

TERESITA P. FAJARDO, COMPLAINANT, VS. ATTY. NICANOR C. ALVAREZ, RESPONDENT.

A.C. No. 9018. April 20, 2016

Ponente: LEONEN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-9018/>

LEONEN, J.:

This administrative case involves the determination of whether a lawyer working in the Legal Section of the National Center for Mental Health under the Department of Health is authorized to privately practice law, and consequently, whether the amount charged by respondent for attorney's fees is reasonable under the principle of quantum meruit.

Complainant Teresita P. Fajardo (Teresita) was the Municipal Treasurer of San Leonardo, Nueva Ecija. She hired respondent Atty. Nicanor C. Alvarez (Atty. Alvarez) to defend her in criminal and administrative cases before the Office of the Ombudsman.

The parties have differing versions of the facts as summarized by the Investigating Commissioner of the Commission on Bar Discipline of the Integrated Bar of the Philippines. Teresita's version of the facts is as follows:

Around 2009, Teresita hired Atty. Alvarez to handle several cases filed against her before the Office of the Ombudsman.[1] Atty. Alvarez was then working in the Legal Section of the National Center for Mental Health.[2] He asked for P1,400,000.00 as acceptance fee.[3] However, Atty. Alvarez did not enter his appearance before the Office of the Ombudsman nor sign any pleadings.[4]

Atty. Alvarez assured Teresita that he had friends connected with the Office of the Ombudsman who could help with dismissing her case for a certain fee.[5] Atty. Alvarez said that he needed to pay the amount of P500,000.00 to his friends and acquaintances working at the Office of the Ombudsman to have the cases against Teresita dismissed.[6]

However, just two (2) weeks after Teresita and Atty. Alvarez talked, the Office of the Ombudsman issued a resolution and decision recommending the filing of a criminal complaint against Teresita, and her dismissal from service, respectively.[7]

Teresita then demanded that Atty. Alvarez return at least a portion of the amount she gave.[8] Atty. Alvarez promised to return the amount to Teresita; however, he failed to fulfill this promise.[9] Teresita sent a demand letter to Atty. Alvarez, which he failed to heed.[10]

On the other hand, Atty. Alvarez claims the following:

Atty. Alvarez is Legal Officer III of the National Center for Mental Health under the Department of Health.[11] He has authority to engage in private practice of the profession.[12] He represented Teresita in several cases before the Office of the Ombudsman.[13]

Atty. Alvarez and Teresita had an arrangement that Teresita would consult Atty. Alvarez whenever a case was filed against her.[14] Atty. Alvarez would then advise Teresita to send him a copy of the complaint and its attachments through courier.[15] Afterwards, Atty. Alvarez would evaluate the case and call Teresita to discuss his fees in accepting and handling the case.[16] A 50% downpayment would be deposited to Atty. Alvarez's or his secretary's bank account.[17] The balance would then be paid in installments.[18] The success fee was voluntary on Teresita's part.[19]

On July 10, 2009, Atty. Alvarez received a call from Teresita regarding a meeting at Shangri-La Mall to discuss the decision and resolution she received from the Office of the Ombudsman dismissing her from service for dishonesty and indicting her for violation of Section 3 of Republic Act No. 3019, respectively.[20] Atty. Alvarez accepted the case and asked for P500,000.00 as acceptance fee.[21] According to Atty. Alvarez, he arrived at the amount after considering the difficulty of the case and the workload that would be involved, which would include appeals before the Court of Appeals and this Court.[22] However, the fee is exclusive of filing fees, appearance fees, and other miscellaneous fees such as costs for photocopying and mailing.[23]

Atty. Alvarez claimed that he prepared several pleadings in connection with Teresita's case:

(1)

motion for reconsideration filed on July 23, 2009 in connection with the administrative case;

(2)

motion for reconsideration filed on July 23, 2009 in connection with the criminal case;

(3)

petition for injunction filed on October 15, 2009 before the Regional Trial Court of Gapan City; and

(4)

petition for preliminary injunction with prayer for a temporary restraining order filed before the Court of Appeals on November 18, 2009, and the amended petition on November 26, 2009.[24]

Atty. Alvarez also said that he prepared several letters to different government officials and agencies.[25]

Atty. Alvarez alleged that Teresita made staggered payments for the amounts they agreed on.[26] Teresita only paid the balance of the agreed acceptance fee equivalent to P450,000.00 on February 11, 2010.[27] While Teresita paid P60,000.00 for the miscellaneous expenses, she did not pay the expenses for other legal work performed and advanced by Atty. Alvarez.[28]

On the last day for filing of the petition for review of the Office of the Ombudsman's Decision, Teresita informed Atty. Alvarez that she was no longer interested in retaining Atty. Alvarez's services as she had hired Atty. Tyrone Contado from Nueva Ecija, who was Atty. Alvarez's co-counsel in the cases against Teresita.[29]

On June 1, 2011, Teresita filed before the Office of the Bar Confidant a Verified Complaint praying for the disbarment of Atty. Alvarez.[30] This Court required Atty. Alvarez to file his comment on the complaint within 10 days from notice.[31]

On December 7, 2011, the case was referred to the Integrated Bar of the Philippines for investigation, report, and recommendation.[32]

