



Republic of the Philippines
Supreme Court
 Manila

EN BANC

**OFFICE OF THE PROVINCIAL PROSECUTOR OF CAVITE,
 DEPARTMENT OF JUSTICE.** **A.C. No. 8219 [Formerly CBD
 Case No. 18-5708]**

Complainant, Present:

GESMUNDO, C.J.,
 LEONEN,
 CAGUIOA,
 HERNANDO,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ, M.,*
 GAERLAN,
 ROSARIO,
 LOPEZ, J.,
 DIMAAMPAO,
 MARQUEZ,
 KHO, JR., and
 SINGH, JJ:

- versus -

Promulgated:

ATTY. LEONUEL N. MAS,

Respondent.

August 29, 2023

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DECISION

DIMAAMPAO, J.:

This administrative controversy has its provenance in the disbarment suit¹ lodged by the Office of the Provincial Prosecutor of Cavite, Department of Justice, through then Provincial Prosecutor Emmanuel Y. Velasco

* On official leave.
¹ Rollo, pp. 1-5.



(Prosecutor Velasco), against Atty. Leonuel N. Mas (Atty. Mas) before this Court for deceit, gross misconduct, dishonesty, and violation of the lawyer's oath and the oath of office as a prosecutor.

Essentially, the Complaint-Affidavit² asseverates that—

....

2. LEONUEL MAS . . . is an Assistant Provincial Prosecutor for the Province of Laguna and currently on detail with the Office of the Provincial Prosecutor of Cavite;

3. As Assistant Provincial Prosecutor, it is Respondent MAS' duty, among others, to conduct preliminary investigation of cases filed with our Office;

....

5. As Provincial Prosecutor, the undersigned implements a strict policy and drive against corruption within the Office. To this end, notices are prominently posted inside and within the immediate premises of the Office where they can reach via text message this representation if they have any complaint with regard to any irregularity in the resolution of their cases;

6. On 23 March 2009, between 5:00 to [sic] 10:00 o'clock PM, the undersigned received a complaint, via text message (SMS), from certain ANABELLE SARTE GAÑA and LAURO SARTE regarding an incident wherein Respondent MAS **unlawfully demanded and received the amount of PESOS FIFTY-EIGHT THOUSAND (PHP 58,000.00)** from them and their aunt, ELVIRA SHIBUYA;

7. SARTE and GAÑA are the complainants in the case entitled Lauro Sarte vs. Sylvia Dayrit, et.al., docketed as I.S. No. IV-03-INV-09A-0419, for Estafa. The said case was raffled and assigned to Respondent MAS for preliminary investigation;

8. Thus, the undersigned immediately inquired from GAÑA and SARTE if they are willing to execute a Complaint-Affidavit describing in detail the factual circumstances of the alleged offense.

9. On 24 March 2009, GAÑA and SARTE presented unto the undersigned their handwritten Complaint-Affidavit.

10. A thorough and careful perusal of the hand-written complaint as well as the records of the case Lauro Sarte vs. Sylvia Dayrit, et.al., furnished by the complainants revealed the following:

10.1. That LAURO SARTE is 47 years old, married, and is a resident of 46 Anabu II-B, Imus, Cavite, while ANABELLE SARTE GAÑA is 30 years old, married, is likewise a resident of 46 Anabu II-

² *Id.* at 11-15.

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B, Imus, Cavite. Another relative is ELVIRA SHIBUYA, aunt of SARTE;

10.2. That SARTE received a Subpoena from Respondent MAS, directing him to appear at the Preliminary Investigation to be conducted by the latter at the Provincial Prosecutor's Office on 19 March 2009, at 9:00 o'clock in the morning;

10.3. That SARTE and GAÑA, appeared during the scheduled preliminary investigation accompanied by their aunt, SHIBUYA, who was then vacationing from Japan;

10.4. At the Prosecutor's Office, SARTE handed over to someone named "Sam" (Respondent MAS' Secretary) the subpoena. Thereafter, Respondent MAS called them and inquired as to: (1) what were the events of the previous hearing; (2) what happened to the money involved in the Estafa case under investigation; and (3) why it took them almost two (2) years to file the case;

