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[G.R. No. 227796. February 20, 2018]

NATIONAL TRANSMISSION CORPORATION, *petitioner, vs.* **COMMISSION ON AUDIT (COA) and COA Chairperson MICHAEL G. AGUINALDO,** *respondents.*

SYLLABUS

POLITICAL LAW; REPUBLIC ACT NO. 9136 (THE ELECTRIC POWER INDUSTRY REFORM ACT OF 2001); PROVIDES THAT CONTRACTUAL EMPLOYEES ARE ENTITLED TO SEPARATION BENEFITS ONLY IF THEIR APPOINTMENTS HAVE BEEN APPROVED OR ATTESTED TO BY THE CIVIL SERVICE COMMISSION. — The issues raised by petitioner TransCo have been resolved in the similar case of *National Transmission Corporation v. Commission on Audit*, where the Court sustained the disallowance of a portion of the separation benefits of an employee corresponding to the period when he was still a contractual employee. In that case, the Court ruled that under the EPIRA Law contractual employees are entitled to separation benefits only if their appointments have been approved or attested to by the CSC. In this case, since there was no proof that Agulto's appointment was duly approved or attested to by the CSC, the disallowance of the amount of ₱22,965.81 was valid and proper. Thus, the Court finds no grave abuse of discretion on the part of respondent COA-CP in sustaining the disallowance. The disallowed amount, however, need not be refunded by the members of petitioner TransCo's Board of Directors as well as by Agulto, following the ruling of the Court in *National Transmission Corporation* x x x.

APPEARANCES OF COUNSEL

Office of the Government Corporate Counsel for petitioner.
The Solicitor General for respondents.

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R E S O L U T I O N

DEL CASTILLO, *J.*:

This Petition for *Certiorari*[1] filed under Rule 64 in relation to Rule 65 of the Rules of Court assails the Decision No. 2016-278[2] dated September 28, 2016 of respondent Commission on Audit (COA) Commission Proper (CP), affirming the disallowance of the payment of separation benefits to Mr. Alfredo V. Agulto, Jr. in the amount of ₱22,965.81.

Factual Antecedents

Petitioner National Transmission Corporation (TransCo) is a government instrumentality created under Republic Act No. 9136 (RA 9136), otherwise known as the Electric Power Industry Reform Act of 2001 (EPIRA Law). It operates and manages the power transmission system that links power plants to electric distribution utilities nationwide.[3]

In December 2007, pursuant to the EPIRA Law, its concession was awarded to the National Grid Corporation of the Philippines (NGCP).[4] Accordingly, on June 30, 2009, its employees were either retired or separated from service.[5]

Mr. Alfredo V. Agulto, Jr. (Agulto), who was a regular employee of petitioner TransCo with the position Principal Engineer B from March 17, 2003 to June 29, 2009, received the amount of ₱656,597.50 as separation benefits[6] pursuant to petitioner TransCo's Resolution implementing the Early Separation Program.

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[1] *Rollo*, pp. 13-42.

[2] *Id*. at 43-50; signed by Chairperson Michael G. Aguinaldo, Commissioner Jose A. Fabia and Commissioner Isabel D. Agito.

[3] *Id*. at 14-15.

[4] *Id*. at 15.

[5] *Id*. at 16.

[6] *Id*. at 16-17.

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During post-audit, the Supervising Auditor (SA) issued Notice of Disallowance (ND) No. TC-10-005 (09) dated October 19, 2010,[7] disallowing the amount of ₱22,965.81 from Agulto's separation benefits as said amount pertained to the period March 1 to 15, 2004 during which Agulto's employment status was still contractual.[8] The SA noted that the Service Agreement of Agulto during the said period specially provided that "the service to be rendered is not considered and will not be credited as government service."[9] Thus, the SA found the following persons liable:

1. Bernadine L. Protomartir – Division Manager, General Accounting & Financial Reporting (GAFR)
2. Jose Mari M. Ilagan – Manager, Administrative Department
3. Alfredo V. Agulto, Jr. – Payee.[10]

Petitioner TransCo appealed the ND before the Director, Cluster B, Corporate Government Sector (CGS) of the COA. It argued that the payment of separation benefits to contractual employees was lawful as it was in accordance with the EPIRA Law, the Corporation Code, and the Board Resolutions of petitioner TransCo.[11]

Ruling of the Commission on Audit Director

On July 9, 2014, the COA Director partially granted the appeal by exempting Agulto from liability since he received his separation benefits in good faith. The dispositive portion of the Decision[12] reads:

WHEREFORE, foregoing premises considered, the instant Appeal is hereby PARTIALLY GRANTED. Accordingly, only the Members of the Board of Directors responsible for the passage of Resolution

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[7] *Id.* at 65.

