

IV. Advocate/Lawyer

著者	Pangalangan Raul C.
権利	Copyrights 日本貿易振興機構（ジェトロ）アジア 経済研究所 / Institute of Developing Economies, Japan External Trade Organization (IDE-JETRO) http://www.ide.go.jp
journal or publication title	The Philippine Judicial System
volume	5
page range	21-27
year	2001
URL	http://hdl.handle.net/2344/00015198

IV. ADVOCATE/LAWYER

A lawyer is a person trained in the law and authorized to advise and represent others in legal matters. An advocate, on the other hand, is a person who pleads the cause of another before a tribunal or judicial court.

A. Classification

Philippine Lawyers may be classified as follows:

1. According to their chosen fields of specialization

Generally, lawyers in the Philippines may be classified according to the following fields of law: Civil law, Commercial law, Labor law, Lands law, Taxation law, Criminal law, Political law, and International law.

2. According to Employment

Philippine lawyers may be classified as either a government lawyer, a non-government-organization lawyer, an in-house counsel for a private company, an independent private practitioner, a full time law professor or a combination of any two or three or even all if not prohibited by law.

Government lawyers may in turn be classified as follows: (1) those working in the Legislative Branch of the government either as legislator, legal consultant, chief or member of the legal staff doing quasi-legal activities; (2) those working in the Executive Branch of the government (government agency, subsidiary, instrumentality, government-owned or controlled corporation, including the Military) as legal officers, legal consultants or themselves the executive officers or chief or members of staff doing quasi-legal activities; and (3) those working in the judiciary either as members of the bench, fiscal, or clerk of court.

3. According to extent of involvement

Philippine lawyers may also be classified as either full-time, part-time, retired, or non-practising. [M.F. Bonifacio and M.M. Magallona, Survey of the Legal Profession in the Philippines, p. 50, (1982)]

Full-time lawyers are those who devote most of their time in active legal practice. An example of this class of lawyers are those who have chosen to form a law firm for the purpose of handling legal cases or conduct of litigation.

Part-time lawyers, on the other hand, are those who have chosen to devote half or less of their time to legal practice. An example of this class of lawyers are those whose main activity and source of income is anything other than legal practice, but devotes a portion of their time for legal practice e.g. businessman-lawyer.

Retired lawyers, needless to say, are those who, by reason of age are no longer engaged in the practice of law.

Non-practising lawyers are those who, being prohibited either by law or for any reason, have chosen not to engage in the practice of law.

4. According to location of professional activity

a. Those based in Metro Manila

Metro Manila is the country's commercial center. It pertains to a geographical area in the country consisting of the following cities and municipalities: Makati, Marikina, Manila, Las Pinas, Pasay, Pasig, Caloocan, Mandaluyong, San Juan, and Quezon City.

b. Those based in the Cities outside Metro Manila

Outside of the country's heart of commerce are cities which are themselves centers of commerce in their respective regions. These include, among others, the cities of Cebu, Davao, Cagayan de Oro, Baguio, Bacolod, General Santos, Dumaguete, Roxas, Tagbilaran Naga, Legaspi, and Lucena.

c. Those based in other places (Provinces and Municipalities)

A handful of lawyers choose to practice in places outside of the centers of commerce. These include, among others, the following Provinces and Municipalities:

Mindoro Island, Batangas, Antique, Cavite, Cagayan Valley, Camarines, Zamboanga, Isabela, Ilocos, Pangasinan and Pampanga.

B. Bar Associations

The following are the recognized Bar Associations in the Philippines: (1) The Integrated Bar of the Philippines. The Integrated Bar of the Philippines is the official national organization of lawyers composed of all persons whose names now appear or may hereafter be included in the Roll of Attorneys of the Supreme Court (*REVISED RULES OF COURT, Rule 139-A, sec. 1*). This Association requires compulsory membership and financial support of every lawyer as condition *sine qua non* to the practice of law and retention of his name in the Roll of Attorneys of the Supreme Court. It is aimed at elevating the standards of the legal profession, improving the administration of justice, and enabling the bar to discharge its public responsibility more effectively. (*REVISED RULES OF COURT, Rule 139-A, sec. 2*); (2) The Philippine Judges Association. Composed of only the incumbent Regional Trial Court Judges, this association is aimed at improving the administration of justice; assisting in the maintenance of a high standard of integrity, industry, and competence in the judiciary, in accord with the Canons of Professional Ethics, the Constitution and existing laws; aiding its members in the discharge of their judicial obligations faithfully in accordance with their oath of office and as demanded by public interest (The Constitution and By-Laws of the Philippine Judges Association); (3) There are other voluntary bar associations in the Philippines, among others, the Philippine Bar Association, the Philippine Lawyer's Association, The Trial Lawyers' Association of the Philippines, Vanguard of the Philippine Constitution, All Asia Bar Association, Catholic Lawyer's Guild of the Philippines, and the Philippine Society of International Law, Women Lawyers Circle, Federacion Internacional de Damas de Abogadas (E. L. Pineda, *LEGAL AND JUDICIAL ETHICS*, p. 7 [1995]). There exists also the Philippine Trial Judges League, the City Judges Association of the Philippines, the Rinconada Bar Association and the Partido Bar Association.