In his Report and Recommendation[33] dated November 12, 2012, Investigating Commissioner Honesto A. Villamayor found Atty. Alvarez guilty of violating the Code of Professional Responsibility and recommended

Atty. Alvarez's suspension from the practice of law for one (1) year.[34] Atty. Alvarez was also ordered to return the amount of P700,000.00 to Teresita with legal interest from the time of demand until its full payment.[35] The dispositive portion of the Investigating Commissioner's Report and Recommendation reads:

WHEREFORE, finding Respondent guilty of committing unlawful, immoral and deceitful acts of the Canon of Professional Responsibility, [it] is recommended that he be suspended for one (1) year in the practice of law and he be ordered to return the amount of P700,000.00 to the Complainant within two (2) months from receipt of this order with legal interest from the time of demand, until fully paid, with a warning that repetition of [a] similar offense in the future will be dealt with more severely.[36]

On the unauthorized practice of law, the Investigating Commissioner found that while Atty. Alvarez claimed that he was authorized by his superior to privately practice law, the pleadings he allegedly prepared and filed did not bear his name and signature.[37] Hence, the Investigating Commissioner stated that:

The time that Respondent spent in following up the case of Complainant in the Office of the Ombudsman is a time lost to the government which could have been used in the service of many taxpayers[.][38]

In any case, granting that Atty. Alvarez was authorized by his superior to practice his profession, the Investigating Commissioner stated that Atty. Alvarez was prohibited to handle cases involving malversation of funds by government officials such as a municipal treasurer.[39]

Moreover, the Investigating Commissioner found that the attorney's fees Atty. Alvarez asked for were unreasonable:

From all indication, Complainant was forced to give to the Respondent the amount of P1,400,000.00 because of the words of Respondent that he has friends in the Office of the Ombudsman who can help with a fee. That because of that guarantee, Complainant was obligated to shell out every now and then money for the satisfaction of the allege[d] friend of the Respondent[.]

Complainant is an ordinary Municipal Treasurer of a 4[th] or 5[th] class municipality and the amount of attorney's fees demanded by the Respondent is very much excessive. . . . The exorbitant amount that he demanded from complainant is too much for a lowly local government employee. What the Respondent did is not only illegal, immoral and dishonest but also taking advantage of a defenseless victim.

. . . .

While a lawyer should charge only fair and reasonable fees, no hard and fast rule may be set in the determination of what a reasonable fee is, or what is not. That must be established from the facts of each case[.]

. . . .

The fees claimed and received by the Respondent for the alleged cases he handled despite the fact that the records and evidence does not show that he ever signed pleadings filed, the amount of P700,000.00 is reasonable, thus, fairness and equity dictate, he has to return the excess amount of P700,000.00 to the complainant[.][40]

In Notice of Resolution No. XX-2013-778[41] dated June 21, 2013, the Integrated Bar of the Philippines Board of Governors adopted the findings and recommendations of the Investigating Commissioner:

RESOLVED to ADOPT AND APPROVE, as it is hereby unanimously ADOPTED AND APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that complaint [sic] is guilty of unlawful, immoral and deceitful

acts, Atty. Nicanor C. Alvarez is hereby SUSPENDED from the practice of law for one (1) year with [a] Warning that repetition of the same acts shall be dealt with more sever[ely]. Further, he is Ordered to Return the amount of P700,000.00 to complainant with legal interest from the time of demand.[42] (Emphasis in the original)

Atty. Alvarez moved for reconsideration of the Resolution,[43] but the Motion was denied by the Board of Governors in Notice of Resolution No. XXI-2014-286[44] dated May 3, 2014. The Resolution reads:

RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and the resolution subject of the motion, it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XX-2013-778 dated June 21, 2013 is hereby AFFIRMED.[45] (Emphasis in the original)

We resolve the following issues:

First, whether respondent Atty. Nicanor C. Alvarez, as a lawyer working in the Legal Section of the National Center for Mental Health under the Department of Health, is authorized to engage in the private practice of law; and

Second, whether the amount charged by respondent for attorney's fees is reasonable under the principle of quantum meruit.

The Investigating Commissioner did not make a categorical declaration that respondent is guilty of unauthorized practice of his profession. The Investigating Commissioner merely alluded to respondent's unauthorized practice of law.

We find that respondent committed unauthorized practice of his profession.

Respondent claims that he is authorized to practice his profession[46] as shown in the letter dated August 1, 2001 of National Center for Mental Health Chief Bernardino A. Vicente.[47] The letter reads:

TO : ATTY. NICANOR C. ALVAREZ
Legal Officer III
This Center

Subject : Authority to engage in private practice of profession

This refers to your request for permission to engage in private practice of your profession.

In accordance with Administrative Order No. 21, s. 1999 of the Department of Health, which vested in the undersigned the authority to grant permission for the exercise of profession or engage in the practice of profession, you are hereby authorized to teach or engage in the practice of your profession provided it will not run in conflict with the interest of the Center and the Philippine government as a whole. In the exigency of the service however, or when public interest so requires, this authority may be revoked anytime.

Please be guided accordingly.