[8] *Id.*

[9] *Id.*

[10] *Id.*

[11] *Id.* at 17-18.

[12] *Id.* at 81-88; penned by Rufina S. Laquindanum, Director IV.

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Nos. TC 2009-005 and TC 2009-007 and the officers who authorized the release of the funds and certified the expense as necessary and lawful are hereby ordered to refund the amount of disallowed retirement benefits they respectively received. Hence, Mr. Alfredo V. Agulto, Jr. is no longer required to refund the amount disallowed.

This, notwithstanding, herein Decision is not yet final and is subject to the automatic review of the COA-[CP] pursuant to Section 7, Rule V of the 2009 Revised Rules of Procedure of the Commission on Audit.[13]

Ruling of the Commission on Audit Commission Proper

On September 28, 2016, respondent COA-CP rendered Decision No. 2016-278,[14] disapproving the Decision of the COA Director. Respondent COA-CP maintained, that under Section 63[15] of RA 9136, in relation to Rule 33[16] of its Implementing Rules

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[13] *Id*. at 87-88.

[14] *Id*. at 43-50.

[15] SEC. 63. *Separation Benefits of Officials and Employees of Affected Agencies*. — National government employees displaced or separated from the service as a result of the restructuring of the electricity industry and privatization of NPC assets pursuant to this Act, shall be entitled to either a separation pay and other benefits in accordance with existing laws, rules or regulations or be entitled to avail of the privileges provided under a separation plan which shall be one and one-half month salary for every year of service in the government: Provided, however, That those who avail of such privilege shall start their government service anew if absorbed by any government-owned successor company. In no case, shall there be any diminution of benefits under the separation plan until the full implementation of the restructuring and privatization.

Displaced or separated personnel as a result of the privatization, if qualified, shall be given preference in the hiring of the manpower requirements of the privatized companies.

The salaries of employees of NPC shall continue to be exempt from the coverage of Republic Act No. 6758, otherwise known as "The Salary Standardization Act".

With respect to employees who are not retained by NPC, the government, through the Department of Labor and Employment, shall endeavor to implement re-training, job counseling, and job placement programs.

[16] RULE 33. SEPARATION BENEFITS Section 1. General Statement on Coverage. This Rule shall apply to all employees in the National Government

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and Regulations, contractual employees are entitled to separation benefits only if their appointments were approved or attested to by the Civil Service Commission (CSC).[17] In this case, since there was no proof that Agulto's appointment was duly approved or attested to by the CSC, the payment of the amount of ₱22,965.81 was correctly disallowed.[18] Accordingly, the members of petitioner TransCo's Board of Directors who approved the Resolutions implementing the Early Separation Program, as well as Agulto, were liable to return the said amount.[19]

As to the defense of good faith of Agulto, respondent COA-CP ruled that this cannot exempt him from liability as the disregard of laws and rules cannot be a source of a privilege to exempt him from refunding the benefits he was not entitled to receive.[20] Thus:

> WHEREFORE, premises considered, Commission on Audit Corporate Government Sector – Cluster 3 Decision No. 09 dated July 9, 2014 on the appeal of the National Transmission Corporation, Quezon City is hereby DISAPPROVED. Accordingly, Notice of Disallowance No. TC 10-005 (09) dated October 19, 2010, on the payment of separation benefits to Mr. Alfredo V. Agulto, Jr. in the amount of ₱22,965.81, is AFFIRMED.
>
> The Board of Directors of National Transmission Corporation who approved Board Resolution Nos. TC 2009-005 and TC No. 2009-007, shall be solidarily liable with Mr. Agulto, Jr.
>
> The concerned Audit Team Leader and Supervising Auditor shall issue a supplemental Notice of Disallowance to include as persons liable the concerned Members of the Board of Directors who approved said Board Resolutions.[21]

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service as of 26 June 2001 regardless of position, designation or status, who are displaced or separated from the service as a result of the Restructuring of the electricity industry and Privatization of NPC assets: Provided, however, That the coverage for casual or contractual employees shall be limited to those whose appointments were approved or attested by the Civil Service Commission (CSC).

[17] *Rollo*, pp. 46-48.

[18] *Id*. at 47-48.

[19] *Id*. at 48-49.

[20] *Id*. at 48.

[21] *Id*. at 49.

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Aggrieved, petitioner TransCo filed the instant Petition for *Certiorari*, raising the following issues:

A. WHETHER X X X THE GRANT OF FINANCIAL ASSISTANCE/SEPARATION BENEFIT[S] TO FORMER TRANSCO PERSONNEL ENGAGED BY VIRTUE OF SERVICE AGREEMENTS IS PROHIBITED.

