# BOBIE ROSE V. FRIAS, COMPLAINANT, VS. ATTY. CARMELITA S. BAUTISTA-LOZADA, RESPONDENT.

*A.C. NO. 6656 (FORMERLY CBD-98-591). May 04, 2006*

Ponente: CORONA, J.

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**CORONA, J.:**

Respondent Atty. Carmelita Bautista-Lozada seeks reconsideration of our December 13, 2005 resolution finding her guilty of violating Rules 15.03 and 16.04 of the Code of Professional Responsibility and of willfully disobeying a final and executory decision of the Court of Appeals and suspending her from the practice of law for two years.

Respondent contends that, pursuant to Rule VIII of the Rules of Procedure of the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP), the complaint against her was already barred by prescription. She also asserts that her December 7, 1990 loan agreement with complainant complied with Rule 16.04 because the interest of complainant was fully protected.

Respondent's contentions have no merit.

Respondent anchors her defense of prescription on Rule VIII, Section 1 of the Rules of Procedure of the CBD-IBP which provides:

> SECTION 1. Prescription. A complaint for disbarment, suspension or discipline of attorneys prescribes in two (2) years from the date of the professional misconduct.

However, as early as 1967, we have held that the defense of prescription does not lie in administrative proceedings against lawyers.[1] And in the 2004 case of Heck v. Santos,[2] we declared that an administrative complaint against a member of the bar does not prescribe.

> If the rule were otherwise, members of the bar would be emboldened to disregard the very oath they took as lawyers, prescinding from the fact that as long as no private complainant would immediately come forward, they stand a chance of being completely exonerated from whatever administrative liability they ought to answer for. It is the duty of this Court to protect the integrity of the practice of law as well as the administration of justice. No matter how much time has elapsed from the time of the commission of the act complained of and the time of the institution of the complaint, erring members of the bench and bar cannot escape the disciplining arm of the Court. This categorical pronouncement is aimed at unscrupulous members of the bench and bar, to deter them from committing acts which violate the Code of Professional Responsibility, the Code of Judicial Conduct, or the Lawyer's Oath. x x x
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> Thus, even the lapse of considerable time from the commission of the offending act to the institution of the administrative complaint will not erase the administrative culpability of a lawyer'.[3] (emphasis supplied)

The CBD-IBP derives its authority to take cognizance of administrative complaints against lawyers from this Court which has the inherent power to regulate, supervise and control the practice of law in the Philippines.

Hence, in the exercise of its delegated power to entertain administrative complaints against lawyers, the CBD-IBP should be guided by the doctrines and principles laid down by this Court.

Regrettably, Rule VIII, Section 1 of the Rules of Procedure of the CBD-IBP which provides for a prescriptive period for the filing of administrative complaints against lawyers runs afoul of the settled ruling of this Court. It should therefore be struck down as void and of no legal effect for being ultra vires.

Moreover, assuming that prescription is a valid defense, respondent raised it only at this late stage. We presume she was familiar with that rule yet she failed to invoke it at the earliest opportunity. Instead she opted to insist on her innocence.

On the other ground raised by respondent, we have sufficiently discussed the implications of her loan agreement with complainant in relation to Rule 16.04 of the Code of Professional Responsibility in our December 13, 2005 resolution. Considering the fiduciary character of respondent's relationship with complainant, the nature of their agreement and complainant's lack of independent advice when she entered into it, there is neither sufficient ground nor compelling reason to reconsider our earlier resolution.

WHEREFORE, respondent's motion for reconsideration is hereby DENIED WITH FINALITY.

Rule VIII, Section 1 of the Rules of Procedure of the Commission on Bar Discipline of the Integrated Bar of the Philippines is hereby declared null and void.

Let copies of this resolution be furnished the Integrated Bar of the Philippines and the Office of the Bar Confidant for their information and guidance.

**SO ORDERED.**

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

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[**] Also referred to as "Carmencita Bautista-Lozada" in some parts of the records.

[1]Calo v. Degamo, Adm. Case No. 516, 27 June 1967, 20 SCRA 447.

[2] A.M. No. RTJ-01-1657, 23 February 2004, 423 SCRA 329.

[3] Id.


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