[sgd.]
BERNARDINO A. VICENTE, MD, FFPPA, MHA, CESO IV
Medical Center Chief II[48] (Emphasis supplied)

Respondent practiced law even if he did not sign any pleading. In the context of this case, his surreptitious actuations reveal illicit intent. Not only did he do unauthorized practice, his acts also show badges of offering to peddle influence in the Office of the Ombudsman.

In *Cayetano v. Monsod*,^[49] the modern concept of the term "practice of law" includes the more traditional concept of litigation or appearance before courts:

The practice of law is not limited to the conduct of cases in court. A person is also considered to be in the practice of law when he:

"x x x for valuable consideration engages in the business of advising person, firms, associations or corporations as to their rights under the law, or appears in a representative capacity as an advocate in proceedings pending or prospective, before any court, commissioner, referee, board, body, committee, or commission constituted by law or authorized to settle controversies and there, in such representative capacity performs any act or acts for the purpose of obtaining or defending the rights of their clients under the law. Otherwise stated, one who, in a representative capacity, engages in the business of advising clients as to their rights under the law, or while so engaged performs any act or acts either in court or outside of court for that purpose, is engaged in the practice of law."

....

The University of the Philippines Law Center in conducting orientation briefing for new lawyers (1974-1975) listed the dimensions of the practice of law in even broader terms as advocacy, counseling and public service.

"One may be a practicing attorney in following any line of employment in the profession. If what he does exacts knowledge of the law and is of a kind usual for attorneys engaging in the active practice of their profession, and he follows some one or more lines of employment such as this he is a practicing attorney at law within the meaning of the statute."

Practice of law means any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training and experience. "To engage in the practice of law is to perform those acts which are characteristics of the profession. Generally, to practice law is to give notice or render any kind of service, which device or service requires the use in any degree of legal knowledge or skill."

....

Interpreted in the light of the various definitions of the term "practice of law," particularly the modern concept of law practice, and taking into consideration the liberal construction intended by the framers of the Constitution, Arty. Monsod's past work experiences as a lawyer-economist, a lawyer-manager, a lawyer-entrepreneur of industry, a lawyer-negotiator of contracts, and a lawyer-legislator of both the rich and the poor—verily more than satisfy the constitutional requirement—that he has been engaged in the practice of law for at least ten years.^[50] (Emphasis supplied)

Cayetano was reiterated in *Lingan v. Calubaquib*:^[51]

Practice of law is "any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training and experience." It includes "[performing] acts which are characteristics of the [legal] profession" or "[rendering any kind of] service [which] requires the use in any degree of legal knowledge or skill."

Work in government that requires the use of legal knowledge is considered practice of law. In *Cayetano v. Monsod*, this court cited the deliberations of the 1986 Constitutional Commission and agreed that work rendered by lawyers in the Commission on Audit requiring "[the use of] legal knowledge or legal talent" is practice of law.^[52] (Citations omitted)

By preparing the pleadings of and giving legal advice to complainant, respondent practiced law.

Under Section 7(b)(2) of Republic Act No. 6713, otherwise known as the Code of Conduct and Ethical Standards

for Public Officials and Employees, and Memorandum Circular No. 17, series of 1986,[53] government officials or employees are prohibited from engaging in private practice of their profession unless authorized by their department heads. More importantly, if authorized, the practice of profession must not conflict nor tend to conflict with the official functions of the government official or employee:

Republic Act No. 6713:

Section 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

....

(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

....

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions[.]

....

Memorandum Circular No. 17:

The authority to grant permission to any official or employee shall be granted by the head of the ministry or agency in accordance with Section 12, Rule XVIII of the Revised Civil Service Rules, which provides:

"Sec. 12. No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of Department; Provided, That this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government: Provided, further, That if an employee is granted permission to engage in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the other officer or employee: And provided, finally, That no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer or member of the board of directors",

subject to any additional conditions which the head of the office deems necessary in each particular case in the interest of the service, as expressed in the various issuances of the Civil Service Commission.

In *Abella v. Cruzabra*,[54] the respondent was a Deputy Register of Deeds of General Santos City. While serving as an incumbent government employee, the respondent "filed a petition for commission as a notary public and was commissioned . . . without obtaining prior authority from the Secretary of the Department of Justice." [55] According to the complainant, the respondent had notarized around 3,000 documents.[56] This Court found the respondent guilty of engaging in notarial practice without written authority from the Secretary of Justice. Thus:

It is clear that when respondent filed her petition for commission as a notary public, she did not obtain a written permission from the Secretary of the D[e]partment [of] J[ustice]. Respondent's superior, the Register of Deeds, cannot issue any authorization because he is not the head of the Department. And even assuming that the Register of Deeds authorized her, respondent failed to present any proof of that written permission. Respondent cannot feign ignorance or good faith because respondent filed her petition for commission as a notary public after

Memorandum Circular No. 17 was issued in 1986.[57]

In this case, respondent was given written permission by the Head of the National Center for Mental Health, whose authority was designated under Department of Health Administrative Order No. 21, series of 1999.[58]

However, by assisting and representing complainant in a suit against the Ombudsman and against government in general, respondent put himself in a situation of conflict of interest.