10.5. SARTE and GAÑA responded that this is the first time they appeared considering that they just received the subpoena;

10.6. Respondent MAS then made assurances unto SARTE, GAÑA and SHIBUYA: (1) **not to worry**; (2) **that he will resolve the case immediately**; (3) **that he will immediately issue a warrant of arrest**, and (4) **that within six (6) months the case will be resolved**;

10.7. Respondent MAS further told SARTE, GAÑA and SHIBUYA that he will resolve the case in their favor and with dispatch;

10.8. Respondent MAS then inquired whether they can pay the required "docket fees" which supposedly will reach the amount of PESOS ONE HUNDRED AND FIFTY THOUSAND (PHP 150,000.00);

10.9. SARTE, GAÑA and SHIBUYA sensed that something was wrong because they already paid beforehand the assessed docket fee in the amount of PESOS SIX THOUSAND (PHP 6,000.00) as supported by Official Receipt Number 2100286 (dated January 28, 2009), copy of which is heretofore attached as ANNEX "B". However, SARTE, GAÑA and SHIBUYA could not complain because Respondent MAS was pressuring them to pay said "docket fee" for him to resolve favourably their complaint;

10.10. In an attempt to further induce SARTE, GAÑA and SHIBUYA to pay the "docket fee" as told to them by Respondent MAS, the latter even went through the motion of supposedly calling (in the presence of SARTE, GAÑA and SHIBUYA) through his cell-phone the cashier of the Office of the Provincial Prosecutor, supposedly to haggle for the reduction of said "docket fee";

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10.11. That, thereafter, Respondent MAS told SARTE, GAÑA and SHIBUYA that he was able to convince the cashier that they need to pay only the amount of PESOS FIFTY-EIGHT THOUSAND (PHP 58,000.00);

10.12. Convinced, persuaded and relying on this representation of Respondent MAS, SARTE, GAÑA and SHIBUYA undertook to return the next day 20 March 2009, and bring along with them the “docket fee” in the amount of PESOS FIFTY-EIGHT THOUSAND PESOS (PHP 58,000.00);

10.13. Respondent MAS then instructed SARTE, GAÑA and SHIBUYA not to talk to anyone in the Office of the Provincial Prosecutor for the reason their opponent is supposedly “well connected”. Respondent MAS falsely represented that he would not like his fellow prosecutors to negotiate with him to rule in favor of their opponent in the subject estafa complaint;

10.14. On 20 March 2009 SARTE, GAÑA and SHIBUYA with the PESOS FIFTY-EIGHT THOUSAND (PHP 58,000.00) on hand and placed inside an envelope proceeded to the Office of the Provincial Prosecutor. Respondent MAS met with them and escorted them to the Preliminary Investigation Room (P.I. Room);

10.15. Respondent MAS then made SHIBUYA and SARTE take an “oath” and thereafter received the PESOS FIFTY-EIGHT THOUSAND (PHP 58,000.00) from ANABELLE SARTE GAÑA:

10.16. That with the cash in his hand, Respondent MAS walked SARTE, GAÑA and SHIBUYA out of the preliminary investigation room;

10.17. That since then Prosecutor MAS did not communicate with them anymore and neither did they get the receipt for the PESOS FIFTY-EIGHT THOUSAND PESOS (PHP58,000.00);

10.18. That it was then that the complainants sought an audience with the undersigned and inquired as to the propriety of Respondent MAS’ actions.

11. Clearly, Respondent MAS had committed several administrative and criminal infractions. There was no need to demand the FIFTY-EIGHT THOUSAND PESOS (PHP58,000.00) for the following reasons: a) he is not the authorized collecting officer of this Office; b) the docket fee for the said estafa complaint in the amount of PESOS SIX THOUSAND PESOS (PHP 6,000.00) had already been paid at the time of the filing of the said case; c) Respondent MAS clearly took the money for his own personal use and gain; and, d) Respondent MAS used his position in order to unlawfully extort the money from SARTE, GAÑA and SHIBUYA.³

³ *Id.* at 11-14.

