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that matter, on a person being interrogated by another whom he has supposedly offended. In such an event, any admission or confession wrung from the person under interrogation would be inadmissible in evidence, on proof of the vice or defect vitiating consent, not because of a violation of Section 20, Article IV of the 1973 Constitution, but simply on the general, incontestable proposition that involuntary or coerced statements may not in justice be received against the makers thereof, and really should not be accorded any evidentiary value at all.

WHEREFORE, the writ of *certiorari* is granted annulling and setting aside the Orders of the respondent Judge in Criminal Case No. 3488-R, dated August 9, 1988 and September 14, 1988, and he is hereby ordered to admit in evidence Exhibits "A" and "K" of the prosecution in said Criminal Case No. 3488-R, and thereafter proceed with the trial and adjudgment thereof. The temporary restraining order of October 26, 1988 having become *functus officio*, is now declared of no further force and effect.

Cruz, Gancayco, Griño-Aquino, and *Medialdea, JJ.*, concur.

EN BANC

[A.C. No. 1892. July 7, 1989]

ATTY. LUIS V. ARTIAGA, JR., *complainant, vs.* **ATTY. ENRIQUE C. VILLANUEVA,** *respondent.*

SYLLABUS

LEGAL ETHICS; ATTORNEYS; SUSPENSION FROM THE PRACTICE OF LAW; LIFTING OF SUSPENSION PROPER WHERE ACTS COMPLAINED OF WERE ATTRIBUTED TO HIS EXTREME ZEAL AND ENTHUSIASM IN PROSECUTING THE CAUSE OF HIS CLIENT. — A careful re-examination of

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the records of the case shows that the acts of respondent may be attributed to his extreme zeal and enthusiasm in prosecuting the cause of his client. There is no proof of any dishonest motive or fraud, much less of any contemptuous act committed by him towards the courts or towards the adverse party or counsel. While the courses of action he took tended to delay the disposition of the controversy and were redundant, his suspension from the practice of law is sufficient disciplinary action against him. Moreover, there is proof that the fault cannot be attributed entirely to the respondent. Complainant and his counsel also contributed to the delay in filing Civil Case No. 183 for recovery of possession, which is still pending appeal, and in failing to comply with the agreement to settle the dispute by arbitration. Respondent and his client Aquino were willing to settle the problem but Estolano and his counsel did not care to pursue this course of action which could have terminated the matter once and for all. The attestations of responsible persons in the public and private sector as to the integrity and good moral character of respondent show that he has rehabilitated himself as to deserve another chance to resume the practice of law.

FELICIANO, *J., dissenting*:

1. LEGAL ETHICS; ATTORNEYS; SUSPENSION OF ATTORNEYS; LIFTING OF SUSPENSION FROM THE PRACTICE OF LAW MUST BE SUPPORTED BY SUFFICIENT BASIS. — *J.* Feliciano compelled to dissent from the majority opinion basically for the reason that, in his view, the Resolution on the Motion for Reconsideration has reversed the unanimous decision of this Court dated July 29, 1988 which "suspended indefinitely [the respondent] from the practice of law from date of notice until such time that he can demonstrate to the Court that he has rehabilitated himself and deserves to resume the practice of law." This Court may, of course, reverse itself on a motion for reconsideration where it finds that indeed it had committed serious error in rendering its original decision or resolution. However, the Court must, *J.* Feliciano respectfully submit, specify the *basis* which it has found sufficient for reversing its earlier unanimous decision.

