



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

GERTRUDES MAHUNOT ANG
@ GERTRUDES M. SIMONETTI,
Complainant,

A.C. No. 10297

Present:

GESMUNDO, *CJ.*,
CAGUIOA,
INTING,
GAERLAN, and
DIMAAMPAO, *JJ.*

- versus -

ATTY. LORD M. MARAPAO,
Respondent.

Promulgated:

MAR 09 2022

DECISION

DIMAAMPAO, J.:

At the vortex of this administrative disciplinary case is the *Verified Letter-Complaint*¹ filed by private respondent Gertrudes Mahumot Ang (Gertrudes) against petitioner Atty. Lord M. Marapao (Atty. Marapao) for violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR).

¹ Records I, Volume II, pp. 2-19.

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ANTECEDENTS

The salient facts of the case unfurl as follows:

In the years 1998 and 1999, Atty. Marapao represented Gertrudes' husband, Venancio Ang (Venancio), in the various criminal cases filed by Venancio against Gertrudes for bigamy, adultery, concubinage, perjury, libel, numerous counts of violation of Commonwealth Act No. 142,² and several counts of falsification of public and commercial documents. The cases were eventually dismissed as Gertrudes and Venancio reconciled,³ paving the way for Gertrudes to hire Atty. Marapao as her lawyer in the two cases of *Estafa* and/or violation of Batas Pambansa (BP) No. 22 which she filed against Rosita Mawili (Rosita) and Genera Legetimas (Genera) on 3 December 2001 and 10 December 2001, respectively.⁴

Eight years later, or, on 1 December 2009, Gertrudes was entangled in another court litigation. This time, she was sued by Eufronia Estaca Guitan (Eufronia) and Victoria Huan (Victoria) for *Declaration of Nullity of a Public Document (Deed of Absolute Sale) and a Private Document (Acknowledgment Receipt of Partial Payment with Undertaking), Subrogation, and Damages with Urgent Prayers for the Issuance of the Writs of Preliminary Prohibitory and Mandatory Injunction*, docketed as Civil Case No. 7688 before the Regional Trial Court (RTC) of Tagbilaran City, Bohol.⁵ As it happened, Gertrudes discovered that Atty. Marapao appeared as counsel for Eufronia and Victoria in the said civil case. Meanwhile, from 2009 to 2011, Atty. Marapao continued to render legal services in favor of Eufronia and the latter's niece, Rosario Galao Leyson (Rosario). More tellingly, Atty. Marapao had assisted Eufronia and Rosario in lodging more than thirty (30) criminal cases against Gertrudes – again for various crimes involving falsification of public and private documents, perjury, violation of the “Anti-Alias Law,” and violation of the National Building Code.⁶

Dismayed, Gertrudes denounced Atty. Marapao's propensity of filing frivolous suits. She accused him of violating the Lawyer's Oath,⁷ decrying that his act of representing Eufronia, Victoria, and Rosario in the cases filed against her transgressed the ethical injunction which prohibits lawyers from engaging in any conflict of interest given that she was a former client of Atty. Marapao. Gertrudes bemoaned Atty. Marapao's failure to preserve the confidence and secrets of a client when he used privileged information to file

² AN ACT TO RELEGATE THE USE OF ALIASES or the Anti-Alias Law. Approved on 7 November 1936.

³ Supra note 1.

⁴ Id. at 5.

⁵ Id. at 6.

⁶ Id.

⁷ Id. at 11-12.

cases against her eight years later. She vehemently characterized the filing of Civil Case No. 7688 as a form of harassment, made possible by the complicity of Atty. Marapao, as a means to coerce her and Venancio to give up their rights and interests in the parcels of land which are subject of the said case.⁸

