

HECTOR TREÑAS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 195002. January 25, 2012

Ponente: SERENO, J.

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SERENO, J.:

Where life or liberty is affected by its proceedings, courts must keep strictly within the limits of the law authorizing them to take jurisdiction and to try the case and render judgment thereon.[1]

This is a Petition for Review on Certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure, seeking to annul and set aside the Court of Appeals (CA) Decision dated 9 July 2010[2] and Resolution dated 4 January 2011.

Statement of the Facts and of the Case

The pertinent facts, as found by the CA, are as follows:

Sometime in December 1999, Margarita Alocilja (Margarita) wanted to buy a house-and-lot in Iloilo City covered by TCT No. 109266. It was then mortgaged with Maybank. The bank manager Joselito Palma recommended the appellant Hector Treñas (Hector) to private complainant Elizabeth, who was an employee and niece of Margarita, for advice regarding the transfer of the title in the latter's name. Hector informed Elizabeth that for the titling of the property in the name of her aunt Margarita, the following expenses would be incurred:

P20,000.00- Attorney's fees,
P90,000.00- Capital Gains Tax,
P24,000.00- Documentary Stamp,
P10,000.00- Miscellaneous Expenses.

Thereafter, Elizabeth gave P150,000.00 to Hector who issued a corresponding receipt dated December 22, 1999 and prepared [a] Deed of Sale with Assumption of Mortgage. Subsequently, Hector gave Elizabeth Revenue Official Receipt Nos. 00084370 for P96,000.00 and 00084369 for P24,000.00. However, when she consulted with the BIR, she was informed that the receipts were fake. When confronted, Hector admitted to her that the receipts were fake and that he used the P120,000.00 for his other transactions. Elizabeth demanded the return of the money.

To settle his accounts, appellant Hector issued in favor of Elizabeth a Bank of Commerce check No. 0042856 dated November 10, 2000 in the amount of P120,000.00, deducting from P150,000.00 the P30,000.00 as attorney's fees. When the check was deposited with the PCIBank, Makati Branch, the same was dishonored for the reason that the account was closed. Notwithstanding repeated formal and verbal demands, appellant failed to pay. Thus, the instant case of Estafa was filed against him.[3]

On 29 October 2001, an Information was filed by the Office of the City Prosecutor before the Regional Trial Court (RTC), both of Makati City. The Information reads as follows:

That on or about the 23[rd] day of December, 1999, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, received in trust from ELIZABETH LUCIAJA the amount of P150,000.00 which money was given to her by her aunt Margarita Alocilja, with the express obligation on the part of the accused to use the said amount for expenses and fees in connection with the purchase of a parcel of land covered by TCT No. T-109266, but the said accused, once in possession of the said amount, with the intent to gain and abuse of confidence, did then and there willfully, unlawfully and feloniously misappropriate, misapply and convert to his own personal use and benefit the amount of P130,000.00 less attorney's fees and the said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of complainant Elizabeth Luciaja and Margarita Alocilja in the aforementioned amount of P130,000.00.

CONTRARY TO LAW.[4]

During arraignment on 26 April 2002, petitioner, acting as his own counsel, entered a plea of "Not Guilty." Allegedly due to old age and poor health, and the fact that he lives in Iloilo City, petitioner was unable to attend the pre-trial and trial of the case.

On 8 January 2007, the RTC rendered a Decision[5] finding petitioner guilty of the crime of Estafa under section 1, paragraph (b), of Article 315 of the Revised Penal Code (RPC), with the dispositive portion as follows:

WHEREFORE, in view of the foregoing, judgment is rendered finding accused Hector Trenas guilty of the crime of Estafa with abuse of confidence as penalized under Article 315 of the Revised Penal Code, and which offense was committed in the manner described in the aforementioned information. As a consequence of this judgment, accused Hector Trenas is sentenced to suffer a penalty of Ten (10) Years and One (1) Day of Prison Mayor to Seventeen (17) Years and Four (4) Months of Reclusion Temporal. Moreover, he is ordered to indemnify private complainant Elizabeth Luciaja the amount of P130,000.00 with interest at the legal rate of 12% per annum, reckoned from the date this case was filed until the amount is fully paid.

SO ORDERED.[6]

We note at this point that petitioner has been variably called Treñas and Trenas in the pleadings and court issuances, but for consistency, we use the name "Treñas", under which he was accused in the Information.