2. ID.; ID.; ID.; ID.; ABSENCE OF ANY ADEQUATE LEGAL OR FACTUAL BASIS FOR LIFTING SUSPENSION; CASE AT

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BAR. — In the instant administrative case, the majority resolution on respondent's Motion for Reconsideration omits any indication of any adequate legal or factual basis for reversing itself. In its original Decision dated July 29, 1988, the Court found respondent Atty. Villanueva guilty of the following unethical practices with which he had been charged: "[1] that respondent had caused his client to perjure himself; [2] that he lacks candor and respect toward his adversary and the courts; and [3] that he had been abusive of the right of recourse to the courts." Reconsideration, the majority found that the acts of respondent may be attributed to *his extreme zeal and enthusiasm in prosecuting the cause of his client* and there is *no proof of any dishonest motive or fraud*, much less of any contemptuous act committed by him *towards the courts or towards the adverse party or counsel.* I respectfully submit that the above subsequent findings are quite inconsistent with the findings set out in the original unanimous decision of the Court. The *nature and character of the acts* of which respondent attorney was found guilty by the Court in its original decision is such that they only could have been committed with "dishonest motive[s]." At the very least, it was incumbent upon respondent to prove that notwithstanding the obvious nature of those acts, he in fact acted from some pure and commendable internal motive visible only to himself. Respondent attorney has not, however, submitted any such proof other than his own assertion that he had acted "in good faith and fidelity" for "his poor and unlettered client."

3. ID.; ID.; ID.; PROOF THAT RESPONDENT COUNSEL HAS REHABILITATED HIMSELF, WANTING. — The present majority resolution refers to a number of circumstances relating to respondent attorney, such as: his having represented tenant-farmers from Laguna, Cavite and Rizal; his appointment as Provincial Fiscal of Laguna on 9 February 1987; his having joined the Cursillo, Christian Charismatic and Christian Family Movements; and his being a YMCA Director and life member. Without detracting from whatever merit one may find in these circumstances, it should be pointed out that none of the circumstances appear to have materialized *after July 29, 1988*, the date of the promulgation of the original decision of this Court. As such, they do not appear to be proof that respondent attorney has "*rehabilitated* himself." Finally, assuming that the above circumstances materialized after July 29, 1988, I do

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not believe that such, by themselves and without more, would constitute adequate proof that respondent attorney has indeed *rehabilitated himself.*

APPEARANCES OF COUNSEL

Rustico F. de los Reyes, Jr. for respondent.

RESOLUTION

***PER CURIAM*:**

Before the Court is a motion filed by the respondent seeking a reconsideration of the decision of this Court dated July 29, 1988 suspending respondent indefinitely from the practice of law until such time when he can demonstrate that he has rehabilitated himself and deserves to resume the practice of law. The following grounds are recited:

"I

RESPONDENT DID NOT WITTINGLY OR WILLINGLY PROMOTE OR SUE IN BEHALF OF HIS POOR AND UNLETTERED CLIENT FOR MONEY OR MALICE IN THE SUBJECT CIVIL CASES AGAINST A VERY WEALTHY PUBLIC LAND APPLICANT FROM SAN JUAN, METRO MANILA, BUT AFTER BEING CONVINCED IN GOOD FAITH THAT HIS SAID CLIENT'S CAUSE SEEKING FOR JUSTICE IS LAWFUL, TRUE, JUST AND VALID UNDER THE FACTS AND EXISTING LAW ON SOCIAL LEGISLATION AND PUBLIC POLICY ON GIVING PUBLIC LAND TO THE LANDLESS AND NOT GROUNDLESS SUITS.

II

RESPONDENT IN GOOD FAITH AND FIDELITY TOOK UP THE CHALLENGE OF HANDLING OF THE CAUSE OF THE POOR UNLETTERED LANDLESS CLIENT AS THIS IS HIS DUTY AS DICTATED BY HIS CONSCIENCE AND CONVICTION.

III

RESPONDENT-MOVANT HEREIN HAS ONLY A FEW MORE MONTHS REMAINING FOR HIM TO SERVE IN THE PROSECUTION

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ARM OF THIS PRESENT DISPENSATION. HIS ONLY REMAINING ASPIRATION AT PRESENT IS TO REDEEM HIS NAME, HONOR AND INTEGRITY AGAINST THESE CHARGES OF ALLEGED PERJURY AND DELAY OF JUSTICE COMING FROM THE ADVERSE PARTY COUNSEL BEFORE HIS LIFE ENDS FOR, WITHOUT HONOR IS, FOR HIM, EQUIVALENT TO UNTIMELY DEATH AS A MEMBER OF THE BAR, AS PROVINCIAL FISCAL AND AS A CITIZEN."

In the said decision, the Court found respondent guilty of unethical practices in: (1) causing his client to perjure himself; (2) that he lacks candor and respect towards his adversary and the courts; and (3) that he had been abusive of his right of recourse to the courts.