Respondent's practice of profession was expressly and impliedly conditioned on the requirement that his practice will not be "in conflict with the interest of the Center and the Philippine government as a whole." [59]

In *Javellana v. Department of Interior and Local Government*, [60] the petitioner was an incumbent City Councilor or member of the Sangguniang Panlungsod of Bago City. He was a lawyer by profession and had continuously engaged in the practice of law without securing authority from the Regional Director of the Department of Local Government. [61] In 1989, the petitioner acted as counsel for Antonio Javiero and Rolando Catapang and filed a case for Illegal Dismissal and Reinstatement with Damages against Engr. Ernesto C. Divinagracia, City Engineer of Bago City. [62]

Engr. Ernesto C. Divinagracia filed an administrative case before the Department of Local Government for violation of Section 7(b)(2) of Republic Act No. 6713 and relevant Department of Local Government memorandum circulars on unauthorized practice of profession, as well as for oppression, misconduct, and abuse of authority. [63] While the case was pending before Department of Local Government, the petitioner was able to secure a written authority to practice his profession from the Secretary of Interior and Local Government, "provided that such practice will not conflict or tend to conflict with his official functions." [64]

This Court in *Javellana* observed that the petitioner practiced his profession in conflict with his functions as City Councilor and against the interests of government:

In the first place, complaints against public officers and employees relating or incidental to the performance of their duties are necessarily impressed with public interest for by express constitutional mandate, a public office is a public trust. The complaint for illegal dismissal filed by Javiero and Catapang against City Engineer Divinagracia is in effect a complaint against the City Government of Bago City, their real employer, of which petitioner Javellana is a councilman. Hence, judgment against City Engineer Divinagracia would actually be a judgment against the City Government. By serving as counsel for the complaining employees and assisting them to prosecute their claims against City Engineer Divinagracia, the petitioner violated Memorandum Circular No. 74-58 (in relation to Section 7[b-2] of R[epublic] A[ct] [No.] 6713) prohibiting a government official from engaging in the private practice of his profession, if such practice would represent interests adverse to the government.

Petitioner's contention that Section 90 of the Local Government Code of 1991 and DLG Memorandum Circular No. 90-81 violate Article VIII, Section 5 of the Constitution is completely off tangent. Neither the statute nor the circular trenches upon the Supreme Court's power and authority to prescribe rules on the practice of law. The Local Government Code and DLG Memorandum Circular No. 90-81 simply prescribe rules of conduct for public officials to avoid conflicts of interest between the discharge of their public duties and the private practice of their profession, in those instances where the law allows it. [65]

There is basic conflict of interest here. Respondent is a public officer, an employee of government. The Office of the Ombudsman is part of government. By appearing against the Office of the Ombudsman, respondent is going against the same employer he swore to serve.

In addition, the government has a serious interest in the prosecution of erring employees and their corrupt acts. Under the Constitution, "[p]ublic office is a public trust." [66] The Office of the Ombudsman, as "protectors of the

[P]eople,"[67] is mandated to "investigate and prosecute . . . any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient." [68]

Thus, a conflict of interest exists when an incumbent government employee represents another government employee or public officer in a case pending before the Office of the Ombudsman. The incumbent officer ultimately goes against government's mandate under the Constitution to prosecute public officers or employees who have committed acts or omissions that appear to be illegal, unjust, improper, or inefficient.[69] Furthermore, this is consistent with the constitutional directive that "[p]ublic officers and employees must, at all times, be accountable to the [P]eople, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives." [70]

The objective in disciplinary cases is not to punish the erring officer or employee but to continue to uplift the People's trust in government and to ensure excellent public service:

[W]hen an officer or employee is disciplined, the object sought is not the punishment of that officer or employee, but the improvement of the public service and the preservation of the public's faith and confidence in the government. . . . These constitutionally-enshrined principles, oft-repeated in our case law, are not mere rhetorical flourishes or idealistic sentiments. They should be taken as working standards by all in the public service.[71]

Having determined that respondent illicitly practiced law, we find that there is now no need to determine whether the fees he charged were reasonable.

In disbarment or disciplinary cases pending before this Court, the complainant must prove his or her allegations through substantial evidence.[72] In *Advincula v. Macabata*, [73] this Court dismissed a complaint for disbarment due to the lack of evidence in proving the complainant's allegations:

As a basic rule in evidence, the burden of proof lies on the party who makes the allegations—ei incumbit probatio, qui decit, non qui negat; cum per rerum naturam factum negantis probatio nulla sit. In the case at bar, complainant miserably failed to comply with the burden of proof required of her. A mere charge or allegation of wrongdoing does not suffice. Accusation is not synonymous with guilt.[74] (Emphasis in the original, citations omitted)

Moreover, lawyers should not be hastily disciplined or penalized unless it is shown that they committed a transgression of their oath or their duties, which reflects on their fitness to enjoy continued status as a member of the bar:

The power to disbar or suspend ought always to be exercised on the preservative and not on the vindictive principle, with great caution and only for the most weighty reasons and only on clear cases of misconduct which seriously affect the standing and character of the lawyer as an officer of the court and member of the Bar. Only those acts which cause loss of moral character should merit disbarment or suspension, while those acts which neither affect nor erode the moral character of the lawyer should only justify a lesser sanction unless they are of such nature and to such extent as to clearly show the lawyer's unfitness to continue in the practice of law. The dubious character of the act charged as well as the motivation which induced the lawyer to commit it must be clearly demonstrated before suspension or disbarment is meted out. The mitigating or aggravating circumstances that attended the commission of the offense should also be considered.[75]

Likewise, we find that respondent violated the Lawyer's Oath and the Code of Professional Responsibility when he communicated to or, at the very least, made it appear to complainant that he knew people from the Office of the Ombudsman who could help them get a favorable decision in complainant's case.