On 24 August 2007, petitioner filed a Motion for Reconsideration,[7] which was denied by the RTC in a Resolution dated 2 July 2008.[8]

On 25 September 2008, petitioner filed a Notice of Appeal before the RTC.[9] The appeal was docketed as CA-G.R. CR No. 32177. On 9 July 2010, the CA rendered a Decision[10] affirming that of the RTC. On 4 August 2010, petitioner filed a Motion for Reconsideration, which was denied by the CA in a Resolution dated 4 January 2011.[11]

On 25 January 2011, petitioner filed a Motion for Extension of Time to File Petition for Review on Certiorari[12] before this Court. He asked for a period of 15 days within which to file a petition for review, and the Court granted his motion in a Resolution dated 9 February 2011.

On 3 February 2011, petitioner filed his Petition for Review on Certiorari before this Court, with the following assignment of errors:

1. THE COURT OF APPEALS ERRED IN RULING THAT AN ACCUSED HAS TO PRESENT EVIDENCE IN SUPPORT OF THE DEFENSE OF LACK OF JURISDICTION EVEN IF SUCH LACK OF JURISDICTION APPEARS IN THE EVIDENCE OF THE PROSECUTION;
2. THE COURT OF APPEALS ERRED IN RULING THAT DEMAND MADE BY A PERSON OTHER

THAN THE AGGRIEVED PARTY SATISFIES THE REQUIREMENT OF DEMAND TO CONSTITUTE THE OFFENSE OF ESTAFA;[13]

On the first issue, petitioner asserts that nowhere in the evidence presented by the prosecution does it show that P150,000 was given to and received by petitioner in Makati City. Instead, the evidence shows that the Receipt issued by petitioner for the money was dated 22 December 1999, without any indication of the place where it was issued. Meanwhile, the Deed of Sale with Assumption of Mortgage prepared by petitioner was signed and notarized in Iloilo City, also on 22 December 1999. Petitioner claims that the only logical conclusion is that the money was actually delivered to him in Iloilo City, especially since his residence and office were situated there as well. Absent any direct proof as to the place of delivery, one must rely on the disputable presumption that things happened according to the ordinary course of nature and the ordinary habits of life. The only time Makati City was mentioned was with respect to the time when the check provided by petitioner was dishonored by Equitable-PCI Bank in its De la Rosa-Rada Branch in Makati. Petitioner asserts that the prosecution witness failed to allege that any of the acts material to the crime of estafa had occurred in Makati City. Thus, the trial court failed to acquire jurisdiction over the case.

Petitioner thus argues that an accused is not required to present evidence to prove lack of jurisdiction, when such lack is already indicated in the prosecution evidence.

As to the second issue, petitioner claims that the amount of P150,000 actually belongs to Margarita. Assuming there was misappropriation, it was actually she - not Elizabeth - who was the offended party. Thus, the latter's demand does not satisfy the requirement of prior demand by the offended party in the offense of estafa. Even assuming that the demand could have been properly made by Elizabeth, the demand referred to the amount of P120,000, instead of P150,000. Finally, there is no showing that the demand was actually received by petitioner. The signature on the Registry Return Receipt was not proven to be that of petitioner's.

On 30 May 2011, this Court issued a Resolution directing the Office of the Solicitor General (OSG) to file the latter's Comment on the Petition. On 27 July 2011, the OSG filed a Motion for Extension, praying for an additional period of 60 days within which to submit its Comment. This motion was granted in a Resolution dated 12 September 2011. On 23 September 2011, the OSG filed a Motion for Special Extension, requesting an additional period of five days. On 29 September 2011, it filed its Comment on the Petition.

In its Comment, the OSG asserts that the RTC did not err in convicting petitioner as charged. The OSG notes that petitioner does not dispute the factual findings of the trial court with respect to the delivery of P150,000 to him, and that there was a relationship of trust and confidence between him and Elizabeth. With respect to his claim that the Complaint should have been filed in Iloilo City, his claim was not supported by any piece of evidence, as he did not present any. Further, petitioner is, in effect, asking the Court to weigh the credibility of the prosecution witness, Elizabeth. However, the trial court's assessment of the credibility of a witness is entitled to great weight, unless tainted with arbitrariness or oversight of some fact or circumstance, which is not the case here.

With respect to the second issue, the OSG stresses that the defense of "no valid demand" was not raised in the lower court. Nevertheless, the demand letter sent to Elizabeth suffices, as she is also one of the complainants alleged in the Information, as an agent of Margarita. Moreover, no proof was adduced as to the genuineness of petitioner's signature in the Registry Return Receipt of the demand letter.