B. WHETHER X X X IT IS WITHIN THE [PETITIONER] TRANSCO BOARD'S POWER TO GRANT FINANCIAL ASSISTANCE/SEPARATION BENEFIT[S] TO PERSONNEL ENGAGED BY VIRTUE OF SERVICE AGREEMENTS.

C. WHETHER X X X [RESPONDENT COA-CP] COMMITTED GRAVE ABUSE OF DISCRETION IN ISSUING DECISION NO. 2016-278 DATED 28 SEPTEMBER 2016.[22]

Simply put, the issues boil down to whether respondent COA-CP committed grave abuse of discretion in disallowing a portion of Agulto's separation benefits and in finding him and the members of petitioner TransCo's Board of Directors solidarily liable.

Ruling

The Petition is partly meritorious.

The issues raised by petitioner TransCo have been resolved in the similar case of *National Transmission Corporation v. Commission on Audit*,[23] where the Court sustained the disallowance of a portion of the separation benefits of an employee corresponding to the period when he was still a contractual employee. In that case, the Court ruled that under the EPIRA Law contractual employees are entitled to separation benefits only if their appointments have been approved or attested to by the CSC.[24]

In this case, since there was no proof that Agulto's appointment was duly approved or attested to by the CSC, the disallowance

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[22] *Id*. at 19.

[23] G.R. No. 223625, November 22, 2016.

[24] *Id*.

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of the amount of ₱22,965.81 was valid and proper. Thus, the Court finds no grave abuse of discretion on the part of respondent COA-CP in sustaining the disallowance.

The disallowed amount, however, need not be refunded by the members of petitioner TransCo's Board of Directors as well as by Agulto, following the ruling of the Court in *National Transmission Corporation —*

> The Court, nevertheless, finds that TransCo and Miranda be excused from refunding the disallowed amount notwithstanding the propriety of the ND in question. In view of TransCo's reliance on *Lopez*, which the Court now abandons, the Court grants TransCo's petition *pro hac vice* and absolved it from any liability in refunding the disallowed amount.
>
> On another note, even if the ND is to be upheld, Miranda should not be solidarily liable to refund the same. In *Silang v. COA*, the Court had ruled that passive recipients of the disallowed disbursements, who acted in good faith, are absolved from refunding the same, x x x[25]

WHEREFORE, the instant Petition is **PARTLY GRANTED**. The Decision No. 2016-278 dated September 28, 2016 of respondent Commission on Audit, Commission Proper, is **AFFIRMED with MODIFICATION** that the disallowed amount of ₱22,965.81 need not be refunded.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-de Castro, Peralta, Bersamin, Perlas-Bernabe, Leonen, Jardeleza, Martires, Reyes, Jr., and *Gesmundo, JJ.,* concur.

Caguioa and *Tijam, JJ.,* on official leave.

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[25] *Id*.

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SECOND DIVISION

[A.C. No. 10756. February 21, 2018]
(Formerly CBD Case No. 11-3218)

JUNIELITO R. ESPANTO, *complainant, vs.* **ATTY. ERWIN V. BELLEZA,** *respondent.*

SYLLABUS

1. **LEGAL ETHICS; ATTORNEYS; ADMINISTRATIVE CASES AGAINST LAWYERS ARE DISTINCT FROM AND PROCEED INDEPENDENTLY OF CIVIL AND CRIMINAL CASES, AND THE REAL QUESTION FOR DETERMINATION IS WHETHER OR NOT THE ATTORNEY IS STILL A FIT PERSON TO BE ALLOWED THE PRIVILEGES AS SUCH.—** [A]dministrative cases against lawyers belong to a class of their own. These cases are distinct from and proceed independently of civil and criminal cases. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proven themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney.

2. **ID.; ID.; EXPECTED TO RESPECT AND ABIDE BY THE LAW, AND AVOID ANY ACT OR OMISSION THAT IS CONTRARY THERETO.—** Canon 1 clearly mandates the obedience of every lawyer to laws and legal processes. To the best of his ability, a lawyer is expected to respect and abide by the law and, thus, avoid any act or omission that is contrary thereto. A lawyer's personal deference to the law not only speaks of his character but it also inspires respect and obedience to the law, on the part of the public. Given the facts of the case, we find that Atty. Belleza failed to exercise the good faith required of a lawyer in handling the legal affairs of his client.

