In re Purisima and the Competence and Character Requirement for Membership in the Bar

Aimee Bernadette C. Dabu, Clarence Rommel C. Nanquil,** Anna Maria Karla C. Ng*** and Theoben Jerdan C. Orosa*****

I. INTRODUCTION. 840
II. EXPOSITION ON THE RULES GOVERNING THE CHARACTER AND COMPETENCY REQUIREMENT 841
A. Practice of Law is a Privilege
B. Admission Requirements
III. SURVEY OF JURISPRUDENCE ON THE REQUIREMENTS OF COMPETENCE AND CHARACTER 851
A. In re Argosino: The Presence of a Dent in Good Moral Character
B. In re Ladrera: Chastisement of Dishonesty
C. In re Lanuevo: Deceitful Behavior and Acts of Dishonesty as Ground for Disqualification and Disbarment
D. Diao v. Martinez: Admission to Bar Obtained Under False Pretenses Must be Revoked
IV. THE CASE OF *IN RE PURISIMA* 857
A. The Facts of the Instant Case
B. The Findings of the Office of the Bar Confidant
C. The Decision of the Supreme Court
V. ANALYSIS 861
A. Competence and the Good Moral Character Requirement
B. Comparative Analysis: In Re Purisima and Previous Jurisprudence
C. On the Common Law Considerations of Equity and Intent
D. On Law Schools and the Competence Requirement
VI. CONCLUSION 867

* '04 J.D. cand., Ateneo de Manila University School of Law. Editor, *Ateneo Law Journal*. Her previous work published by the Journal include: *Airport Searches: An Additional Exception to the Search Warrant Requirement?,* 48 ATENEO L.J. 53 (2003).

** '05 J.D. cand., Ateneo de Manila University School of Law. Editor, *Ateneo Law Journal*. His previous work published by the Journal include: *The Three Term Limit Rule in Review and The Confusion Between Term and Tenure*. 48 ATENEO L.J. 155 (2003). The author was the *Lead Editor* of Vol. 48, Issue No. 2.

*** '06 J.D., cand., Ateneo de Manila University School of Law. Editor, *Ateneo Law Journal*.

**** '06 J.D., cand., Ateneo de Manila University School of Law. Editor, *Ateneo Law Journal*.

Cite as 48 ATENEO L.J. 840 (2003).

CHARACTER AND COMPETENCE

I. INTRODUCTION

The practice of law is not a trade nor a craft but a profession. Its basic ideal is to render public service and secure justice for those who seek its aid. If it is to remain an honorable profession and attain its basic ideal, those enrolled in its ranks should not only master its tenets and principles but should also, by their lives, accord continuing fidelity to them.[1]

The Supreme Court, as the body constitutionally responsible for determining the fitness of candidates for admission can be observed to have set down a spectrum by which individual cases are decided. The case of Mark Purisima's petition for admission for the bar sets down the path which the Court has forged in its continuing mandate.

II. EXPOSITION ON THE RULES GOVERNING THE CHARACTER AND COMPETENCY REQUIREMENT

The practice of law is intimately and peculiarly related to the administration of justice and should not be considered an ordinary "money-making trade." While it may possess similarities to other business professions, these similarities are overshadowed by the distinct features of the legal profession. The primarily aim of trade is personal gain, whereas the legal profession aims for the exercise of powers beneficial to mankind.[2] Thus, a partnership for the

---

1. RUBEN E. AGPALO, LEGAL AND JUDICIAL ETHICS 1 (7th ed. 2002).

2. *See In re* Sycip, 92 SCRA 1, 13 (1979). The legal profession has been likened to other professionalized occupations with ethical standards and regulations for membership. It is worthy to note of how the Supreme Court delineated the role of professionals in the free world in this wise:

> If, as in the era of wide free opportunity, we think of free competitive self assertion as the highest good, lawyer and grocer and farmer may seem to be freely competing with their fellows in their calling in order each to acquire as much of the world's good as he may within the limits allowed him by law. But the member of a profession does not regard himself as in competition with his professional brethren. He is not bartering his services as is the artisan nor exchanging the products of his skill and learning as the farmer sells wheat or corn. There should be no such thing as a lawyers or physicians' strike. The best service of the professional man is often rendered for no equivalent or for a trifling equivalent and it is his pride to do what he does in a way worthy of his profession even if done without expectation of reward. This spirit of public service in which the profession of law is and ought to be exercised is a prerequisite of sound administration of justice according to law. The other two elements of a profession, namely, organization and pursuit of a learned art have their justification in that they secure and maintain that spirit.

practice of law cannot be likened to partnerships formed by other professionals or for business.[3]

The legal profession is entrusted with such ennobled roles as that of: (1) a duty of public service, of which the emolument is a by-product, and in which one may attain the highest eminence without making much money; (2) an office where lawyers are treated as "officers of the court" who shall see to the administration of justice involving thorough sincerity, integrity, and reliability; (3) a fiduciary relationship in the highest degree as regards their clients; (4) a camaraderie with colleagues at the bar characterized by candor, fairness, and unwillingness to resort to current business methods of advertising and encroachment on their practice, or dealing directly with their clients.[4]

As it is important to note that the nature of the right to practice law is not a natural or constitutional right but is in the nature of a privilege or franchise, subject to the control of the State, in the absence of certain qualifications or when there exits grounds for disqualification, then the privilege must be denied or revoked. It is therefore limited to persons of good moral character, with special qualifications duly ascertained and certified. The right does not only presuppose in its possessor integrity, legal standing and attainment, but also the exercise of a special privilege, highly personal and partaking of the nature of a public trust.[5]

A. Practice of Law is a Privilege

The practice of law is merely a privilege bestowed upon those who possess the requirements set by the law. For this reason, the State possesses the right to control the legal profession. Under the Constitution, the power over the legal profession is lodged in the Judiciary.[6] The Supreme Court shall amongst other powers:

> Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, *the admission to the practice of law*, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive

---

3. *Id.* at 9.

4. *Id.* at 10.

5. *See id.* (citations omitted).

6. PHIL. CONST. art. VIII, § 5, ¶ 5.

> rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.[7]

This constitutional provision charges the Supreme Court with the sole authority to promulgate rules and procedures for the admission of members to the Philippine Bar. The right to define and regulate the practice naturally and logically belongs to the judicial department of the government since the practice of law is so intimately connected with the exercise of judicial power in the administration of justice.[8] Traditionally, the judicial power has been discretionarily exercised as inherent within the scope of the Court's powers.[9]

Through the Rules of Court, the Supreme Court has laid down the qualifications for candidates to the Bar Examinations, as well as the subjects covered by said examinations.

The wisdom for exercising judicial control and the imposition of standards has been explained in this wise:

> The Supreme Court and the Philippine Bar have always tried to maintain a high standard for the legal profession, both in academic preparation and legal training, as well as in honesty and fair dealing. The Court and the licensed lawyers themselves are vitally interested in keeping this high standard; and one of the ways of achieving this end is to admit to the practice of this noble profession only those persons who are known to be honest, possess good moral character, and show proficiency in and knowledge of the law by the standard set by this Court by passing the Bar Examinations honestly and in the regular and usual manner. It is of public knowledge that perhaps by general inclination or the conditions obtaining in this country, or the great demand for the services of licensed lawyers, law as compared to other professions, is the most popular in these islands. The predominantly greater number of members of the Bar, schools and colleges of law as compared to those of other learned professions, attest to this fact. And one important thing' to bear in mind is that the Judiciary, from the Supreme Court down to the Justice of the Peace Courts, provincial fiscalships and other prosecuting attorneys, and the legal departments of the Government, draw exclusively from the Bar to fill their positions.[10]

Every year, the Supreme Court appoints the Bar examiners who prepare questions, correct examination papers submitted by the examinees, and later

---

7. *Id.* (emphasis supplied).

