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WHEREFORE, the October 8, 2009 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 03048 affirming the conviction by the Regional Trial Court of Batangas City, Branch 2 of appellants Edgar Allen Alvarez and Rodel Caballero of the crime of murder for which they were sentenced to suffer the penalty of *reclusion perpetua,* is **AFFIRMED** with **MODIFICATIONS** that (1) appellants are not eligible for parole; (2) the awards of civil indemnity, moral damages and exemplary damages to the victim's heirs are each increased to ₱100,000.00; (3) appellants are further ordered to pay the victim's heirs temperate damages in the amount of ₱25,000.00; and, (4) all damages awarded shall earn interest at the rate of 6% *per annum* from date of finality of this judgment until fully paid.

SO ORDERED.

Carpio (Chairperson), Velasco, Jr.,[*] *Mendoza,* and *Leonen, JJ.,* concur.

EN BANC

[A.C. No. 7973 and A.C. No. 10457. February 3, 2015]

MELVYN G. GARCIA, *complainant, vs.* **ATTY. RAUL H. SESBREÑO**, *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; DISBARMENT BY REASON OF A CONVICTION OF A CRIME INVOLVING MORAL TURPITUDE.— Section 27, Rule 138 of the Rules of Court states that a member of the bar may be disbarred or suspended as attorney by this Court by reason of his conviction of a crime

[*] Per Special Order No. 1910 dated January 12, 2015.

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involving moral turpitude. This Court has ruled that disbarment is the appropriate penalty for conviction by final judgment for a crime involving moral turpitude. Moral turpitude is an act of baseness, vileness, or depravity in the private duties which a man owes to his fellow men or to society in general, contrary to justice, honesty, modesty, or good morals.

2. ID.; ID.; ID.; CIRCUMSTANCES SHOWING THAT THE CONVICTION FOR HOMICIDE INVOLVED MORAL TURPITUDE.— We reviewed the Decision of this Court and we agree with the IBP-CBD that the circumstances show the presence of moral turpitude. The Decision showed that the victim Luciano Amparado (Amparado) and his companion Christopher Yapchangco (Yapchangco) were walking and just passed by Sesbreño's house when the latter, without any provocation from the former, went out of his house, aimed his rifle, and started firing at them. According to Yapchangco, they were about five meters, more or less, from the gate of Sesbreño when they heard the screeching sound of the gate and when they turned around, they saw Sesbreño aiming his rifle at them. Yapchangco and Amparado ran away but Amparado was hit. An eyewitness, Rizaldy Rabanes (Rabanes), recalled that he heard shots and opened the window of his house. He saw Yapchangco and Amparado running away while Sesbreño was firing his firearm rapidly, hitting Rabanes' house in the process. Another witness, Edwin Parune, saw Amparado fall down after being shot, then saw Sesbreño in the middle of the street, carrying a long firearm, and walking back towards the gate of his house. The IBP-CBD correctly stated that Amparado and Yapchangco were just at the wrong place and time. They did not do anything that justified the indiscriminate firing done by Sesbreño that eventually led to the death of Amparado.

3. ID.; ID.; ID.; WHERE A LAWYER WHO WAS GRANTED AN EXECUTIVE CLEMENCY STILL HAS NO PRIVILEGE TO PRACTICE HIS LEGAL PROFESSION.— We cannot accept Sesbreño's argument that the executive clemency restored his full civil and political rights. x x x [T]he Order of Commutation did not state that the pardon was absolute and unconditional. The accessory penalties were not mentioned when the original sentence was recited in the Order of Commutation and they were also not mentioned in stating the commuted sentence. x x x There are four acts of executive clemency that the President

