LETTER OF ATTY. CECILIO Y. AREVALO, JR., REQUESTING EXEMPTION FROM PAYMENT OF IBP DUES.

B.M. NO. 1370. May 09, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This is a request for exemption from payment of the Integrated Bar of the Philippines (IBP) dues filed by petitioner Atty. Cecilio Y. Arevalo, Jr.

In his letter,[1] dated 22 September 2004, petitioner sought exemption from payment of IBP dues in the amount of P12,035.00 as alleged unpaid accountability for the years 1977-2005. He alleged that after being admitted to the Philippine Bar in 1961, he became part of the Philippine Civil Service from July 1962 until 1986, then migrated to, and worked in, the USA in December 1986 until his retirement in the year 2003. He maintained that he cannot be assessed IBP dues for the years that he was working in the Philippine Civil Service since the Civil Service law prohibits the practice of one's profession while in government service, and neither can he be assessed for the years when he was working in the USA.

On 05 October 2004, the letter was referred to the IBP for comment.[2]

On 16 November 2004, the IBP submitted its comment[3] stating inter alia: that membership in the IBP is not based on the actual practice of law; that a lawyer continues to be included in the Roll of Attorneys as long as he continues to be a member of the IBP; that one of the obligations of a member is the payment of annual dues as determined by the IBP Board of Governors and duly approved by the Supreme Court as provided for in Sections 9 and 10, Rule 139-A of the Rules of Court; that the validity of imposing dues on the IBP members has been upheld as necessary to defray the cost of an Integrated Bar Program; and that the policy of the IBP Board of Governors of no exemption from payment of dues is but an implementation of the Court's directives for all members of the IBP to help in defraying the cost of integration of the bar. It maintained that there is no rule allowing the exemption of payment of annual dues as requested by respondent, that what is allowed is voluntary termination and reinstatement of membership. It asserted that what petitioner could have done was to inform the secretary of the IBP of his intention to stay abroad, so that his membership in the IBP could have been terminated, thus, his obligation to pay dues could have been stopped. It also alleged that the IBP Board of Governors is in the process of discussing proposals for the creation of an inactive status for its members, which if approved by the Board of Governors and by this Court, will exempt inactive IBP members from payment of the annual dues.

In his reply[4] dated 22 February 2005, petitioner contends that what he is questioning is the IBP Board of Governor's Policy of Non-Exemption in the payment of annual membership dues of lawyers regardless of whether or not they are engaged in active or inactive practice. He asseverates that the Policy of Non-Exemption in the payment of annual membership dues suffers from constitutional infirmities, such as equal protection clause and the due process clause. He also posits that compulsory payment of the IBP annual membership dues would indubitably be oppressive to him considering that he has been in an inactive status and is without income derived

from his law practice. He adds that his removal from nonpayment of annual membership dues would constitute deprivation of property right without due process of law. Lastly, he claims that non-practice of law by a lawyer-member in inactive status is neither injurious to active law practitioners, to fellow lawyers in inactive status, nor to the community where the inactive lawyers-members reside.

Plainly, the issue here is: whether or nor petitioner is entitled to exemption from payment of his dues during the time that he was inactive in the practice of law that is, when he was in the Civil Service from 1962-1986 and he was working abroad from 1986-2003?

We rule in the negative.

An "Integrated Bar" is a State-organized Bar, to which every lawyer must belong, as distinguished from bar association organized by individual lawyers themselves, membership in which is voluntary. Integration of the Bar is essentially a process by which every member of the Bar is afforded an opportunity to do his shares in carrying out the objectives of the Bar as well as obliged to bear his portion of its responsibilities. Organized by or under the direction of the State, an Integrated Bar is an official national body of which all lawyers are required to be members. They are, therefore, subject to all the rules prescribed for the governance of the Bar, including the requirement of payment of a reasonable annual fee for the effective discharge of the purposes of the Bar, and adherence to a code of professional ethics or professional responsibility, breach of which constitutes sufficient reason for investigation by the Bar and, upon proper cause appearing, a recommendation for discipline or disbarment of the offending member.[5]

The integration of the Philippine Bar means the official unification of the entire lawyer population. This requires membership and financial support of every attorney as condition sine qua non to the practice of law and the retention of his name in the Roll of Attorneys of the Supreme Court.[6]

Bar integration does not compel the lawyer to associate with anyone. He is free to attend or not to attend the meetings of his Integrated Bar Chapter or vote or refuse to vote in its elections as he chooses. The only compulsion to which he is subjected is the payment of his annual dues. The Supreme Court, in order to foster the State's legitimate interest in elevating the quality of professional legal services, may require that the cost of improving the profession in this fashion be shared by the subjects and beneficiaries of the regulatory program – the lawyers.[7]

Moreover, there is nothing in the Constitution that prohibits the Court, under its constitutional power and duty to promulgate rules concerning the admission to the practice of law and in the integration of the Philippine Bar[8] - which power required members of a privileged class, such as lawyers are, to pay a reasonable fee toward defraying the expenses of regulation of the profession to which they belong. It is quite apparent that the fee is, indeed, imposed as a regulatory measure, designed to raise funds for carrying out the noble objectives and purposes of integration.

