

PETITION FOR LEAVE TO RESUME PRACTICE OF LAW, BENJAMIN M. DACANAY, PETITIONER,

B.M. No. 1678. December 17, 2007

Ponente: CORONA, J.

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CORONA, J.:

This bar matter concerns the petition of petitioner Benjamin M. Dacanay for leave to resume the practice of law.

Petitioner was admitted to the Philippine bar in March 1960. He practiced law until he migrated to Canada in December 1998 to seek medical attention for his ailments. He subsequently applied for Canadian citizenship to avail of Canada's free medical aid program. His application was approved and he became a Canadian citizen in May 2004.

On July 14, 2006, pursuant to Republic Act (RA) 9225 (Citizenship Retention and Re-Acquisition Act of 2003), petitioner reacquired his Philippine citizenship.[1] On that day, he took his oath of allegiance as a Filipino citizen before the Philippine Consulate General in Toronto, Canada. Thereafter, he returned to the Philippines and now intends to resume his law practice. There is a question, however, whether petitioner Benjamin M. Dacanay lost his membership in the Philippine bar when he gave up his Philippine citizenship in May 2004. Thus, this petition.

In a report dated October 16, 2007, the Office of the Bar Confidant cites Section 2, Rule 138 (Attorneys and Admission to Bar) of the Rules of Court:

SECTION 2. Requirements for all applicants for admission to the bar. – Every applicant for admission as a member of the bar must be a citizen of the Philippines, at least twenty-one years of age, of good moral character, and a resident of the Philippines; and must produce before the Supreme Court satisfactory evidence of good moral character, and that no charges against him, involving moral turpitude, have been filed or are pending in any court in the Philippines.

Applying the provision, the Office of the Bar Confidant opines that, by virtue of his reacquisition of Philippine citizenship, in 2006, petitioner has again met all the qualifications and has none of the disqualifications for membership in the bar. It recommends that he be allowed to resume the practice of law in the Philippines, conditioned on his retaking the lawyer's oath to remind him of his duties and responsibilities as a member of the Philippine bar.

We approve the recommendation of the Office of the Bar Confidant with certain modifications.

The practice of law is a privilege burdened with conditions.[2] It is so delicately affected with public interest that it is both a power and a duty of the State (through this Court) to control and regulate it in order to protect and promote the public welfare.[3]

Adherence to rigid standards of mental fitness, maintenance of the highest degree of morality, faithful observance of the rules of the legal profession, compliance with the mandatory continuing legal education requirement and payment of membership fees to the Integrated Bar of the Philippines (IBP) are the conditions required for

membership in good standing in the bar and for enjoying the privilege to practice law. Any breach by a lawyer of any of these conditions makes him unworthy of the trust and confidence which the courts and clients repose in him for the continued exercise of his professional privilege.[4]

Section 1, Rule 138 of the Rules of Court provides:

SECTION 1. Who may practice law. –Any person heretofore duly admitted as a member of the bar, or thereafter admitted as such in accordance with the provisions of this Rule, and who is in good and regular standing, is entitled to practice law.

Pursuant thereto, any person admitted as a member of the Philippine bar in accordance with the statutory requirements and who is in good and regular standing is entitled to practice law.

Admission to the bar requires certain qualifications. The Rules of Court mandates that an applicant for admission to the bar be a citizen of the Philippines, at least twenty-one years of age, of good moral character and a resident of the Philippines.[5] He must also produce before this Court satisfactory evidence of good moral character and that no charges against him, involving moral turpitude, have been filed or are pending in any court in the Philippines.[6]

Moreover, admission to the bar involves various phases such as furnishing satisfactory proof of educational, moral and other qualifications;[7] passing the bar examinations;[8] taking the lawyer's oath[9] and signing the roll of attorneys and receiving from the clerk of court of this Court a certificate of the license to practice.[10]

The second requisite for the practice of law — membership in good standing — is a continuing requirement. This means continued membership and, concomitantly, payment of annual membership dues in the IBP;[11] payment of the annual professional tax;[12] compliance with the mandatory continuing legal education requirement;[13] faithful observance of the rules and ethics of the legal profession and being continually subject to judicial disciplinary control.[14]

Given the foregoing, may a lawyer who has lost his Filipino citizenship still practice law in the Philippines? No.

