adm. Case No. 1162, Aug. 29, 1975). Pursuant to this rule, respondent Ramon Miranda obviously exhibited a debased morality which calls for disciplinary action.

"ON RESPONDENT DE LA VICTORIA

"In the same decision in Criminal Case No. 58954, the then Court of First Instance held that 'from the evidence presented, the accused Romulo de la Victoria is in no way implicated, so that his acquittal is mandatory' (page 4, Exh. 'E'). Complainant did not also present evidence in this administrative case that would conclusively establish facts that may warrant sanction against respondent de la Victoria."

"RECOMMENDATIONS

"WHEREFORE, it is respectfully recommended that for his evident lack of moral integrity as a lawyer, respondent Ramon M. Miranda be suspended from the practice of law for five (5) years.

"On the other hand, it is also respectfully recommended that for want of clear preponderant evidence, the charge against respondent Romulo N. dela Victoria be dismissed." (Report and Recommendation of the Solicitor General, pp. 7-15, Rollo)

We agree with the foregoing findings and recommendations except for the recommended penalty of suspension from the practice of law for a period of five (5) years to be imposed on respondent Ramon M. Miranda which We find too light.

The actuation of respondent Atty. Ramon M. Miranda in writing the letter dated November 5, 1959, addressed to petitioner, demanding the amount of P500.00 in consideration for the withdrawal of the appeal undeniably shows his interest and involvement in an appealed case pending before the Second Division of the Court of Appeals where he was then the bailiff. Such involvement is bolstered by the fact that it was he who assured the cashier of the Court of Appeals that a certain person was Atty. Deloria and on this assurance, the cashier released the amount to said Atty. Deloria.

By such acts, respondent has shown himself not worthy of full confidence and trust which should characterize an accountable public officer. Public service requires utmost integrity and strictest discipline. Under the Constitution, a public servant must exhibit at all times the highest sense of honesty and integrity and shall remain accountable to the people. These acts also glaringly constitute violations of the Lawyer's Oath to which he swore observance, and evident transgressions of the Canons of Professional Ethics. The practice of law is a privilege accorded only to those who measure up to certain standards of mental and moral fitness.[1] Respondent has miserably failed to live up to the standards expected of a member of the Bar; he has made a mockery of justice, thus deserving to be censured and penalized by this Court. By reason of the duly proven actuations of the respondent, complainant was compelled to seek the services of the NBI to conduct an investigation and thereafter to file a criminal case against

the herein respondents which however, was dismissed on the ground of reasonable doubt.

Atty. Miranda's unprofessional actuations considered, We are constrained to find him liable for gross misconduct in office and for lack of moral integrity as a lawyer unworthy of the trust reposed in him as an officer of the court.

On the other hand, the charge against co-respondent Romulo N. de la Victoria has not been fully established by the evidence presented.

ACCORDINGLY, the charge against respondent Romulo N. de la Victoria is DISMISSED. On the other hand, consistent with the need to maintain the high traditions and standards of accountable public officers and secure undiminished public faith in attorneys-at-law, respondent Ramon M. Miranda is hereby indefinitely SUSPENDED from the practice of law.

Copies of this Resolution shall be circulated to all Courts of the country and spread on the personal record of respondent Atty. Ramon M. Miranda.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[1] In Re: Gutierrez, 5 SCRA 661.

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