

The Lawyer's Oath: Its Significance and Importance

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What is an oath? The Dictionary defines it as: "A solemn appeal to God, or in a wider sense, to any sacred or revered person or sanction for the truth of an affirmation or declaration or in witness of the inviolability of a promise or undertaking."¹ As early as *Alvarez v. Court of First Instance*,² the Supreme Court explained its meaning in this wise:

In its broadest sense, an oath includes any form of attestation by which a party signifies that he is bound in conscience to perform an act faithfully and truthfully. It is an outward pledge given by the person taking it, that his attestation or promise is made under an immediate sense of his responsibility to God.³

Section 17 of Rule 138 of the Rules of Court states that an applicant who has passed the required examination, or has been otherwise found to be entitled to admission to the bar, shall take and subscribe before the Supreme Court an oath of office. The new lawyer swears before a duly constituted authority as an attestation that he or she takes on the duties and responsibilities proper of a lawyer. More particularly, form 28 of the Judicial Standard Forms prescribes the following oath to be taken by the applicant:

I, _____ of _____, do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly

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1. The author used his Desktop Webster's Dictionary. Other dictionaries offer almost the very same definition.
2. *Alvarez v. CFI*, 64 Phil 33 (1937).
3. *Id.* at 43.

constituted authorities therein; I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients; and I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion. So help me God.

The taking of this oath is a condition to the admission to practice law and may only be taken before the Supreme Court by a person authorized by the high court to engage in the practice of law. And what is the nature of a lawyer's oath? In the case of *Sebastian v. Calis*,⁴ the Supreme Court held that: "A lawyer's oath is not mere facile words, drift and hollow, but a sacred trust that must be upheld and kept inviolable."⁵ The substance and gravity behind these words may be understood in the light of the substance and gravity behind the oath being taken. In a sense, the oath embodies the ideals by which a lawyer lives by in the practice of the legal profession. This is why the lawyer's oath has been likened to a condensed version of the canons of professional responsibility. This seems to have been confirmed in *Endaya v. Oca*,⁶ where it was held that: "The lawyer's oath embodies the fundamental principles that guide every member of the legal fraternity. From it springs the lawyer's duties and responsibilities that any infringement thereof can cause his disbarment, suspension or other disciplinary actions."⁷

An oath is thus any form of attestation by which a party signifies that he is bound in conscience to perform an act faithfully and truthfully. What then does a lawyer promise to perform faithfully and truthfully when he takes on the oath upon being admitted to the practice of law? It is the very practice of his duties and responsibilities as a lawyer. The gravity of the oath is grounded on two important things: on the duties of a lawyer and on the fact that he or she makes a solemn promise before God to undertake these duties faithfully. When a great amount of trust is placed on such an office, then a corresponding sense of integrity and responsibility is expected of those who take on that office. The legal profession is one such office laden with a great amount of trust. In the hands of the lawyer is entrusted not only the power to steer the course of some client's personal or business future but more importantly, the very nature of the legal profession presupposes a certain moral burden that demands personal integrity. As stated by the Supreme Court:

4. *Sebastian v. Calis*, 314 SCRA 1 (1999).

5. *Id.* at 7.

6. *Endaya v. Oca*, 410 SCRA 244 (2003).

7. *Id.* at 251.

Lawyers are expected to abide by the tenets of morality, not only upon admission to the bar but also throughout their legal career, in order to maintain one's good standing in that exclusive and honored fraternity. Good moral character is more than just the absence of bad character. Such character expresses itself in the will to do the unpleasant thing if it is right and the resolve not to do the pleasant thing if it's wrong. This must be so because vast interests are committed to his care; he is the recipient of unbounded trust and confidence; he deals with his client's property, reputation, his life, his all.⁸

A lawyer is said to be the servant of the law and belongs to a profession to which society has entrusted the administration of law and the dispensing of justice. For this reason, a lawyer's oath impresses upon him the responsibilities of an officer of the court upon whose shoulders rest the grave responsibility of assisting courts in proper, fair, speedy and efficient administration of justice.