Lawyers are mandated to uphold, at all times, integrity and dignity in the practice of their profession.[76]

Respondent violated the oath he took when he proposed to gain a favorable outcome for complainant's case by resorting to his influence among staff in the Office where the case was pending.[77]

Thus, respondent violated the Code of Professional Responsibility. Canon 1, Rules 1.01, and 1.02[78] prohibit lawyers from engaging in unlawful, dishonest, immoral, or deceitful conduct.[79] Respondent's act of ensuring that the case will be dismissed because of his personal relationships with officers or employees in the Office of the Ombudsman is unlawful and dishonest. Canon 7[80] of the Code of Professional Responsibility requires lawyers to always "uphold the integrity and dignity of the legal profession."

In relation, Canon 13[81] mandates that lawyers "shall rely upon the merits of his [or her] cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court."

A lawyer that approaches a judge to try to gain influence and receive a favorable outcome for his or her client violates Canon 13 of the Code of Professional Responsibility.[82] This act of influence peddling is highly immoral and has no place in the legal profession:

The highly immoral implication of a lawyer approaching a judge—or a judge evincing a willingness—to discuss, in private, a matter related to a case pending in that judge's sala cannot be over-emphasized. The fact that Atty. Singson did talk on different occasions to Judge Reyes, initially through a mutual friend, Atty. Sevilla, leads us to conclude that Atty. Singson was indeed trying to influence the judge to rule in his client's favor. This conduct is not acceptable in the legal profession.[83]

In *Jimenez v. Verano, Jr.*,[84] we disciplined the respondent for preparing a release order for his clients using the letterhead of the Department of Justice and the stationery of the Secretary:

The way respondent conducted himself manifested a clear intent to gain special treatment and consideration from a government agency. This is precisely the type of improper behavior sought to be regulated by the codified norms for the bar. Respondent is duty-bound to actively avoid any act that tends to influence, or may be seen to influence, the outcome of an ongoing case, lest the people's faith in the judicial process is diluted.

The primary duty of lawyers is not to their clients but to the administration of justice. To that end, their clients' success is wholly subordinate. The conduct of a member of the bar ought to and must always be scrupulously observant of the law and ethics. Any means, not honorable, fair and honest which is resorted to by the lawyer, even in the pursuit of his devotion to his client's cause, is condemnable and unethical.

. . . .

Zeal and persistence in advancing a client's cause must always be within the bounds of the law. A self-respecting independence in the exercise of the profession is expected if an attorney is to remain a member of the bar. In the present case, we find that respondent fell short of these exacting standards. Given the import of the case, a warning is a mere slap on the wrist that would not serve as commensurate penalty for the offense.[85]

Similar to the present case, in *Bueno v. Rañeses*,[86] we disbarred a lawyer who solicited bribe money from his client in violation of Canon 13 of the Code of Professional Responsibility:

Rather than merely suspend Atty. Rañeses as had been done in *Bildner*, the Court believes that Atty. Rañeses merits the ultimate administrative penalty of disbarment because of the multi-layered impact and implications of what he did; by his acts he proved himself to be what a lawyer should not be, in a lawyer's relations to the client, to the court and to the Integrated Bar.

First, he extracted money from his client for a purpose that is both false and fraudulent. It is false because no bribery apparently took place as Atty. Rañeses in fact lost the case. It is fraudulent because the professed

purpose of the exaction was the crime of bribery. Beyond these, he maligned the judge and the Judiciary by giving the impression that court cases are won, not on the merits, but through deceitful means—a decidedly black mark against the Judiciary. Last but not the least, Atty. Rañeses grossly disrespected the IBP by his cavalier attitude towards its disciplinary proceedings.

From these perspectives, Atty. Rañeses wronged his client, the judge allegedly on the "take," the Judiciary as an institution, and the IBP of which he is a member. The Court cannot and should not allow offenses such as these to pass unredressed. Let this be a signal to one and all—to all lawyers, their clients and the general public—that the Court will not hesitate to act decisively and with no quarters given to defend the interest of the public, of our judicial system and the institutions composing it, and to ensure that these are not compromised by unscrupulous or misguided members of the Bar.[87] (Emphasis supplied)

In the interest of ridding itself of corrupt personnel who encourage influence peddling, and in the interest of maintaining the high ethical standards of employees in the judiciary, this Court did not hesitate in dismissing its own employee from government service when she peddled influence in the Court of Appeals:[88]

What brings our judicial system into disrepute are often the actuations of a few erring court personnel peddling influence to party-litigants, creating the impression that decisions can be bought and sold, ultimately resulting in the disillusionment of the public. This Court has never wavered in its vigilance in eradicating the so-called "bad eggs" in the judiciary. And whenever warranted by the gravity of the offense, the supreme penalty of dismissal in an administrative case is meted to erring personnel.[89]