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3. CIVIL LAW; CIVIL CODE; OBLIGATIONS AND CONTRACTS; COMPROMISES; COMPROMISE AGREEMENT; HAS THE FORCE OF *RES JUDICATA* BETWEEN THE PARTIES ONCE APPROVED BY FINAL ORDER OF THE COURT, AND SHOULD NOT BE DISTURBED EXCEPT FOR VICES OF CONSENT OR FORGERY.— Atty. Belleza should know that a compromise agreement once approved by final order of the court has the force of *res judicata* between the parties and should not be disturbed except for vices of consent or forgery. Hence, when a decision on a compromise agreement is final and executory; it has the force of law and is conclusive between the parties. Compromise agreements are contracts, and contractual obligations between parties have the force of law between them and absent any allegation that the same are contrary to law, morals, good customs, public order or public policy, they must be complied with in good faith. Thus, when Atty. Belleza ignored the provisions of the compromise agreement and proceeded with the sale of the property even without the relocation survey, there is no question that he wantonly violated Canon 1 of the CPR.

4. REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENTS; SPECIAL ORDER OF DEMOLITION; EVEN IF THERE IS ALREADY A WRIT OF EXECUTION, THERE MUST STILL BE A NEED FOR A SPECIAL ORDER FOR THE PURPOSE OF DEMOLITION ISSUED BY THE COURT BEFORE THE OFFICER IN CHARGE CAN REMOVE IMPROVEMENTS OVER THE CONTESTED PROPERTY.— It is basic that there could be no demolition of building or structures without a writ of execution and demolition issued by the court. This Court in a number of decisions held that even if there is already a writ of execution, there must still be a need for a special order for the purpose of demolition issued by the court before the officer in charge can destroy, demolish or remove improvements over the contested property. x x x The requirement of a special order of demolition is based on the rudiments of justice and fair play. It frowns upon arbitrariness and oppressive conduct in the execution of an otherwise legitimate act. It is an amplification of the provision of the Civil Code that every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.

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5. LEGAL ETHICS; ATTORNEYS; SHOULD REPRESENT THEIR CLIENTS WITH ZEAL BUT WITHIN THE BOUNDS OF THE LAW.— We note that while lawyers owe entire devotion to the interest of their clients and zeal in the defense of their client's right, they should not forget that they are officers of the court, bound to exert every effort to assist in the speedy and efficient administration of justice. Canon 19 of the Code of Professional Responsibility mandates lawyers to represent their clients with zeal but within the bounds of the law. They should not, therefore, misuse the rules of procedure to defeat the ends of justice or unduly delay a case, impede the execution of a judgment or misuse court processes. Time and again, the Court has reminded lawyers that their support for the cause of their clients should never be attained at the expense of truth and justice. While a lawyer owes absolute fidelity to the cause of his client, full devotion to his genuine interest, and warm zeal in the maintenance and defense of his rights, as well as the exertion of his utmost learning and ability, he must do so only within the bounds of the law. It needs to be emphasized that the lawyer's fidelity to his client must not be pursued at the expense of truth and justice, and must be held within the bounds of reason and common sense. His responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions.

6. ID.; ID.; DISBARMENT OR SUSPENSION; GROUNDS; A LAWYER MAY BE DISBARRED OR SUSPENDED FOR MISCONDUCT, WHETHER IN HIS PROFESSIONAL OR PRIVATE CAPACITY.— Under Section 27, Rule 138 of the Revised Rules of Court, a member of the Bar may be disbarred or suspended on any of the following grounds: (1) deceit; (2) malpractice or other gross misconduct in office; (3) grossly immoral conduct; (4) conviction of a crime involving moral turpitude; (5) violation of the lawyer's oath; (6) willful disobedience of any lawful order of a superior court; and (7) willful appearance as an attorney for a party without authority. A lawyer may be disbarred or suspended for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, honesty, probity and good demeanor, or unworthy to continue as an officer of the court.

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D E C I S I O N

PERALTA, *J.*:

Before us is the verified Complaint[1] of Junielito R. Espanto (*Junielito*) against Atty. Erwin V. Belleza (*Atty. Belleza*) for grave misconduct, malpractice, deliberate falsehood, violation of oath of office and violation of the Code of Professional Responsibility in connection with the demolition of complainant's 2-storey residential house situated at *Barangay* Maya, MacArthur, Leyte, without his knowledge and against his will.

Complainant alleged that he is the owner of a 2-storey concrete residential house situated on a lot covered by Original Certificate of Title No. P-43641,[2] which was sold by his father to him on January 12, 2001.[3]

Junielito alleged that sometime in 2006 while working abroad, he was informed that Nelia Alibangbang-Miller (*Nelia*), their neighbor, was claiming that his house was encroaching on a portion of the adjoining lot she bought. Thereafter, Nelia filed a case for Recovery of Possession with Damages before the Municipal Circuit Trial Court (*MCTC*) of MacArthur-Mayorga, MacArthur, Leyte, docketed as Civil Case No. 75 against the Espantos.[4] However, Junielito asserted that he was not included as party to said complaint despite Nelia's allegation that his house was encroaching on the latter's lot.