In fact, it may be understood that the words contained in the oath of office summarize the main duties and responsibilities a lawyer is supposed to take on in the practice of law. In other words, every time an oath of office is taken, the person making the statement in effect states that in taking it, he or she promises to conscientiously fulfill the duties entrusted to the office. These duties are enumerated in Section 20 of Rule 138, thus:

It is the duty of an attorney:

- (a) To maintain allegiance to the Republic of the Philippines and to support the Constitution and obey the laws of the Philippines;
- (b) To observe and maintain the respect due to the courts of justice and judicial officers;
- (c) To counsel or maintain such actions or proceedings only as appear to him to be just, and such defenses only as he believes to be honestly debatable under the law;
- (d) To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth and honor, and never seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law;
- (e) To maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client, and to accept no compensation in connection with his client's business except from him or with his knowledge and approval;
- (f) To abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged;

8. *Cordon v. Balicanta*, 390 SCRA 299, 316 (2002).

(g) Not to encourage either the commencement or the continuance of an action or proceeding, or delay any man's cause, from any corrupt motive or interest;

(h) Never to reject, for any consideration personal to himself, the cause of the defenseless or oppressed;

(i) In the defense of a person accused of crime, by all fair and honorable means, regardless of his personal opinion as to the guilt of the accused, to present every defense that the law permits, to the end that no person may be deprived of life or liberty, but by due process of law.⁹

In order to fulfill these duties, every lawyer is expected to live by a certain mode of behavior now distilled in what is known as the Code of Professional Responsibility.¹⁰ The Code mandates upon each lawyer, as his duty to society, the obligation to obey the laws of the land and promote respect for the law and legal processes. Specifically, he is forbidden to engage in unlawful, dishonest, immoral or deceitful conduct.¹¹ In essence, all that is contained in this Code is succinctly summarized in the oath of office taken by every lawyer. It is of little surprise to find that in *Magdaluyo v. Nace*¹² the Supreme Court declares that the lawyer's oath is a source of obligations and violation thereof is a ground for suspension, disbarment or other disciplinary action. In the case of *Businos v. Ricafort*,¹³ the Supreme Court also held that:

By swearing the lawyer's oath, an attorney becomes a guardian of truth and the rule of law, and an indispensable instrument in the fair and impartial administration of justice – a vital function of democracy, a failure of which is disastrous to society. While the duty to uphold the Constitution and obey the laws is an obligation imposed upon every citizen, a lawyer assumes responsibilities over and beyond the basic requirements of good citizenship. As servant of the law, a lawyer ought to make himself an

9. RULES OF COURT, Rule 138 § 20.

10. CODE OF PROFESSIONAL RESPONSIBILITY, promulgated June 21, 1988. This Code was initially drafted by the Committee on Responsibility, Discipline, and Disbarment of the Integrated Bar of the Philippines, composed of Dean Irene Cortes as Chairman, Justice Carolina Griño-Aquino, Attys. Gonzalo W. Gonzales, Marcelo B. Fernan, Camilo Quiason, Jose F. Espinosa and Carmelo V. Sison as members, former Chief Justice Concepcion and former Justice Jose B.L. Reyes as consultants, and Prof. Myrna S. Feliciano and Atty. Concepcion-Lim Jardeleza as resource persons.

11. *Cordon v. Balicanta*, 390 SCRA 299 (2002).

12. *Magdaluyo v. Nace*, 324 SCRA 384 (2000).

13. *Businos v. Ricafort*, 283 SCRA 407 (1997)

example for others to emulate. He should be possessed of and must continue to possess good moral character.¹⁴

In *Brion, Jr. v. Brillantes, Jr.*¹⁵ the Supreme Court also ruled: “the lawyer’s primary duty as enunciated in the attorney’s oath is to uphold the constitution, obey the laws of the land and promote respect for the law and legal processes. That duty in its irreducible minimum entails obedience to the legal orders of the court.”¹⁶ The importance and significance in upholding the sanctity of a lawyer’s oath have been highlighted by the Supreme Court in the various rulings it made involving disciplinary actions of members of the legal fraternity.