On June 22, 2009, the Clerk of Court ordered Atty. Mas to comment⁴ on the petition but he failed to comply despite receipt of the resolution, which was re-sent to him as directed in the November 25, 2009 Resolution.⁵ This was followed by another Resolution⁶ requiring him to show cause why he should not be disciplined or held in contempt for such failure. The said resolution was eventually returned with the notation "RTS-Moved-Out."⁷

Accordingly, the Court instructed the Prosecutor Velasco to submit the correct and present address of respondent.⁸ As Atty. Mas' whereabouts remained unknown, the Court thereafter adjured the Office of the Bar Confidant to coordinate with the National Bureau of Investigation (NBI) to determine the present location of respondent.⁹

In the Compliance/Explanation¹⁰ filed by NBI Director Dante Gierran, he avouched that upon receipt of the directive from the Court, he immediately instructed the Bureau's Deputy Directors for Regional Operations Services (DDROS), Investigative Services (DDInvS), and Intelligence Service to conduct surveillance operations to locate respondent and to check whether he obtained a recent NBI Clearance, to no avail. Atty. Mas provided an inexistent address in his NBI Clearance and witnesses averred that he no longer resided in his Cavite, Muntinlupa, and Olongapo addresses. Due to insufficiency of leads, the NBI found it hard to ascertain respondent's current location.

Ensuingly, the administrative case was referred¹¹ to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation, docketed as CBD Case No. 18-5708.¹²

On January 15, 2019, IBP Investigating Commissioner Eldrid C. Antiquiera (Investigating Commissioner) issued his Report and Recommendation,¹³ the pertinent portion of which reads:

Respondent indeed committed the acts complained of to warrant disbarment. It must be noted that lawyers should obey the law and do no falsehood. They are dutybound to promote respect for the law and legal processes, must not engage in unlawful, dishonest, immoral, and deceitful conduct.

⁴ *Id.* at 19.

⁵ *Id.* at 47.

⁶ *Id.* at 50.

⁷ *Id.* at 51-A.

⁸ *Id.* at 52. Resolution dated October 5, 2011.

⁹ *Id.* at 55. Resolution dated August 5, 2015.

¹⁰ *Id.* at 63-65.

¹¹ *Id.* at 70. Resolution dated January 8, 2018.

¹² *Id.* at 72.

¹³ *Id.* at 81-83.

The acts of respondent in extorting money from the litigants in exchange for a favorable resolution of the case is plain extortion. It is highly deceitful and scandalous in the highest order. Under the Code of Professional Responsibility, a lawyer shall not engage in unlawful, dishonest, immoral, and deceitful conduct. Considering, however, that respondent is serving his disbarment in A.C. No. 8010, there can be no second disbarment to speak of. Hence, whatever penalty the CBD may recommend in this case is now moot and academic.

WHEREFORE, PREMISES CONSIDERED, it is recommended that the complaint be **DISMISSED** for being moot and academic.

Respectfully submitted.¹⁴

On November 28, 2020, a Resolution¹⁵ was passed by the IBP Board of Governors, as follows:

RESOLUTION NO. CBD-2020-11-14
CBD Case No. 18-5708
(Adm. Case No. 8219)
Office of the Provincial
Prosecutor Cavite vs.
Atty. Leonuel N. Mas

*RESOLVED to APPROVE and ADOPT in PART, as it is hereby APPROVED and ADOPTED in PART, the Report and Recommendation of the Investigating Commissioner in the above-entitled case insofar as it found respondent liable for deceit, gross misconduct and dishonesty, after finding the report to be fully supported by the evidence on record and the applicable laws and rules, with modification on the recommendation from dismissal for being moot and academic to DISBARMENT, if and when the disbarment of Atty. Leonuel N. Mas had been lifted.*¹⁶

Discernibly, the pith of the issue lies in whether respondent should be disbarred *anew*.

Upon judicious rumination, the Court gives imprimatur to the findings of fact of the IBP but must modify the penalty imposed in view of respondent's previous disbarment.

Prefatorily, the Court shall pass upon the issue that leaps to the eye—Was respondent properly given notice of the disbarment proceedings against him?

¹⁴ *Id.* at 83.

¹⁵ *Id.* at 79–80.

¹⁶ *Id.* at 79.

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The Court echoes with approbation the pronouncement in *Stemmerik v. Mas*¹⁷ where herein respondent was previously disbarred for embezzling his alien client in the total amount of PHP 4.2 million, *viz.*:

Respondent should not be allowed to benefit from his disappearing act. He can neither defeat this Court's jurisdiction over him as a member of the bar nor evade administrative liability by the mere ruse of concealing his whereabouts. Thus, service of the complaint and other orders and processes on respondent's office was sufficient notice to him.

Indeed, since he himself rendered the service of notice on him impossible, the notice requirement cannot apply to him and he is thus considered to have waived it. The law does not require that the impossible be done. *Nemo tenetur ad impossibile*. The law obliges no one to perform an impossibility. Laws and rules must be interpreted in a way that they are in accordance with logic, common sense, reason and practicality.

In this connection, lawyers must update their records with the IBP by informing the IBP National Office or their respective chapters of any change in office or residential address and other contact details. In case such change is not duly updated, service of notice on the office or residential address appearing in the records of the IBP National Office shall constitute sufficient notice to a lawyer for purposes of administrative proceedings against him.¹⁸

Lamentably, in the *Stemmerik* case, respondent did not file any answer or position paper, nor did he appear during the scheduled mandatory conference, as in this case. His whereabouts remained a mystery after he abandoned his last known address in Imus and Dasmariñas, Cavite and his law office in Olongapo City. For his failure to update his records with the IBP, the service of notice on his office or residential address appearing in the records of the IBP National Office shall constitute sufficient notice to him for purposes of administrative proceedings against him.

Delving now into the merits of the case, time and again has the Court reminded the bench and bar that the practice of law is not a right but a mere privilege subject to the inherent regulatory power of the Court. It is a privilege burdened with conditions. As such, lawyers must comply with its rigid standards, which include mental fitness, maintenance of highest level of morality, and full compliance with the rules of the legal profession.¹⁹

Jurisprudence defines misconduct as a transgression of some established and definite rule of action, more particularly, unlawful behavior or gross negligence by the public officer. Withal, to constitute misconduct, the

¹⁷ 607 Phil. 89 (2009) [Per Curiam, *En Banc*].

¹⁸ *Id.* at 95–96.

¹⁹ *Contreras v. Venida*, A.C. No. 5190, July 26, 2022 [Per Curiam, *En Banc*].

act or acts must have a direct connection to and be related with the discharge of the person's official duties.²⁰ Case law teaches Us that for misconduct to be deemed grave, the act must entail any of the additional elements of corruption, willful intent to transgress the law, or to disregard established rules, which must be validated by substantial evidence. Succinctly, the elements of corruption, clear intent to violate the law, or blatant nonobservance of an established rule must be apparent in a charge of grave misconduct.²¹

In *Neri v. Office of the Ombudsman*,²² the Court demystifies the term "corruption" in this wise:

Corruption is an "act of an official or fiduciary person who unlawfully and wrongfully uses [their] station or character to procure some benefit for [them]self or for another person, contrary to duty and the rights of others."²³

Dishonesty, on the other hand, is a "disposition to lie, cheat, deceive, or defraud; untrustworthiness; lack of integrity; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray."²⁴

The Code of Professional Responsibility and Accountability (CPRA)²⁵ pertinently provides:

CANON II Propriety

A lawyer shall, at all times, act with propriety and maintain the appearance of propriety in personal and professional dealings, observe honesty, respect and courtesy, and uphold the dignity of the legal profession consistent with the highest standards of ethical behavior.

SECTION 1. *Proper Conduct.* — A lawyer shall not engage in unlawful, dishonest, immoral, or deceitful conduct.

SECTION 2. *Dignified Conduct.* — A lawyer shall respect the law, the courts, tribunals, and other government agencies, their officials, employees, and processes, and act with courtesy, civility, fairness, and candor towards fellow members of the bar.

²⁰ *Abella v. Parfan*, A.M. No. P-21-030, April 5, 2022 [Per Curiam, *En Banc*].

²¹ *Id.*

²² G.R. No. 212467, July 5, 2021 [Per J. Leonen, Third Division].

²³ *Id.*

²⁴ *See In re Ong* (Re: Allegations Made Under Oath at the Senate Blue Ribbon Committee Hearing), 743 Phil. 622, 680 (2014) [Per Curiam, *En Banc*].

²⁵ A.M. No. 22-09-01-SC, April 11, 2023.

A lawyer shall not engage in conduct that adversely reflects on one's fitness to practice law, nor behave in a scandalous manner, whether in public or private life, to the discredit of the legal profession.

....

SECTION 28. *Dignified Government Service.* — Lawyers in government service shall observe the standard of conduct under the CPRA, the Code of Conduct and Ethical Standards for Public Officials and Employees, and other related laws and issuances in the performance of their duties.

Any violation of the CPRA by lawyers in government service shall be subject to disciplinary action, separate and distinct from liability under pertinent laws or rules.²⁶

It cannot be stressed enough that public service demands utmost honesty and discipline; a public servant must constantly demonstrate an utter sense of rectitude.²⁷ No less than Section 1, Article XI of the 1987 Constitution enshrines the principle that a public office is a public trust. It mandates that public officers and employees, who are servants of the people, must at all times be accountable to them, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.

Here, there is no question as to respondent's guilt. It is clear from the records that he extorted money from unsuspecting litigants and concocted a web of lies in order to deceive them. This is an unlawful behavior by a public officer in the discharge of his official duties. He unlawfully and wrongfully used his station to procure benefit for himself. Undoubtedly, this is not the first time that he did the same. Atty. Mas not only failed to uphold his duty as a prosecutor but also failed to uphold his lawyer's oath and ran afoul the provisions of the CPRA.

Anent the proper penalty to be imposed upon respondent, Section 42, Canon VI on Accountability under the CPRA is explicit—

SECTION 42. *Penalty When the Respondent Has Been Previously Disbarred.* — When the respondent has been previously disbarred and is subsequently found guilty of a new charge, the Court may impose a fine or order the disbarred lawyer to return the money or property to the client, when proper. If the new charge deserves the penalty of a disbarment or suspension from the practice of law, it shall not be imposed but the penalty shall be recorded in the personal file of the disbarred lawyer in the Office of the Bar Confidant or other office designated for the purpose. In the event that the disbarred lawyer applies for judicial clemency, the penalty so recorded shall be considered in the resolution of the same.

²⁶ *Id.*

²⁷ *Abella v. Parfan, supra* note 20.

Notably, this Court had already imposed upon respondent the ultimate penalty of disbarment in *Stemmerik*.²⁸ While indeed his condemnable acts in this case merit the penalty of disbarment, the Court cannot disbar him anew for in this jurisdiction We do not impose double disbarment.²⁹ The reason is obvious: “[o]nce a lawyer is disbarred, there is no penalty that could be imposed regarding his privilege to practice law.”³⁰

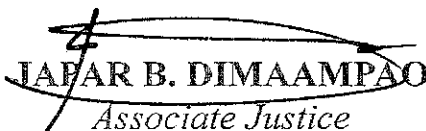
Nonetheless, while the Court can no longer impose the penalty upon the disbarred lawyer, it can still give the corresponding penalty only for the sole purpose of recording it in his personal file with the Office of the Bar Confidant (OBC), which should be taken into consideration in the event that the disbarred lawyer subsequently files a petition for reinstatement.³¹

ACCORDINGLY, respondent Leonuel N. Mas is hereby found **GUILTY** of violating his oath of office, the Lawyer’s Oath, and the Code of Professional Responsibility and Accountability, which warrants the imposition of the maximum penalty of disbarment. However, considering that he has already been previously disbarred, the penalty of disbarment anew can no longer be imposed. Nonetheless, in view of his earlier disbarment and being a repeat offender, he is adjudged to be **ineligible for judicial clemency**.

Respondent Leonuel N. Mas is **ORDERED** to return to Anabelle Sarte Gaña, Lauro Sarte, and Elvira Shibuya the amount of **PHP 58,000.00**, which he unlawfully demanded and received from them, with legal interest at the rate of 6% per annum from his receipt of this Decision until full payment. Respondent Atty. Leonuel N. Mas is further **DIRECTED** to submit to the Court the proof of payment of the amount within 10 days from payment.

Let a copy of this Decision be furnished the Office of the Bar Confidant to be appended to respondent’s personal record as a member of the Bar. Likewise, let copies of the same be served on the Integrated Bar of the Philippines and the Office of the Court Administrator. The Office of the Court Administrator is **DIRECTED** to circulate this Decision to all courts in the country, for information and guidance.

SO ORDERED.


JAPAR B. DIMAAMPAO
Associate Justice

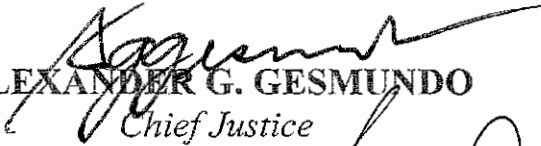
²⁸ *Supra* note 17.

²⁹ See *Punla v. Maravilla-Ona*, 816 Phil. 776, 785 (2017) [Per Curiam, *En Banc*].

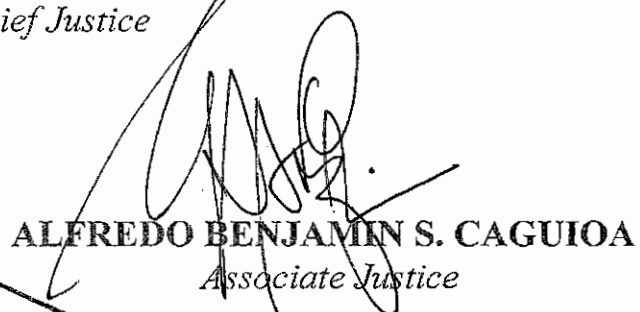
³⁰ *Contreras v. Venida*, *supra* note 19.

³¹ *Id.*

WE CONCUR:

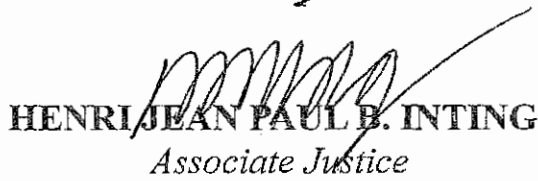

ALEXANDER G. GESMUNDO
Chief Justice

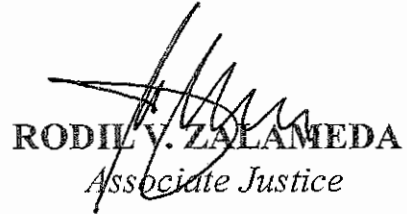

MARVIC M.V.F. LEONEN
Associate Justice

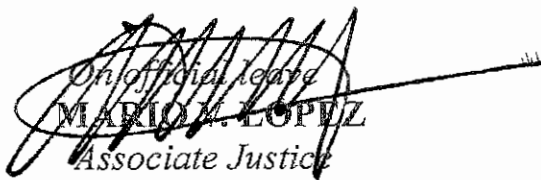

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

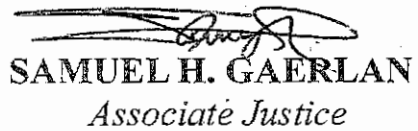

RAMON PAUL L. HERNANDO
Associate Justice


AMY C. LAZARO JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

On official leave

MARIO H. LOPEZ
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JHOSEP V. LOPEZ
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice


MARIA FILOMENA D. SINGH
Associate Justice