On the first charge, the Court found that respondent filed a verified complaint for ejectment docketed as Civil Case No. 192 in the Municipal Court of Los Baños, Laguna wherein it is alleged that in the early part of *1960* defendant Julian Estolano dispossessed plaintiff Glicerio Aquino of a portion of the property in question, while in an amended complaint it is alleged that Estolano deprived Aquino of a portion of said property in the early part of *1973* to enable the inferior court to acquire jurisdiction over the case.

Respondent now argues that he filed the said pleadings in good faith and that he had no intention to cause his client to commit perjury. He stressed that Aquino had been a *bona fide* occupant of the property in question even before 1958 and that his right was recognized by the Director of Lands in a decision dated August 13, 1962; that said property is an alienable portion of public land known as Camp Eldrige at Barangay Bambang, Los Baños, Laguna which is disposable under Republic Acts No. 274 and 730, with preferential right expressly given to actual occupants as Aquino; and that all he did was to exert his utmost and relentless time and effort in defending the cause of his poor, oppressed and unlettered landless client.

On the second and third charges for lacking candor towards his adversary and the courts and for abusing his right of recourse

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to the courts, respondent asserts that he only did his duty to protect the interests of his client.

The antecedents are the following:

Respondent filed an ejectment case in the Municipal Court of Los Baños, Laguna against Estolano on April 13, 1974, docketed as Civil Case No. 192. A writ of preliminary mandatory injunction was issued by the trial court on May 21, 1974 restoring Aquino in the possession of the property upon his filing a bond.

On May 15, 1974, respondent as counsel of Aquino, filed in the Court of First Instance (CFI) of Laguna an action for the annulment of the title of Estolano docketed as Civil Case No. 179-C. It was denied on April 26, 1976 for lack of cause of action and lack of jurisdiction.

In the meanwhile, on June 15, 1974, Estolano filed an action for recovery of possession of the property against Aquino also in the CFI of Laguna, docketed as Civil Case No. 183. This case was resolved in favor of Estolano and was appealed by Aquino to the Court of Appeals where it is still pending.

On January 5, 1977, the Municipal Court dismissed Civil Case No. 192 for lack of jurisdiction and the writ issued was dissolved. Said judgment was not executed as Aquino appealed to the CFI. Nevertheless, the appeal was dismissed. After the judgment had become final and executory, Estolano filed an *ex parte* motion for the execution of the same. Respondent filed an opposition stating that he filed a petition for *certiorari* in the CFI of Laguna. In deference to the same, the Municipal Court held in abeyance further action on the Estolano motion.

On July 1, 1977, respondent filed in behalf of Aquino an action against the Director of Lands and Estolano in the Court of Agrarian Relations (CAR) in San Pablo, Laguna for a determination of the preferential acquisitive rights and/or security of tenure of Aquino under Republic Acts No. 274 and 730 and Presidential Decrees No. 27 and 152 and Land Administrative Order No. 29. The case was docketed as CAR Case No. 7043. Upon an *ex parte* motion of respondent, the CAR issued a restraining order on July 2, 1977 enjoining the Director of Lands

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and Estolano from enforcing an earlier decision of the Director of Lands dated May 27, 1964 recognizing the prior right of Estolano to the questioned property and reversing his decision dated August 13, 1962 awarding to Aquino the preferential right to the property. However, this case was also dismissed on May 18, 1979 for lack of jurisdiction. On appeal, said decision was affirmed by the Court of Appeals on February 5, 1981.

Respondent argues that in all these cases that he filed in court his primary interest was to defend what he believes is the lawful cause of his client Glicerio Aquino. He asserts that he filed the ejectment case inasmuch as Aquino's possession and preferential right to the property had been upheld in the decision of the Director of Lands dated August 13, 1962. Although the Director of Lands, in a subsequent decision dated May 27, 1964, reversed himself and sustained the claim of Estolano over the property, respondent alleges that said decision is null and void on the ground that the same is against public policy and that it was procured through deceit, fraud, corruption and undue influence. He also refers to Resolution No. 9, S-72 dated February 24, 1972 of the Presidential Action Committee on Justice and Agrarian Reform which in effect set aside said decision as it ordered a relocation survey of the property to determine once and for all the conflicting claims of Aquino and Estolano.

Respondent explains that these are the reasons why he filed the action for annulment of the title of Estolano. He states that he filed the complaint in the agrarian court also to enforce the right of Aquino as a tenant tilling the land who is given preferential right to the property under the law. He emphasizes that he did not deceive the CAR when he sought the issuance of a restraining order against the enforcement of the decision of the Director of Lands inasmuch as the parties had submitted their controversy to arbitration by then Secretary Ronaldo Zamora, Presidential Assistant on Legal Affairs,[1] but Estolano reneged on this agreement. Respondent concludes that Estolano and his counsel are responsible for the protracted litigation.

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[1] Annexes K to K-8 of Motion for Reconsideration.

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In March, 1988, an order of execution was issued by the trial court pending appeal of Civil Case 183-C. Thus, Aquino was effectively dispossessed of the property in question.

The filing of this administrative complaint on April 2, 1978, notwithstanding, respondent went on with his practice of law for several years. Most of his clients were poor/landless and indigent tenant-farmers from Laguna and Cavite, and from Parañaque, Bayumbong, and Jala-Jala, Rizal.[2]

On January 20, 1987, he represented the Laguna chapter of the Integrated Bar of the Philippines (IBP) in the Government/ NPC, Laguna Committee on Reconciliation and Ceasefire.[3] Thereafter, President Aquino appointed him Municipal Councilor of Sta. Cruz, Laguna.[4]

Upon recommendation of the then Minister of Justice and the officials and members of the Laguna chapter of the IBP attesting to his probity, integrity, trustworthiness, exemplary life and character,[5] President Aquino appointed him Provincial Fiscal of Laguna[6] which position he assumed on February 9, 1987. Upon his suspension from the practice of law by this Court, he took an indefinite leave of absence effective August 11, 1988.

Respondent points out that except for this administrative case, no complaint, whether civil or criminal, has ever been filed against him. He also points out that he performed his duty as government prosecutor with dedication so much so that he received an award of appreciation from the PC/INP Command of Laguna.[7] Respondent adds that since 1978, he joined the Cursillo movement, the Christian Charismatic Movement and

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[2] Annex A, *Ibid.*

[3] Annex C, *Ibid.*

[4] Annex D, *Ibid.*

[5] Annexes E-1 to E-3, *Ibid.*

[6] Annex E, *Ibid.*

[7] Annex F, *Ibid.*

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the Christian Family Movement. It also appears that he is a YMCA director and life member.[8]

Respondent also contends that when he handled the case of Glicerio Aquino, his only motivation was to defend him from oppression and to protect him against a rich landowner, and that he received no monetary remuneration for his long and dedicated service except some tokens in the form of vegetable crops as camotes, guavas, mangos, star apples, etc. He maintains that all his actuations were predicated on good faith and the honest belief that they were proper.

After due investigation, the Office of the Solicitor General recommended a suspension of six (6) months from the practice of law as penalty. Respondent has been suspended since August 11, 1988, or for a period of about ten (10) months to date. He is due to retire as Provincial Fiscal of Laguna in July, 1989.

A careful reexamination of the records of the case shows that the acts of respondent may be attributed to his extreme zeal and enthusiasm in prosecuting the cause of his client. There is no proof of any dishonest motive or fraud, much less of any contemptuous act committed by him towards the courts or towards the adverse party or counsel. While the courses of action he took tended to delay the disposition of the controversy and were redundant, his suspension from the practice of law is sufficient disciplinary action against him. Moreover, there is proof that the fault cannot be attributed entirely to the respondent. Complainant and his counsel also contributed to the delay in filing Civil Case No. 183 for recovery of possession, which is still pending appeal, and in failing to comply with the agreement to settle the dispute by arbitration. Respondent and his client Aquino were willing to settle the problem but Estolano and his counsel did not care to pursue this course of action which could have terminated the matter once and for all.

The attestations of responsible persons in the public and private sector as to the integrity and good moral character of respondent

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[8] Annex G, *Ibid.*

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show that he has rehabilitated himself as to deserve another chance to resume the practice of law.[9]

WHEREFORE, the motion for reconsideration is *GRANTED* in that the suspension of respondent from the practice of law is hereby lifted. This resolution is immediately executory.

SO ORDERED.

Fernan, C.J., Narvasa, Gutierrez, Jr., Cruz, Paras, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and *Regalado, JJ.*, concur.

Melencio-Herrera, J., concurs in the dissent of Justice Feliciano.

Feliciano, J., see separate dissenting opinion.

FELICIANO, *J., dissenting*:

I am compelled to dissent from the majority opinion basically for the reason that, in my view, the Resolution on the Motion for Reconsideration has reversed the unanimous decision of this Court dated July 29, 1988 which "suspended indefinitely [the respondent] from the practice of law from date of notice until such time that he can demonstrate to the Court that he has rehabilitated himself and deserves to resume the practice of law." This Court may, of course, reverse itself on a motion for reconsideration where it finds that indeed it had committed serious error in rendering its original decision or resolution. However, the Court must, I respectfully submit, specify the *basis* which it has found sufficient for reversing its earlier unanimous decision.

In the instant administrative case, the majority resolution on respondent's Motion for Reconsideration omits any indication of any adequate legal or factual basis for reversing itself.

In its original Decision dated July 29, 1988, the Court found respondent Atty. Villanueva guilty of the following unethical practices with which he had been charged:

[9] Annexes B, C, D, E to E-3, F, G, H To H-4, and I to I-4, *ibid.*

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"[1] that respondent had caused his client to perjure himself;

[2] that he lacks candor and respect toward his adversary and the courts; and.

[3] that he had been abusive of the right of recourse to the courts." (Decision, pp. 5-6)

1. The original decision found that:

"Anent the first charge, the complaint and amended complaint for forcible entry in Civil Case No. 192 filed by respondent's client are *clear proofs that respondent had indeed caused his client Glicerio Aquino to perjure himself as to the date he lost possession of the subject property so as to place the case within the jurisdiction of the court*." (Decision, p. 6; Italics supplied)

The Court went on to say that:

"Such action of respondent counsel is *a clear violation of his oath* that 'he will do no falsehood nor consent to the doing of any in court.' A legal counsel is of course expected to defend his client's cause with zeal *but not at the disregard of truth*. x x x *He violated his oath of office when he resorted to deception*. x x x Instead of safeguarding the interests of his client as his responsibility dictates, he did exactly the opposite by *causing his client to commit a felony*." (Decision, pp. 7-8; Italics supplied)

2. In respect of the second charge against respondent, the Court in its original decision made the following findings:

"Indeed, the manner in which respondent counsel handled the forcible entry case filed against the client of complainant shows his *total lack of candor and respect for the courts and the rights of his adversary*. He had employed every step necessary to forestall complainant's client from taking rightful possession of subject property. He has *shown utter disregard of the proper rules of procedure to suit his purpose*. While he filed his urgent *ex-parte* motion for clarification, he chose not to wait for its resolution and instead perfected his appeal to the Court of First Instance. When finally the decision became executory because of his failure to appeal to the Court of Appeals, he filed a petition 'for *certiorari* against the decision of the CFI *which petition is obviously frivolous and a mere tactic to delay enforcement of the court's decision*. In the

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meantime, the clients of respondent refused to obey the order of execution.

A lawyer should obey all lawful orders and rulings of the court. *He should have counseled his clients to submit to the order of the court instead of encouraging them to resist such order.* The actuations of respondent of employing dilatory tactics by *filing a clearly frivolous case amounts to obstruction of the administration of justice* which constitutes *misconduct* and justifies disciplinary action against him.

Respondent counsel *further demonstrated his questionable motive by filing another case*, this time for annulment of the title of complainant's client to the other 2-1/2 hectares of subject land with the Court of First Instance of Laguna, Branch VI. This case was dismissed on the ground of *res judicata* and prescription. Respondent appealed this ruling to the Court of Appeals where it was pending resolution at the time the instant complaint for disbarment was filed. The decision of the trial court was affirmed and remanded to the lower court for execution.