In the *Resolution*⁹ dated 3 March 2014, this Court required Atty. Marapao to comment on Gertrudes' *Verified Letter-Complaint*. In compliance therewith, Atty. Marapao filed his *Verified Comment*,¹⁰ where he countered that the cases filed by Eufronia, Rosario, and Victoria against Gertrudes from 2009 to 2011 were clearly separate and distinct from the earlier cases filed by Gertrudes against Rosita and Genera in 2001, and different as well from the old cases filed by Venancio against Gertrudes in 1998 and 1999. Thus, any privileged communication reposed upon Atty. Marapao by Gertrudes was not used, utilized, or availed of by him in acting as lawyer for Eufronia, Rosario, and Victoria in the later cases.¹¹

Atty. Marapao also denied that he caused the filing of frivolous cases against Gertrudes, claiming that it is his sworn duty under the Lawyer's Oath and Rule 1.03, Canon 1 of the CPR not to do so. He asseverated that while many of the charges filed against Gertrudes were dismissed, majority of these were ultimately reversed by either the Office of the Regional State Prosecutor of Cebu City or by the Department of Justice.¹²

On 25 June 2014, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.¹³ As part of the proceedings in the IBP, both parties filed their respective *Position Papers*,¹⁴ essentially reiterating their arguments in their *Verified Letter-Complaint* and *Verified Comment*.

REPORT AND RECOMMENDATION OF THE IBP

On 19 May 2018, the IBP Board of Governors issued a *Resolution*¹⁵ adopting the findings of fact and recommendation by the Investigating Commissioner,¹⁶ albeit with modification. The IBP Board of Governors recommended the suspension of Atty. Marapao from the practice of law for one (1) year but only for the charge of conflict of interest. It found that Atty. Marapao was guilty of representing conflicting interests because he acted as

⁸ Records I, Volume II, pp. 9-10.

⁹ Id. at 113.

¹⁰ Id. at 114-127.

¹¹ Id. at 116-117.

¹² Id. at 118.

¹³ Records I, Vol. II, p. 384.

¹⁴ Id. At 45-61 and 62-100.

¹⁵ Records II, Volume V, p. 1.

¹⁶ Ramsey M. Quijano.

counsel for new clients against a former client.¹⁷ Still and all, the IBP held that Atty. Marapao did not violate the rule on privileged communication.¹⁸

Aggrieved, Atty. Marapao filed a Motion for Verified Reconsideration¹⁹ but the IBP denied the same in the *Resolution*²⁰ dated 27 May 2019.

Unsuccessful in his bid for reconsideration, Atty. Marapao filed the instant Verified Petition for Review,²¹ beseeching this Court to restore his honor and untainted standing as a member of the Philippine Bar. He avouches that at the age of 75, he has already retired from the practice of law. Hence, if only out of principle, he is pleading that the Court exonerate him from any administrative liability. He reiterates the arguments he raised in his *Verified Comment and Position Paper*.

Discernibly, the focal issues for the Court's resolution are as follows:

1. Did Atty. Marapao violate the Lawyer's Oath and Rule 1.03, Canon 1 of the CPR as regards the allegation that he initiated frivolous cases?
2. Did Atty. Marapao violate Rules 21.01, 21.02, and 21.03 of Canon 21 of the CPR or the ethical rules regarding privileged communication between a lawyer and his client?
3. Did Atty. Marapao violate Rule 15.03, Canon 15 for allegedly engaging in conflict of interest?

The questions will be answered in *seriatim*.

Atty. Marapao has the propensity to be litigious

The Lawyer's Oath commands that lawyers should maintain the nobility of the legal profession by **not** "wittingly or willingly promot[ing] or su[ing] any **groundless, false or unlawful** suit, or [by not] giv[ing] aid nor consent[ing] to the same." This deterrence against lawyer's proclivity to stir up litigation, whether borne by an ardent quest for justice or lured only by the promise of profit, finds articulation in Rule 1.03, Canon 1 of the CPR, which states that: "*A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any [person's] cause.*"

¹⁷ Id. at 7.

¹⁸ Id. at 4-5.

¹⁹ Id. at 8-30.

²⁰ Records II, Volume VI.

²¹ Id.

Lawyers are, to be sure, inveigled by the idea that much can be accomplished with a robust and vast knowledge of the law and jurisprudence. They can always scratch the surface of their potential and aspire to become the good, reputable *disciples of justice* they have always envisioned themselves to be. As expected, the lawyers' default predisposition is to defend their clients with zeal.