The Real World of the Legal Practice

While it is true that these ideals by which every lawyer swears to live by remain sublime, the same ideals often hardly motivate some lawyers in the real world of legal practice. Instead of high ideals, less honorable reasons and more pragmatic considerations – often financial and material in nature – take hold of many a cynical and hardened lawyer. This has been the cause of lament and expressions of grave concern by honorable individuals, among them the late Supreme Court Chief Justice Fred Ruiz Castro. In an address before members of the legal profession, he said:

Though these words were expressed some time ago, it is sad to note that they still ring loud and true today. The goal of remaining true to the ideals of the legal profession is hampered by the seemingly irresistible influence and pressures of modern day commercialism in almost every facet of human activity and endeavor. In various cases, the Supreme Court has denied applicant’s petition to take the lawyer’s oath for grave misconduct of for any serious violation of the canons of professional responsibility which puts in question the applicant’s moral character. Moreover, a reading of the latest rulings of the high tribunal would reveal some lawyers’ utter disregard, if not disdain, for the lawyer’s oath.

In *Vitriolo v. Dasig*,¹⁷ a case for disbarment against an official of the Commission on Higher Education charged with gross misconduct in violation of the attorney’s oath for having used her public office to secure financial spoils, the Supreme Court, in ordering respondent’s disbarment, held:

14. *Id.* at 414.

15. *Brion v. Brillantes, Jr.*, 399 SCRA 243 (2003).

16. *Id.* at 249.

17. *Vitriolo v. Dasig*, 400 SCRA 172 (2003).

The attorney's oath is the source of the obligations and duties of every lawyer and any violation thereof is a ground for disbarment, suspension, or other disciplinary action. The attorney's oath imposes upon every member of the bar the duty to delay no man for money or malice. Said duty is further stressed in Rule 1.03 of the Code of Professional Responsibility. Respondent's demands for sums of money to facilitate the processing of pending applications or requests before her office violates such duty, and runs afoul of the oath she took when admitted to the bar.¹⁸

The affirmation of a lawyer to uphold the law was the subject in *De Guzman v. De Dios*.¹⁹ In this case the respondent was charged for representing conflicting interests, was found guilty and was suspended for six months.

To say that lawyers must at all times uphold and respect the law is to state the obvious, but such statement can never be overemphasized. Considering that of all classes and professions, lawyers are most sacredly bound to uphold and respect the law, it is imperative that they live by the law. Accordingly, lawyers who violate their oath and engage in deceitful conduct have no place in the legal profession. As a lawyer, respondent is bound by her oath to do no falsehood or consent to its commission and to conduct herself as a lawyer to the best of her knowledge and discretion. The lawyer's oath is a source of obligation and violation thereof is a ground for suspension, disbarment, or other disciplinary action. The acts of respondent Atty. De Dios are clearly in violation of her solemn oath as a lawyer that this court will not tolerate.²⁰

In *Sevillano Batac, et. al. v. Atty. Cruz, Jr.*,²¹ the Supreme Court grounded its order of suspension upon Section 27 of Rule 138 of the Revised Rules of Court, thus:

A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, 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 so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

Under his oath, a lawyer pledges himself not to delay any man for money or malice, and is bound to conduct himself with all good fidelity to

18. *Id.* at 179.

19. *De Guzman v. De Dios*, 350 SCRA 320 (2001).

20. *Id.* at 324.