The Investigating Commissioner found that complainant was "forced to give . . . Respondent the amount of P1,400,000.00 because of the words of Respondent that he ha[d] friends in the Office of the Ombudsman who c[ould] help with a fee." [90] It is because of respondent's assurances to complainant that she sent him money over the course of several months.[91] These assurances are seen from the text messages that respondent sent complainant:

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Cnbi ko dun sa kontak dati na magbibigay tayo na pera sa allowance lang muna later na ang bayad pag labas ng reso at kaliwaan pero sbi nya mas maganda kung isasabay na ang pera pagbgay ng letter mo sa omb.. Parang dun tayo nagkamali pero ang solusyon ay sana ibalik nila ang pera . . in d meantime hindi dapat apektado ang kaso at kailangan an Appeal sa CA at may deadline yun

DATE: 31-05-2010

TIME: 5:24 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm pnro, naLBC n b ang Reso? Kung Jan un pnrmahn ...

DATE: 21-05-2010

TIME: 5:13 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Pnro sbi ng Dep Omb la png cnabi sa knya ng Omb. Ang CA Reso pnaiwan n Orly @ studyohn nya (txt kontal)

DATE: 15-04-2010

TIME: 6:07 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Yung blessing pala ni gutierrez ang hnhntay ng overall dep omb si orly at dun din siya subok kuha letter pero nasbhan na si gutierrez ng dep omb for Luzon sbi ko pwde b nila gawin total alam na ni gutierrez. . . Maya tawag ko sayo update

DATE: 15-04-2010

TIME: 12:44 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud mrng Tess hindi na svmagot kahapon tnxt ko pero minsan hndi tlga sumasagot yun nag ttxt lang pagkatapos kaya lang d mo pala naiintindihan ang txt nya bisaya "istudyahun" ibig sabihn kausapin pa so nasbi na nya sa omb yung letter at istudzahan pa

DATE: 31-03-2010

TIME: 8:25 am

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Ok panero update ko na lang client pero nag txt tlga kailangan daw nya letter habang wala pa omb reso., Txt mo lang ko panero, have a nice holidays., (sagot ko yan tess)

DATE: 03-03-2010

TIME: 5:03 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Sa dep omb for Luzon na nya follow up ang MR at saka overall dep omb si orly dun nya kukunin letter

DATE: 30-03-2010

TIME: 5:00 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm pnro. Ang Dep. Omb. My closd dor mtng pro pnkta s knya ang note q at sabi rw bumalik aq aftr Holy wk. C Orly nman ay ngsabi n es2dyuhn p rw nya.

DATE: 30-03-2010

TIME: 4:52 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Binigay ko na pera kahapon at kinausap ko para sa letter magkikita pa kami marnaya las 2 at kukunin nya copy letter natin kay sales at CA reso

DATE: 15-04-2010

TIME: 12:32 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Tess ndpst mo na? Kakausapin ko kasi na qc na lang kami kita at malapit ako dun maya at hindi na sa crsng. Tnx

DATE: 14-04-2010

TIME: 1:29 pm

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm pnro. Ok ba ang 15k rep maya 6pm? Thnx (txt ng kontak tess kausapin ko mbuti sa letter)

DATE: 14-04-2010

TIME: 10:25 am

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Pnro ung rep alo n bngay mo 1st Mar 24 ay ok Ing pra s 2 falo-ups q Mar 25 @ Mar 30. As usual, magkita tau Apr 14 @ kunin q 20[th] para sa falo-up Apr 15 thnx

DATE: 08-04-2010

TIME: 10:58 am

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Ok panero kailangan malinaw din ang presentation lp sa client panero at ang impression nya yun na ang hningi natin... so april 15 panero an balik mo sa MR at yung letter form omb to dof bhala ka na sa diskarte panero pag nakakuha tayo nakahanda na 150k dun

DATE: 08-04-2010

TIME: 10:56 am

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Pnero dapat maalala mo n ung purpose ng 400[th] hindi directly delivery ng Reso granting d MR pro ung delivery by the Dep Omb ng letr of appeal 2 d Omb at pgpaliwang nya sa Omb. Re sa hnhngi ng rspondnt n modfcation ng Dcsion. Nung 1st mtng ntn Mar 24, ngin4m q sau n ngawa n i2 ng Dep Omb pro kausapn p ng Omb c Orly. Itong huli ang nabtn p, pro yon ay dscrtion n ng Omb@ wing control d2 and Dep. Omb.

DATE: 08-04-2010

TIME: 10:55 am

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Tess gud mrng, wag mo kalimutan mgdpst 25k today 6pm mtng naming omb tnx.

DATE: 24-03-2010

TIME: 10:23 am

TYPE: Text Message

....