The OSG, however, submits that the Court may recommend petitioner for executive clemency, in view of his advanced age and failing health.

The Court's Ruling

The Petition is impressed with merit.

Review of Factual Findings

While the Petition raises questions of law, the resolution of the Petition requires a review of the factual findings of the lower courts and the evidence upon which they are based.

As a rule, only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court. In many instances, however, this Court has laid down exceptions to this general rule, as follows:

(1)

When the factual findings of the Court of Appeals and the trial court are contradictory;

(2)

When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;

(3)

When the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible;

(4)

When there is grave abuse of discretion in the appreciation of facts;

(5)

When the appellate court, in making its findings, went beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;

(6)

When the judgment of the Court of Appeals is premised on misapprehension of facts;

(7)

When the Court of Appeals failed to notice certain relevant facts which, if properly considered, would justify a different conclusion;

(8)

When the findings of fact are themselves conflicting;

(9)

When the findings of fact are conclusions without citation of the specific evidence on which they are based; and

(10)

When the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.[14]

In this case, the findings of fact of the trial court and the CA on the issue of the place of commission of the offense are conclusions without any citation of the specific evidence on which they are based; they are grounded on conclusions and conjectures.

The trial court, in its Decision, ruled on the commission of the offense without any finding as to where it was committed:

Based on the evidence presented by the prosecution through private complainant Elizabeth Luciaja, the Court is convinced that accused Trenas had committed the offense of Estafa by taking advantage of her trust so that he could misappropriate for his own personal benefit the amount entrusted to him for payment of the capital gains tax and documentary stamp tax.

As clearly narrated by private complainant Luciaja, after accused Trenas had obtained the amount of P150,000.00 from her, he gave her two receipts purportedly issued by the Bureau of Internal Revenue, for the fraudulent purpose of fooling her and making her believe that he had complied with his duty to pay the aforementioned taxes. Eventually, private complainant Luciaja discovered that said receipts were fabricated documents.[15]

In his Motion for Reconsideration before the RTC, petitioner raised the argument that it had no jurisdiction over the offense charged. The trial court denied the motion, without citing any specific evidence upon which its findings were based, and by relying on conjecture, thus:

That the said amount was given to [Treñas] in Makati City was incontrovertibly established by the prosecution. Accused Treñas, on the other hand, never appeared in Court to present countervailing evidence. It is only now that he is suggesting another possible scenario, not based on the evidence, but on mere "what ifs". x x x

Besides, if this Court were to seriously assay his assertions, the same would still not warrant a reversal of the assailed judgment. Even if the Deed of Sale with Assumption of Mortgage was executed on 22 December 999 in Iloilo City, it cannot preclude the fact that the P150,000.00 was delivered to him by private complainant Luciaja in Makati City the following day. His reasoning the money must have been delivered to him in Iloilo City because it was to be used for paying the taxes with the BIR office in that city does not inspire concurrence. The records show that he did not even pay the taxes because the BIR receipts he gave to private complainant were fake documents. Thus, his argumentation in this regard is too specious to consider favorably.[16]

For its part, the CA ruled on the issue of the trial court's jurisdiction in this wise:

It is a settled jurisprudence that the court will not entertain evidence unless it is offered in evidence. It bears emphasis that Hector did not comment on the formal offer of prosecution's evidence nor present any evidence on his behalf. He failed to substantiate his allegations that he had received the amount of P150,000.00 in Iloilo City. Hence, Hector's allegations cannot be given evidentiary weight.

Absent any showing of a fact or circumstance of weight and influence which would appear to have been overlooked and, if considered, could affect the outcome of the case, the factual findings and assessment on the credibility of a witness made by the trial court remain binding on appellate tribunal. They are entitled to great weight and respect and will not be disturbed on review.[17]

The instant case is thus an exception allowing a review of the factual findings of the lower courts.

Jurisdiction of the Trial Court

The overarching consideration in this case is the principle that, in criminal cases, venue is jurisdictional. A court cannot exercise jurisdiction over a person charged with an offense committed outside its limited territory. In *Isip v. People*,[18] this Court explained:

The place where the crime was committed determines not only the venue of the action but is an essential element of jurisdiction. It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases, the offense should have been committed or any one of its essential ingredients should have taken place within

the territorial jurisdiction of the court. Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus, it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory. Furthermore, the jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information. And once it is so shown, the court may validly take cognizance of the case. However, if the evidence adduced during the trial shows that the offense was committed somewhere else, the court should dismiss the action for want of jurisdiction. (Emphasis supplied.)