The Constitution provides that the practice of all professions in the Philippines shall be limited to Filipino citizens save in cases prescribed by law.[15] Since Filipino citizenship is a requirement for admission to the bar, loss thereof terminates membership in the Philippine bar and, consequently, the privilege to engage in the practice of law. In other words, the loss of Filipino citizenship ipso jure terminates the privilege to practice law in the Philippines. The practice of law is a privilege denied to foreigners.[16]

The exception is when Filipino citizenship is lost by reason of naturalization as a citizen of another country but subsequently reacquired pursuant to RA 9225. This is because "all Philippine citizens who become citizens of another country shall be deemed not to have lost their Philippine citizenship under the conditions of [RA 9225]."[17] Therefore, a Filipino lawyer who becomes a citizen of another country is deemed never to have lost his Philippine citizenship if he reacquires it in accordance with RA 9225. Although he is also deemed never to have terminated his membership in the Philippine bar, no automatic right to resume law practice accrues.

Under RA 9225, if a person intends to practice the legal profession in the Philippines and he reacquires his Filipino citizenship pursuant to its provisions "(he) shall apply with the proper authority for a license or permit to engage in such practice." [18] Stated otherwise, before a lawyer who reacquires Filipino citizenship pursuant to RA 9225 can resume his law practice, he must first secure from this Court the authority to do so, conditioned on:

(a)

the updating and payment in full of the annual membership dues in the IBP;

(b)

the payment of professional tax;

(c)

the completion of at least 36 credit hours of mandatory continuing legal education; this is specially significant to refresh the applicant/petitioner's knowledge of Philippine laws and update him of legal developments and

(d)

the retaking of the lawyer's oath which will not only remind him of his duties and responsibilities as a lawyer and as an officer of the Court, but also renew his pledge to maintain allegiance to the Republic of the Philippines.

Compliance with these conditions will restore his good standing as a member of the Philippine bar.

WHEREFORE, the petition of Attorney Benjamin M. Dacanay is hereby GRANTED, subject to compliance with the conditions stated above and submission of proof of such compliance to the Bar Confidant, after which he may retake his oath as a member of the Philippine bar.

SO ORDERED.

Puno, C.J. Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Garcia, Velasco, Jr., Nachura, Reyes, and Leonardo-De Castro, JJ., concur.
Quisumbing, J., on leave.

[1] As evidence thereof, he submitted a copy of his Identification Certificate No. 07-16912 duly signed by Immigration Commissioner Marcelino C. Libanan.

[2] In the Matter of the IBP Membership Dues Delinquency of Atty. Marcial A. Edillon, A.C. No. 1928, 19 December 1980, 101 SCRA 612.

[3] Heck v. Santos, A.M. No. RTJ-01-1657, 23 February 2004, 423 SCRA 329.

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

[5] Section 2, Rule 138, Rules of Court.

[6] Id.

[7] Sections 2, 5 and 6, id.

[8] Sections 8 to 11 and 14, id.

[9] Section 17, id.

[10] Sections 18 and 19, id.

[11] In re Integration of the Bar of the Philippines, 09 January 1973, 49 SCRA 22; In re Atty. Marcial Edillon, *supra* note 3.

[12] Section 139, RA 7160.

[13] Resolution dated August 8, 2000 in Bar Matter No. 850 (Rules on Mandatory Continuing Legal Education for Members of the IBP).

[14] Philippine Association of Free Labor Unions v. Binalbagan Isabela Sugar Co., G.R. No. L-23959, 29 November 1971, 42 SCRA 302.

[15] See last paragraph of Section 14, Article XII.

[16] In re Bosque, 1 Phil. 88 (1902).

[17] Section 2, RA 9225. Emphasis supplied.

[18] Section 5(4), id.

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