Republic of the Philippines
Supreme Court
Manila

**FIRST DIVISION**

| | |
|---|---|
| **INTERADENT ZAHNTECHNIK, PHIL., INC., REPRESENTED BY LUIS MARCO I. AVANCEÑA,** Complainant, | **A.C. No. 9464** |
| - versus - | Present: SERENO, *C.J.*, LEONARDO-DE CASTRO, BERSAMIN, PERLAS-BERNABE, and CAGUIOA, *JJ.*: |
| **ATTY. REBECCA S. FRANCISCO-SIMBILLO,** Respondent. | Promulgated: AUG 24 2016 |

x----------x

**RESOLUTION**

**BERSAMIN, *J.*:**

A complaint for disbarment based on the respondent attorney's alleged moral turpitude cannot prosper after the criminal cases charging him with offenses involving moral turpitude were dismissed by the competent trial courts. The rule regarding this ground for disbarment requires the respondent attorney's conviction of the offense involving moral turpitude by final judgment.

**Antecedents**

On March 12, 2012, the Office of the Bar Confidant (OBC) received a letter from the attorney for complainant Intradent Zahnetchnik Philippines, Inc. informing about several criminal cases filed and pending against respondent Rebecca Francisco-Simbillo. The criminal cases had been filed by the complainant to charge the respondent with *estafa* and qualified theft in the Office of the City Prosecutor of Parañaque City (docketed as I.S. No. XV-12-INV-11-J-03189), and with violation of Article 291 of the *Revised Penal Code* in the Office of the City Prosecutor of Quezon City (docketed as

I.S. No. XV-03-INV-11-J-08553). The complainant pointed out that the charges for *estafa* and qualified theft involved moral turpitude.[1]

At the time, the results of the 2011 Bar Examinations had just been released, and the respondent was among those who had passed. She was in due course formally notified by the OBC of the letter of the complainant, and thereby required to file her comment within 15 days from notice. The OBC also informed her that she could join the mass oath taking for the new lawyers, but she would not be allowed to enroll her name in the Roll of Attorneys until the charges against her had been cleared.[2] Upon the advice of the OBC, she had the other option to sign the Roll of Attorneys subject to the condition that the letter of the complainant would be automatically converted to a disbarment complaint against her. Choosing the latter, she signed the Roll of Attorneys on May 3, 2012.[3]

In her comment, the respondent stated that she had been employed by the complainant for four years; that her employment had lasted until she was illegally dismissed; that she instituted a labor case against the complainant; that the criminal charges filed against her were intended to malign, inconvenience, and harass her, and to force her to desist from pursuing the labor case; and that at the time of the filing of her comment, the criminal complaints brought against her were still pending determination of probable cause by the respective Offices of the City Prosecutor.[4]

On June 8, 2012, the respondent filed a manifestation stating that the Office of the City Prosecutor of Parañaque City had already dismissed the criminal charge docketed as XV-12-INV-11-J-03189.[5]

The complainant immediately countered that although the Office of the City Prosecutor of Parañaque City had dismissed its complaint for *estafa* and qualified theft, it had timely brought an appeal to the Department of Justice (DOJ); and that the criminal case against the respondent should still be considered as pending.[6]

On February 18, 2015, the respondent filed a motion seeking the resolution of this disbarment case, alleging that the DOJ had denied the complainant's appeal in respect of XV-12-INV-11-J-03189; and that as to the criminal charge docketed as XV-03-INV-11-J-08553, the Office of the City Prosecutor of Quezon City had filed an information against her in the Metropolitan Trial Court in Quezon City, but Branch 33 of that court had

---

1 *Rollo*, pp. 1-2.
2 Id. at 295.
3 Id. at 297.
4 Id. at 296-301.
5 Id. at 302-303.
6 Id. at 310.

eventually dismissed the information upon the Prosecution's motion for the withdrawal of the information with leave of court.[7]

**Issue**

May the disbarment complaint against the respondent prosper?

**Ruling of the Court**

We rule in favor of the respondent.

We observe that this administrative case started as a complaint to prevent the respondent from being admitted to the Philippine Bar on the ground of the existence of criminal charges brought against her for crimes involving moral turpitude. Indeed, Section 2, Rule 138 of the *Rules of Court* requires that any applicant for admission to the Bar must show that no charges against him or her for crimes involving moral turpitude have been filed or are pending in any court in the Philippines. However, this administrative case has since been converted to one for disbarment, but without the complainant, which has all the while continued to actively participate herein, alleging any ground for finding the respondent administratively liable except those already averred in its letter to the OBC. The complainant has not also shown that there were other criminal cases involving moral turpitude filed against the respondent.

Under Section 27,[8] Rule 138 of the *Rules of Court*, a lawyer may be disbarred on any of the following grounds, namely: (1) deceit; (2) malpractice; (3) gross misconduct in office; (4) grossly immoral conduct; (5) conviction of a crime involving moral turpitude; (6) violation of the lawyers oath; (7) willful disobedience of any lawful order of a superior court; and (8) corruptly or willfully appearing as a lawyer for a party to a case without authority so to do. In fine, in order to hold the lawyer amenable to disbarment by reason of his or her having committed a crime involving moral turpitude, it is not enough to show that there is a pending case

---

[7] Id. at 329-330.

[8] Section 27. *Disbarment or suspension of attorneys by Supreme Court, grounds therefor.* – A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, **or by reason of his conviction of a crime involving moral turpitude**, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

The disbarment or suspension of a member of the Philippine Bar by a competent court or other disciplinary agency in a foreign jurisdiction where he has also been admitted as an attorney is a ground for his disbarment or suspension if the basis of such action includes any of the acts hereinabove enumerated.

The judgment, resolution or order of the foreign court or disciplinary agency shall be *prima facie* evidence of the ground for disbarment or suspension. (As amended by SC Resolution dated February 13, 1992.)

involving moral turpitude against him or her, because Section 27 of Rule 138 expressly requires that he or she must have been found by final judgment guilty of the crime involving moral turpitude.

The complainant did not allege, much less prove, that the respondent had been convicted by final judgment of any criminal offense involving moral turpitude. On the contrary, the criminal cases that were the sole bases for the complaint for disbarment had already been dismissed after due proceedings. Although the complainant might have availed itself of the available remedies to review or reverse the dismissals, it behooves the Court to terminate this case against her now considering that, as indicated, the mere existence or pendency of the criminal charges for crimes involving moral turpitude is not a ground for disbarment or suspension of an attorney.[9]

**WHEREFORE,** the Court **DISMISSES** this disbarment case against respondent Atty. Rebecca S. Francisco-Simbillo.

**SO ORDERED.**

**LUCAS P. BERSAMIN**
Associate Justice

**WE CONCUR:**

**MARIA LOURDES P. A. SERENO**
Chief Justice

**TERESITA J. LEONARDO-DE CASTRO**
Associate Justice

**ESTELA M. PERLAS-BERNABE**
Associate Justice

**ALFREDO BENJAMIN S. CAGUIOA**
Associate Justice

[9] *Nuñez v. Astorga*, A.C. No. 6131, February 28, 2005, 452 SCRA 353, 361-362.