In a criminal case, the prosecution must not only prove that the offense was committed, it must also prove the identity of the accused and the fact that the offense was committed within the jurisdiction of the court.

In *Fukuzume v. People*,^[19] this Court dismissed a Complaint for estafa, wherein the prosecution failed to prove that the essential elements of the offense took place within the trial court's jurisdiction. The Court ruled:

More importantly, we find nothing in the direct or cross-examination of Yu to establish that he gave any money to Fukuzume or transacted business with him with respect to the subject aluminum scrap wires inside or within the premises of the Intercontinental Hotel in Makati, or anywhere in Makati for that matter. Venue in criminal cases is an essential element of jurisdiction. x x x

In the present case, the criminal information against Fukuzume was filed with and tried by the RTC of Makati. He was charged with estafa as defined under Article 315, paragraph 2(a) of the Revised Penal Code, the elements of which are as follows: x x x

The crime was alleged in the Information as having been committed in Makati. However, aside from the sworn statement executed by Yu on April 19, 1994, the prosecution presented no other evidence, testimonial or documentary, to corroborate Yu's sworn statement or to prove that any of the above-enumerated elements of the offense charged was committed in Makati. Indeed, the prosecution failed to establish that any of the subsequent payments made by Yu in the amounts of P50,000.00 on July 12, 1991, P20,000.00 on July 22, 1991, P50,000.00 on October 14, 1991 and P170,000.00 on October 18, 1991 was given in Makati. Neither was there proof to show that the certifications purporting to prove that NAPOCOR has in its custody the subject aluminum scrap wires and that Fukuzume is authorized by Furukawa to sell the same were given by Fukuzume to Yu in Makati. On the contrary, the testimony of Yu established that all the elements of the offense charged had been committed in Parañaque, to wit: that on July 12, 1991, Yu went to the house of Fukuzume in Parañaque; that with the intention of selling the subject aluminum scrap wires, the latter pretended that he is a representative of Furukawa who is authorized to sell the said scrap wires; that based on the false pretense of Fukuzume, Yu agreed to buy the subject aluminum scrap wires; that Yu paid Fukuzume the initial amount of P50,000.00; that as a result, Yu suffered damage. Stated differently, the crime of estafa, as defined and penalized under Article 315, paragraph 2(a) of the Revised Penal Code, was consummated when Yu and Fukuzume met at the latter's house in Parañaque and, by falsely pretending to sell aluminum scrap wires, Fukuzume was able to induce Yu to part with his money.

x x x

From the foregoing, it is evident that the prosecution failed to prove that Fukuzume committed the crime of estafa in Makati or that any of the essential ingredients of the offense took place in the said city. Hence, the judgment of the trial court convicting Fukuzume of the crime of estafa should be set aside for want of jurisdiction, without prejudice, however, to the filing of appropriate charges with the court of competent jurisdiction. (Emphasis supplied)

In this case, the prosecution failed to show that the offense of estafa under Section 1, paragraph (b) of Article 315 of the RPC was committed within the jurisdiction of the RTC of Makati City.

That the offense was committed in Makati City was alleged in the information as follows:

That on or about the 23[rd] day of December, 1999, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, received in trust from ELIZABETH LUCIAJA the amount of P150,000.00 x x x. (Emphasis supplied.)(20]

Ordinarily, this statement would have been sufficient to vest jurisdiction in the RTC of Makati. However, the Affidavit of Complaint executed by Elizabeth does not contain any allegation as to where the offense was committed. It provides in part:

- THAT on 23 December 1999, [Elizabeth] personally entrusted to ATTY. HECTOR TREÑAS the sum of P150,000.00 to be expended as agreed and ATTY. HECTOR TREÑAS issued to me a receipt, a photo copy of which is hereto attached as Annex "B",

- THAT despite my several follow-ups with ATTY. HECTOR TREÑAS, the latter failed to transfer the title of aforesaid property to MRS. MARGARITA ALOCILJA. He also failed to pay the capital gains tax, documentary stamps and BIR-related expenses. What ATTY. HECTOR TREÑAS accomplished was only the preparation of the Deed of Sale covering aforesaid property. A copy of said Deed of Sale is hereto attached as Annex "C",

- THAT in view of my persistent follow-ups, ATTY. HECTOR TREÑAS issued to me a check for refund of the sum given to him less the attorney's fee of P20,000.00 and the sum of P10,000.00 allegedly paid to BIR or in the net sum of P120,000.00. x x x

- THAT when said check was deposited at EQUITABLE PCI BANK dela Rosa-Rada Branch at Makati City, the same was dishonored by the drawee bank for the reason: ACCOUNT CLOSED. x x x[21]

Aside from the lone allegation in the Information, no other evidence was presented by the prosecution to prove that the offense or any of its elements was committed in Makati City.