21. *Batac v. Cruz, Jr.*, 423 SCRA 309 (2004).

his clients. Such was the pronouncement of the Supreme Court in ordering the disbarment of a lawyer who converted the money of his client to his own personal use without the client's consent.²² The lawyer's oath exhorts law practitioners not to wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same.²³ In *Young v. Batuegas*,²⁴ where the respondent was suspended for six months for knowingly alleging an untrue statement of fact in his pleading, the Supreme Court said thus:

A lawyer must be a disciple of truth. He swore upon his admission to the bar that he will 'do no falsehood not consent to the doing of any in court' and he shall conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity as his high vocation is to correctly inform the court upon the law and the facts of the case and to aid it in doing justice and arriving at a correct conclusion. The courts, on the other hand, are entitled to expect only complete honesty from lawyers appearing and pleading before them. While a lawyer has the solemn duty to defend his client's rights and is expected to display the utmost zeal in defense of his client's cause, his conduct must never be at the expense of truth.²⁵

That a lawyer's oath is not mere facile words, drift and hollow, was applied by the Supreme Court in *Vda. De Rosales v. Ramos*,²⁶ where a notary public commission was revoked, and the respondent disqualified from being a notary public, in this manner: "where the notary public is a lawyer, a graver responsibility is placed upon him by reason of his solemn oath to obey the laws and to do no falsehood or consent to the doing of any."²⁷

Indeed when an office entrusted with great responsibility and trust by society is violated and abused, one finds truth in the expression *corruption optima pessima* (the corruption of the best is the worst). The words of former Presiding Justice of the Court of Appeals Pompeyo Diaz cannot find a more relevant application:

There are men in any society who are so self-serving that they try to make law serve their selfish ends. In this group of men, *the most dangerous is the man of the law who has no conscience*. He has, in the arsenal of his knowledge,

22. *Ong v. Grijaldo*, 402 SCRA 1 (2003).

23. *Reyes v. Chiong, Jr.* 405 SCRA 212, 219 (1990).

24. *Young v. Batuegas*, 403 SCRA 123 (2003).

25. *Id.* at 126-127.

26. *Vda. De Rosales v. Ramos*, 383 SCRA 498 (2002).

27. *Id.* at 506.

the very tools by which he can poison and disrupt society and bring it to an ignoble end.²⁸

A Return to Basic Ideals

With the glaring reality of legal practice evidenced by the increasing number of administrative cases filed against lawyers in the courts, it is no surprise therefore that legal ethics has been prescribed as a subject matter under the Mandatory Continuing Legal Education (MCLE). Moreover, of the 36 units prescribed under the MCLE, six units pertain to legal ethics. There is clearly a perceived need to instill legal ethics in the practice of the legal profession. This pressing need was highlighted in *Endaya v. Oca*:²⁹

For practical purposes, the lawyers not only represent the law; they are the law. With their ubiquitous presence in the social milieu, lawyers have to be responsible. The problems they create in lawyering become public difficulties. To keep lawyers responsible underlies the worth of the ethics of lawyering. Indeed, legal ethics is simply the aesthetic term for professional responsibility.³⁰

Undoubtedly, faithful compliance and observance of the canons of the Code of Professional Responsibility is the main object of the MCLE. And to ensure success thereof, the Supreme Court, in its various pronouncements in administrative cases filed against lawyers, has emphasized the lawyer's basic duties and responsibilities. The Supreme Court recapitulated the significance and importance of the oath in this wise:

This oath to which all lawyers have subscribed in solemn agreement to dedicate themselves to the pursuit of justice is not a mere ceremony or formality for practicing law to be forgotten afterwards; nor is it mere words, drift and hollow, but a sacred trust that lawyers must uphold and keep inviolable at all times. By swearing the lawyer's oath, they become guardians of truth and the rule of law, as well as instruments in the fair and impartial dispensation of justice.³¹

Indeed, if the legal profession is to achieve its basic ideal to render public service and serve the ends of justice, there is need to unceasingly and constantly inculcate professional standards among lawyers. As the Supreme Court in *Cordon v. Balicanta*³² said, "If the practice of law is to remain an honorable profession and attain its basic ideal, those enrolled in its ranks

28. Emphasis supplied.

29. *Endaya*, *supra* note 6, 410 SCRA at 244.

30. *Id.* at 245.

31. *Sebastian*, *supra* note 4, 314 SCRA at 7.

32. *Cordon v. Balicanta*, 390 SCRA 299 (2002).

should not only master its tenets and principles, but should also in their lives accord continuing fidelity to them.”³³

33. *Id.* at 316.