

EN BANC

[A.C. No. 10573, January 13, 2015]

**FERNANDO W. CHU, COMPLAINANT, VS. ATTY. JOSE C. GUICO,
JR., RESPONDENT.**

DECISION

PER CURIAM:

Fernando W. Chu invokes the Court's disciplinary authority in resolving this disbarment complaint against his former lawyer, respondent Atty. Jose C. Guico, Jr., whom he has accused of gross misconduct.

Antecedents

Chu retained Atty. Guico as counsel to handle the labor disputes involving his company, CVC San Lorenzo Ruiz Corporation (CVC).^[1] Atty. Guico's legal services included handling a complaint for illegal dismissal brought against CVC (NLRC Case No. RAB-III-08-9261-05 entitled *Kilusan ng Manggagawang Makabayan (KMM) Katipunan CVC San Lorenzo Ruiz Chapter, Ladivico Adriano, et al. v. CVC San Lorenzo Ruiz Corp. and Fernando Chu*).^[2] On September 7, 2006, Labor Arbiter Herminio V. Suelo rendered a decision adverse to CVC.^[3] Atty. Guico filed a timely appeal in behalf of CVC.

According to Chu, during a Christmas party held on December 5, 2006 at Atty. Guico's residence in Commonwealth, Quezon City, Atty. Guico asked him to prepare a substantial amount of money to be given to the NLRC Commissioner handling the appeal to insure a favorable decision.^[4] On June 10, 2007, Chu called Atty. Guico to inform him that he had raised P300,000.00 for the purpose. Atty. Guico told him to proceed to his office at No. 48 Times Street, Quezon City, and to give the money to his assistant, Reynaldo (Nardo) Manahan. Chu complied, and later on called Atty. Guico to confirm that he had delivered the money to Nardo. Subsequently, Atty. Guico instructed Chu to meet him on July 5, 2007 at the UCC Coffee Shop on T. Morato Street, Quezon City. At the UCC Coffee Shop, Atty. Guico handed Chu a copy of an alleged draft decision of the NLRC in favor of CVC.^[5] The draft decision^[6] was printed on the dorsal portion of used paper apparently emanating from the office of Atty. Guico. On that occasion, the latter told Chu to raise another P300,000.00 to encourage the NLRC Commissioner to issue the decision. But Chu could only produce P280,000.00, which he brought to Atty. Guico's office on July 10, 2007 accompanied by his son, Christopher Chu, and one Bonifacio Elipane. However, it was Nardo who received the amount without issuing any receipt.^[7]

Chu followed up on the status of the CVC case with Atty. Guico in December 2007. However, Atty. Guico referred him to Nardo who in turn said that he would only know the status after Christmas. On January 11, 2008, Chu again called Nardo, who

invited him to lunch at the Ihaw Balot Plaza in Quezon City. Once there, Chu asked Nardo if the NLRC Commissioner had accepted the money, but Nardo replied in the negative and simply told Chu to wait. Nardo assured that the money was still with Atty. Guico who would return it should the NLRC Commissioner not accept it.^[8]

On January 19, 2009, the NLRC promulgated a decision adverse to CVC.^[9] Chu confronted Atty. Guico, who in turn referred Chu to Nardo for the filing of a motion for reconsideration. After the denial of the motion for reconsideration, Atty. Guico caused the preparation and filing of an appeal in the Court of Appeals. Finally, Chu terminated Atty. Guico as legal counsel on May 25, 2009.^[10]

In his position paper,^[11] Atty. Guico described the administrative complaint as replete with lies and inconsistencies, and insisted that the charge was only meant for harassment. He denied demanding and receiving money from Chu, a denial that Nardo corroborated with his own affidavit.^[12] He further denied handing to Chu a draft decision printed on used paper emanating from his office, surmising that the used paper must have been among those freely lying around in his office that had been pilfered by Chu's witnesses in the criminal complaint he had handled for Chu.^[13]

Findings and Recommendation of the IBP Board of Governors

IBP Commissioner Cecilio A.C. Villanueva found that Atty. Guico had violated Rules 1.01 and 1.02, Canon I of the Code of Professional Responsibility for demanding and receiving P580,000.00 from Chu; and recommended the disbarment of Atty. Guico in view of his act of extortion and misrepresentation that caused dishonor to and contempt for the legal profession.^[14]

On February 12, 2013, the IBP Board of Governors adopted the findings of IBP Commissioner Villanueva in its Resolution No. XX-2013-87,^[15] but modified the recommended penalty of disbarment to three years suspension, *viz.*:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification**, 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 Respondent's violation of Canon 1, Rules 1.01 and 1.02 of the Code of Professional Responsibility, Atty. Jose C. Guico, Jr. is hereby **SUSPENDED from the practice of law for three (3) years with Warning** that a repetition of the same or similar act shall be dealt with more severely and Ordered to Return the amount of Five Hundred Eighty Thousand (P580,000.00) Pesos with legal interest within thirty (30) days from receipt of notice.