However, lawyers must also guard themselves against their own impulses of initiating unfounded suits. Lawyers are equally bound to advise a client, ordinarily a layman, on the intricacies and vagaries of the law, on the merit or lack of merit of a person's case. If the lawyer finds that his or her client's cause is defenseless, then it is the lawyer's bounden duty to advise the client to acquiesce and submit, rather than traverse the incontrovertible. Lawyers must resist the whims and caprices of their clients and to temper their propensities to litigate.²²

In the same way, no person may be penalized for the exercise of his right to litigate. However, this right should be exercised in good faith.²³ As officers of the court, lawyers have a responsibility to assist in the proper administration of justice. They do not discharge this duty by filing frivolous petitions that only add to the workload of the judiciary. A lawyer is part of the machinery in the administration of justice. Like the court itself, he is an instrument to advance its ends—the speedy, efficient, impartial, correct and inexpensive adjudication of cases and the prompt satisfaction of final judgments. A lawyer should not only help attain these objectives but should likewise avoid any unethical or improper practices that impede, obstruct or prevent their realization, charged as he is with the primary task of assisting in the speedy and efficient administration of justice.²⁴

In this case, the Court punctiliously observed that Atty. Marapao failed to exhibit that degree of ethical temperament in the manner by which he facilitated the bombardment of civil and criminal cases against Gertrudes. The criminal cases filed by Atty. Marapao even involved several counts for the same crime. As borne by the records, he assisted Eufronia and Rosario in filing 30 criminal cases against Gertrudes on top of at least 50 criminal cases filed by Venencio against Gertrudes from 1998 to 1999. While admittedly, a number of the criminal cases proceeded to court, a finding of probable cause in some of the criminal charges will not justify Atty. Marapao's propensity to be litigious. A lawyer's duty to uphold the cause of justice is superior to his duty to his or her client.²⁵ Besides, a lawyer must not take advantage of the strong emotions that his or her client has towards the latter's adversaries. A

²² See *Cabarroguis v. Atty. Basa*, A.C. No. 8789, 11 March 2020.

²³ See *Atty. Alcantara v. Atty. De Vera*, A.C. No. 5859, 23 November.

²⁴ Id.

²⁵ See *Montehermoso v. Batuto*, G.R. No. 246553, 2 December 2020.

lawyer, in assisting his client, must take into consideration the additional expenses, the amount of time, and the effort that clients spend in pursuing their contemplated action. The sheer number of cases filed by Atty. Marapao against his clients' adversaries unfortunately bordered on harassment and power play.

All the same, Atty. Marapao did not violate Rule 15.02 of Canon 15, as well as Rules 21.01, 21.02, and 21.03 of Canon 21 of the CPR.

Canon 15 and Rule 15.02 of the CPR provide that:

CANON 15 — A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his client.

RULE 15.02. A lawyer shall be bound by the rule on privilege communication in respect of matters disclosed to him by a prospective client.

On the other hand, Canon 21 and Rules 21.01, 21.02, 21.03 state that:

CANON 21 — A lawyer shall preserve the confidences or secrets of his client even after the attorney-client relation is terminated.

RULE 21.01. A lawyer shall not reveal the confidences or secrets of his client except:

- a) when authorized by the client after acquainting him of the consequences of the disclosure;
- b) when required by law;
- c) when necessary to collect his fees or to defend himself, his employees or associates or by judicial action.

RULE 21.02. A lawyer shall not, to the disadvantage of his client, use information acquired in the course of employment, nor shall he use the same to his own advantage or that of a third person, unless the client with full knowledge of the circumstances consents thereto.

RULE 21.03. A lawyer shall not, without the written consent of his client, give information from his files to an outside agency seeking such information for auditing, statistical, bookkeeping, accounting, data processing, or any similar purpose.