In January 2009, after Junielito went back to the Philippines, he averred that Nelia would always harass him to pay the portion of the land allegedly being encroached upon by his house. He complained that Nelia threatened him and his family that she would demolish their houses as she already won in the case she filed against his brother, sister and mother.

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[1] *Rollo*, pp. 2-5.

[2] *Id.* at 28.

[3] *Id.* at 29.

[4] *Id.* at 143-149; entitled *Nelia Alibangbang v. Ernesto Espanto, Revelina Pille, et al.*

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On November 22, 2010, through a letter,[5] Atty. Belleza notified Junielito that he is given seven (7) days to vacate the subject property of his client, Nelia. After seven days, Nelia posted a notice on the door of his house stating "*To: Lito, your 7 days is up! Nelia Miller*," and padlocked the gate of Junielito's house.[6]

On December 1, 2010, Junielito alleged that Atty. Belleza went to his house and threatened him that they will file a writ of execution to demolish his house if he will not agree to sell and vacate his house. Junielito lamented that while he initially refused, he eventually gave in as he was already tired of his situation.

On the same day, because Junielito was initially reluctant, Nelia and Atty. Belleza assured him that he will be informed of the final details of the sale should there be a buyer of the property. Junielito alleged that Atty. Belleza drafted an acknowledgment receipt[7] where it was indicated therein that he received the amount of ₱50,000.00 as a partial payment, and that he will receive the final percentage of the sale price when the property of Nelia is sold. Thereafter, Atty. Belleza and the Spouses Miller told him to vacate the house to facilitate its sale and to be able to make the necessary repairs to which he complied as he believed their sincerity and honesty.

Thus, in the morning of February 14, 2011, Junielito was surprised to receive a text message from his niece, Elenita Pille, informing him that his house was being demolished with the participation of Nelia and a certain Irene Tano (*Irene*), allegedly the buyer of the property.

Junielito lamented that when he got hold of the Deed of Absolute Sale[8] executed by Nelia and Irene, which was prepared and notarized by Atty. Belleza, he then realized that the latter defrauded him as shown by the fact that he facilitated the sale

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[5] *Id.* at 38.

[6] *Id.* at 39.

[7] *Id.* at 40.

[8] *Id.* at 41.

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without his knowledge. Junielito felt aggrieved as they agreed that Atty. Belleza and Nelia will inform him should there be a buyer of the property so he can participate in the sale transaction, considering that his house sits on a portion of Nelia's property. However, not only did Atty. Belleza fail to inform him of the sale of the property, but they also had his house demolished without his knowledge and consent, and without permit from the municipal government.

Likewise, Junielito pointed out that in his Counter-Affidavit[9] dated April 30, 2011Atty. Belleza lied when he stated therein that Civil Case No. 75 has been decided with finality, when in truth and in fact, said case has yet to be decided with finality as shown by the Certification[10] dated May 19, 2011 issued by Melba Lagunzad, Clerk of Court II, 13th MCTC, MacArthur-Mayorga, MacArthur, Leyte.

Junielito also alleged that in the Counter-Affidavit[11] dated April 30, 2011 of the Spouses Miller, they lied when they made it appear that the ₱50,000.00 was given to him out of pity when infact it was a partial payment and guarantee that he will be informed of the sale should there be anyone interested to buy his property.

Junielito expressed his frustration as he believed that Atty. Belleza, a lawyer, was supposed to be an instrument in the administration of justice. However, given his above-mentioned actuations and behavior, Atty. Belleza not only failed to observe his duty and obligations as a lawyer but he likewise showed his unfitness to be retained as member of the bar. He, thus, pray that Atty. Belleza be suspended or disbarred from the practice of law.

On October 7, 2011, the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*), ordered Atty. Belleza to submit his Answer on the complaint against him.[12]

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[9] *Id*. at 89-91.

[10] *Id*. at 80.

[11] *Id*. at 81-83.

[12] *Id*. at 101.

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In his Answer[13] dated November 10, 2011, Atty. Belleza countered that there was already a Compromise Agreement between the parties in Civil Case No. 75, which was approved by the court on December 27, 2006.[14] He, likewise, claimed that he merely typed and printed the acknowledgment receipt and served as witness to the issuance of the same.He further denied that he had any participation in the demolition of complainant's house.

In its Report and Recommendation[15] dated July 19, 2012, the IBP-CBD recommended that Atty. Belleza be suspended from the practice of law for six (6) months for his deliberate disregard of Canon 1 of the Code of Professional Responsibility.

However, the IBP-Board of Governors, in Notice of Resolution No. XX-2013-761,[16] dated June 21, 2013, resolved to adopt and approve with modification the Report and Recommendation of the IBP-CBD, and instead suspended Atty. Belleza from the practice of law for three (3) months.