Atty. Guico moved for reconsideration,^[16] but the IBP Board of Governors denied his motion for reconsideration on March 23, 2014 in Resolution No. XXI-2014-173.^[17]

Neither of the parties brought a petition for review vis-à-vis Resolution No. XX-2013-87 and Resolution No. XXI-2014-173.

Issue

Did Atty. Guico violate the Lawyer's Oath and Rules 1.01 and 1.02, Canon I of the Code of Professional Responsibility for demanding and receiving P580,000.00 from Chu to guarantee a favorable decision from the NLRC?

Ruling of the Court

In disbarment proceedings, the burden of proof rests on the complainant to establish respondent attorney's liability by clear, convincing and satisfactory evidence. Indeed, this Court has consistently required clearly preponderant evidence to justify the imposition of either disbarment or suspension as penalty.^[18]

Chu submitted the affidavits of his witnesses,^[19] and presented the draft decision that Atty. Guico had represented to him as having come from the NLRC. Chu credibly insisted that the draft decision was printed on the dorsal portion of used paper *emanating from* Atty. Guico's office,^[20] inferring that Atty. Guico commonly printed documents on used paper in his law office. Despite denying being the source of the draft decision presented by Chu, Atty. Guico's participation in the generation of the draft decision was undeniable. For one, Atty. Guico impliedly admitted Chu's insistence by conceding that the used paper had originated from his office, claiming only that used paper was just "scattered around his office."^[21] In that context, Atty.

Guico's attempt to downplay the sourcing of used paper from his office was futile because he did not expressly belie the forthright statement of Chu. All that Atty. Guico stated by way of deflecting the imputation was that the used paper containing the draft decision could have been easily taken from his office by Chu's witnesses in a criminal case that he had handled for Chu,^[22] pointing out that everything in his office, except the filing cabinets and his desk, was "*open to the public xxx and just anybody has access to everything found therein.*"^[23] In our view, therefore, Atty. Guico made the implied admission because he was fully aware that the used paper had unquestionably come from his office.

The testimony of Chu, and the circumstances narrated by Chu and his witnesses, especially the act of Atty. Guico of presenting to Chu the supposed draft decision that had been printed on used paper emanating from Atty. Guico's office, sufficed to confirm that he had committed the imputed gross misconduct by demanding and receiving P580,000.00 from Chu to obtain a favorable decision. Atty. Guico offered only his general denial of the allegations in his defense, but such denial did not overcome the affirmative testimony of Chu. We cannot but conclude that the production of the draft decision by Atty. Guico was intended to motivate Chu to raise money to ensure the chances of obtaining the favorable result in the labor case. As such, Chu discharged his burden of proof as the complainant to establish his complaint against Atty. Guico. In this administrative case, a fact may be deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.

^[24]

What is the condign penalty for Atty. Guico?

In taking the Lawyer's Oath, Atty. Guico bound himself to:

x x x maintain allegiance to the Republic of the Philippines; x x x support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; x x x do no falsehood, nor consent to the doing of any in court; x x x delay no man for money or malice x x x.

The Code of Professional Responsibility echoes the Lawyer's Oath, to wit:

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.

The sworn obligation to respect the law and the legal processes under the Lawyer's Oath and the Code of Professional Responsibility is a continuing condition for every lawyer to retain membership in the Legal Profession. To discharge the obligation, every lawyer should not render any service or give advice to any client that would involve defiance of the very laws that he was bound to uphold and obey,^[25] for he or she was always bound as an attorney to be law abiding, and thus to uphold the integrity and dignity of the Legal Profession.^[26] Verily, he or she must act and comport himself or herself in such a manner that would promote public confidence in the integrity of the Legal Profession.^[27] Any lawyer found to violate this obligation forfeits his or her privilege to continue such membership in the legal profession.

Atty. Guico willingly and wittingly violated the law in appearing to counsel Chu to raise the large sums of money in order to obtain a favorable decision in the labor case. He thus violated the law against bribery and corruption. He compounded his violation by actually using said illegality as his means of obtaining a huge sum from the client that he soon appropriated for his own personal interest. His acts constituted gross dishonesty and deceit, and were a flagrant breach of his ethical commitments under the Lawyer's Oath not to delay any man for money or malice; and under Rule 1.01 of the Code of Professional Responsibility that forbade him from engaging in unlawful, dishonest, immoral or deceitful conduct. His deviant conduct eroded the faith of the people in him as an individual lawyer as well as in the Legal Profession as a whole. In doing so, he ceased to be a servant of the law.

Atty. Guico committed grave misconduct and disgraced the Legal Profession. Grave misconduct is "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not mere error of judgment."^[28] There is no