



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

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**RADIAL GOLDEN MARINE
SERVICES CORPORATION,**
Complainant,

A.C. No. 8869
[Formerly CBD Case No. 17-5382]

Present:

BERSAMIN, C.J.,
CARPIO,
PERALTA,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,*
CAGUIOA,
REYES, A., JR.,
GESMUNDO,
REYES, J., JR.,
HERNANDO,
CARANDANG,
LAZARO-JAVIER, and
INTING, JJ.

- versus -

ATTY. MICHAEL M. CABUGOY,
Respondent.

Promulgated:

June 25, 2019

X-----X

RESOLUTION

PER CURIAM:

For resolution is a Complaint¹ for disciplinary action dated January 12, 2011 filed by Radial Golden Marine Services Corporation's officers, stockholders and employees, as represented by Eugene R. Avenido, President-Stockholder of Radial, *et al.* (*complainants*) against respondent

* On wellness leave.
¹ *Rollo*, pp. 1-3.

Atty. Michael M. Cabugoy (*Atty. Cabugoy*) for gross misconduct and ignorance of the law.

The antecedent facts are as follows:

Complainants alleged that during the annual general meeting of Radial Golden Marine Services Corporation, Atty. Cabugoy, together with a certain Sheila Masacote and Virgilo Añonuevo, entered into the office premises of Radial Golden Marine Services, and claimed that they are stockholders of Radial. Complainants alleged that Atty. Cabugoy and his group insisted on attending the stockholders' meeting and participate in the election despite not being stockholders of Radial. They further alleged that Atty. Cabugoy ordered that the meeting be stopped, and even declared the proceedings to be illegal, causing disruption of the stockholders' meeting, and thus, prevented the stockholders from deliberating on the dividends and the election of the board of directors of Radial.

In a Resolution² dated February 7, 2011, the Court required Atty. Cabugoy to comment on the allegations against him.

On August 31, 2011, the Court issued another Resolution³ requiring Atty. Cabugoy to show cause as to why he should not be held in contempt, or disciplinary dealt with, for his failure to comply with the Resolution dated February 7, 2011 to file his Comment. Atty. Cabugoy was, likewise, required to comply with the submission of his comment within ten (10) days from notice of the Resolution.

On July 25, 2016, in light of the inability of the Court to determine if the Resolution dated August 31, 2011 was received by Atty. Cabugoy, since the pertinent registry receipt was already disposed for condemnation by the postmaster, Deputy Clerk of Court and the Bar Confidant, Atty. Ma. Cristina B. Layusa, recommended that Resolution dated August 31, 2011 be resent to Atty. Cabugoy.⁴

In a Resolution⁵ dated September 7, 2016, the Third Division of the Court resolved to resend the Resolution dated August 31, 2011 to Atty. Cabugoy, and directed compliance thereto.

In the Status Report⁶ dated February 22, 2017, Atty. Amor P. Entila, SC Assistant Chief of Office, Office of the Bar Confidant, manifested that

² *Id.* at 10-11.

³ *Id.* at 13.

⁴ *Id.* at 14.

⁵ *Id.* at 16.

⁶ *Id.* at 17.

the Court's Resolution dated September 7, 2016 was received by Atty. Cabugoy on November 28, 2016 as per Court's Return Card No. 42136, and the period for Atty. Cabugoy to comply with the Court's directive has already expired on December 8, 2016.

Thus, in a Resolution⁷ dated March 29, 2017, the Court resolved to deem as waived the filing of comment of Atty. Cabugoy on the complaint for disbarment against him, and referred the instant case to the Integrated Bar of the Philippines (*IBP*) for investigation, report and recommendation.

In compliance, the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*) issued a Notice of Mandatory Conference⁸ dated September 15, 2017, which required the parties to appear on October 23, 2017 and submit their respective mandatory conference briefs.

On October 23, 2017, the mandatory conference was conducted, but neither of the parties appeared, nor did they submit their respective mandatory conference briefs. Records indicate that the Notice of Mandatory Conference was not delivered to complainants and was returned to the IBP with the annotation "moved out."