8. *See* 7 AM. JUR. 2D *Attorneys* § 4.

9. AGPALO, *supra* note 1, at 28 (citations omitted).

10. *See In re* Parazo, 82 Phil. 230, 242 (1948).

make their report to the Supreme Court. Only those candidates who obtain a passing grade are admitted to the Bar and licensed to practice law.[11]

The case of *In Re Cunanan*[12] stresses the inherent power of the Judiciary in exercising control over admission to the legal practice. In the said case, Congress passed Republic Act No. 972, more popularly known as the "Bar Flunkers' Act of 1953."[13] Under Rule 127, Sec. 14 of the Rules of Court,[14]

---

11. *Id.* at 242.

12. 94 Phil. 534, 536 (1954).

13. The law in dispute provides in full:

REPUBLIC ACT NO. 972.

AN ACT TO FIX THE PASSING MARKS FOR BAR EXAMINATIONS FROM NINETEEN HUNDRED AND FORTY-SIX UP TO AND INCLUDING NINETEEN HUNDRED AND FIFTY-FIVE.

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SEC. 1. Notwithstanding the provisions of section fourteen, Rule numbered on hundred twenty-seven of the Rules of Court, any bar candidate who obtained a general average of seventy per cent in any bar examinations after July fourth, nineteen hundred and forty-six up to the August nineteen hundred and fifty-one bar examinations; seventy-one per cent in the nineteen hundred and fifty-two bar examinations; seventy-two per cent in the nineteen hundred and fifty-three bar examinations; seventy-three per cent in the nineteen hundred and fifty-four bar examinations; seventy-four per cent in the nineteen hundred and fifty-five bar examinations without a candidate obtaining a grade below fifty per cent in any subject, shall be allowed to take and subscribe the corresponding oath of office as member of the Philippine Bar: Provided, however, That for the purpose of this Act, any exact one-half or more of a fraction, shall be considered as one and included as part of the next whole number.

SEC. 2. Any bar candidate who obtained a grade of seventy-five per cent in any subject in any bar examination after July fourth, nineteen hundred and forty-six shall be deemed to have passed in such subject or subjects and such grade or grades shall be included in computing the passing general average that said candidate may obtain in any subsequent examinations that he may take.

SEC. 3. This Act shall take effect upon its approval.

which governs admission to the bar, in order that a candidate for admission to the Bar may be deemed to have passed his examinations successfully, he must have obtained a general average of 75% in all subjects, without falling below 50% in any subject. Nevertheless, considering the varying difficulties of the different bar examinations held since 1946 and the varying degree of strictness with which the examination papers were graded, the Supreme Court passed and admitted to the bar those candidates who had obtained an average of only 72%; their grade was raised to 75%.

Believing that they were fully qualified to practice law and that they were unfairly discriminated against, unsuccessful candidates who obtained averages of a few percentage lower than those admitted to the Bar lobbied Congress for a law that reduces the passing general average in bar examinations to 70%. As a result, Senate Bill No. 12 was passed. The President requested the views of the Court on the bill. Complying with that request, seven members of the Supreme Court subscribed to an adverse view thereto, and thereafter, the President vetoed it. Congress did not override the veto but instead approved Senate Bill No. 371, embodying substantially the same provisions as that of the vetoed bill. Despite the Court's unfavorable views on the matter, the President allowed the bill to become a law on 21 June 1953 without his signature.

The Supreme Court ruled that the Bar Flunkers' Act was unconstitutional for usurpation of judicial powers. According to the Court:

> In the judicial system from which ours has been evolved, the admission, suspension, disbarment and reinstatement of attorneys at law in the practice of the profession and their supervision have been indisputably a judicial function and responsibility. Because of this attribute, its continuous and zealous possession and exercise by the judicial power have been demonstrated during more than six centuries, which certainly "constitutes the most solid of titles." Even considering the power granted to Congress by our Constitution to repeal, alter and supplement the rules promulgated by this Court regarding the admission to the practice of law, to our

---

Enacted on June 21, 1953, without the Executive approval.

14. This provision is now governed by Rule 138, § 14, which provides in full:

> *Passing average*. In order that a candidate may be deemed to have passed his examinations successfully, he must have obtained a general average of 75 per cent in all subjects, without falling below 50 per cent in any subject. In determining the average, the subjects in the examination shall be given the following relative weights: Civil Law, 15 per cent; Labor and Social Legislation, 10 per cent; Mercantile Law, 15 per cent; Criminal Law; 10 per cent; Political and International Law, 15 per cent; Taxation, 10 per cent; Remedial Law, 20 per cent; Legal Ethics and Practical Exercises, 5 per cent.

> judgment the proposition that the admission, suspension, disbarment and reinstatement of attorneys at law is a legislative function, properly belonging to Congress, is unacceptable. The function requires (1) previously established rules and principles, (2) concrete facts, whether past or present, affecting determinate individuals and (3) decision as to whether these facts are governed by the rules and principles; in effect, a judicial function of the highest degree. And it becomes more indisputably judicial, and not legislative, if previous judicial resolutions on the petitions of these same individuals are attempted to be revoked or modified.[15]

The Court further noted that the Constitution has not conferred on the legislative and judicial branches of government the same responsibilities concerning the admission to the practice of law, the primary power and responsibility having been lodged in the Judiciary. As the Court further noted:

> Congress may repeal, alter and supplement the rules promulgated by this Court, but the authority and responsibility over the admission, suspension, disbarment and reinstatement of attorneys at law and their supervision remain vested in the Supreme Court. The power to repeal, alter and supplement the rules does not signify nor permit that Congress substitute or take the place of this Tribunal in the exercise of its primary power on the matter. The Constitution does not say nor mean that Congress may admit, suspend, disbar or reinstate directly attorneys at law, or a determinate group of individuals to the practice of law. Its power is limited to repeal, modify or supplement the existing rules on the matter, if according to its judgment the need for a better service of the legal profession requires it. But this power does not relieve this Court of its responsibility to admit, suspend, disbar and reinstate attorneys at law and supervise the practice of the legal profession.[16]

In the exercise of its judicial power, the Supreme Court has the primary authority to decide who may be admitted to the bar, what may be the causes for disciplinary action, and whether an attorney should be disciplined, suspended, disbarred or reinstated.[17]

Thus it may be seen that the Judiciary exercises exclusive control over the legal profession. This power, however, is not absolute; it has inherent limitations. The Judiciary cannot exercise its power in a whimsical and discriminatory manner. It cannot exclude a person from the practice of law or from any other occupation for reasons that contravene either due process or equal protection.[18] Even if the State may require high standards of

---

15. *In re* Cunanan, 94 Phil 534, 544-45 (1954) (emphasis supplied).

16. *Id.* at 551-552.

17. AGPALO, *supra* note 1, at 29.

18. Schware v. Board of Bar Examiners, 353 U.S. 238-239 (1957).

qualifications before it admits an applicant to the bar, one should always bear in mind that any qualification must have a rational connection with the applicant's fitness or capacity to practice law.[19] In fact, even in the determination of whether an applicant complies with permissible standards, the Judiciary cannot exclude an applicant where there is no basis for their finding that he fails to meet the standards or if the act is clearly discriminatory in character.[20]

B. Admission Requirements

Public interest demands of the legal profession adequate preparation and efficiency. Social conflicts are ever present and the resulting legal problems are evolving to become more complex and more difficult. Adequate legal preparation is one of the vital requisites for the practice of law, which should be developed constantly and maintained firmly. Since the legal profession is entrusted with the protection of property, life, honor and civil liberties, to admit those who are inadequately prepared to dedicate their lives to such a delicate mission creates a serious social danger and is contrary to public policy.[21]

The two most important qualifications in determining whether an applicant should be admitted to the bar are *competence* and *character*.[22] Competence is measured by the sufficiency of knowledge of the law and the legal reasoning required for its practice; character is exemplified through the subjective standard of good morals.

1. Competence

The competence of an applicant for admission to the bar is tested through the bar examinations. The exam is designed to eliminate those whose general intelligence, learning and mental capacity are inadequate to enable them to assume and discharge the duties of an attorney.[23] It is only after passing the bar examinations that one may take the oath and his name be entered in the Roll of Attorneys. After which, he may be allowed to start his practice of law.

---

19. *Id.* at 239.

20. *Id.*

21. *See In re* Cunanan, 94 Phil. at 540.

22. 64 ALR 2d 306 (1959) (emphasis supplied).

23. *See* AGPALO, *supra* note 1, at 57-58.

As for the educational requirement, as a matter of public policy, a person seeking admission to the practice of law must not only possess the required educational qualifications, but must also show such a degree of learning and proficiency in the law as may be necessary for the due performance of the duties of a lawyer.[24] Having said that every lawyer is entrusted with the protection of life, liberty, property or honor, and that to officially approve one who is not adequately prepared to dedicate himself to such a delicate mission is to create a social danger.[25] Knowledge of and proficiency in the law, therefore, are among the requirements designed to avoid such danger. One way of precluding such social danger is through the strict observance of the educational requirements imposed by the law and by the Supreme Court in order to elevate the standards of the legal profession.

Moreover, to further strengthen the competence requirement, the Rules of Court provides that those who have *thrice* failed the bar examinations must show that they have enrolled in and passed regular fourth year review classes as well as attended a pre-bar review course in a recognized law school.[26] As such, the Rules of Court provides:

> *Failing candidates to take review course. - Candidates who have failed the bar examinations for three times shall be disqualified from taking another examination unless they show to the satisfaction of the court that they have enrolled in and passed regular fourth year review classes as well as attended a pre-bar review course in a recognized law school.*
>
> The professors of the individual review subjects attended by the candidates under this rule shall certify under oath that the candidates have regularly attended classes and passed the subjects under the same conditions as ordinary students and the ratings obtained by them in the particular subject.[27]

The purpose for this requirement is obviously to keep these unsuccessful examinees informed of the developments in law and jurisprudence on the various subjects taken in the bar exams.[28]

Complementing the requirement of competence is the requirement of character. The character requirement is a continuing one such that a lawyer is expected to maintain the required standards of character for the entire duration of his practice. In fact, good moral character must be proven even

24. *In re* Du Fresne, 20 Phil. 488, 491 (1911).

25. *In re* Cunanan, 94 Phil. at 534.

26. RULES OF COURT, Rule 138, § 16.

27. *Id.* (emphasis supplied).

28. RUPERTO G. MARTIN, LEGAL AND JUDICIAL ETHICS 25 (9th ed. 1988).

prior to the Bar Examinations itself. And even after passing the bar, to be in good and regular standing, the successful applicant must show that he faithfully observes the rules and ethics of the profession and is continually subject to judicial disciplinary control.[29] Thus, good moral character, as a continuing requirement, is a normative character which every lawyer must possess in his practice of law.

The requirement aims to maintain and uphold the high moral standard and dignity of the legal profession. One of the ways of achieving this end is to admit to the practice of the profession only those who are shown to be honest and possess good moral character.[30] The burden of proof to establish character rests upon the applicant for admission to the bar.[31] The committee of bar examiners would be justified in refusing admission of an individual to the bar where the applicant fails to discharge this burden. Certificates of good moral character only establish *prima facie* possession of integrity.[32]

2. Good Moral Character

As the practice of the law is not an absolute right to be granted to those who demand it but is merely a *privilege* to be extended or withheld in the exercise of sound discretion, the policy has been towards the cultivation of a normative behavioral standard for the legal profession.

The standards of the legal profession are not satisfied by conduct which merely enables one to escape the penalties of criminal law. It would be a disgrace to the Judiciary to admit to the practice one whose integrity is questionable as an officer of the court, to clothe him with all the prestige of its confidence, and then to permit him to hold himself as a duly authorized member of the Bar.[33]

> The requirement of good moral character to be satisfied by those who would seek admission to the bar must of necessity be more stringent than the norm of conduct expected from members of the general public. There is a very real need to prevent a general perception that entry into the legal profession is open to individuals with inadequate moral qualifications. The growth of such a perception would signal the progressive destruction of our

29. *See* AGPALO, *supra* note 1, at 40.

30. *See id*. at 54.

31. 64 ALR 2d 311 (1959).

32. *Id*. at 312–313.

33. *See In re* Victorio D. Lanuevo, 66 SCRA 245, 295 (1975).

people's confidence in their courts of law and in our legal system as we know it.[34]

This requirement is aimed at maintaining the high moral standards of the profession. As *Laureta* opines:

> More than just going through a law course and passing the bar examinations is the need for one who loftily aspires to become a lawyer to satisfy the Supreme Court that he measures up to that rigid and ideal standard of moral fitness required by his chosen vocation.[35]

In simple terms, moral character is what a person really is, as distinguished from good reputation. Moral character is not a subjective term but rather corresponds to existing reality.[36] In determining whether a person's character is good, the nature of the offense which he has committed must be taken into account.[37] It has been held that refusal to admit an applicant to the practice of law may be based upon the making of false statements in the applicant's application.[38]

The trust and confidence necessarily reposed in an attorney by his clients requires the exhibition of a high standard and appreciation of an attorney's duty not only to such clients, but also to his profession, to the courts, and to the public.[39] In fact, an attorney may be disciplined for misconduct committed before his admission to the bar, and this notwithstanding that his certificate to practice was issued after a board of law examiners has, as required by law, passed judgment on his moral character and standing.[40] Moreover, he may even be disciplined for actions that contravene the ethics of the profession even though his conduct is neither criminal nor calculated to obstruct justice.[41] In fact, an attorney may be subjected to disciplinary proceedings for activities that are outside his professional work when his conduct is indicative of moral unfitness for the profession.[42] Thus, it can be

34. *In re* Argosino, 270 SCRA 26 (1997).

35. WENCESLAO G. LAURETA, LEGAL AND JUDICIAL ETHICS 73 (5th ed. 1986).

36. *See* AGPALO *supra* note 1, at 55.

37. 64 ALR 2d 243 (1959).

38. Spears v. State Bar of California, 294 Pac. 697 (1930).

39. *See* 7 AM. JUR. 2D *Attorneys* § 4.

40. *See id.* § 22.

41. *See id.* § 38.

42. *See id.* § 44.

seen that the perpetual burden of a lawyer is that he must always exhibit good moral character at all times.

Therefore, being in the nature of a continuing requirement, any deviation from good moral character is sufficient ground to revoke from the lawyer the privilege to practice law. As summarized by the Supreme Court in one case:

> The practice of law is a privilege accorded only to those who measure up to the exacting standards of mental and moral fitness… The ancient and learned profession of law exacts from its members the highest standard of morality. The members are, in fact, enjoined to aid in guarding the Bar against the admission of candidates unfit or unqualified because deficient in either moral character or education. As officers of the court. lawyers must not only in fact be of good moral character but must also be seen to be of good moral character and must lead life in accordance with the highest moral standards of the community. More specifically, a member of the Bar and an officer of the Court is not only required to refrain from adulterous relationships or the keeping of mistresses but must also behave himself in such a manner as to avoid scandalizing the public by creating the belief that he is flouting those moral standards.[43]

Jurisprudence has been consistent in upholding this requirement of character in a lawyer in his exercise of the privilege of law practice.

III. SURVEY OF JURISPRUDENCE ON THE REQUIREMENTS OF *COMPETENCE* AND *CHARACTER*

A. In Re Argosino: The Presence of a Dent in Good Moral Character

The case of *In Re Argosino*[44] involved a successful bar applicant Al C. Argosino, who was not allowed to take his lawyer's oath. Argosino was charged, along with thirteen other accused, of the crime of homicide as a result of hazing rites in a fraternity which resulted in the death of another student, Raul Camaligan. They were later convicted of the lesser crime of homicide due to reckless imprudence after plea bargaining. Argosino petitioned and was allowed to take the 1993 Bar Examinations, which he passed. The Court required him to show that he had the degree of good moral character required of a member of the bar before he would be allowed to take his lawyer's oath of office.

The Court made two notable points. First, the Court reiterated the policy that the degree of good moral character required of a lawyer is subject to more stringent standards than that of an ordinary citizen.

43. Barrientos v. Daarol, 218 SCRA 30, 39-40 (1993).

44. *In re* Argosino, 270 SCRA at 26.

> The requirement of good moral character to be satisfied by those who would seek admission to the bar must of necessity be more stringent than the norm of conduct expected from members of the general public. There is a very real need to prevent a general perception that entry into the legal profession is open to individuals with inadequate moral qualifications. The growth of such a perception would signal the progressive destruction of our people's confidence in their courts of law and in our legal system as we know it.[45]

Second, the Court emphasized the *continuing requirement* of character – that "good moral character is a requirement possession of which must be demonstrated not only at the time of application for permission to take the bar examinations but also, and more importantly, at the time of application for admission to the bar and to take the attorney's oath of office."[46] Thus recognizing that from the time one has decided to petition for taking the examination, one is already bound by the continuing requirement of good moral character.

Moving a step further, the Court admonished: "All aspects of moral character and behavior may be inquired into in respect of those seeking admission to the Bar, the scope of such inquiry is, indeed, said to be properly broader than inquiry into the moral character of a lawyer in proceedings for disbarment".[47]

This first case was decided on July 13, 1995. Barely two years later, Argosino was allowed to take his lawyer's oath in a Supreme Court resolution. In compliance with the former order to submit evidence showing his good moral character befitting of a lawyer, Argosino "submitted no less than fifteen certifications/letters executed by, among others, two senators, five trial court judges, and six members of religious orders."[48] He "likewise submitted evidence that a scholarship foundation had been established in honor of Raul Camaligan, the hazing victim, through joint efforts of the latter's family and the eight accused in the criminal case." The Court also required the deceased victim's father, Atty. Gilbert Camaligan to comment on the petitioner's prayer to take the lawyer's oath. Without denying his continued grief for the untimely demise of his son, he admitted that as a Christian he has already forgiven Argosino, and that he was leaving the matter of determining Argosino's moral fitness to the sound discretion of the court.

---

45. *Id.* (citing Ulep v. Legal Clinic, Inc., 223 SCRA 378, 409 (1993)).

46. *In re* Argosino, 246 SCRA 14, 22 (1995).

47. *Id.* at 20.

48. *In re* Argosino, 270 SCRA at 26, 29.

The Court, after careful evaluation, allowed Argosino to take his lawyers oath:

> The Court recognizes that Mr. Argosino is not inherently of bad moral fiber. On the contrary, the various certifications show that he is a devout Catholic with a genuine concern for civic duties and public service. The Court is persuaded that Mr. Argosino has exerted all efforts to atone for the death of Raul Camaligan. We are prepared to give him the benefit of the doubt, taking judicial notice of the general tendency of youth to be rash, temerarious and uncalculating.[49]

But the Court made a very important point stressing: "[T]hat the lawyer's oath is NOT a mere ceremony or formality for practicing law. Every lawyer should at ALL TIMES weigh his actions according to the sworn promises he makes when taking the lawyer's oath. If all lawyers conducted themselves strictly according to the lawyer's oath and the Code of Professional Responsibility, the administration of justice will undoubtedly be faster, fairer and easier for everyone concerned."[50]

The Court expounded on that the degree of good moral character required in admission to the bar:

> [I]s something more than an absence of bad character. It is the good name which the applicant has acquired, or should have acquired, through association with his fellows. It means that he must have conducted himself as a man of upright character ordinarily would, or should, or does. Such character expresses itself, not in negatives nor in following the line of least resistance, but quite often, in the will to do the unpleasant thing if it is right, and the resolve not to do the pleasant thing if it is wrong.[51]

External factors may therefore be considered to determine the good moral character of an applicant. In this case, Argosino's bountiful positive acts rectifying the dent in his character were held sufficient for the Court to find him reinstated of good moral character. However, it must be noted, that this kind of cases are *pro hac vice* in the sense that the intricacies of the case present a unique and novel case for the Court's resolution. The circumstances present in Argosino will unlikely present itself in another case.

B. In Re Ladrera: Chastisement of Dishonesty

A case similar to *Argosino* was resolved through a resolution in 1987 in *In Re Ladrera.*[52] Respondent Socorro Ke Ladrera was hindered from taking his

---

49. *Id.*

50. *Id.*

51. *In re* Argosino 246 SCRA at 14, 18 (quoting *In re* Farmer, 131 S.E. 661 (1926)).

52. 147 SCRA 350 (1987).

lawyer's oath by an administrative complaint for immorality filed by a certain Lucila Casas, for the former's misrepresentation to the latter that he was a single man whereas he was already married at the time a subsequent marriage was contracted between the respondent and complainant.[53] After thirty two long years of denial of his petition, he was finally allowed to take the lawyer's oath, the Court already convinced that he had suffered enough chastisement and that he has already deviated from his old immoral ways.

C. In Re Lanuevo: Deceitful Behaviour and Acts of Dishonesty as Ground for Disqualification and Disbarment

The case of *In Re Lanuevo*[54] featured the ingenious manner by which Ramon Galang, alias Roman Galang, was finally able to obtain a passing average in the 1971 Bar Examinations after having failed the examinations six times. Bar Confidant Victorio Lanuevo was able to have Galang's exam booklet re-evaluated by various examiners by resorting to insidious misrepresentations. Lanuevo approached the examiners individually and led them to believe that the subject for which they were supposed to evaluate and grade was the only subject which Romeo Galang flunked, hence convincing then to reevaluate his exam booklet. In truth, Galang flunked six bar subjects in all and his average was 8.75 points far from the passing mark. Despite the fact that the Supreme Court resolved to make 74% the passing average, Galang's average was still far from satisfactory. The deceitful scheme would have been put to success if not for an action for disbarment against Lanuevo and Galang, whose name had already been entered in the roll of attorneys. In his defense, Lanuevo tried to pass off his actions as devoid of malice by suggesting that his extreme gusto for the re-evaluation of Galang's exam booklet was borne out of a random fascination for a number that appeared on an electrical contrivance.

The court did not give due course to the explanation provided by Lanuevo and ordered his disbarment. The Supreme Court ruled that the position of a Bar Confidant is one impressed with great trust and responsibility. "[T]he Bar Confidant, whose position is primarily confidential as the designation indicates, his functions in connection with the conduct of the Bar examinations are defined and circumscribed by the Court and must be strictly adhered to."[55] He is tasked with the responsibility of ensuring that the results of the bar examinations will reflect the actual performance of the examinees, not what other individuals deem their rating or average to be. Further, the evidence presented in court yielded nothing to bolster an

53. *Id.* at 350-352.

54. *In re* Lanuevo, 66 SCRA at 245.

55. *Id.* at 289.

assumption that Lanuevo was acting in good faith. Thus: "the unexplained failure of respondent Lanuevo to apprise the Court or the Committee or even the Bar Chairman of the fact of reevaluation before or after the said re-evaluation and increase of grades, precludes, as the same is inconsistent with, any pretension of good faith."[56]

The gravity of the damage caused by the actions of Lanuevo is elucidated by the Court speaking through then Justice Makasiar: "Respondent Lanuevo is therefore guilty of serious misconduct for having betrayed the trust and confidence reposed in him as Bar Confidant, thereby impairing the integrity of the bar examinations and undermining public faith in the Supreme Court. He should be disbarred."[57]

More in point with the subject matter of this case comment however, is the disbarment of Ramon Galang. The glaring fact that, in reality, his grades for the various bar subjects did not amount to a passing average is enough to have him disbarred. An average of at least 75% in all the bar subjects is a pre-requisite to being a qualified as an attorney. The re-evaluation which allowed Galang to be qualified to be a lawyer was done without proper court authorization and hence, should be of no effect. The court explained, "[w]hether or not the examinee benefited was in connivance with or a privy thereto is immaterial. What is decisive is whether the proceedings or incidents that led to the candidate's admission to the Bar were in accordance with the rules."[58] It must be pointed out, that aside from Galang's failure to meet the minimum grade requirement, Galang was also guilty of non-disclosure of his being charged of a crime - that of physical injuries. He omitted this fact in all his seven petitions to take the bar examinations, and even declared under oath in four instances out of seven that he had not been charged of a crime, nor did he know of any fact of a case pending against him. The Court took this into consideration but its decision was still hinged on the unauthorized re-evaluation of his booklet, which the Court characterized as "highly irregular."

D. Diao v. Martinez: Admission to Bar Obtained Under False Pretenses Must be Revoked

In the case of *Diao v. Martinez,*[59] disbarment proceedings were initiated against respondent Telesforo Diao for his misrepresentation with respect to his educational qualifications in his petition for taking the bar examination.

---

56. *Id.* at 282.

57. *Id.* at 288.

58. *Id.* at 291.

59. 7 SCRA 475 (1963).

After successfully passing the corresponding examinations held in 1953, Telesforo A. Diao was admitted to the Bar. About two years later, Severino Martinez charged him with having falsely represented in his application for such Bar examination, that he had the requisite academic qualifications. The matter was in due course referred to the Solicitor-General who caused the charge to be investigated. The Solicitor-General then submitted a report recommending that Diao's name be erased from the roll of attorneys, because contrary to the allegations in his application for examination, Diao had not completed, before taking up law subjects, the required pre-legal education prescribed by the Department of Private Education, specially in the following particulars:

a) he did not complete his high school training; and

b) he never attended Quisumbing College, and could thus not have obtained his Associate in Arts diploma therefrom, clearly contradicting the credentials he submitted in support of his application for examination, and his allegation therein of successful completion of the "required pre-legal education."

Diao sought to rebut the first misrepresentation charged against him by admitting that he left high school in his third year, but because he later passed U.S. Army training, he may nevertheless be deemed to have earned a high school diploma on the basis that educational authorities consider his U.S. army service as equal to his third year and fourth year in high school. In defense of the second alleged misrepresentation, he now claims that due to confusion, he was erroneously certified as a graduate of Quisumbing College whereas he was actually a graduate of Arellano University.

The court did not find his explanation acceptable for, in the first place, it was due to his "confusion" that the error was made, and second, aside from misrepresentation as to the name of school, he also made a misrepresentation as to the time frame during which he took his pre-legal studies. The title of Associate in Arts (A.A.) referred to was at that time (1954) equal to the requisite pre-legal education as described by the Department of Private Education, and it was their requirement that a pre-legal course first be finished prior to the study of law. Diao misrepresented himself as a graduate of Quisumbing for school year 1940-1941, but he attained his A.A. from Arellano University in 1949. He began his law studies in the second semester of 1948-1949, six months before obtaining his A.A., in clear contravention of the requirement. Thus, he was ordered to be removed from the roll of attorneys.

The Court held that Telesforo A. Diao was not qualified to take the bar examinations; but due to his false representations, he was allowed to take it, luckily passed it, and was thereafter admitted to the Bar. Such admission,

having been obtained under false pretenses, was thereby revoked. The fact that Diao hurdled the Bar examinations was rendered immaterial. Passing the bar examination is *not the only* qualification to become an attorney-at-law; taking the prescribed courses of legal study in the regular manner *is equally essential.*

In Re Purisima[60] is the latest case where the Supreme Court enunciates its policy on admission to the bar. An examination of the case will reveal a spectrum with which the qualification on admission to the Bar is construed.

III. THE CASE OF *IN RE PURISIMA*

A. The Facts of the Instant Case

The crux of the case involving Bar Matters Nos. 979 and 986 concerning Bar applicant Mark Anthony A. Purisima stemmed from a Resolution issued by the Supreme Court on the April 13, 2000, disqualifying the applicant from membership in the Bar after he successfully passed the previous year's bar examinations. Such disqualification was based on the declaration by the Court that Purisima's examinations were null and void for two reasons: (1) that he failed to submit the required certificate of completion of the pre-bar review course under oath for his conditional admission to the 1999 Bar Examinations; and (2) that he committed a serious act of dishonesty when he made it appear in his Petition to Take the 1999 Bar Examinations that he took his pre-bar review course at the Philippine Law School (PLS) when, as certified by the school's Acting Registrar, no such course was offered there since 1967.

Proceeding from these requirements and essential qualifications that must be possessed by any applicant into the practice of law, Purisima, like the other examinees of the 1999 Bar Examinations, was conditionally admitted to take the 1999 Bar Examinations and directed to "submit the required certification of completion of the pre-bar review course within sixty days from the last day of the examinations."[61] Purisima, however, failed to submit the certification of completion within the said sixty-day (60) period, and also indicated in his Petition to Take the Bar false information that he completed the pre-bar review course in the Philippine Law School, when in fact, he took such course in the University of Santo Tomas (UST). This led to the Court's issuance of the questioned resolution disqualifying Purisima from taking the Lawyer's oath and being admitted to the Bar.

---

60. *In re* Purisima, 393 SCRA 584 (2002).

61. *Id*. at 585.

Purisima moved for reconsideration of the foregoing resolution, but the same was denied. This eventually led his father, retired Regional Trial Court Judge Amante P. Purisima, to file on the 29 October 2001, a Petition to Reopen Bar Matter 986, which was responded to by the Court on 27 November 2001 with a Resolution noting "without action" the said petition and further resolving that no further pleadings would be entertained.

Purisima then filed on 2 July 2002, a Motion for Due Process stating his reasons why in his Petition to Take the 1999 Bar Examinations why he stated that he was enrolled in and regularly attending the pre-bar review course at the PLS and not at the UST where he in fact took the said course. As evidence of such statement, he presented the Certification of Dean Amado L. Dimayuga of the UST Faculty of Civil Law dated 22 July 1999. Purisima explained that the statement in the petition stating that he was enrolled in the PLS was a "self-evident clerical error and a mere result of an oversight," and thus "not tantamount to a deliberate and willful declaration of a falsehood."[62] He explained that he requested his schoolmate and friend to fill up the petition for him, to have it notarized, and then to file it for him with the Office of the Bar Confidant (OBC). Purisima admitted that he did not check the veracity of the statements contained in the petition since he was "consumed with his preparations for the up-coming bar examinations."[63] He further asserted that a week after the filing of the petition to take the bar, he submitted the Certification of Completion of the Pre-Bar Review as Annex "D" of his petition to prove that he actually enrolled and attended the pre-bar review course in UST.

Accompanying his Motion for Due Process to corroborate his enrollment in UST, Purisima attached the official receipt of payment for his tuition for the pre-bar review course, his identification card, car pass to the UST campus, various affidavits from classmates, a professor, maintenance staff, and office clerk of the UST Faculty of Civil Law attesting that he regularly attended classes and was officially enrolled in and had completed the said course during the period of 14 April 1999 to 24 September of the same year. He also explained that his failure to submit the Certification of Completion within the sixty-day period from the last day of the bar examinations was because he thought that the Certification of Completion issued by Dean Dimayuga was sufficient to confirm not only his enrollment in UST but also his completion of the pre-bar review course.

On the 17 September 2002, Purisima's father wrote a letter addressed to Chief Justice Hilario G. Davide, expressing concern for his son and giving the same explanations made by his son in the latter's Motion for Due Process.

---

62. *Id.* at 586.

63. *Id.*

In such letter, he posed the following question to the Court, "If there was really a falsehood and forgery in paragraph 8 and Annex "D" of the Petition, which would have been a fatal defect, *why then was his son issued a permit to take the 1999 Bar Examinations?*"

B. The Findings and Recommendations of the Office of the Bar Confidant

The Court issued a resolution on the 1 October 2002, ordering the OBC to conduct a summary hearing on the 30TH of the same month. During such hearing, the Bar Confidant asked clarificatory questions from Purisima who appeared before the same along with his father and Ms. Lillian Felipe, his schoolmate/friend who filled and submitted his Petition. Based on its findings, the OBC recommended that the Court give due credit to Purisima's explanations and likewise give consideration to his Petition for Due Process based on the following reasons.

First, with regard to the disqualification on the ground of his alleged dishonesty manifested in the statements made in his Petition to Take the 1999 Bar Examinations, the OBC took note of the case of Victor Rey T. Gingoyon in Bar Matter No. 890, wherein Gingoyon stated in his Petition to Take the 1998 Bar Examinations that the charge of grave threats against him was still pending before the Municipal Trial Courts in Mandaue, when in fact, the decision of the MTC was already promulgated with a ruling convicting him of the alleged crime. This notwithstanding, Gingoyon was allowed to take the lawyer's oath, with the Court noting that the two years that passed since the filing of his Petition was enough time to be deprived of the privilege of taking the Oath. In view of the case of Purisima, the OBC ruled that the same kindness and compassion should be extended to the latter, due to the fact that he was already deprived of the same privilege for three years without even being convicted of any criminal offense.

Second, as regards the failure to submit the required certification of completion of the pre-bar review course within sixty days from the last day of the bar examinations, the OBC decided that Purisima's explanation for such omission was impressed with merit. To justify such decision, the OBC also took note of the cases of three (3) other applicants in the 1999 Bar Examinations who were subsequently granted their Motions for Reconsideration and allowed to take the lawyer's oath after being disqualified from doing so.

The OBC again drew parallels between the cases of the three applicants and that of Purisima as regards their explanations why they failed to file the required certificate of completion within the compulsory period. In the case of one applicant, Josenio Reoma, his explanation that it was his honest belief and assumption that the University of the Philippines College of Law, where he took his review course, had filed the required Certification together with

the other necessary documents and such were accepted by the Court. Similar acceptance was made of the explanation given by Ma. Salvacion Revilla that her failure was due to her erroneous impression that only the Certification of enrollment and attendance was needed. The same was also done in the case of Victor Tesorero, who rationalized that his failure was on account of his honest and mistaken belief that he had substantially complied with the requirements for admission to the Bar Examinations because he thought that the required certificate of completion of the pre-bar review course was the same as the certificate of enrollment and attendance in the said course. Hence, as the three foregoing explanations were given credence by the Court, the same should also be done in the case of Mark Purisima.

C. The Decision of the Supreme Court

In deciding whether or not Purisima committed falsehood and forgery in stating that he completed his pre-bar review course in the UST, and whether he may take the lawyer's oath and be admitted to the Bar, the Court ruled in favor of Purisima, giving due consideration to the OBC's recommendation and ruling that the same were impressed with merit.

The Court gave credence to the testimonies of Purisima and Felipe as the same were adequately supported by documentary evidence that proved that the former was actually enrolled and in fact completed the required course in UST. It ruled that though the Certification issued by Dean Dimayuga was defective as it certified completion of the pre-bar review course which was, at the time of such issuance, still on-going, this defect was not attributable to any participation on the part of Purisima. According to the Court, the fact remained that such certification as issued by the UST was genuine as supported by the affidavit of the UST Faculty of Civil Law office clerk who release the certificate to Purisima. Germane to this finding of genuineness, the Court also took note of the fact that there was nothing on record impugning the authenticity of the certification and other documentary evidence presented to dispute the same.

The Court likewise noted the uncertainty as to whether Purisima regularly attended his review classes and made what may be perceived as a rather dangerous and particularly lenient pronouncement by stating that "the reality of our bar reviews render it difficult to record the attendance religiously of the reviewees every single day for several months."[64]

In response to the OBC's citation of previous Bar Matters wherein the Court displayed a measure of compassion and kindness, the Court ruled that similar treatment must be awarded to Purisima, in view of the fact that the deprivation of the privilege to take the lawyer's oath for some years already

64. *Id.* at 590.

constituted sufficient penalty for the grounds for disqualification. Petitioner Purisima was, therefore, given the benefit of the doubt and allowed to take the lawyer's oath and to be admitted to the Philippine Bar as he passed the Bar Examinations of 1999. He was further allowed to sign the Roll of Attorneys upon payment of the required fees.

IV. ANALYSIS

A. Competence and the Good Moral Character Requirement

Among the qualifications that must be possessed by every applicant for admission into the practice of law, two qualifications of relevance to this instant case the requests of educational qualifications[65] and good moral character.[66] *Purisima* highlights these two requirements of competence and character. As proof of competence, one who shall take a re-examination is required to have attended review classes. As for the character requirement – one is held to his statements or verified application as if it were an act of dishonesty to place a mistake therein.

Regarding the qualification of being an individual imbued with good moral character, it has been held that the standard of personal and professional integrity is not satisfied by such conduct as merely enables a person to escape the penalty of criminal law.[67] Good moral character includes, at the very least, common honesty.[68] Indeed, "…from a lawyer…are expected those qualities of truth-speaking, a high sense of honor, full candor, intellectual honesty, and the strictest observance of fiduciary responsibility – all of which, throughout the centuries, have been compendiously described as "moral character."[69] In *Purisima,* this common honesty was taken seriously when the Court initially deemed Purisima's confused application paper as an act of dishonesty. In view of the sensitive definition of good moral character, it has thus been held that an applicant for admission to the bar is not of good moral character if he made a false

65. REVISED RULES OF COURT, Rule 138, §§ 5-6.

66. *Id.*, § 2.

67. AGPALO *supra note* 1, at 55 (2002).

68. Rayong v. Oblema, 7 SCRA 859 (1963). *See also In re* Del Rosario, 52 Phil. 399 (1928).

69. Justice Fred Ruiz Castro, *Apostacy in the Legal Profession,* 64 SCRA 748, 789-790 (1975).

statement in his application.[70] Hence, Purisima was initially not allowed to take the oath.

Not only must applicants show that they have pursued and satisfactorily completed in an authorized and recognized university, college or school a four-year high school course, a college bachelor's degree in the arts or sciences, and a four-year bachelor's degree in law course, but an additional educational pre-requisite is imposed on applicants who fail in the bar examinations for three times. Candidates who fail three times in the examinations are disqualified from taking another examination, unless he has shown to the satisfaction of the Court that he has enrolled and passed regular fourth year review classes as well as attended a pre-bar review course in a recognized school. In order to evidence fulfillment of this requirement, he must submit not only a certification under oath by the professors of the individual review subjects attended by him that he has regularly attended classes and passed the subjects under the same conditions as an ordinary student, but also the rating obtained by him in the particular subject.[71]

Such are the premises laid down for the stringent rules initially applied in Purisima's case. However, as the decision went, the Court may consider the circumstances that are attendant in every individual disqualification case. After all, the definition of good moral character remains an elusive object, only defined by what the Court has decided in previous jurisprudence.

B. Comparative Analysis

Three circumstances must be pointed out first before further discussion. First, *Purisima* dealt with a situation wherein the individual concerned passed the bar examination but was not allowed to take the lawyer's oath. By an antecedent act or omission, Purisima was found ineligible to take the oath. This is very similar to the previous situation in *Argosino,*[72] although in the *Argosino* case, it was because of an undermining in the requirement of good moral character that the Supreme Court disqualified applicant – a qualification that is more subjective rather than the textual objective requirement of submission of the certificate of completion of pre-bar review course dealt with in *Purisima*.

Second*, Purisima* dealt with a textual requirement – that of submitting a certification to the effect that the re-examinee has taken a review course. The case of *Diao* may also be said to have dealt with an objective

70. AGPALO, *supra note* 1, at 55 (2002) (citing Spears v. State Bar, 211 Cal 183, 294 P. 697 (1930). *See also* Diao v. Martinez, 7 SCRA 475 (1963)).

71. RULES OF COURT, Rule 138, § 16.

72. *In re* Argosino, 270 SCRA at 26.

requirement, proof of a pre-bar course. What may be pointed out as different between *Purisima* and *Diao* is the promulgating body – the requirement in *Purisima* is from the Supreme Court whereas in *Diao*, the rule on pre-bar courses at the time was merely required by a government agency (Department of Private Education), rather than the Supreme Court, which by virtue of the 1987 Constitution[73] has the power to promulgate rules and regulations regarding the admission to the practice of law.

Third, though not tacitly tackled by the Court, *Purisima* involved a situation wherein the applicant was the indirect but still the *proximate* cause of the failure to comply with a requirement. The question of intent then becomes an issue as well as the negligence and the acts of the applicant that may be construed as to have caused his disqualification. Such question of fact will be important later in comparing how intent was *not* taken into consideration as an element in determining cause for disbarment in other cases such as in *Lanuevo*[74] where the dishonest act itself was taken to have been coupled with a deceitful intent.

In *Diao,* a very strict Court evinced by a relatively short decision caused the removal of one who was already in the roll of attorneys. The Court drove the point by simply stating that it found no cause to accept the explanation of *Diao* with regard to his misrepresentation as to his educational qualifications, and by reason of this misrepresentation, he was thereby removed from the roll of attorneys. The requirement of completion of a pre-legal course was promulgated by the Department of Private Education, a mere agency of the government. While the wisdom and substantive basis for which the said Department set the requirement was not questioned, the decision applied a strict ruling and removed the applicant because he not only made a false petition, but also that he never took the required pre-bar. This is in stark dissimilarity with the decision in *Purisima.* The requirement of submission of the certificate of completion of pre-bar review course was not initially submitted by the petitioner examinees, but they were allowed to

---

73. PHIL. CONST. art. VIII, § 5 (5) provides:

 The Supreme Court shall have the following powers:

 x x x

 (5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the *admission to the practice of law*, the integrated bar, and legal assistance to the underprivileged. (emphasis supplied).

74. *In re* Lanuevo, 66 SCRA at 245.

take the examinations, provided they submit the said certificate within sixty days from the last day of examinations.[75]

It is quite puzzling at this point why the Court would have allowed Purisima to take his lawyer's oath where the Rules of Court[76] clearly provided for a requirement, which was not complied with by the examinee. Has the Court deviated from their stringent stance in *Diao*? It is submitted that they have not, for a number of reasons. The Court took into consideration the fact that Purisima, in truth, completed the pre-bar review course, although not in PLS but in UST. Hence, the Court had simply made an inquiry of fact and found out that the circumstances required by the textual provisions of the Rules were complied with *de facto*.

Though at first, the application form submitted by Purisima misled the Court into thinking that he completed the pre-bar review in PLS, which has actually stopped offering the course since 1967, the court in the end allowed Mark Purisima to take the lawyer's oath after the latter has sufficiently demonstrated to the court that he had indeed completed the said course, albeit in a different school.

This issue of inquiry as to the facts and circumstances attendant to an applicant's individualized case was brought to the limelight in *Argosino*. Argosino was disqualified because of a dent in his moral character, but the Court allowed him to take the lawyer's oath because he presented sufficient proof showing compliance with the requirement of good moral character. Of course such requirement is very subjective and is dependent on the unique circumstances of each case.

The Court here centered on good moral character as a requirement *before* the lawyer's oath may be taken. By analogy, if the Certification of Completion of a pre-bar review course (as a requirement before lawyer's

---

75. *See In re* 1999 Bar Examinations, B.M. No. 986, Supreme Court Resolution, Apr. 13, 2000. "These examinees were each furnished a copy of the Resolution of the Court allowing them 'to take the 1999 Bar Examinations, subject to the CONDITION that they shall submit to the Court the required certification of completion of the pre-bar review course within sixty (60) days from the last day of the examinations.'"

76. RULES OF COURT, Rule 138, §16. "Candidates who have failed the bar examinations for three times shall be disqualified from taking another examination unless they show to the satisfaction of the court that they have enrolled in and passed regular fourth year review classes as well as attended a pre-bar review course in a recognized law school."

    No mention is made in the case as to whether Purisima failed the examinations thrice but this essay presumes that he did, otherwise, the said certificate would logically not be required.

oath may be taken), is not submitted but later on the Court is satisfied through submission of proof that the said course was indeed taken, the Court may nevertheless allow the successful examinee to take his oath. At another level, if such certificate was later on submitted but contained a fact different from that stated in the Petition to Take the Bar Examination, upon showing that the previous "misrepresentation" was due to mere inadvertence or oversight, then again the examinee may be allowed to take the lawyer's oath. Further, the court in *Purisima* also took equity into consideration, stating thus: "The court is well aware of the instances in the past when as a measure of compassion and kindness, it has acted favorably on similar petitions. In his letter petitioner's father pleaded that 'the denial of permission for Mark to take his oath for about three years now should be enough penalty.' It is time to move on."[77]

Diao is authority for saying that requirements prior to taking the lawyer's oath must be strictly complied with. *Lanuevo* took this doctrine a step further and reiterated the point that if one is unable to comply with a requirement, he may not be a lawyer (or may be disbarred if already admitted as member of the bar). *Argosino* supplied the heart of the doctrine by saying that submission of proof (in a proper proceeding) of possession of the seemingly omitted or breached qualification may be reason for the Court to allow the petitioner to take the lawyer's oath. In sum, *Purisima* did not deviate from the previous strict standpoint but merely provided an insight into the Court's policy consideration with respect to such instances.

C. On the Common Law Considerations of Equity and Intent

Purisima could have been resolved textually, that is, by applying the clear mandate of the requirements of the law prior to taking the Bar Examination. However, it seems that equity took the better of the Court. It did not punish Purisima for his negligence in filing his application to take the Bar Examinations, even if he committed an act that amounted to disrespect to the Court and to the profession. Even then, the Court was not amiss in admonishing Purisima. In the matter of Purisima's action of asking his schoolmate-friend Ms. Lilian Felipe to file the petition for him, the Court said that if only he checked the petition, he would have found out that Ms. Felipe had erroneously filled it up.

In this regard, the previously cited case of *Lanuevo* is didactic. The Court therein said that intent is immaterial in determining whether the examinee Roman Galang should be disbarred or not. More specifically, possible, presumed, or actual good faith is not a factor. His name was stricken from the roll of attorneys simply because he really did not meet the minimum

77. *In re* Purisima, 393 SCRA at 584, 590.

average for the Bar Examinations. Whether Galang had an involvement in Lanuevo's act of having the former's exam scores changed was not pivotal in arriving at the decision. The decision hinged on the manifest insufficiency of Galang's examination scores, which is also a requirement or a qualification, among others, before one can take the lawyer's oath. Thus applying the same principle in *Purisima,* whether or not Purisima intended to misrepresent the item in his petition take the Bar Examination is not a factor. Purisima showed the Court that he took the pre-bar review course in UST. If, however, Purisima was merely able to show that the misrepresentation was caused by a third party alone, but he failed to show that he indeed completed the pre-bar review course, it should follow that the Court would not allow him to take the lawyer's oath. He may be in good faith, but as weighed by the scales specially made for aspiring lawyers, he does not measure up. Consequently, where negligence is something not to be desired but is something to be cautioned against, it should not be taken as a factor *if* the applicant shows a willingness to prove that he complied with the requirement and was merely prevented from effecting proper fulfillment by justifiable reasons. This however should be limited to the degree of negligence exhibited by Purisima, and should not extend to negligence amounting to ignorance of the law. If an act of negligence is so grave as to amount to gross ignorance of the law, it would blatantly show that a person is ill-equipped for the practice of law, which must entail the Court's strict ruling of hindering the said person from becoming a lawyer, without prejudice to due process.

D. On Law Schools and the Competence Requirement

Notwithstanding the relatively lenient ruling in favor of Purisima, the Court, in what may appear as *obiter dicta*, expressed growing concern over the "apparent laxity of law schools in the conduct of their pre-bar review classes," further making the observation that the attendance of reviewees is not closely monitored by such schools, "such that some reviewees are able to comply with the requisite with minimal attendance."[78] What is required by the ratio of the law is attendance in such review courses, not mere enrollment. Sadly, it would seem that the only evidence that may be provided for are the enrollment papers because most law schools do not check attendance in review classes.

The Court, in contrast to its show of compassion and kindness to Purisima, further admonished the legal community to bear in mind that this requirement of enrollment and completion of the pre-bar review course, especially for those who failed the Bar Examinations three times is not an

78. *Id.*

idle ceremony; rather, it is intended to ensure the quality and preparedness of those applying for admission to the bar.[79]

The Court in essence admitted that it has no control over the education of law students. The requirement of competence and the quality of education are measured by the Bar Examinations, but the process of education itself remains within the exclusive control of law schools. The Court can only promulgate rules as to the process of admission to the bar.

Though the Court demonstrated sympathy in Purisima's case and that of the previous Bar Matters as cited by the OBC, its *ratio decidendi* must be criticized as being replete with inconsistencies in the application of what is mandated by the law. While praises may be hailed for the equitable decision it made in the instant case, the Court went further in expressing concern over the leniency as to the attendance requirement and further asserting that strict adherence to the requirement is necessary. Half of the Supreme Court's face is angry while the other half is of a smiling compassion.

V. CONCLUSION

The mandate of the Rules of Court is clear. As regards the requirements for those who failed the Bar Examinations three times, what should be present is enrollment and attendance in the pre-bar review course. Though the qualification of such attendance being regular is not directed by the Rules of Court, the Court ruled that insisting on strict compliance with the requisites outlined in the law "may be literally asking for the moon, *but it can be done*."[80]

What is inconsistent about this portion of the Court's ruling is that though it recognized the reality that bar reviews have grown lax in its monitoring of reviewees' attendance in the same, such requirement is not placed in the law to serve as a futile exercise of ensuring the quality of those admitted into the practice of law. Moreover, the discrepancy in the Court's optimistic attitude towards the difficulty, but not impossibility in demanding strict compliance with the law does not correspond with its lenient treatment of the *Purisima* case and that of similar cases in the past.

It cannot be doubted that the Supreme Court's task in determining who are qualified to the practice of law is a heavy and demanding one. As regards the educational requirements *vis-à-vis* the requirements imposed on those who fail the bar three times, what should not be disregarded by the Court is that "[t]he practice of law is a privilege granted only to those who possess the

---

79. *Id.* at 590-91.

80. *Id.* (emphasis supplied).

strict intellectual and moral qualifications required of lawyers who are instruments in the effective and efficient administration of justice."[81]

In interpreting what "strict intellectual and moral qualifications" are, the Court must look to the purpose behind the requirements outlined by the Rules of Court and the corresponding objectives that they seek to achieve. That is the reason why the Court made inquiries as to the facts and attendant circumstances in *Purisima* and in previous cases.

The textualist view on the *Purisima* ruling would argue that the decision should not have been grounded on the basis of compassion and kindness, but rather on the strict adherence to what is mandated by the law. However, the Court, in equity, has suspended a different ruling and imposed one filled with considerations in equity and facts.

Equity considerations may blur construction of rules, but the ratio of the law may be served by what is in reality, an allowable circumstance such as in the case at bar, where the applicant took a review class, but because of a mistake in the filling up of forms, the negligence was initially seen as an act of dishonesty, enough to taint the *character* requirement.

The Bar Examinations test for competence. All other acts prior, during, and after the examination, within and without the practice of law, point to the character of the applicant. The Court in Purisima recognized that the competence requirement was passed because the applicant, in reality, did attend review classes. The character requirement was not found to have been besmirched by the mistake in filling up of the petition. Considering that it was merely clerical in nature, no act of dishonesty was intended. Hence, intent was seriously looked into to determine the character of the applicant, which in this case, gave the Court enough leeway to decide in favor of the applicant not only as a matter of equity, but of what in the words of Justice Holmes may be said to be "liberal pragmatic" considerations.

As regards the matter of moral standards and in light of the previous disquisition on the responsibilities charged of its members, the Bar has been held to:

> …not enjoy prerogatives; it has been entrusted with anxious responsibilities… From a profession charged with such responsibilities, there must be exacted those qualities of truth speaking, of a high sense of honor, of the strictest observance of fiduciary responsibilities that have, throughout the centuries, been compendiously described as 'good moral character.'[82]

---

81. *In re* Argosino, 270 SCRA at 26, 30.

82. Schware v. Board of Bar Examiners, 353 US at 232, 249 (separate opinion of Frankfurter, J.).

It is after all, a major premise that, as a notable jurist once mentioned:

> '…membership in the bar is in the category of a mandate of public service of the highest order. A lawyer is an oath-bound servant of society whose conduct is clearly circumscribed by inflexible norms of law and ethics, and whose primary duty is the advancement of the quest of truth and justice, for which he has sworn to be a fearless crusader.'[83]

It is with the foregoing considerations that the competence and character requirement must be examined. Not only must the decision be based on facts and circumstances attendant to every individual case – the decision must be based on principles and policies that imbue the law with a purpose.

---

83. Castro, *supra* note 69, at 784, 790.