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can extend: the President can grant reprieves, commutations, pardons, and remit fines and forfeitures, after conviction by final judgment. In this case, the executive clemency merely "**commuted to an indeterminate prison term of 7 years and 6 months to 10 years imprisonment**" the penalty imposed on Sesbreño. **Commutation is a mere reduction of penalty**. **Commutation only partially extinguished criminal liability**. The penalty for Sesbreño's crime was never wiped out. He served the commuted or reduced penalty, for which reason he was released from prison. More importantly, the Final Release and Discharge stated that "**[i]t is understood that such x x x accessory penalties of the law as have not been expressly remitted herein shall subsist**." Hence, the *Parcasio* case has no application here. Even if Sesbreño has been granted pardon, there is nothing in the records that shows that it was a full and unconditional pardon. In addition, the practice of law is not a right but a privilege. It is granted only to those possessing good moral character. A violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty against a lawyer, including the penalty of disbarment. **WHEREFORE**, respondent Raul H. Sesbreño is **DISBARRED** effective immediately upon his receipt of this Decision.

D E C I S I O N

***PER CURIAM*:**

Two complaints for disbarment were filed by Dr. Melvyn G. Garcia (Garcia) against Atty. Raul H. Sesbreño (Sesbreño). The two cases, docketed as A.C. No. 7973 and A.C. No. 10457, were consolidated in the Court's Resolution dated 30 September 2014.

A.C. No. 7973

On 30 July 2008, Garcia filed a complaint for disbarment against Sesbreño before the Office of the Bar Confidant. The case was docketed as A.C. No. 7973. Garcia alleged that in 1965, he married Virginia Alcantara in Cebu. They had two children, Maria Margarita and Angie Ruth. In 1971, he and

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Virginia separated. He became a dentist and practiced his profession in Cabanatuan City. Garcia alleged that in 1992, Virginia filed a petition for the annulment of their marriage, which was eventually granted.

Garcia alleged that in 2005 while he was in Japan, Sesbreño, representing Maria Margarita and Angie Ruth, filed an action for support against him and his sister Milagros Garcia Soliman. At the time of the filing of the case, Maria Margarita was already 39 years old while Angie Ruth was 35 years old. The case was dismissed. In 2007, Garcia returned from Japan. When Sesbreño and Garcia's children learned about his return, Sesbreño filed a Second Amended Complaint against him. Garcia alleged that he learned that Sesbreño was convicted by the Regional Trial Court of Cebu City, Branch 18, for Homicide in Criminal Case No. CBU-31733. Garcia alleged that Sesbreño is only on parole. Garcia alleged that homicide is a crime against moral turpitude; and thus, Sesbreño should not be allowed to continue his practice of law.

In his Comment, Sesbreño alleged that on 15 August 2008, Garcia filed a similar complaint against him before the Integrated Bar of the Philippines, Commission on Bar Discipline (IBP-CBD), docketed as CBC Case No. 08-2273. Sesbreño alleged that Garcia's complaint was motivated by resentment and desire for revenge because he acted as pro bono counsel for Maria Margarita and Angie Ruth.

In the Court's Resolution dated 18 January 2010, the Court referred A.C. No. 7973 to the IBP for investigation, report and recommendation.

A.C. No. 10457 (CBC Case No. 08-2273)

A day prior to the filing of A.C. No. 7973, or on 29 July 2008, Garcia filed a complaint for disbarment against Sesbreño before the IBP-CBD. He alleged that Sesbreño is practicing law despite his previous conviction for homicide in Criminal Case No. CBU-31733, and despite the facts that he is only on parole and that he has not fully served his sentence. Garcia

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alleged that Sesbreño violated Section 27, Rule 138 of the Rules of Court by continuing to engage in the practice of law despite his conviction of a crime involving moral turpitude. Upon the directive of the IBP-CBD, Garcia submitted his verified complaint against Sesbreño alleging basically the same facts he alleged in A.C. No. 7973.

In his answer to the complaint, Sesbreño alleged that his sentence was commuted and the phrase "with the inherent accessory penalties provided by law" was deleted. Sesbreño argued that even if the accessory penalty was not deleted, the disqualification applies only during the term of the sentence. Sesbreño further alleged that homicide does not involve moral turpitude. Sesbreño claimed that Garcia's complaint was motivated by extreme malice, bad faith, and desire to retaliate against him for representing Garcia's daughters in court.

The IBP-CBD consolidated A.C. No. 7973 with CBD Case No. 08-2273. The parties agreed on the sole issue to be resolved: whether moral turpitude is involved in a conviction for homicide.

The IBP-CBD ruled that the Regional Trial Court of Cebu found Sesbreño guilty of murder and sentenced him to suffer the penalty of *reclusion perpetua*. On appeal, this Court downgraded the crime to homicide and sentenced Sesbreño to suffer the penalty of imprisonment for 9 years and 1 day of *prision mayor* as minimum to 16 years and 4 months of *reclusion temporal* as maximum. The IBP-CBD found that Sesbreño was released from confinement on 27 July 2001 following his acceptance of the conditions of his parole on 10 July 2001.

The IBP-CBD ruled that conviction for a crime involving moral turpitude is a ground for disbarment or suspension. Citing *International Rice Research Institute v. National Labor Relations Commission,*[1] the IBP-CBD further ruled that homicide may or may not involve moral turpitude depending on the degree of the crime. The IBP-CBD reviewed the decision of this Court convicting Sesbreño for the crime of homicide, and found that

[1] G.R. No. 97239, 12 May 1993, 221 SCRA 760.

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the circumstances leading to the death of the victim involved moral turpitude. The IBP-CBD stated:

> Neither victim Luciano Amparado nor his companion Christopher Yapchangco was shown to be a foe of respondent and neither had the victim Luciano nor his companion Christopher shown to have wronged the respondent. They simply happened to be at the wrong place and time the early morning of June 3, 1993.
>
> The circumstances leading to the death of Luciano solely caused by respondent, bear the earmarks of moral turpitude. Paraphrasing what the Supreme Court observed in Soriano v. Dizon, supra, the respondent, by his conduct, displayed extreme arrogance and feeling of self-importance. Respondent acted like a god who deserved not to be slighted by a couple of drunks who may have shattered the stillness of the early morning with their boisterous antics, natural display of loud bravado of drunken men who had one too many. Respondent's inordinate overreaction to the ramblings of drunken men who were not even directed at respondent reflected poorly on his fitness to be a member of the legal profession. Respondent was not only vindictive without a cause; he was cruel with a misplaced sense of superiority.[2]

Following the ruling of this Court in *Soriano v. Atty. Dizon*[3] where the respondent was disbarred for having been convicted of frustrated homicide, the IBP-CBD recommended that Sesbreño be disbarred and his name stricken from the Roll of Attorneys.

In its Resolution No. XX-2013-19 dated 12 February 2013, the IBP Board of Governors adopted and approved the Report and Recommendation of the IBP-CBD.

On 6 May 2013, Sesbreño filed a motion for reconsideration before the IBP-CBD. Sesbreño alleged that the IBP-CBD misunderstood and misapplied *Soriano v. Atty. Dizon.* He alleged that the attendant circumstances in *Soriano* are disparate, distinct, and different from his case. He further alleged that there was no condition set on the grant of executive clemency to him; and thus, he was restored to his full civil and political rights. Finally,

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[2] *Rollo* (A.C. No. 10457), pp. 275-276.

[3] 515 Phil. 635 (2006).

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Sesbreño alleged that after his wife died in an ambush, he already stopped appearing as private prosecutor in the case for bigamy against Garcia and that he already advised his clients to settle their other cases. He alleged that Garcia already withdrew the complaints against him.

On 11 February 2014, the IBP Board of Governors passed Resolution No. XX-2014-31 denying Sesbreño's motion for reconsideration. The IBP-CBD transmitted the records of the case to the Office of the Bar Confidant on 20 May 2014. CBD Case No. 08-2273 was redocketed as A.C. No. 10457. In the Court's Resolution dated 30 September 2014, the Court consolidated A.C. No. 7973 and A.C. No. 10457.

The only issue in these cases is whether conviction for the crime of homicide involves moral turpitude.

We adopt the findings and recommendation of the IBP-CBD and approve Resolution No. XX-2013-19 dated 12 February 2013 and Resolution No. XX-2014-31 dated 11 February 2014 of the IBP Board of Governors.

Section 27, Rule 138 of the Rules of Court states that a member of the bar may be disbarred or suspended as attorney by this Court by reason of his conviction of a crime involving moral turpitude. This Court has ruled that disbarment is the appropriate penalty for conviction by final judgment for a crime involving moral turpitude.[4] Moral turpitude is an act of baseness, vileness, or depravity in the private duties which a man owes to his fellow men or to society in general, contrary to justice, honesty, modesty, or good morals.[5]

The question of whether conviction for homicide involves moral turpitude was discussed by this Court in *International Rice Research Institute v. NLRC*[6] where it ruled:

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[4] *Re: SC Decision Dated May 20, 2008 in G.R. No. 161455 Under Rule 139-B of the Rules of Court v. Atty. Rodolfo D. Pactolin*, A.C. No. 7940, 24 April 2012, 670 SCRA 366.

[5] *Catalan, Jr. v. Silvosa*, A.C. No. 7360, 24 July 2012, 677 SCRA 352.

[6] *Supra* note 1.

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This is not to say that all convictions of the crime of homicide do not involve moral turpitude. 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. While x x x generally but not always, crimes *mala in se* involve moral turpitude, while crimes *mala prohibita* do not, it cannot always be ascertained whether moral turpitude does or does not exist by classifying a crime as *malum in se* or as *malum prohibitum*, since there are crimes which are *mala in se* and yet rarely involve moral turpitude and there are crimes which involve moral turpitude and are *mala prohibita* only. It follows therefore, that moral turpitude is somewhat a vague and indefinite term, the meaning of which must be left to the process of judicial inclusion or exclusion as the cases are reached.[7]

In *People v. Sesbreño,*[8] the Court found Sesbreño guilty of homicide and ruled:

WHEREFORE, the assailed decision of the Regional Trial Court of Cebu City, Branch 18, in Criminal Case No. CBU-31733 is hereby *MODIFIED*. Appellant Raul H. Sesbreño is hereby found GUILTY of HOMICIDE and hereby sentenced to suffer a prison term of 9 years and 1 day of *prision mayor*, as a minimum, to 16 years and 4 months of *reclusion temporal*, as a maximum, with accessory penalties provided by law, to indemnify the heirs of the deceased Luciano Amparado in the amount of ₱50,000.00 and to pay the costs.

SO ORDERED.[9]

We reviewed the Decision of this Court and we agree with the IBP-CBD that the circumstances show the presence of moral turpitude.

The Decision showed that the victim Luciano Amparado (Amparado) and his companion Christopher Yapchangco

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[7] *Supra* note 1, at 768.

[8] 372 Phil. 762 (1999).

[9] *Id*. at 795.

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(Yapchangco) were walking and just passed by Sesbreño's house when the latter, without any provocation from the former, went out of his house, aimed his rifle, and started firing at them. According to Yapchangco, they were about five meters, more or less, from the gate of Sesbreño when they heard the screeching sound of the gate and when they turned around, they saw Sesbreño aiming his rifle at them. Yapchangco and Amparado ran away but Amparado was hit. An eyewitness, Rizaldy Rabanes (Rabanes), recalled that he heard shots and opened the window of his house. He saw Yapchangco and Amparado running away while Sesbreño was firing his firearm rapidly, hitting Rabanes' house in the process. Another witness, Edwin Parune, saw Amparado fall down after being shot, then saw Sesbreño in the middle of the street, carrying a long firearm, and walking back towards the gate of his house. The IBP-CBD correctly stated that Amparado and Yapchangco were just at the wrong place and time. They did not do anything that justified the indiscriminate firing done by Sesbreño that eventually led to the death of Amparado.

We cannot accept Sesbreño's argument that the executive clemency restored his full civil and political rights. Sesbreño cited *In re Atty. Parcasio*[10] to bolster his argument. In that case, Atty. Parcasio was granted "an absolute and unconditional pardon"[11] which restored his "full civil and political rights,"[12] a circumstance not present in these cases. Here, the Order of Commutation[13] did not state that the pardon was absolute and unconditional. The accessory penalties were not mentioned when the original sentence was recited in the Order of Commutation and they were also not mentioned in stating the commuted sentence. It only states:

By virtue of the authority conferred upon me by the Constitution and upon the recommendation of the Board of Pardons and Parole,

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[10] 161 Phil. 437 (1976).

[11] *Id*. at 441.

[12] *Id*.

[13] *Rollo* (A.C. No. 10457), p. 154.

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the original sentence of prisoner RAUL SESBREÑO Y HERDA convicted by the Regional Trial Court, Cebu City and Supreme Court and sentenced to an indeterminate prison term of from 9 years and 1 day to 16 years and 4 months imprisonment and to pay an indemnity of ₱50,000.00 is/are hereby commuted to an indeterminate prison term of from 7 years and 6 months to 10 years imprisonment and to pay an indemnity of ₱50,000.00.[14]

Again, there was no mention that the executive clemency was absolute and unconditional and restored Sesbreño to his full civil and political rights.

There are four acts of executive clemency that the President can extend: the President can grant reprieves, commutations, pardons, and remit fines and forfeitures, after conviction by final judgment.[15] In this case, the executive clemency merely "**commuted to an indeterminate prison term of 7 years and 6 months to 10 years imprisonment**" the penalty imposed on Sesbreño. **Commutation is a mere reduction of penalty**.[16] **Commutation only partially extinguished criminal liability**.[17] The penalty for Sesbreño's crime was never wiped out. He served the commuted or reduced penalty, for which reason he was released from prison. More importantly, the Final Release and Discharge[18] stated that "**[i]t is understood that such x x x accessory penalties of the law as have not been expressly remitted herein shall subsist**." Hence, the *Parcasio* case has no application here. Even if Sesbreño has been granted pardon, there is nothing in the records that shows that it was a full and unconditional pardon. In addition, the practice of law is not a right but a privilege.[19] It is granted only to those possessing

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[14] *Id*

[15] Section 19, Article VII, 1987 Constitution. See *Garcia v. Chairman, Commission on Audit,* G.R. No. 75025, 14 September 1993, 226 SCRA 356.

[16] *Cabantag v. Wolfe*, 6 Phil. 273 (1906).

[17] Article 94, Revised Penal Code.

[18] *Rollo* (A.C. No. 10457), p. 155.

[19] *Overgaard v. Atty. Valdez*, 588 Phil. 422 (2008).

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good moral character.[20] A violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty against a lawyer, including the penalty of disbarment.[21]

WHEREFORE, respondent Raul H. Sesbreño is **DISBARRED** effective immediately upon his receipt of this Decision.

Let copies of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines for distribution to all its chapters, and the Office of the Court Administrator for dissemination to all courts all over the country. Let a copy of this Decision be attached to the personal records of respondent.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, del Castillo, Villarama, Jr., Perez, Mendoza, Perlas-Bernabe, Leonen, and *Jardeleza, JJ.,* concur.

Brion, J., on leave.

Reyes, J., no part.

EN BANC

[A.C. No. 10537. February 3, 2015]

REYNALDO G. RAMIREZ, *complainant, vs.* **ATTY. MERCEDES BUHAYANG-MARGALLO,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; NEGLIGENCE IN HANDLING THE CLIENT'S CAUSE, COMMITTED.—

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[20] *Id*.

[21] *Id*.