Despite the non-appearance of the parties and non-submission of the pertinent pleadings, the IBP-CBD, being duty-bound to comply with the Court's directive, submitted its report and recommendation based on available records and documents.

In its Report and Recommendation⁹ dated October 30, 2017, the IBP-CBD recommended that Atty. Cabugoy be suspended from the practice of law for a period of one (1) year and six (6) months. The IBP-CBD found that despite the failure of the complainants to further substantiate its allegations against Atty. Cabugoy, it still found sufficient evidence to recommend disciplinary action against the latter, more so, considering Atty. Cabugoy's failure to attend the mandatory conference despite notice.

In a Resolution¹⁰ dated May 19, 2018, the Board of Governors of the IBP adopted the findings of the IBP-CBD with modification to reduce the recommended penalty. Instead of suspension from the practice of law for one (1) year and six (6) months, it recommended instead to impose the penalty of suspension for a period of one (1) year only and a fine of Fifteen Thousand Pesos (₱15,000.00) for ignoring the Orders, Processes and Directives of the IBP-CBD.

⁷ *Id.* at 19-20.

⁸ *Id.* at 22.

⁹ *Id.* at 29-34.

¹⁰ *Id.* at 27-28.

RULING

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. For the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof.¹¹

Thus, complainants' failure to provide clear and convincing evidentiary support to their allegations of misconduct against Atty. Cabugoy due to their failure to attend the hearings and to submit their position papers/judicial affidavits, would have been fatal to this case. Even the attached supporting documents failed to convince as they are mere photocopies, not certified true copies, which cannot be given credence. However, while the allegations against Atty. Cabugoy are unsubstantiated and would have warranted the dismissal of the instant complaint, We cannot look past Atty. Cabugoy's nonchalant attitude in complying with the IBP's directives, as well as the Court's numerous Resolutions.

Atty. Cabugoy's disregard of the Court's Resolutions directing him to file his Comment and to show cause for his failure to do so, as well as the IBP's directives to file his position paper and to attend the mandatory conference, despite due notice, without justification or valid reason, indicates a lack of respect for the Court and the IBP's rules and procedures. As an officer of the Court, Atty. Cabugoy is expected to know that said Resolutions of the Court, and the IBP, as the investigating arm of the Court in administrative cases against lawyers, is not a mere request but an order which should be complied with promptly and completely. As an officer of the court, it is a lawyer's duty to uphold the dignity and authority of the court. The highest form of respect for judicial authority is shown by a lawyer's obedience to court orders and processes.

Clearly, Atty. Cabugoy's acts constitute willful disobedience of the lawful orders of this Court which, under Section 27, Rule 138 of the Rules of Court, is in itself alone a sufficient cause for suspension or disbarment. His cavalier attitude in ignoring the orders of the Supreme Court constitutes utter disrespect to the judicial institution. Atty. Cabugoy's conduct indicates a high degree of irresponsibility. His obstinate refusal to comply with the Court's orders "not only betrays a recalcitrant flaw in his character; it also underscores his disrespect of the Court's lawful orders which is only too deserving of reproof."¹²

¹¹ *Ferancullo v. Ferancullo*, 538 Phil. 501, 511 (2006).

¹² See *Sebastian v. Bajar*, 559 Phil. 211, 224 (2007).

Section 27, Rule 138 of the Rules of Court provides:

Sec. 27. Disbarment or suspension of attorneys by Supreme Court grounds therefor. - 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 to do so. The practice of soliciting cases for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

In *Ngayan v. Atty. Tugade*,¹³ We ruled that “[a lawyer’s] failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despicency for his oath of office in violation of Section 3, Rule 138, Rules of Court.”

Considering Atty. Cabugoy's disregard not only of the lawful orders of the Court but also of the directives of the IBP, his conduct runs counter to the precepts of the Code of Professional Responsibility and violates the lawyer’s oath which imposes upon every member of the bar the duty to delay no man for money or malice. Atty. Cabugoy has failed to live up to the values and norms of the legal profession as embodied in the Code of Professional Responsibility.

We said in *Figueras, et al. v. Atty. Jimenez*¹⁴ that the “determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of sound judicial discretion. This Court has imposed the penalties ranging from reprimand, warning with fine, suspension and, in grave cases, disbarment for a lawyer’s failure to file a brief or other pleading.”¹⁵ Here, given Atty. Cabugoy’s impertinent attitude towards the Court and the IBP, We find the penalty of suspension from the practice of law for a period of two (2) years to be more appropriate.

WHEREFORE, respondent Atty. Michael M. Cabugoy is hereby **SUSPENDED** from the practice of law for a period of **TWO (2) YEARS** effective from notice, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

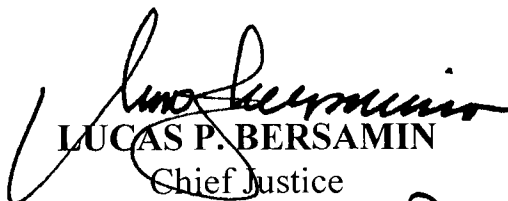
¹³ 271 Phil. 654, 659 (1991).

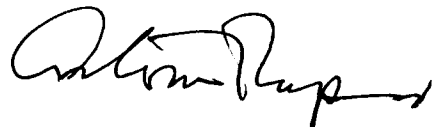
¹⁴ 729 Phil. 101 (2014).

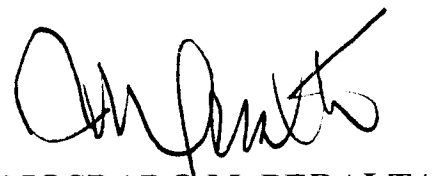
¹⁵ *Id.* at 108.

Let copies of this Resolution be furnished the Office of the Bar Confidant to be appended to Atty. Cabugoy's personal record as a member of the Bar, the Integrated Bar of the Philippines, the Office of the Court Administrator, the Department of Justice and all courts in the country for their information and guidance.


SO ORDERED.


LUCAS P. BERSAMIN
Chief Justice


ANTONIO T. CARPIO
Associate Justice

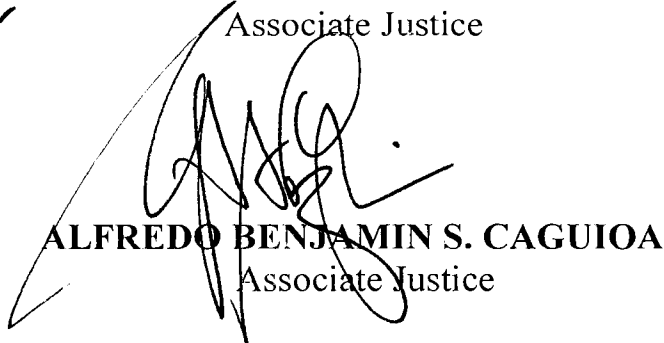

DIOSDADO M. PERALTA
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice

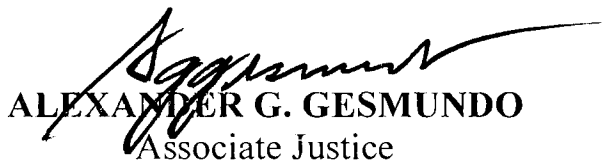

ESTELA M. PERLAS-BERNABE
Associate Justice

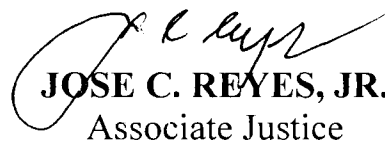

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

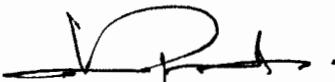
On wellness leave
FRANCIS H. JARDELEZA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES, JR.
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice

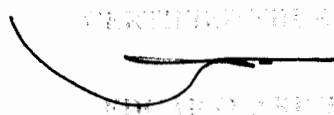

JOSE C. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

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