We concur with the findings and recommendation of the IBP-CBD.

Well established is the rule that administrative cases against lawyers belong to a class of their own. These cases are distinct from and proceed independently of civil and criminal cases.[17] Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such.Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal

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[13] *Id*. at 110-114.

[14] *Id*. at 209-212.

[15] *Id*. at 219-223.

[16] *Id*. at 218.

[17] *Gonzales v. Atty. Alcaraz*, 534 Phil. 471, 481-482 (2006), citing *Gatchalian Promotions, Talents Pool, Inc. v. Naldoza*, 374 Phil. 1, 9 (1999).

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profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proven themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney.[18] Corollarily, We will limit the issue on whether Atty. Belleza committed transgressions that would question his fitness to practice law, and thus, refrain from discussing issues that are judicial in nature.

Canon 1 clearly mandates the obedience of every lawyer to laws and legal processes.To the best of his ability, a lawyer is expected to respect and abide by the law and, thus, avoid any act or omission that is contrary thereto. A lawyer's personal deference to the law not only speaks of his character but it also inspires respect and obedience to the law, on the part of the public.[19]

Given the facts of the case, we find that Atty. Belleza failed to exercise the good faith required of a lawyer in handling the legal affairs of his client. Even without touching the issue of the subject properties' ownership, Atty. Belleza cannot deny that the subject property sold by Nelia to Irene was still pending litigation due to the alleged encroachment of Junielito's house on the property of Nelia. It was precisely the reason why they filed a complaint for recovery of possession against Junielito's relatives. Moreover, when Atty. Belleza sent a notice to vacate Nelia's property to Junielito on November 22, 2010, the civil case was still pending litigation.

As noted by the IBP-CBD, the acknowledgment receipt of ₱50,000.00 issued by Nelia as witnessed and signed by Atty. Belleza is an evidence by itself that he had knowledge of Junielito's interest on the property even if he disputes the latter's ownership of the subject property. We quote the acknowledgment receipt for clarification, to wit:

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[18] *Id*.

[19] CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

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I, LITO ESPANTO acknowledge receipt of the sum of Fifty Thousand (₱50,000.00) pesos, Philippine Currency from Nelia Miller as ***partial payment*** towards sale of "house". ***I acknowledged I will receive a final percentage of sale price when house and lot by Nelia Miller is ultimately sold. Final sales details will be disclosed immediately to me when all property is sold and final payment will be made at that time. I acknowledge sale price cannot be "predetermined" due to economic conditions.***

x x x x x x x x x[20]

Upon review of the foregoing acknowledgment receipt, it can be inferred that Junielito acknowledged that he received ₱50,000.00 as partial payment and that he will receive the final percentage of sale price when house and lot by Nelia is sold. It likewise stated therein that Junielito has the right to be informed of the final sale price and other details related to the sale. Considering that Junielito was infact paid *albeit* partial and was given the right to be informed of the final sale details, it clearly shows that Nelia and Atty. Belleza recognized Junielito's interest as an owner although it pertains only to a portion of Nelia's property where his house sits. Why else would they agree on informing Junielito of such material information if they knew that he has no right whatsoever with the property being sold.

It should also be pointed out that Atty. Belleza neither denied the existence of the acknowledgment receipt nor the fact that he signed the same.[21] Thus, given the foregoing circumstances, it can be presumed that Atty. Belleza knew that the sale of the property will necessarily affect Junielito. Consequently, when they sold the property of Nelia without informing Junielito despite their agreement to such effect, Atty. Belleza not only breached their agreement and betrayed Junielito's trust; he also instigated a malicious and unlawful transaction to the prejudice of Junielito.

Furthermore, even assuming there was already a compromise agreement, it was malicious to sell Nelia's property without

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[20] *Rollo*, p. 153. (Emphasis ours.)

[21] *Rollo*, p. 231.

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complying with the conditions and agreements set forth therein. Atty. Belleza knew that one of the issues sought to be resolved in said case was the issue on whether Junielito's house was encroaching on Nelia's property. However, said issue could not be resolved without settling the boundaries of the lots, which explains why the compromise agreement contained provisions for a relocation survey. For clarification, We quote the pertinent portion of the compromise agreement as thus:

1. Parties agreed to relocate the subject properties designated as Cadastral Lot Nos. 127, and 159;

2. Parties agreed that a commissioner be appointed by the Court to conduct the relocation survey which be (sic) composed of a qualified and licensed geodetic engineer from the office of the Land and Surveys Division of the Department Environment and Natural Resources, Sto. Niño, Extension, Tacloban City;

x x x x x x x x x

4. Parties likewise agreed that if ever it will be found out by the result of the survey that indeed defendants encroached a portion of the land of the plaintiff designated as Cadastral Lot No. 159, parties have the following options:

a. Defendants will buy from the plaintiff the whole area encroached at a reasonable price; or

b. If defendants cannot afford, defendants shall buy only the area encroached which the house of the defendant is located with reasonable yard at reasonable price and defendant shall vacate the remaining area and transfer to the unoccupied portion of lot 127 vacated by the heirs of Onofre Lagarto provided further that plaintiff will be responsible to the heirs of Onofre Lagarto for them to remove their house; or

c. Plaintiff shall buy the value of the house at a reasonable price;

5. That if ever if (sic) it's found out by the relocation survey that the defendants have not encroached the land of the plaintiff designated as Cadastral Lot No. 159, then, plaintiff will not disturb the peaceful possession of the defendants and would voluntarily dismiss the above-entitled complaint;[22]

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[22] *Id*. at 84-85. (Emphasis ours)

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However, when Junielito's house was demolished on February 14, 2011, it appears that no relocation survey was conducted on the subject properties. In fact, in Order[23] dated April 4, 2011, the court ordered the appearance of the parties in Civil Case No. 75 since while there was already a compromise agreement entered into by them, the court wanted to verify if a relocation survey has been conducted on the lots subject of the case as the records were bereft of any showing that a commissioner's report has been submitted to the court.

Atty. Belleza should know that a compromise agreement once approved by final order of the court has the force of *res judicata* between the parties and should not be disturbed except for vices of consent or forgery.[24] Hence, when a decision on a compromise agreement is final and executory; it has the force of law and is conclusive between the parties. Compromise agreements are contracts,[25] and contractual obligations between parties have the force of law between them and absent any allegation that the same are contrary to law, morals, good customs, public order or public policy, they must be complied with in good faith.[26] Thus, when Atty. Belleza ignored the provisions of the compromise agreement and proceeded with the sale of the property even without the relocation survey, there is no question that he wantonly violated Canon 1 of the CPR.

Moreover, as found during the mandatory conference before the IBP, Atty. Belleza knew that complainant was not a party in Civil Case No. 75, *albeit*, his 2-storey concrete residential house appeared to be encroaching on Nelia's property. Thus, even assuming that there was a valid compromise agreement in Civil Case No. 75, said judgment based on compromise agreement will not bind complainant. Consequently, even if there was already a writ of execution, the same will not likewise bind complainant. Moreso, while Atty. Belleza claims that there

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[23] *Id.* at 175.

[24] *Spouses Martir v. Spouses Verano*, 529 Phil. 120, 125 (2006).

[25] *Spouses San Antonio v. Court of Appeals*, 423 Phil. 8,19 (2001).

[26] *Id.*

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was a valid compromise agreement, he, however, failed to show that there was a demolition order issued by the court. There was likewise no demolition permit issued by the local government.[27]

It is basic that there could be no demolition of building or structures without a writ of execution and demolition issued by the court. This Court in a number of decisions held that even if there is already a writ of execution, there must still be a need for a special order for the purpose of demolition issued by the court before the officer in charge can destroy, demolish or remove improvements over the contested property.[28] The pertinent provisions are the following:

Before the removal of an improvement must take place, there must be a special order, hearing and reasonable notice to remove. Section 10(d), Rule 39 of the Rules of Court provides:

> (d) Removal of improvements on property subject of execution. When the property subject of execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court, issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court.

The above-stated rule is clear and needs no interpretation. If demolition is necessary, there must be a hearing on the motion filed and with due notices to the parties for the issuance of a special order of demolition.[29]

The requirement of a special order of demolition is based on the rudiments of justice and fair play. It frowns upon arbitrariness and oppressive conduct in the execution of an otherwise legitimate act. It is an amplification of the provision of the Civil Code that every person must, in the exercise of his rights and in the performance of his duties, act with justice,

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[27] *Rollo*, p. 158.

[28] *Asilo, Jr. v. People*, 660 Phil. 329, 353 (2011).

[29] *Id*. (Citation omitted)

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give everyone his due, and observe honesty and good faith.[30] Furthermore, it appeared that when the demolition was made on February 14, 2011, the case has not yet attained finality as evidenced by a certification issued by Clerk of Court Melba E. Lagunzad of the 13th MCTC of MacArthur-Mayorga, MacArthur, Leyte on May 19, 2011.[31]

In his last ditch effort to exonerate himself, Atty. Belleza denied that he or his client consented or had knowledge or participated on the demolition and pointed instead on the buyer, Irene, as the sole perpetrator of the illegal demolition. We are, however, unconvinced since the demolition would not have happened if Atty. Belleza and his client did not sell the subject property to Irene in violation of the compromise agreement and while Civil Case No. 75 is still pending litigation. Thus, Atty. Belleza cannot wash his hands from liability as to the illegal demolition of complainant's house since in the first place, he facilitated the sale of the subject property.