It is the duty of an attorney to “maintain inviolate the confidence, and at every peril to himself [or herself], to preserve the secret of his [or her] client.”²⁶ The performance of such duty involves the application of rules of evidence and of professional ethics, both of which seek to safeguard the

²⁶ Section 20(e), Rule 138 of the Rules of Court.

client's confidence.²⁷ To adequately represent a client, a full disclosure of the facts by the client to his attorney is a must. Unless the client knows that his attorney cannot be compelled to reveal what is told to him, he will suppress what he or she thinks to be unfavorable facts. If that happens, the legal advice will be useless, if not misleading; lawsuit will be conducted along improper lines, and trials will be full of surprises.²⁸ The purpose of the attorney-client privilege is to encourage a client to make full disclosure to his or her attorney and to place unrestricted confidence in the attorney in matters affecting the client's rights or obligations.²⁹

The ruling of the Court in the case of *Mercado v. Atty. Vitriolo*³⁰ exhibits illuminating parallelism to the case at bench. In *Mercado*, the complainant sought the disbarment of Atty. Vitriolo who allegedly filed a malicious criminal case for falsification of public documents against the complainant, a former client, based on confidential information gained from their earlier attorney-client relationship. The complainant claimed that Atty. Vitriolo first represented her in the annulment case filed by her husband against her in 1992. Five years thereafter or in 1999, Atty. Vitriolo filed a criminal action for Falsification of Public Documents against complainant for making false entries in the Certificates of Live Birth of her children. The complainant accused Atty. Vitriolo of using and disclosing the confidential information he learned during the subsistence of their attorney-client relationship in filing the criminal complaint for Falsification of Public Documents. The Court dismissed the complaint against Atty. Vitriolo and explained the *ratio decidendi* in this wise:

Applying all these rules to the case at bar, we hold that the evidence on record fails to substantiate complainant's allegations. **We note that complainant did not even specify the alleged communication in confidence disclosed by respondent. All her claims were couched in general terms and lacked specificity.** She contends that respondent violated the rule on privileged communication when he instituted a criminal action against her for falsification of public documents because the criminal complaint disclosed facts relating to the civil case for annulment then handled by respondent. **She did not, however, spell out these facts which will determine the merit of her complaint. The Court cannot be involved in a guessing game as to the existence of facts which the complainant must prove.**

Indeed, complainant failed to attend the hearings at the IBP. **Without any testimony from the complainant as to the specific confidential information allegedly divulged by respondent without her consent, it is difficult, if not impossible to determine if there was any violation of the rule on privileged communication.** Such confidential information is a **crucial link in establishing a breach of the rule on**

²⁷ Agpalo, R.E. (2020). *Legal and Judicial Ethics* (2020 Edition, p. 259): Rex Publishing, Inc.

²⁸ Id. at 260-261.

²⁹ Id. at 261.

³⁰ A.C. No. 5108, 26 May 2005.

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privileged communication between attorney and client. It is not enough to merely assert the attorney-client privilege. The burden of proving that the privilege applies is placed upon the party asserting the privilege. (Emphases supplied)

As *Mercado* instructs, in an administrative case against an attorney, the complainant bears the *onus* to particularize the confidential information allegedly divulged by the attorney without the client's consent. Like the complainant in *Mercado*, Gertrudes failed to discharge such burden in this case. The records bear no specific demonstration of how Atty. Marapao utilized and divulged confidential information without Gertrudes' consent. At most, all that Gertrudes alleged was that "respondent used without permission his knowledge or information acquired during his term as lawyer for the complainant in filing frivolous case after frivolous case." A statement as general as such cannot aid the Court in ascertaining whether there was indeed any violation on the rule on privileged communication.

Atty. Marapao did not represent conflicting interests.

Rule 15.03, Canon 15 of the CPR proscribes lawyers from representing conflicting interests, *viz.*:

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.

The stern rule against representation of conflicting interests is rooted on principles of public policy and good taste.³¹ It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice.³² In broad terms, there is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The question 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 or her duty to oppose it for the other client. In short, if he or she argues for one client, this argument will be opposed by him or her when he or she 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.³³

One test of inconsistency of interests is whether the acceptance of a new relation will prevent the full discharge of the lawyer's duty of undivided fidelity and loyalty to the client or invite suspicion of unfaithfulness or double-dealing in the performance of that duty. Another test is whether the acceptance

³¹ See *Romero v. Atty. Evangelista, Jr.*, A.C. No. 11829, 26 February 2018.

