

OCA CIRCULARS NO. 45-2002, September 13, 2002

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TO:

THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI' A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI' A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC DEFENDER'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

RE:

DISBARMENT OF ATTY. SAMUEL C. OCCEÑA

For the information and guidance of all concerned, quoted hereunder is the decision of the Court En Banc in Administrative Case No. 2841 RE: Administrative Case No. 44 of the Regional Trial Court, Branch IV, Tagbilaran City, against Atty. Samuel C. Occeña dated 3 July 2002, to wit:

"xxx

Indeed, a lawyer may be disbarred or suspended for any misconduct showing any fault or deficiency in his moral character, honesty, probity or good demeanor.[12] His guilt, however, cannot be presumed.[13] It must indicate the dubious character of the acts done, as well as the motivation thereof. Furthermore, a disbarred lawyer must have been given full opportunity upon reasonable notice to answer the charges against him, produce witness in his own behalf, and to be heard by himself and counsel.[14]

As shown by the records, Atty. Occeña gravely violated his oath of office in handling of Special Proceedings No. 423. The facts of the case succinctly show that through his atrocious maneuvers, he successfully delayed the disposition of the case for the last thirty-eight (38) years, causing untold hurt and prejudice, not only to the heirs, but also to Judges Ruiz and Beldia who heard the case. For respondent's part and that of his wife, such prolonged litigation obviously benefited them. As aptly declared by the Court of Appeals, the delay "can only benefit the executor and administrator" and the longer the proceedings, the bigger the attorney's fees." But the more tragic reality is the fact that Atty. Occeña has caused a mockery of the judicial proceedings and inflicted injury to the administration of justice through his deceitful, dishonest, unlawful and grossly immoral conduct. Indeed, he abused beyond measure his privilege to practice law.

This Court held that a lawyer should not abuse his right of recourse to the courts for the purpose of arguing a cause that had been repeatedly rebuffed. neither should he use his knowledge of law as an instrument to harass a party nor to misuse judicial process, as the same constitutes serious transgression of the Code of Professional responsibility. For a while he owes fidelity to the cause of his client, it should not be at expense of truth and administration of justice.[15]

Clearly Atty. Occeña conduct has made him unfit to remain in the legal profession even for a single moment.

It is a time-honored rule that good moral character is not only a condition precedent to admission to the practice of law. It's continued possession is also essential for remaining in the legal profession.[18] Atty. Occeña has definitely fallen below the moral bar when he engaged in deceitful, dishonest, unlawful and grossly immoral acts. This Court has repeatedly stressed the importance of integrity and good moral character as part of a lawyer's equipment in the practice of his profession,[19] because it cannot be denied that the respect of litigants for the profession is inexorably diminished whenever a member of a Bar betrays their trust and confidence.[20] Thus, for his serious administrative offenses, punishable under Section 27, Rule 138, Atty. Occeña deserves the ultimate penalty, that of expulsion from the esteemed brotherhood of lawyers.

WHEREFORE, ATTY. SAMUEL C. OCCEÑA is DISBARRED from the practice of law. His name is STRIKEN from the Roll of Attorneys EFFECTIVE IMMEDIATELY."

13 September 2002

PRESBITERO J. VELASCO, JR.

Court Administrator

[12] *Maligsa vs. Cabanting*, 272 SCRA 408 (1997); *Mabuhay vs. Garcia*, 330 SCRA 236, 240, 241 (2000)

[13] *Manubay vs. Garcia*, *ibid*, citing *Gatchalian Promotions Talents Pool, Inc. vs. Atty. Primo R. Naldoza*, 315 SCRA 46 (1999) and *Santos vs. Dichoso*, 84 SCRA 622 (1978)

[14] Sec. 30 Rule 138 of the Rules of Court.

[15] *Marcias vs. Uy Kim*, 45 SCRA 251 (1970); *Gabriel vs. Court of Appeals*, 72 SCRA 273 (1976)

[18] *People vs. Tuend*, 181 SCRA 692 (1990); *Lead vs. Tabaan*, 206 SCRA 395 (1992).

[19] *Rivera vs. Angeles*, 399 SCRA 692 (1990); citing *Fenendez vs. Garcia*, 223 SCRA 425 (1993).

[20] *Busiños vs. Ricafort*, 283 SCRA 407 (1997), cited *Rivera vs. Angeles*, *Ibid*.

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