The sources of the Philippine rules on professional ethics are: (1) The 1987 Constitution, art. VIII sec.5, par. (5) provides for the power of the Supreme Court to promulgate rules concerning pleading, practice, and procedure, admission to the

practice of law and bar integration; Art. VII, sec. 13 prohibits the President and other executive officers to practice law; Art. VI, sec. 14 prohibits members of Congress to personally appear in certain cases; Art. IX-A, sec. 2 prohibits members of the Constitutional Commissions to practice law; and Art. XI sec. 8 prohibits the Ombudsman and his deputies to practice law.

The Supreme Court, pursuant to the constitutionally granted power to make rules concerning discipline of lawyers, has among others promulgated the Rules of Court. Rule 130 sec. 21 (b) prohibits a lawyer from testifying on matters communicated to the lawyer by his client; Rule 138 section 27 provides for the grounds for suspension and disbarment; and Rule 138 deals with Attorneys and Admission to the Bar.

The New Civil Code, Art. 1491 (5) prohibits lawyers from purchasing properties in litigation, and Art. 2208 provides instances when attorney's fees may be awarded as damages even without stipulation.

The Revised Penal Code, Art. 204 and 209 penalizes, Knowingly Rendering an Unjust Judgment, Betrayal of Public Trust, and Revelation of Secrets.

The Anti-Graft and Corrupt Practices Act (Rep. Act. No. 019, sec. 3(a) penalizes the corrupt practice of persuading, inducing, or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority; or allowing himself to be persuaded, induced or influenced to commit such violation or offense.

Judicial decisions applying or interpreting the laws or the Constitution shall form part of the legal system of the Philippines. (New Civil Code, Article 8)

The other sources of the Philippine Rules on Professional Ethics are: The Canons of Professional Ethics, The Code of Professional Responsibility, Treatises, and sources such as the interpretation of foreign courts of foreign ethical rules adopted in the Philippines and writings of legal luminaries (J.R. Coquia, Legal Profession: Readings, Materials and Cases An Introduction On How to Become A Lawyer, p. 193 [1993]).

C. Liability

A lawyer may be held either criminally, civilly or administratively liable for any violation of his duties as a lawyer. Or he may be held liable altogether for all. The liability depends on the nature of the duty violated. Hence, for revealing a confidential communication acquired in the exercise of legal profession, for example, the lawyer

may be held liable not only administratively for violating the rules on professional ethics, but criminally and civilly as well, in accord with the express provisions of the Revised Penal Code and the New Civil Code on damages.

Specifically, The Revised Penal Code punishes any judge who shall knowingly render an unjust judgment in any case submitted to him for decision. Similarly, it also punishes any attorney-at-law or solicitor who, by any malicious breach of professional duty or inexcusable negligence or ignorance shall prejudice his client, or reveal any of the secrets of the latter learned by him in his professional capacity.

Civil Liability for damages for intended omission or gross negligence resulting in the client's prejudice is specifically provided under the New Civil Code's provisions on torts and damages.

Administrative liability ranges from warning, admonition, reprimand or censure, to suspension or disbarment if warranted.

Warning is an act of putting one on his guard against an impending danger, evil consequences or penalties.

Admonition is a gentle or friendly reproof, mild rebuke, warning or reminder, counseling on a fault, error or oversight, an expression of authoritative advice.

Reprimand is a public and formal censure or severe reproof, administered to a person in fault by his superior officer or a body to which he belongs.

Suspension is the temporary withholding of a lawyer's right to practice his profession as a lawyer for an indefinite period of time. Censure is an official reprimand.

Disbarment is the act of the Philippine Supreme Court in withdrawing from an attorney the right to practice law. The name of the lawyer is stricken out from the roll of attorneys.

A member of the bar may be disbarred or suspended from his office as Attorney by the Supreme Court for any deceit, malpractice or any other grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (REVISED RULES OF COURT, Rule 138, sec. 27).

D. Disciplinary Power

The Supreme Court has the full authority and power to warn, admonish, reprimand, suspend and disbar a lawyer.

The Court of Appeals and the Regional Trial Courts are also empowered to warn, admonish, reprimand, and suspend an attorney who appears before them from the practice of law for any of the causes mentioned in the Revised Rules of Court, Rule 138, sec. 27. They cannot disbar a lawyer.

A Regional Trial Court Judge cannot summarily suspend a lawyer as punishment for committing an indirect contempt. The inferior courts are not empowered even just to suspend an attorney, although they may hold a lawyer in contempt of court for contemptuous acts.

Justices of the Supreme Court, however, may not be disbarred unless they have been first impeached in accordance with the Constitution. The same is true with the other impeachable officers who are members of the bar.

1999 Statistical Data on Sanctions Imposed

1. Disbarred	3
2. Suspended	14
3. Reprimanded	6
4. Censured	1
5. Admonished	16
6. Ordered Arrested	3
7. Fined	15
8. Warned	1

Source: 1999 Annual Report of the Supreme Court of the Philippines

Survey on Classification of Lawyers according to Location of Professional Activity

Location of Professional Activity	Number	Percent
Metro Manila	695	78
Cities Outside Metro Manila	97	11
All Others	<u>98</u>	<u>11</u>
Total	890	100

Source: Survey of the Legal Profession(1982): Manuel Flores Bonifacio and Merlin M. Magallona