



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

CIRCULAR NO. 31-2001

TO: THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARPA DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARPA CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC DEFENDERS OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT: SUSPENSION OF ATTY. ERNESTO L. LUMAYA FOR TEN (10) YEARS

For the information and guidance of all concerned, quoted hereunder is the resolution of the Court En Banc in Administrative Case No. 2614 entitled "Maximo Dumadag vs. Atty. Ernesto L. Lumaya" dated 29 June 2000, to wit:

"On the basis of an administrative complaint for Unethical Practices, Conflict of Interest and Disloyalty to Clients dated December 23, 1983 filed by complainant against respondent praying that the corresponding disciplinary action be imposed on the latter, the case was referred to Office of the Solicitor General (OSG) by the Court for investigation and report.

On February 26, 1990, the OSG submitted a Report finding respondent culpable for infidelity and disloyalty to his client, negligence of duty, unethical practices and violation of his lawyers oath. As penalty, the OSG recommended that after due hearing, "respondent be suspended from the practice of law for not more than five (5) years."

Thereafter, in a Resolution dated May 21, 1991⁶ the Court found that the respondent made a "clear breach of the canons of professional responsibility" and suspended respondent indefinitely from the practice of law.

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⁶ Rollo, pp. 147-154

On July 26, 1994, respondent filed Petition For Lifting Of Respondent's Suspension From the Practice of Law which the Court referred to the Integrated Bar of the Philippines (IBP) for evaluation, report and recommendation in a Resolution dated March 13, 1995.¹⁶

In a Report and Recommendation dated August 14, 1998, the Investigating Commissioner recommend the lifting of the indefinite suspension of respondent. On November 5, 1998, the Board of Governors of the IBP passed Resolution No. XIII-98-171 adopting the recommendation of the Investigating Commissioner. xxx

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In a letter addressed to the Chief Justice dated January 10, 2000, respondent who turned Seventy-One (71) years old last October 25, 1999, once again implores and at the same time chides the court from 'slumbering' on acting upon the IBP Resolution to lift his indefinite suspension, although he still insists on his innocence.

The insolence of respondent's remonstrations that the Court has been sleeping on its job in acting upon his case not only underscores his callous disregard of the myriad administrative and judicial travails the Court has to contend with as the Tribunal of the Last Resort, among them, the chronic problem of an overflowing docket of which his case is but one additional aggravation; it also betrays his absolute lack of appreciation and disrespect for the efforts and measures undertaken by the Court to cope with these concerns. Needless to state, such presumptuousness is only too deserving of rebuke.

Respondent must know that the Court is neither bound by the findings of the IBP nor, much less, obliged to accept the same as a matter of course¹⁷ because as the Tribunal which has the final say on the proper functions to be imposed on errant members of both bench and bar,¹⁸ the Court has the prerogative of making its own findings and rendering judgement on the basis thereof rather than of the IBP, OSG, or any lower court to whom an administrative complaint has been referred to for investigation and report.

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Respondent's suspension for more than nine (9) years to date, for his professional indiscretion, underscored by his insistent protestations of

¹⁶ Id, p. 196

¹⁷ See Felicidad Cottam v. Atty. Estrella O. Laysa, A.C. No. 4834, 29 February 2000, p. 4

¹⁸ Sections 15, 16 and 17, Rule 139-B, Revised Rules of Court.

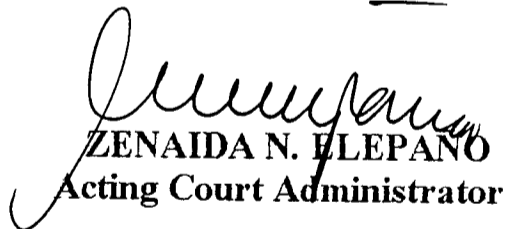
innocence, appears not to have fully reform him and opened his eyes to the error of his ways. Such an unrepentant attitude and unwillingness to acknowledge his misconduct puts his fitness for readmission to the practice of law under serious inquiry. Respondent must always remember that –

[T]he practice of law is a privilege burdened with conditions. Adherence to the rigid standards of mental fitness, maintenance of the highest degree of morality and faithful compliance with rules of the legal profession are the conditions required for remaining a member of good standing of the bar and for enjoying the privilege to practice law. The Supreme Court, as a guardian of the legal profession, has ultimate disciplinary power over attorneys. This authority to discipline its members is not only a right but bounded duty as well xxx That is why respect and fidelity to the Court is demanded of its members.²¹

As has been stated earlier, the indefiniteness of respondents suspension puts in his hands the key for the restoration of his rights and privileges as a lawyer. Until such time as he purged himself of his misconduct and acknowledged the same by exhibiting appropriate repentance and demonstrating his willingness and capacity to live up to the exacting standards of conduct demanded from every member of the bar and officer of the court, respondent's suspension must deservedly be fixed at ten (10) years. Consequently, the same may only be lifted after the expiration of the said period, counted from the time when his suspension actually commenced.

WHEREFORE, In view of all the foregoing, the period of respondent's suspension from the practice of law is hereby fixed at Ten (10) Years. The "Petition For The Lifting of Respondent's Suspension From The Practice of Law" is, therefore, **DENIED.**"

18 May 2001


ZENAIDA N. ELEPANO
Acting Court Administrator

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²¹ Adez Realty, Inc. v. CA, 251 SCRA 201 [1995], citing Zaldivar v. Sandiganbayan, 221 SCRA 132 [1993]