Under Article 315, par. 1 (b) of the RPC, the elements of estafa are as follows: (1) that money, goods or other personal property is received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same; (2) that there be misappropriation or conversion of such money or property by the offender, or denial on his part of such receipt; (3) that such misappropriation or conversion or denial is to the prejudice of another; and (4) there is demand by the offended party to the offender.[22]

There is nothing in the documentary evidence offered by the prosecution[23] that points to where the offense, or any of its elements, was committed. A review of the testimony of Elizabeth also shows that there was no mention of the place where the offense was allegedly committed:

Q

After the manager of Maybank referred Atty. Treñas to you, what happened next?

A

We have met and he explained to the expenses and what we will have to... and she will work for the Deed of Sale.

Q

And did he quote any amount when you got to the expenses?

A

Yes. I gave him ONE HUNDRED FIFTY THOUSAND.

Q

What was the amount quoted to you?

A

ONE HUNDRED FIFTY THOUSAND.

Q

Did he give a breakdown of this ONE HUNDRED FIFTY THOUSAND?

A

Yes, sir.

Q

And what is the breakdown of this ONE HUNDRED FIFTY THOUSAND?

A

TWENTY THOUSAND is for his Attorney's fee, NINETY THOUSAND is for the capital gain tax TWENTY FOUR THOUSAND is intended for documentary sum (sic) and TEN THOUSAND PESOS is for other expenses for BIR.

Q

And did you give him this ONE HUNDRED FIFTY THOUSAND?

A

Yes, sir.

Q

Did he issue a receipt?

A

Yes, sir.

Q

If shown to you a receipt issued by Atty. Treñas for this ONE HUNDRED FIFTY THOUSAND, will you be able to identify it?

A

Yes, sir.

Q

I am showing to you a document, madam witness, already identified during the pre-trial as exhibit "B". This appears to be a receipt dated December 22, 1999. Will you please go over this document and inform this court what relation has this to the receipt which you said Atty. Treñas issued to you?

A This is the receipt issued by Atty. Hector Treñas.

Q

Now, after the amount of ONE HUNDRED FIFTY THOUSAND was given to Atty. Treñas by you, what happened next?

A

We made several follow-ups but he failed to do his job.[24]

Although the prosecution alleged that the check issued by petitioner was dishonored in a bank in Makati, such dishonor is not an element of the offense of estafa under Article 315, par. 1 (b) of the RPC.

Indeed, other than the lone allegation in the information, there is nothing in the prosecution evidence which even mentions that any of the elements of the offense were committed in Makati. The rule is settled that an objection may be raised based on the ground that the court lacks jurisdiction over the offense charged, or it may be considered *motu proprio* by the court at any stage of the proceedings or on appeal.[25] Moreover, jurisdiction over the subject matter in a criminal case cannot be conferred upon the court by the accused, by express waiver or otherwise. That jurisdiction is conferred

by the sovereign authority that organized the court and is given only by law in the manner and form prescribed by law.[26]

It has been consistently held by this Court that it is unfair to require a defendant or accused to undergo the ordeal and expense of a trial if the court has no jurisdiction over the subject matter or offense or it is not the court of proper venue.[27] Section 15 (a) of Rule 110 of the Revised Rules on Criminal Procedure of 2000 provides that "[s]ubject to existing laws, the criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed or where any of its essential ingredients occurred." This fundamental principle is to ensure that the defendant is not compelled to move to, and appear in, a different court from that of the province where the crime was committed as it would cause him great inconvenience in looking for his witnesses and other evidence in another place.[28] This principle echoes more strongly in this case, where, due to distance constraints, coupled with his advanced age and failing health, petitioner was unable to present his defense in the charges against him.

There being no showing that the offense was committed within Makati, the RTC of that city has no jurisdiction over the case.[29]

As such, there is no more need to discuss the other issue raised by petitioner.

At this juncture, this Court sees it fit to note that the Code of Professional Responsibility strongly militates against the petitioner's conduct in handling the funds of his client. Rules 16.01 and 16.02 of the Code provides:

Rule 16.01 -- A lawyer shall account for all money or property collected or received for or from the client.

Rule 16.02 -- A lawyer shall keep the funds of each client separate and apart from his own and those others kept by him.

When a lawyer collects or receives money from his client for a particular purpose (such as for filing fees, registration fees, transportation and office expenses), he should promptly account to the client how the money was spent.[30] If he does not use the money for its intended purpose, he must immediately return it to the client. His failure either to render an accounting or to return the money (if the intended purpose of the money does not materialize) constitutes a blatant disregard of Rule 16.01 of the Code of Professional Responsibility.[31]

Moreover, a lawyer has the duty to deliver his client's funds or properties as they fall due or upon demand.[32] His failure to return the client's money upon demand gives rise to the presumption that he has misappropriated it

for his own use to the prejudice of and in violation of the trust reposed in him by the client.[33] It is a gross violation of general morality as well as of professional ethics; it impairs public confidence in the legal profession and deserves punishment.[34]

In *Cuizon v. Macalino*,[35] this Court ruled that the issuance of checks which were later dishonored for having been drawn against a closed account indicates a lawyer's unfitness for the trust and confidence reposed on him, shows lack of personal honesty and good moral character as to render him unworthy of public confidence, and constitutes a ground for disciplinary action.

This case is thus referred to the Integrated Bar of the Philippines (IBP) for the initiation of disciplinary proceedings against petitioner. In any case, should there be a finding that petitioner has failed to account for the funds received by him in trust, the recommendation should include an order to immediately return the amount of ₱130,000 to his client, with the appropriate rate of interest from the time of demand until full payment.

WHEREFORE, the Petition is GRANTED. The Decision dated 9 July 2010 and the Resolution dated 4 January 2011 issued by the Court of Appeals in CA-G.R. CR No. 32177 are SET ASIDE on the ground of lack of jurisdiction on the part of the Regional Trial Court, Branch 137, Makati City. Criminal Case No. 01-2409 is DISMISSED without prejudice. This case is REFERRED to the IBP Board of Governors for investigation and recommendation pursuant to Section 1 of Rule 139-B of the Rules of Court.

SO ORDERED.

Carpio, (Chairperson), Perez, Reyes, and Perlas-Bernabe,[*] JJ., concur.

[*] Designated as Acting Member of the Second Division vice Associate Justice Arturo D. Brion per Special Order No. 1174 dated January 9, 2012.

[1] *Fukuzume v. People*, G.R. No. 143647, 11 November 2005, 474 SCRA 570, citing *Pangilinan v. Court of Appeals*, 321 SCRA 51 (1999).

[2] Penned by Associate Justice Samuel H. Gaerlan and concurred in by Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario.

[3] *Rollo*, p. 33; original citations omitted.

[4] *Id.* at 40.

[5] *Id.* at 52-58.

[6] *Id.* at 58.

[7] *Id.* at 59-66.

[8] *Id.* at 67-72.

[9] *Id.* at 73-74.

[10] *Id.* at 31-38.

[11] *Id.* at 39-40.

[12] *Id.* at 3-6.

[13] *Id.* at 14.

- [14] Salcedo v. People, G.R. No. 137143, 8 December 2000, 347 SCRA 499.
- [15] Rollo, pp. 55-56.
- [16] Id. at 71.
- [17] Id. at 36-37.
- [18] G.R. No. 170298, 26 June 2007, 525 SCRA 735.
- [19] Supre note 1.
- [20] Rollo, p. 40.
- [21] Id. at 41-42.
- [22] Salazar v. People of the Philippines, 480 Phil. 444 (2004).
- [23] Records, pp. 260-262.
- [24] Records, pp. 352-353.
- [25] Supra; see also Rules of Court, Rule 118, Sec. 9 in relation to Sec. 3(b).
- [26] Id.
- [27] Buaya v. Polo, 251 Phil. 422 (1989); Javier v. Sandiganbayan, G.R. Nos. 147026-27, 11 September 2009, 599 SCRA 324.
- [28] Campanano v. Datuin, G.R. No. 172142, 17 October 2007, 536 SCRA 471.
- [29] See Uy v. Court of Appeals, G.R. No. 119000, 28 July 1997, 276 SCRA 367.
- [30] Belleza v. Macasa, A.C. No. 7815, 23 July 2009, 593 SCRA 549.
- [31] Id.
- [32] Code of Professional Responsibility, Rule 16.03; Barnachea v. Quiocho, A.C. No. 5925, 11 March 2003, 399 SCRA 1.
- [33] Pentecostes v. Ibañez, 363 Phil. 624 (1999).
- [34] Supra note 30.
- [35] A.C. No. 4334, 7 July 2004, 433 SCRA 484.

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