

EN BANC

[A.C. NO. 6792, January 25, 2006]

**ROBERTO SORIANO, COMPLAINANT, VS. ATTY. MANUEL DIZON,
RESPONDENT.**

DECISION

PER CURIAM:

Before us is a Complaint-Affidavit ^[1] for the disbarment of Atty. Manuel Dizon, filed by Roberto Soriano with the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP). Complainant alleges that the conviction of respondent for a crime involving moral turpitude, together with the circumstances surrounding the conviction, violates Canon 1 of Rule 1.01 of the Code of Professional Responsibility; ^[2] and constitutes sufficient ground for his disbarment under Section 27 of Rule 138 of the Rules of Court. ^[3]

Because of the failure of Atty. Dizon to submit his Answer to the Complaint, the CBD issued a Notice dated May 20, 2004, informing him that he was in default, and that an ex-parte hearing had been scheduled for June 11, 2004. ^[4] After that hearing, complainant manifested that he was submitting the case on the basis of the Complaint and its attachments. ^[5] Accordingly, the CBD directed him to file his Position Paper, which he did on July 27, 2004. ^[6] Afterwards, the case was deemed submitted for resolution.

On December 6, 2004, Commissioner Teresita J. Herbosa rendered her Report and Recommendation, which was later adopted and approved by the IBP Board of Governors in its Resolution No. XVI-2005-84 dated March 12, 2005.

In his Complaint-Affidavit, Soriano alleged that respondent had violated Canon 1, Rule 1.01 of the Code of Professional Responsibility; and that the conviction of the latter for frustrated homicide, ^[7] which involved moral turpitude, should result in his disbarment.

The facts leading to respondent's conviction were summarized by Branch 60 of the Regional Trial Court of Baguio City in this wise:

"x x x. The accused was driving his brown Toyota Corolla and was on his way home after gassing up in preparation for his trip to Concepcion, Tarlac with his wife. Along Abanao Street, a taxi driver overtook the car driven by the accused not knowing that the driver of the car he had overtaken is not just someone, but a lawyer and a prominent member of the Baguio community who was under the influence of liquor. Incensed, the accused tailed the taxi driver until the latter stopped to make a turn at [the] Chugum and Carino Streets. The accused also stopped his car,

berated the taxi driver and held him by his shirt. To stop the aggression, the taxi driver forced open his door causing the accused to fall to the ground. The taxi driver knew that the accused had been drinking because he smelled of liquor. Taking pity on the accused who looked elderly, the taxi driver got out of his car to help him get up. But the accused, by now enraged, stood up immediately and was about to deal the taxi driver a fist blow when the latter boxed him on the chest instead. The accused fell down a second time, got up again and was about to box the taxi driver but the latter caught his fist and turned his arm around. The taxi driver held on to the accused until he could be pacified and then released him. The accused went back to his car and got his revolver making sure that the handle was wrapped in a handkerchief. The taxi driver was on his way back to his vehicle when he noticed the eyeglasses of the accused on the ground. He picked them up intending to return them to the accused. But as he was handing the same to the accused, he was met by the barrel of the gun held by the accused who fired and shot him hitting him on the neck. He fell on the thigh of the accused so the latter pushed him out and sped off. The incident was witnessed by Antonio Billanes whose testimony corroborated that of the taxi driver, the complainant in this case, Roberto Soriano." [8]

It was the prosecution witness, Antonio Billanes, who came to the aid of Soriano and brought the latter to the hospital. Because the bullet had lacerated the carotid artery on the left side of his neck, [9] complainant would have surely died of hemorrhage if he had not received timely medical assistance, according to the attending surgeon, Dr. Francisco Hernandez, Jr. Soriano sustained a spinal cord injury, which caused paralysis on the left part of his body and disabled him for his job as a taxi driver.

The trial court promulgated its Decision dated November 29, 2001. On January 18, 2002, respondent filed an application for probation, which was granted by the court on several conditions. These included satisfaction of "the civil liabilities imposed by [the] court in favor of the offended party, Roberto Soriano." [10]

According to the unrefuted statements of complainant, Atty. Dizon, who has yet to comply with this particular undertaking, even appealed the civil liability to the Court of Appeals. [11]

In her Report and Recommendation, Commissioner Herbosa recommended that respondent be disbarred from the practice of law for having been convicted of a crime involving moral turpitude.

The commissioner found that respondent had not only been convicted of such crime, but that the latter also exhibited an obvious lack of good moral character, based on the following facts:

- "1. He was under the influence of liquor while driving his car;
- "2. He reacted violently and attempted to assault Complainant only because the latter, driving a taxi, had overtaken him;
- "3. Complainant having been able to ward off his attempted assault,

Respondent went back to his car, got a gun, wrapped the same with a handkerchief and shot Complainant[,] who was unarmed;

"4. When Complainant fell on him, Respondent simply pushed him out and fled;

"5. Despite positive identification and overwhelming evidence, Respondent denied that he had shot Complainant;

"6. Apart from [his] denial, Respondent also lied when he claimed that he was the one mauled by Complainant and two unidentified persons; and,

"7. Although he has been placed on probation, Respondent has[,] to date[,] not yet satisfied his civil liabilities to Complainant." [12]

On July 8, 2005, the Supreme Court received for its final action the IBP Resolution adopting the Report and Recommendation of the Investigating Commissioner.