FROM: Atty. Alvarez <+639063630224>

SUBJECT:

Gud pm uli pnro. Kung subukan q n lkrn ky Orly ung cnabi mong letr adrsd 2 DOF Sec @ synd n Orly ang letr, pktanong s rspndnt kung ok b s knya nab yarn nya aq ng Atty's fee n 75thou upfront @ another 75thou upon receipt of a DOF ordr holdng n abyans implmntation of hr dsmsal due 2 Orly's letr? thnx

DATE: 11-03-2010

TIME: 7:03 pm

TYPE: Text Message[92]

In response to his alleged text messages, respondent claims that complainant must have confused him with her other contacts.[93] Respondent found it "mesmerizing" that complainant was able to save all those alleged text messages from two (2) years ago.[94] Moreover, assuming these messages were "true, still they [were] not legally admissible as they [were] covered by the lawyer-client privileged communication as those supposed texts '[had been] made for the purpose and in the course of employment, [were] regarded as privileged and the rule of exclusion [was] strictly enforced.'"[95]

In cases involving influence peddling or bribery, "[t]he transaction is always done in secret and often only between the two parties concerned." [96] Nevertheless, as found by the Investigating Commissioner and as shown by the records, we rule that there is enough proof to hold respondent guilty of influence peddling.

We agree with the penalty recommended by the Integrated Bar of the Philippines Board of Governors. We find respondent's acts of influence peddling, coupled with unauthorized practice of law, merit the penalty of suspension of one (1) year from the practice of law. To be so bold as to peddle influence before the very institution that is tasked to prosecute corruption speaks much about respondent's character and his attitude towards the courts and the bar.

Lawyers who offer no skill other than their acquaintances or relationships with regulators, investigators, judges, or Justices pervert the system, weaken the rule of law, and debase themselves even as they claim to be members of a noble profession. Practicing law should not degenerate to one's ability to have illicit access. Rather, it should be about making an honest appraisal of the client's situation as seen through the evidence fairly and fully gathered. It should be about making a discerning and diligent reading of the applicable law. It is foremost about attaining justice in a fair manner. Law exists to temper, with its own power, illicit power and unfair advantage. It should not

be conceded as a tool only for those who cheat by unduly influencing people or public officials.

It is time that we unequivocally underscore that to even imply to a client that a lawyer knows who will make a decision is an act worthy of the utmost condemnation. If we are to preserve the nobility of this profession, its members must live within its ethical parameters. There is never an excuse for influence peddling.

While this Court is not a collection agency for faltering debtors,[97] this Court has ordered restitution of amounts to complainants due to the erroneous actions of lawyers.[98] Respondent is, therefore, required to return to complainant the amount of P500,000.00—the amount that respondent allegedly gave his friends connected with the Office of the Ombudsman.

WHEREFORE, Respondent Arty. Nicanor C. Alvarez is guilty of violating the Code of Conduct and Ethical Standards for Public Officials and Employees, the Lawyer's Oath, and the Code of Professional Responsibility. He is **SUSPENDED** from the practice of law for one (1) year with a **WARNING** that a repetition of the same or similar acts shall be dealt with more severely. Respondent is **ORDERED** to return the amount of P500,000.00 with legal interest to complainant Teresita P. Fajardo.

Let copies of this Decision be furnished to the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Likewise, copies shall be furnished to the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.

Carpio, (Chairperson), Brion, Del Castillo, and Mendoza, JJ., concur.

[1] Rollo, p. 1, Integrated Bar of the Philippines Commission on Bar Discipline Report and Recommendation dated November 14, 2012.

[2] Id.

[3] Id.

[4] Id.

[5] Id. at 2.

[6] Id.

[7] Id.

[8] Id.

[9] Id.

[10] Id.

[11] Id. at 9, Comment.

[12] Id.

[13] Id. at 10-11.

[14] Id. at 12.

[15] Id.

[16] Id.

[17] Id.

[18] Id.

[19] Id.

[20] Id. at 12-13. The Office of the Deputy Ombudsman for Luzon promulgated the Decision dated February 19, 2008 finding Teresita guilty of serious dishonesty and ordered her dismissal from service (OMB-L-A-04-0254-D[OMB-L-C-04-0376-D] For: Dishonesty). In the Resolution dated February 19, 2008, the same Office issued the Resolution recommending the indictment of Teresita for violation of Rep. Act No. 3019, sec. 3(e) (OMB-L-C-04-0376-D [OMB-L-A-04-0254-D] For: Violation of Section 3(e) of R.A. No. 3019).

[21] Id.

[22] Id.

[23] Id. at 14.

[24] Id. at 13-14.

[25] Id. at 419, Report and Recommendation.

[26] Id.

[27] Id.

[28] Id.

[29] Id. at 419-420.

[30] Id. at 1-3.

[31] Id. at 8, Resolution dated July 25, 2011.

[32] Id. at 282.

[33] Id. at 416-423.

[34] Id. at 422.

[35] Id. at 423.

[36] Id. at 422-423.

[37] Id. at 429.

[38] Id. at 421.

[39] Id. at 422.

[40] Id. at 421-422.

[41] Id. at 415.

[42] Id.

[43] Id. at 424-433.

[44] Id. at 444.

[45] Id.

[46] Id. at 21.

[47] Id.

[48] Id.

[49] 278 Phil. 235 (1991) [Per J. Paras, En Banc].

[50] Id. at 241-256, citing Land Title Abstract and Trust Co. v. Dworken, 129 Ohio St. 23, 193 N.E. 650; State ex. rel. Mckittrick v. C.S. Dudley and Co., 102 S.W. 2d 895, 340 Mo. 852; Barr D. Cardell 155 NW 312; and 111 ALR 23.