³² See *Tan v. Atty. Alvarico*, A.C. No. 10933, 3 November 2020.

³³ See *Paces Industrial Corporation v. Atty. Salandanan*, A.C. No. 1346, 25 July 2017.

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 or she represents him or her, and also whether he or she will be called upon in his or her new relation to use against his or her first client any knowledge acquired through their connection.³⁴ The first test of inconsistency refers to cases in which the opposing parties are **present clients** either in the **same action or in a totally unrelated case**; the second part pertains to those in which the **adverse party against whom the attorney appears is his or her former client** in a matter which is **related, directly or indirectly, to the present controversy**.³⁵

The present controversy involves Atty. Marapao's representation of new clients (Eufronia, Victoria, and Rosario) against Gertrudes, who was his former client. Thus, the second rule as explained above is applicable. A lawyer is forbidden from representing a subsequent client against a former client when the subject matter of the present controversy is related, directly or indirectly, to the subject matter of the previous litigation in which he or she appeared for the former client. Conversely, he or she may properly act as counsel for a new client, with full disclosure to the latter, against a former client in a matter **wholly unrelated** to that of the previous employment, there being in that instance no conflict of interests.³⁶

The factual milieu in the 2020 case of *Parungao v. Atty. Lacuanan (Parungao)*³⁷ is likewise analogous to the case at bench. In *Parungao*, the Court absolved Atty. Lacuanan for allegedly representing conflicting interests. The relationship among the parties in the said case started in 2008 when Atty. Lacuanan represented and counseled complainant and his wife for their business dealings. The professional services of Atty. Parungao were utilized by the complainant and his wife until 2011. In 2013, Atty. Parungao stood as lawyer for complainant's wife in criminal and civil cases filed by the wife against complainant, including concubinage, physical injury, threat in relation to Republic Act No. 9262,³⁸ and petition for declaration of nullity of marriage. The Court held that Atty. Parungao did not represent conflicting interests, to wit:

In the case at bar, Jonathan **failed to establish** that Atty. Lacuanan has **confidential information** which the **latter acquired through their connection or previous employment** and which **can be used against him in the pending civil and criminal proceedings** instituted by Mary Grace. Jonathan generally avers that in the course of their professional and personal relations, he had shared with Atty. Lacuanan confidential information as regards his marital and family life as well as his businesses and properties.

³⁴ Id.

³⁵ Supra note 27 at 292.

³⁶ See *Parungao v. Atty. Lacuanan*, A.C. No. 12071, 11 March 2020.

³⁷ Id.

³⁸ AN ACT DEFINING VIOLENCE AGAINST WOMEN AND THEIR CHILDREN, PROVIDING FOR PROTECTIVE MEASURES FOR VICTIMS, PRESCRIBING PENALTIES THEREFORE AND FOR OTHER PURPOSES, approved on 8 March 2004.

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However, these are merely his bare allegations, unsubstantiated by any piece of evidence, and disputed by Atty. Lacuanan.

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Finally, Mary Grace has employed the services of Atty. Lacuanan as counsel for two legal proceedings against Jonathan, *viz.*, (a) the criminal complaint for concubinage, physical injury, and threat, in relation to R.A. No. 9262; and (b) the petition for declaration of nullity of marriage. The significant events which led to the institution of said proceedings only took place from late 2012 onwards. It is being alleged in both proceedings that Jonathan separated from Mary Grace and left the family dwelling in November 2012; that Mary Grace discovered in February 2013 that Jonathan was already cohabiting with another woman; and that when Mary Grace chanced upon Jonathan and his other woman on April 17, 2013, an altercation ensued between them, with Jonathan ultimately inflicting physical injury on Mary Grace. The pending criminal and civil proceedings against Jonathan in which Atty. Lacuanan now acts as counsel for Mary Grace evidently **involve matters that are totally distinct and unrelated** to Atty. Lacuanan's previous two engagements with Jonathan, which only pertained to the acquisition of a lot and a defective vehicle in 2011. Absent any showing that said lot and vehicle still formed part of the current marital assets of the Spouses Parungao, they have no material significance in the pending proceedings between the spouses. (Emphases supplied.)