We agree with the findings and recommendations of Commissioner Herbosa, as approved and adopted by the IBP Board of Governors.

Under Section 27 of Rule 138 of the Rules of Court, conviction for a crime involving moral turpitude is a ground for disbarment or suspension. By such conviction, a lawyer is deemed to have become unfit to uphold the administration of justice and to be no longer possessed of good moral character. [13] In the instant case, respondent has been found guilty; and he stands convicted, by final judgment, of frustrated homicide. Since his conviction has already been established and is no longer open to question, the only issues that remain to be determined are as follows: 1) whether his crime of frustrated homicide involves moral turpitude, and 2) whether his guilt warrants disbarment.

Moral turpitude has been defined as "everything which is done contrary to justice, modesty, or good morals; an act of baseness, vileness or depravity in the private and social duties which a man owes his fellowmen, or to society in general, contrary to justice, honesty, modesty, or good morals." [14]

The question of whether the crime of homicide involves moral turpitude has been discussed in *International Rice Research Institute (IRRI) v. NLRC*, [15] a labor case concerning an employee who was dismissed on the basis of his conviction for homicide. Considering the particular circumstances surrounding the commission of the crime, this Court rejected the employer's contention and held that homicide in that case did not involve moral turpitude. (If it did, the crime would have been violative of the IRRI's Employment Policy Regulations and indeed a ground for dismissal.) The Court explained that, having disregarded the attendant circumstances, the employer made a pronouncement that was precipitate. Furthermore, it was not for the latter to determine conclusively whether a crime involved moral turpitude. That discretion belonged to the courts, as explained thus:

"x x x. *Homicide may or may not involve moral turpitude depending on the degree of the crime.* Moral turpitude is not involved in every criminal act and is not shown by every known and intentional violation of statute, but whether any particular conviction involves moral turpitude may be a

question of fact and frequently depends on all the surrounding circumstances. x x x." [16] (Emphasis supplied)

In the IRRI case, in which the crime of homicide did not involve moral turpitude, the Court appreciated the presence of incomplete self-defense and total absence of aggravating circumstances. For a better understanding of that Decision, the circumstances of the crime are quoted as follows:

"x x x. The facts on record show that Micosá [the IRRI employee] was then urinating and had his back turned when the victim drove his fist unto Micosá's face; that the victim then forcibly rubbed Micosá's face into the filthy urinal; that Micosá pleaded to the victim to stop the attack but was ignored and that it was while Micosá was in that position that he drew a fan knife from the left pocket of his shirt and desperately swung it at the victim who released his hold on Micosá only after the latter had stabbed him several times. These facts show that Micosá's intention was not to slay the victim but only to defend his person. The appreciation in his favor of the mitigating circumstances of self-defense and voluntary surrender, plus the total absence of any aggravating circumstance demonstrate that Micosá's character and intentions were not inherently vile, immoral or unjust." [17]

The present case is totally different. As the IBP correctly found, the circumstances clearly evince the moral turpitude of respondent and his unworthiness to practice law.

Atty. Dizon was definitely the aggressor, as he pursued and shot complainant when the latter least expected it. The act of aggression shown by respondent will not be mitigated by the fact that he was hit once and his arm twisted by complainant. Under the circumstances, those were reasonable actions clearly intended to fend off the lawyer's assault.

We also consider the trial court's finding of treachery as a further indication of the skewed morals of respondent. He shot the victim when the latter was not in a position to defend himself. In fact, under the impression that the assault was already over, the unarmed complainant was merely returning the eyeglasses of Atty. Dizon when the latter unexpectedly shot him. To make matters worse, respondent wrapped the handle of his gun with a handkerchief so as not to leave fingerprints. In so doing, he betrayed his sly intention to escape punishment for his crime.

The totality of the facts unmistakably bears the earmarks of moral turpitude. By his conduct, respondent revealed his extreme arrogance and feeling of self-importance. As it were, he acted like a god on the road, who deserved to be venerated and never to be slighted. Clearly, his inordinate reaction to a simple traffic incident reflected poorly on his fitness to be a member of the legal profession. His overreaction also evinced vindictiveness, which was definitely an undesirable trait in any individual, more so in a lawyer. In the tenacity with which he pursued complainant, we see not the persistence of a person who has been grievously wronged, but the obstinacy of one trying to assert a false sense of superiority and to exact revenge.

It is also glaringly clear that respondent seriously transgressed Canon 1 of the Code of Professional Responsibility through his illegal possession of an unlicensed firearm