Clearly, Atty. Belleza's actuations which resulted in the demolition of Junielito's house violates Canon 1 of the Code of Professional Responsibility which mandates that a lawyer must uphold the Constitution and promote respect for the legal processes. In fact, contrary to this edict, Atty. Belleza's acts of demanding Junielito to vacate his house, and the selling of the property while Civil Case no. 75 was still pending, he violated the basic constitutional right of Junielito not to be deprived of a right or property without due process of law.

Despite his assertions of good faith, the Court cannot turn a blind eye on Atty. Belleza's acts of: (1) issuing the notice to vacate to Junielito while the case was still pending litigation; (2) failing to inform Junielito of the sale of Nelia's property in contravention to the stipulation in the acknowledgment receipt; and (3) facilitating, drafting and notarizing of the deed of sale between Nelia and Irene in violation of the compromise

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[30] *Id.* at 354.

[31] *Rollo*, p. 80.

agreement due to the absence of relocation survey. If the Court allows these irregular practice for the reason that lawyers are constrained to suit their client's interests, the Court would, in effect, sanction impropriety and wrongdoing.

We note that while lawyers owe entire devotion to the interest of their clients and zeal in the defense of their client's right, they should not forget that they are officers of the court, bound to exert every effort to assist in the speedy and efficient administration of justice. Canon 19 of the Code of Professional Responsibility mandates lawyers to represent their clients with zeal but within the bounds of the law. They should not, therefore, misuse the rules of procedure to defeat the ends of justice or unduly delay a case, impede the execution of a judgment or misuse court processes.[32]

Time and again, the Court has reminded lawyers that their support for the cause of their clients should never be attained at the expense of truth and justice. While a lawyer owes absolute fidelity to the cause of his client, full devotion to his genuine interest, and warm zeal in the maintenance and defense of his rights, as well as the exertion of his utmost learning and ability, he must do so only within the bounds of the law. It needs to be emphasized that the lawyer's fidelity to his client must not be pursued at the expense of truth and justice, and must be held within the bounds of reason and common sense. His responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions.[33]

PENALTY

Under Section 27, Rule 138 of the Revised Rules of Court, a member of the Bar may be disbarred or suspended on any of the following grounds: (1) deceit; (2) malpractice or other gross misconduct in office; (3) grossly immoral conduct; (4) conviction

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[32] *Eternal Gardens Memorial Park Corp. v. Court of Appeals*, 355 Phil. 369, 380 (1998).

[33] *Plus Builders, Inc. v. Atty. Revilla, Jr.*, 533 Phil. 250, 261 (2006), citing *Choa v. Chiongson*, 329 Phil. 270, 276 (1996).

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of a crime involving moral turpitude; (5) violation of the lawyer's oath; (6) willful disobedience of any lawful order of a superior court; and (7) willful appearance as an attorney for a party without authority. A lawyer may be disbarred or suspended for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, honesty, probity and good demeanor, or unworthy to continue as an officer of the court.

Here, the acts of Atty. Belleza in: (1) issuing the notice to vacate to Junielito while the case was still pending litigation; (2) failing to inform Junielito of the sale of Nelia's property in contravention to the stipulation in the acknowledgment receipt; and (3) facilitating, drafting and notarizing the deed of sale between Nelia and Irene in violation of the compromise agreement due to the absence of relocation survey, clearly constitute malpractice and gross misconduct in his office as attorney, for which a suspension from the practice of law for six (6) months is warranted.

WHEREFORE, the Court finds Atty. Erwin V. Belleza **GUILTY** of violations of Canons 1 and 19 of the Code of Professional Responsibility for which he is **SUSPENDED** from the practice of law for a period of six (6) months, effective immediately upon receipt of this Decision, with a **STERN WARNING** that a commission of the same or similar offense in the future will result in the imposition of a more severe penalty.

Let a copy of this Decision be furnished the Office of the Bar Confidant to be appended to Atty. Erwin V. Belleza's personal record as a member of the Bar. Likewise, let copies of the same be served on the IBP, and the OCA, which is directed to circulate them to all courts in the country for their information and guidance.

Atty. Erwin V. Belleza is **DIRECTED** to inform the Court of the date of his receipt of this Decision so that the Court can determine the reckoning point when his suspension shall take effect.

SO ORDERED.

Carpio (Chairperson), Perlas-Bernabe, and *Reyes, Jr., JJ.,* concur.

Caguioa, J., on wellness leave.