Similarly, in this case, the suits filed by Gertrudes against Rosita and Genera in 2001 (*Estafa* and/or Violation of B.P. No. 22), where Gertrudes was Atty. Marapao's client, are **distinct, separate, and independent** from the civil case filed by Eufronia and Victoria against Gertrudes in 2009 (Declaration of Nullity of a Public and Private Document) and the 30 criminal cases filed by Rosario and Eufronia against Gertrudes in the years 2009 to 2011, where Atty. Marapao represented Eufronia, Victoria, and Rosario.

The *Estafa* and Violation of B.P. 22 cases involved checks allegedly issued by Rosita and Genera in favor of Gertrudes which, however, bounced. The civil case for Declaration of Nullity of Public and Private Document on the other hand, pointed to an allegedly forged deed of absolute sale of parcels of land in favor of Gertrudes as the buyer. Lastly, the criminal cases for falsification, perjury, and violation of the Anti-Alias Law pertained to public documents and statements under oath which were, however, different from the basis of the criminal cases filed by Venancio against Gertrudes from 1998 to 1999.

Apart from failing to specify the confidential information which Atty. Marapao allegedly used without her consent, Gertrudes likewise did not provide the nexus between the cases which Atty. Marapao previously handled on her behalf, and the series of cases filed by Atty. Marapao against her, in representation of other individuals later. This omission is fatal to Gertrudes' cause given that an absence of showing that the cases are related, Atty.

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Marapao cannot be held liable for representing conflicting interests.

An attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved, and that as an officer of the Court, he is presumed to have performed his duties in accordance with his oath.³⁹ It is basic principle in adjective law that he who establishes a claim has the burden of proving such claim by the amount of evidence required by law.⁴⁰ Reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on. Charges based on mere suspicion and speculation cannot be given credence.⁴¹

In *précis*, the Court finds that there is dearth of evidence to prove that Atty. Marapao violated the rule on privileged communication. So, too, there is insufficient evidence to warrant a finding that he represented clients with conflicting interests. However, his established predilection to file numerous cases against his client's adversary is deplorable and cannot be countenanced.


Still and all, in view of Atty. Marapao's advanced age, his retirement from the practice of law, and considering that he has no previous conviction for an administrative disciplinary case decreed by final judgment, this Court finds that the imposition of suspension or disbarment would be too harsh a penalty in view of the obtaining circumstances.

IN LIGHT OF THE FOREGOING DISQUISITION, petitioner Atty. Lord M. Marapao is hereby **ADMONISHED** to be more circumspect in the performance of his duties as an officer of the Court. He is **STERNLY WARNED** that a similar infraction in the future shall be dealt with more severely.

SO ORDERED.


JAPAR B. DIMAAPAO
Associate Justice

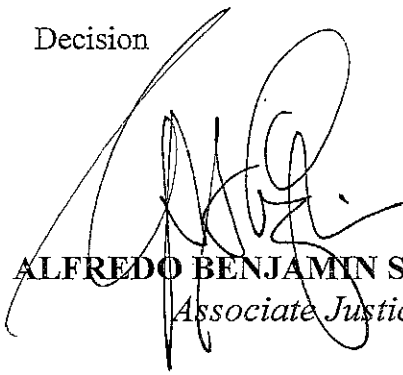
WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson

³⁹ Supra note 32 citing *BSA Tower Condominium Corporation v. Atty. Reyes*, A.C. No. 11944, 20 June 2018; *Zara v. Atty. Joyas*, A.C. No. 10994, 10 June 2019.

⁴⁰ Section 1, Rule 131 of the 2019 Amendments on the Revised Rules of Evidence.


⁴¹ Supra Note 32.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice