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

SECOND DIVISION

JEANNE MARCELO-SALUD,
Complainant,

A.C. No. 11369

- versus -

ATTY. ROGELIO J. BOLIVAR,
Respondent.

Present:
LEONEN, *S.A.J.*, Chairperson,
LAZARO-JAVIER,
LOPEZ, M.
LOPEZ, J., and
KHO, JR., *JJ.*

Promulgated:

JUL 04 2022

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DECISION

KHO, JR., J.:

This administrative case arose from a Complaint-Affidavit¹ filed by complainant Jeanne Marcelo-Salud (complainant) against respondent Atty. Rogelio J. Bolivar (respondent) seeking that he be meted disciplinary actions for allegedly acting with deceit and misrepresentation in handling the cases of Quirino Singson Dionaldo (Dionaldo) and Spouses Mario Lopez Tolentino and Remedios Tolentino (Spouses Tolentino) in separate complaints for unlawful detainer in the Metropolitan Trial Court of Quezon City (MTC) and Regional Trial Court of Quezon City, Branch 34 (RTC), respectively; and unduly delaying court proceedings in the case against Spouses Tolentino.

¹ Rollo, pp. 1-14.

The Facts

On April 29, 2016, the Office of the Bar Confidant received a Complaint-Affidavit² filed by complainant against respondent. According to the complainant, the instant case stemmed from two (2) separate complaints for unlawful detainer filed by complainant against Dionaldo and Spouses Tolentino before the MTC and RTC, respectively, for their failure to vacate the property allegedly owned by complainant. In the said unlawful detainer complaints, respondent, who also acted as the chief legal counsel and assistant administrator of La Compania Agricola de Ultramar, Inc. (La Compania), represented both Dionaldo and Spouses Tolentino.³

According to complainant, respondent committed deceit and misrepresentation when he induced Dionaldo and Spouses Tolentino to refuse to vacate the property by representing to them that the real owner of the leased properties is La Compania. Moreover, respondent unduly delayed the court proceedings in the case against Spouses Tolentino by failing to appear in court despite due notice. To support this, complainant cited respondent's motion for the resetting of the scheduled judicial dispute resolution in the case against Spouses Tolentino due to his medical condition.⁴

In his Comment,⁵ respondent admitted that he has been the chief counsel and co-administrator of La Compania since 2008. Nonetheless, he denied complainant's allegations, arguing that: (a) he did not induce Dionaldo and Spouses Tolentino into refusing to vacate the leased properties considering that they already ended their respective lease agreements with complainant even before he accepted them as clients; and (b) he did not cause the delay in the resolution of the cases since his motions for postponement were granted by the respective courts. Moreover, he argued that the allegations in the complaint were not supported by evidence. Hence, the complaint should be dismissed.⁶

In a Notice of Resolution⁷ dated July 5, 2017, the Court referred the case to the Integrated Bar of the Philippines (IBP) for its investigation, report, and recommendation.

² Id.

³ Id. at 2-4.

⁴ Id. at 3-4.

⁵ Id. at 88-93. Dated December 14, 2016.

⁶ Id. at 89-92.

⁷ Id. at 160-161.

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The IBP's Report and Recommendation

In a Report and Recommendation⁸ dated October 22, 2019, the IBP Investigating Commissioner (IC) recommended that the complaint be dismissed for lack of merit.

Considering the records of the case, the IC opined that complainant failed to discharge the burden of proving her allegations against respondent by substantial evidence. On the allegation of deceit and misrepresentation, the IC opined that the documentary exhibits of the complaint did not show that respondent encouraged or induced Dionaldo and Spouses Tolentino to engage in litigation. The IC likewise held that a singular instance of postponement could not be considered an act of unduly delaying litigation proceedings. Nonetheless, the IC recommended that respondent be reprimanded for the **potential conflict of interest** that may occur with his relationships with Dionaldo, Spouses Tolentino, and La Compania.⁹

In a Resolution¹⁰ dated April 10, 2021, the IBP Board of Governors adopted and approved the IBP IC's report and recommendation dismissing the complaint against respondent. However, it deleted the IC's recommendation to impose the penalty of reprimand.

The Issue Before the Court

The issue before the Court is whether or not respondent should be held administratively liable for the acts complained of.

The Court's Ruling

The Court affirms the findings and recommendations of the IBP with certain modifications, as will be explained hereunder.

It is a settled rule that the quantum of proof required to hold lawyers liable in administrative cases is through substantial evidence – which is more than a mere scintilla but is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.¹¹ In *Reyes v. Nieva*,¹² the Court had the opportunity to discuss the rationale as to why substantial evidence as the quantum of proof in administrative cases is more in keeping with the policy considerations in the discipline of lawyers, *viz.*:

⁸ Id. at pp. 456-462. Signed by Commissioner Leilani V. Escueta.

⁹ Id. at 459-462.

¹⁰ Id. at 454-455. Signed by National Secretary Roland B. Inting.

¹¹ *Reyes v. Nieva*, 794 Phil. 360, 379 (2016), citing *Cabas v. Sususco*, 787 Phil. 167, 174 (2016).

¹² Id.

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Besides, the evidentiary threshold of substantial evidence – as opposed to preponderance of evidence – is more in keeping with the primordial purpose of and essential considerations attending this type of cases. As case law elucidates, “[d]isciplinary proceedings against lawyers are sui generis. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein.” It may be initiated by the Court *motu proprio*. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor.”¹³ (emphasis and underscoring supplied)

Verily, the burden to prove the misconduct of a lawyer rests on the complainant to establish the allegations in their complaint.¹⁴ This is in accordance with an attorney enjoying the legal presumption that they are innocent of the charges against them until the contrary is proved, and that as an officer of the Court, they are presumed to have performed their duties in accordance with their oath.¹⁵ Reliance on mere allegations, conjectures, and supposition of an attorney’s alleged acts cannot be given credence absent any proof by substantial evidence.¹⁶ Thus, the complainant’s failure to discharge their burden of proof requires no other conclusion than that which stays the hand of the Court from meting out a disbarment or suspension order, as in this case.

As correctly observed by the IBP, complainant was unable to prove the alleged acts of misconduct committed by respondent through substantial evidence. A review of the records shows that complainant failed to adduce any form of evidence to prove that respondent induced Dionaldo or Spouses Tolentino from refusing to vacate the subject property in the separate complaints for unlawful detainer. In particular, it observed that complainant did not present any evidence to show that respondent provided Dionaldo or Spouses Tolentino the information that the subject property in the unlawful detainer cases is owned by La Compania. Similarly, there was no evidence to show that respondent unduly delayed the proceedings in the case against Spouses Tolentino. As noted by the IC, a singular instance of postponement

¹³ Id. at 379-380.

¹⁴ See *Tan v. Alvarico*, A.C. No. 10933, November 3, 2020.

¹⁵ See id.

¹⁶ See id.

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could not be considered as an act of unduly delaying the proceedings with malice.

Considering the foregoing, complainant's accusations against respondent regarding this matter should be dismissed for lack of merit.

Nonetheless, the Court holds that respondent should be held accountable for violating the rule against representing conflicting interests.

Rule 15.03 of the Code of Professional Responsibility provides:

Rule 15.03. – A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

In *Hornilla v. Salunat*,¹⁷ the Court explained the concept of conflict of interest in this wise:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is “whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client.” This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. **Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof.**¹⁸ (emphasis and underscoring supplied)

As held in *Quiambao v. Bamba*,¹⁹ the prohibition of representing conflicting interests is founded on the “principles of public policy and good taste.”²⁰

Contrary to the observations of the IC and applying the tests elucidated above, the Court finds respondent guilty of actual conflict of interest in the handling of the unlawful detainer cases of Dionaldo and Spouses Tolentino while serving as counsel to La Compania.

¹⁷ 453 Phil. 108 (2003).

¹⁸ Id.

¹⁹ 505 Phil. 126 (2005).

²⁰ Id., citing *Hilado v. David*, 84 Phil. 569, 579 (1949).

His relationships as counsel with his clients are evidenced by: (1) respondent's own admission in his responsive pleadings that he has been the counsel of La Compania since 2008, prior to handling the cases of Dionaldo and Spouses Tolentino;²¹ and (2) the special powers of attorney separately entered by Dionaldo and Spouses Tolentino with respondent in representing them in the unlawful detainer cases as documented in his own responsive pleadings.²²

By accepting Dionaldo and Spouses Tolentino as clients, respondent invites suspicion of unfaithfulness or double dealing in the performance of his duties as the lawyer for Dionaldo and Spouses Tolentino, as well as La Compania, if ever litigation occurs between and among them considering that, as admitted by respondent, La Compania and complainant are in an ongoing litigation over the ownership of the subject property.²³ Upon the determination of the ownership of the property, respondent will be forced to choose between La Compania and Dionaldo and Spouses Tolentino, thus preventing him from fully discharging his duties as a lawyer to one of his clients.

Anent the proper penalty to be imposed on respondent, case law instructs, as a general rule, that lawyers who represent conflicting interests should be meted with the penalty of suspension from the practice of law. In *Mabini Colleges, Inc. v. Pajarillo*,²⁴ the Court suspended respondent therein for a period of one (1) year. In *Villamor v. Jumao-as*,²⁵ the Court suspended the erring lawyer for a period of two (2) years. In *Paces Industrial Corporation v. Salandanan*,²⁶ the Court suspended the erring lawyer for a period of three (3) years. However, as an exception to the foregoing, in *Heirs of Lydio Jerry Falame v. Baguio (Baguio)*,²⁷ the Court meted out the penalty of reprimand against Atty. Baguio considering that (1) it was his first offense and (2) the resulting conflict of interest was due to his lack of anticipation of the possible conflict of interest in undertaking to accept his new clients,²⁸ as in this case. Here, a circumspect review of the prevailing circumstances would readily show that respondent's violation is similar to what was committed by the erring lawyer in *Baguio*. As such, the Court deems it appropriate to impose on respondent the penalty of reprimand, with a stern warning that a repetition of the same or similar infraction would be dealt with more severely.

ACCORDINGLY, the Court finds and declares respondent Atty. Rogelio J. Bolivar **GUILTY** of violating Rule 15.03, Canon 15 of the Code

²¹ *Rollo*, p. 90. See also *id.* at 106-108.

²² *Id.* at 94 and 99-100.

²³ *Id.* at 167-168.

²⁴ 764 Phil. 352 (2015).

²⁵ A.C. No. 8111, December 9, 2020.

²⁶ 814 Phil. 93 (2017).

²⁷ 571 Phil. 428 (2008).

²⁸ *Id.*

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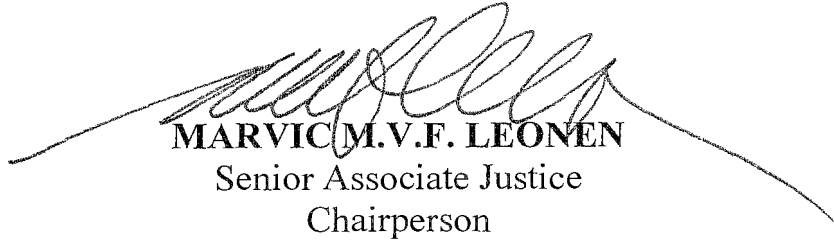
of Professional Responsibility and is hereby **REPRIMANDED** and **STERNLY WARNED** that any similar infraction in the future will be dealt with more severely.


Let copies of this Decision be furnished to the Office of the Bar Confidant, to be appended to respondent's personal record as an attorney and to the Integrated Bar of the Philippines for their information and guidance.

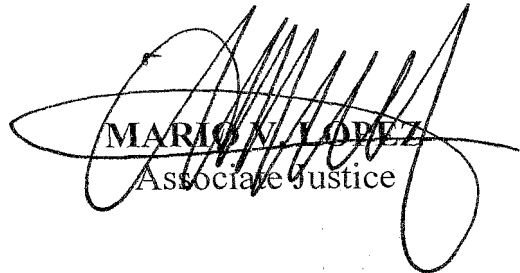
SO ORDERED.


ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


MARIO N. LOPEZ
Associate Justice


JHOSEP Y. LOPEZ
Associate Justice



