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DEDICATED TO OUR LADY, SEAT OF WISDOM

LUST FOR MONEY: THE CURSE OF THE LEGAL PROFESSION†

*Jose C. Cordova**

If King Louis XIV were only alive today, he would certainly decry the present pursuit of modern man for everything that is material and tangible, for those artistic curves, the appeal to the senses of which is immediate and primitive. Gone were the passion for art, the pageantry of a Roman holiday, the Parisian gallery and the operas of Vienna. The little that remains of these things and the few who dedicate themselves to art belong to that breed of *psychopaths* and *neurotics*, as a present-day psychiatrist would put it. And the latter in a way is justified for modern man thinks and acts in terms of matter. Materialism is the rule of the day.

Twentieth century man moves onward — onward into outer space. And while progress is made, the need for money increases. Commerce, dollars, reserves, austerity, exchange — all these are the results of the mad rush for more money. The more money a nation has, the stronger it is; the more money a man has, the more honorable his place in society is. Where that money comes from is not questioned; the fact is he has much money.

This general tendency has infiltrated all branches of human endeavor, the legal profession not to be excepted. The spirit of commercialism has invaded the legal fraternity and to that extent has served to lower its standards.

It is really unfortunate that throughout the ages and in all civilized countries there has existed a strong prejudice against the law and the lawyer. Cicero at the heyday of Rome's greatness exclaimed, "O the times! O the laws!" Shakespeare in *King Henry VI* makes one of his characters say, "The first thing we do, let's kill all the lawyers." Napoleon was wont to stigmatize lawyers and had an ingenious plan to starve them by legislation. Yet, the emperor in exile was supposed to have said: "My glory is not to have won forty battles. Waterloo will destroy the

† From the files of Deogracias T. Reyes, Dean of the Ateneo College of Law.

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memory of those victories. But nothing can blot out my civil code. That will live eternally." Add to this perennial prejudice the gimmicks and tactics employed by some lawyers as collecting fees from their clients and you will have a down-to-earth degraded profession. As Judge Sharwood says rightly, "A horde of pettifogging, barratrous, custom-seeking, money-making lawyers, is one of the greatest curses with which any state or community can be visited."

The Canons of Legal Ethics succinctly declare that the legal profession is a branch of the administration of justice and not a mere money-making trade. But in spite of this time-honored principle, some lawyers have gone astray.

To illustrate the pernicious practice of some lawyers who forget the high purpose of advocacy and convert it into a mere money-getting trade, a true and actual case comes to mind, taken from the files of the Law Office of Deogracias T. Reyes and Associates. The case, however, is pending appeal, and, therefore, all names have to be fictitious. The case, runs as follows:

A woman was the petitioner in a special proceeding for the settlement of the estate of her deceased husband. She engaged the services of an attorney whom she made as her attorney of record. At the hearing of the petition, Atty. X happened to be around the court's premises. During the recess, Atty. X approached the petitioner and offered his services alleging that he was a very good friend of the judge and that he could easily settle matters.

The woman innocently accepted his offer of services and orally agreed to pay him on a piece-work basis, since she had already hired an attorney of record. Atty. X did appear for the petitioner several times and the latter paid him for every appearance, the aggregate sum of which amounted to the grand total of two thousand pesos. During all the time however that this attorney was appearing for the petitioner, he incessantly tried to make the latter sign a contract of professional service for P5,000.00. The petitioner, however, adamantly refused.

When a motion for reconsideration on certain matters was brought up to the Court of Appeals, this lawyer attached thereto as an annex to his pleading a contract of professional services which was antedated and allegedly signed by the petitioner. Upon being confronted with this perfidy, Atty. X, completely animated by the spirit of revenge and vindictiveness, sued the poor woman for estafa. Fortunately, this case was dismissed.

But the lawyer did not stop there. He sued the client for payment of fees on the basis of *quantum meruit*. During the hearing this case Atty.

X, appearing as his own witness, admitted certain facts which he denied in his reply to the answer of the petitioner to his complaint. Moreover, certain exhibits previously identified during the trial were surreptitiously changed with other documents when formally presented to the court for admission. Certain exhibits were lost. All these are parts of an abortive attempt to exact from his client his pound of flesh.

The Manila Court of First Instance which decided the case, ever alert and vigilant in safeguarding the honor and prestige of the law profession, did not only deny the plaintiff-lawyer's demands for more monetary compensation but also recommended that he be dealt with administratively.

Certainly the acts exhibited by the attorney are canard and dastardly and his brothers in the profession should in conscience, if not for anything else, disown him. Cases like this may not be everyday happenings. But, sometimes they do happen with slight variations in our courts of justice, (as did the Manila Court of First Instance). You might ask why. In this modern age money seems to clinch everything. A lawyer who can collect much from his client deservedly or undeservedly gets a sanction from some quarters. But is money the be-all and end-all of everything? Not even businessmen live only for money; with greater reason lawyers should not live only for money.

But a lawyer, one might say, has got to live, and in order to live, he must eat and drink. Yes, of course, and our own Rules of Court do not neglect the right of a lawyer to collect fees for his professional services. Section 22 of Rule 127 provides:

An attorney shall be entitled to have and recover from his client no more than a reasonable compensation for his services, with a view to the importance of the subject matter of the controversy, the extent of the services rendered, and the professional standing of the attorney. No court shall be bound by the opinion of attorneys or expert witnesses as to the proper compensation, but may disregard such testimony and base its conclusion on its own professional knowledge. A written contract or services shall control the amount to be paid therefor unless found by the court to be unconscionable and unreasonable.

The Canons of Legal Ethics similarly recognize the lawyer's right to his fees. There is only one limitation, "within bounds of law and equity." Section 12 of the Canons of Legal Ethics beautifully declares:

In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade.

A lawyer should, as much as is humanly possible, avoid controversies with his client on the matter of fees. The same Canons of Legal Ethics is specific on the point:

Controversies with clients concerning compensation are to be avoided by the lawyer, as far as shall be compatible with his self-respect and with his right to receive reasonable recompense for his services; and lawsuits with clients should be resorted to only to prevent injustice, imposition or fraud.

Ateneo graduates are trained to be Christian lawyers and Christian lawyers fight for Christian principles, one of which is "Man doth not live by bread alone."

An incident in the life of Lincoln on the matter of attorney's fees is indeed very enlightening. Wood Hill Lamon, a law partner of Lincoln, in his book *Recollections of Abraham Lincoln*, tells of the following incident which happened in their law practice: "A gentleman by the name of Scott placed in my hands a case involving property valued at \$10,000 belonging to a demented sister. A fee was agreed upon. The case, however, gave little trouble and was tried inside of twenty minutes. At the successful conclusion, Scott was satisfied and cheerfully paid over the money to me inside the bar, Mr. Lincoln looking on. Scott then went out and Mr. Lincoln asked, 'What did you charge that man?' I told him \$250. Said he: 'Lamon, that is all wrong. The service was not worth that sum. Give him back at least half of it.'

"I protested that the fee was fixed in advance; that Scott was perfectly satisfied, and had so expressed himself. 'That may be,' retorted Mr. Lincoln, with a look of distress and of disguised displeasure, 'but I am not satisfied. This is positively wrong. Go, call him back and return half the money at least, or I will not receive one cent of it for my share.'

"I did go, and Scott was astonished when I handed back half the fee.

"This conversation had attracted the attention of the lawyers and the court. Judge David Davis, then on our circuit bench, called Mr. Lincoln to him. The Judge never could whisper, but in this instance he probably did his best. At all events, in attempting to whisper to Mr. Lincoln he trumpeted his rebuke in about these words, and in rasping tones that could be heard all over the court room: 'Lincoln, I have been watching you and Lamon. You are impoverishing this bar by your picayune charges of fees, and the lawyers have reason to complain of you. You are now almost as poor as Lazarus, and if you don't make people pay you more for your services you will die as poor as Job's turkey!'

"Judge O. L. Davis, the leading lawyer in that part of the state, promptly applauded this malediction from the bench, but Mr. Lincoln was immovable. 'That money,' said he, 'comes out of the pocket of a poor, demented girl, and I would rather starve than swindle her in this manner.'

"That evening the lawyers got together and tried Mr. Lincoln before a moot tribunal called 'The Ogmathorial Court.' He was found guilty and fined for his awful crime against the pockets of his brethren of the bar. The fine he paid with good humor, and then kept the crowd of lawyers in uproarious laughter until after midnight. He persisted in his revolt, however, declaring that with his consent his firm should never during its life, or after its dissolution, deserve the reputation enjoyed by those psychopaths of the profession, 'Catch 'em and cheat 'em.'"

Shall we try to be another Lincoln at least in the matter of fees?