The rationale for prescribing dues has been explained in the Integration of the Philippine Bar,[9] thus:

> For the court to prescribe dues to be paid by the members does not mean that the Court is attempting to levy a tax.
>
> A membership fee in the Bar association is an exaction for regulation, while tax purpose of a tax is a revenue. If the judiciary has inherent power to regulate the Bar, it follows that as an incident to regulation, it may impose a membership fee for that purpose. It would not be possible to put on an integrated Bar program without means to defray the expenses. The doctrine of implied powers necessarily carries with it the power to impose such exaction.

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> The only limitation upon the State's power to regulate the privilege of law is that the regulation does not impose an unconstitutional burden. The public interest promoted by the integration of the Bar far outweighs the slight inconvenience to a member resulting from his required payment of the annual dues.

Thus, payment of dues is a necessary consequence of membership in the IBP, of which no one is exempt. This means that the compulsory nature of payment of dues subsists for as long as one's membership in the IBP remains regardless of the lack of practice of, or the type of practice, the member is engaged in.

There is nothing in the law or rules which allows exemption from payment of membership dues. At most, as correctly observed by the IBP, he could have informed the Secretary of the Integrated Bar of his intention to stay abroad before he left. In such case, his membership in the IBP could have been terminated and his obligation to pay dues could have been discontinued.

As abovementioned, the IBP in its comment stated that the IBP Board of Governors is in the process of discussing the situation of members under inactive status and the nonpayment of their dues during such inactivity. In the meantime, petitioner is duty bound to comply with his obligation to pay membership dues to the IBP.

Petitioner also contends that the enforcement of the penalty of removal would amount to a deprivation of property without due process and hence infringes on one of his constitutional rights.

This question has been settled in the case of In re Atty. Marcial Edillon,[10] in this wise:

> . . . Whether the practice of law is a property right, in the sense of its being one that entitles the holder of a license to practice a profession, we do not here pause to consider at length, as it [is] clear that under the police power of the State, and under the necessary powers granted to the Court to perpetuate its existence, the respondent's right to practice law before the courts of this country should be and is a matter subject to regulation and inquiry. And, if the power to impose the fee as a regulatory measure is recognize[d], then a penalty designed to enforce its payment, which penalty may be avoided altogether by payment, is not void as unreasonable or arbitrary.
>
> But we must here emphasize that the practice of law is not a property right but a mere privilege, and as such must bow to the inherent regulatory power of the Court to exact compliance with the lawyer's public responsibilities.

As a final note, it must be borne in mind that membership in the bar is a privilege burdened with conditions,[11] one of which is the payment of membership dues. Failure to abide by any of them entails the loss of such privilege if the gravity thereof warrants such drastic move.

WHEREFORE, petitioner's request for exemption from payment of IBP dues is DENIED. He is ordered to pay P12,035.00, the amount assessed by the IBP as membership fees for the years 1977-2005, within a non-extendible period of ten (10) days from receipt of this decision, with a warning that failure to do so will merit his suspension from the practice of law.

SO ORDERED.

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

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[1] Rollo, p. 1.

[2] Rollo, p. 5.

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[3] Rollo, pp. 12-16.

[4] Rollo, pp. 18-25.

[5] In re Atty. Marcial Edillon, A.C. No. 1928, 03 August 1978, 84 SCRA 554, 562.

[6] In re Integration of the Bar of the Philippines, 09 January 1973, 49 SCRA 22, 25.

[7] Ibid., citing Lathrop v. Donohue, 10 Wis. 2d 230, 102, N.W. 2d 404; Lathrop v. Donohue, 367 U.S. 820, 6 L. ed. 2d 1191, 81 S. Ct. 1826.

[8] Article VIII, Sec. 5(5) of the 1987 Constitution.

[9] Appendix D, Legal and Judicial Ethics, Martin, Ruperto G., p. 440.

[10] Supra, note 5, pp. 567-568.

[11] In the Matter of the IBP Membership Dues Deliquency of Atty. M.A. Edillon, A.C. No. 1928, 19 December 1980, 101 SCRA 612, 617.

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