Not satisfied with the above-mentioned appeal, *respondent counsel brought another case against complainant's client this time before the Court of Agrarian Relations* (CAR Case No. 7043) for determination allegedly of who had a better right over the subject property *when he was well aware of the absence of any tenancy relationship between the parties.*

An examination of the records shows that *respondent did not disclose before the Court of Agrarian Relations (CAR) prior lawsuits and decisions rendered relative to the subject land.* x x x" (Decision, pp. 9-11; Italics supplied; citations omitted)

3. In respect of the third charge against him, the findings of the Court in its original decision were as follows:

"*The cause of respondent's clients is obviously bereft of merit. Respondent was aware of this fact* so he resorted to *forum shopping*, continuously seeking the court where he may possibly obtain favorable judgment, thereby adding to the already clogged dockets of the courts with the *unmeritorious cases he filed.* He *grossly abused his right of recourse to the courts* by *filing multiple petitions* or complaints for a cause that had been previously rejected in the false hope of getting some favorable action, somehow, thus, *obstructing the*

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administration of justice. He was derelict in his duty as counsel to *maintain such actions or proceedings only as appears to him to be just*, and such defenses only as he believes to be honestly debatable under the law. He had thus *prostituted his office at the expense of justice.*

The practice of law is a privilege accorded only to those who measure up to certain standards of mental and moral fitness. For a counsel who has been sworn to assist in the administration of justice and to uphold the rule of law, *respondent has miserably failed to live up to the standards expected of a member of the Bar.* Instead of assisting in the speedy disposition of cases, he made a mockery of our system of justice, thus deserving to be censured and penalized by this Court. No doubt, respondent is guilty of *gross misconduct in office.*" (Decision, pp. 12-13, Italics supplied; citations omitted)

In its present Resolution on the Motion for Reconsideration, the majority's findings are as follows:

"A careful re-examination of the records of the case shows that the acts of respondent may be attributed to *his extreme zeal and enthusiasm in prosecuting the cause of his client.* There is *no proof of any dishonest motive or fraud*, much less of *any contemptuous act* committed by him *towards the courts or towards the adverse party or counsel.*" (Italics supplied)

I respectfully submit that the above subsequent findings are quite inconsistent with the findings set out in the original unanimous decision of the Court. It is very difficult to understand how "a *clear violation of [the lawyer's] oath,*" "*deception,*" "*lack of candor and honesty* [towards] the courts and his adversary," "*utter disregard of the proper rules on procedure* to suit his purpose," "*obstruction of the administration of justice*" "questionable motive," knowingly filing suits which are "*obviously bereft of merit,*" "*forum shopping,*" "*prostitut*[*ing*] *his office at the expense of justice*" and "miserably *fail[ing] to live up to the standards expected of the member of the Bar*" can be reasonably attributed to respondent's "*extreme zeal* and *enthusiasm* in prosecuting the cause of his client." Moreover, I am unable to understand what proof of "dishonest motive or fraud" or contemptuous act" the majority is looking for. The *nature and character of the acts* of which respondent

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attorney was found guilty by the Court in its original decision is such that they only could have been committed with "dishonest motive[s]." At the very least, it was incumbent upon respondent to prove that notwithstanding the obvious nature of those acts, he in fact acted from some pure and commendable internal motive visible only to himself. Respondent attorney has not, however, submitted any such proof other than his own assertion that he had acted "in good faith and fidelity" for "his poor and unlettered client."

The present majority resolution refers to a number of circumstances relating to respondent attorney, such as: his having represented tenant-farmers from Laguna, Cavite and Rizal; his appointment as Provincial Fiscal of Laguna on 9 February 1987; his having joined the Cursillo, Christian Charismatic and Christian Family Movements; and his being a YMCA Director and life member. Without detracting from whatever merit one may find in these circumstances, it should be pointed out that none of the circumstances appear to have materialized *after July 29, 1988,* the date of the promulgation of the original decision of this Court. As such, they do not appear to be proof that respondent attorney has "*rehabilitated* himself." Finally, assuming that the above circumstances materialized after July 29, 1988, I do not believe that such, by themselves and without more, would constitute adequate proof that respondent attorney has indeed *rehabilitated himself.*

ACCORDINGLY, I vote for *DENYING* the Motion for Reconsideration.