[51] A.C. No. 5377, June 30, 2014, 727 SCRA 341 [Per J. Leonen, Third Division]

[52] Id. at 355.

[53] Issued by the Office of the President, entitled Revoking Memorandum Circular No. 1025 Dated November 25, 1977.

[54] 606 Phil. 200 (2009) [Per J. Carpio, First Division].

[55] Id. at 202.

[56] Id.

[57] Id. at 206-207. Respondent was reprimanded and "warned that a repetition of the same or similar act in the future shall merit a more severe sanction" (Id. at 208).

[58] Rollo, p. 21.

[59] Id.

[60] G.R. No. 102549, August 10, 1992, 212 SCRA 475 [Per J. Griño-Aquino, En Banc].

[61] Id. at 476.

[62] Id.

[63] Id.

[64] Id.

[65] Id. at 482.

[66] CONST., art. XI, sec. 1.

[67] CONST., art. XI, sec. 12.

[68] Rep. Act No. 6770, sec. 15(1). See CONST., art. XI, secs. 12 and 13, which provide:

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

- (1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.
- (2) Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties.
- (3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith.
- (4) Direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action,
- (5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents.
- (6) Publicize matters covered by its investigation when circumstances so warrant and with due prudence.
- (7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency.
- (8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

[69] This must be differentiated, however, from the rule governing former government lawyers acting as counsel for private parties after leaving the service. See *Presidential Commission on Good Government v. Sandiganbayan*, 495 Phil. 485 (2005) [Per J. Puno, En Banc] and Code of Professional Responsibility, Canon 6, rule 6.03.

[70] CONST., art. XI, sec. 1.

[71] *Government Service Insurance System v. Mayordomo*, 665 Phil. 131, 151-152 (2011) [Per J. Mendoza, En Banc], citing *Civil Service Commission v. Cortez*, 474 Phil. 670, 690 (2004) [Per Curiam, En Banc]; and *Bautista v. Negado*, 108 Phil. 283, 289 (1960) [Per J. Gutierrez David, En Banc].

[72] See *Spouses Boyboy v. Yabut, Jr.*, A.C. No. 5225, April 29, 2003, 401 SCRA 622 [Per J. Bellosillo, Second Division].

[73] 546 Phil. 431 (2007) [Per J. Chico-Nazario, Third Division].

[74] *Id.* at 446.

[75] *Id.* at 447-448.

[76] See *Heirs of Alilano v. Examen*, A.C. No. 10132, March 24, 2015 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2015/march2015/10132.pdf>> [Per J. Villarama, Jr., En Banc]; *Sipin-Nabor v. Bateria y Figueras*, All Phil. 419, 424 (2001) [Per J. Pardo, En Banc]; *Vitriolo v. Dasig*, 448 Phil. 199, 209 (2003) [Per Curiam, En Banc].

[77] Lawyer's Oath — I, _____, do solemnly swear that I will maintain allegiance to the Republic of the

Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; 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.

[78] Code of Professional Responsibility, Canon 1, rules 1.01 and 1.02 provide:

CANON 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

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

RULE 1.02 A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system[.]

[79] See *Phil. Association of Court Employees v. Alibutdan-Diaz*, A.C. No. 10134, November 26, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/november2014/10134.pdf>> [Per J. Mendoza, Second Division].

[80] Code of Professional Responsibility, Canon 7 provides:

CANON 7 - A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the integrated bar.

[81] Code of Professional Responsibility, Canon 13 provides:

CANON 13 - A lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court.

[82] *Bildner v. Ilusorio*, 606 Phil. 369 (2009) [Per J. Velasco, Jr., Second Division].

[83] *Id.* at 389.

[84] A.C. No. 8108, July 15, 2014, 730 SCRA 53 [Per C.J. Sereno, En Banc].

[85] *Id.* at 61-62.

[86] 700 Phil. 817 (2012) [Per Curiam, En Banc].

[87] *Id.* at 827.

[88] *Nuez v. Cruz-Apao*, 495 Phil. 270 (2005) [Per Curiam, En Banc], citing *Mendoza v. Tiongson*, 333 Phil. 508 (1996) [Per Curiam, En Banc].

[89] *Id.* at 272.

[90] Rollo, p. 421, Integrated Bar of the Philippines Commission on Bar Discipline Report and Recommendation dated November 14, 2012.

[91] *Id.*

[92] *Id.* at 339-344.

[93] *Id.* at 382, Respondent's Position Paper dated September 28, 2012, paragraph 64. Integrated Bar of the

Philippines Records.

[94] Id.

[95] Id. at 382-383, citation omitted.

[96] *Bildner v. Ilusorio*, 606 Phil. 369, 390 (2009) [Per J. Velasco, Jr., Second Division].

[97] See *In re: Complaint for Failure to Pay Just Debts Against Esther T. Andres*, 493 Phil. 1 (2005) [Per J. Chico-Nazario, En Banc].

[98] See *Adrimisin v. Javier*, 532 Phil. 639 (2006) [Per J. Carpio, En Banc]; *Rollon v. Naraval*, 493 Phil. 24 (2005) [Per J. Panganiban, En Banc]; *Ramos v. Imbang*, 557 Phil. 507 (2007) [Per Curiam, En Banc].

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.