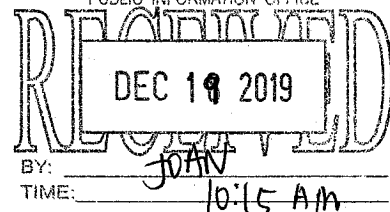




Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 5, 2019** which reads as follows:*

**“A.C. No. 7257 (Aleta Salvo Buehs v. Atty. Inocencio T. Bacatan).** – For resolution is a Petition<sup>1</sup> filed on July 6, 2006 by complainant Aleta Salvo Buehs against respondent Atty. Inocencio T. Bacatan seeking his disbarment for unlawfully representing conflicting interests, and grossly engaging in partiality and prejudicial conduct in the discharge of his duties as Voluntary Arbitrator.

The Report and Recommendation<sup>2</sup> dated September 25, 2011 of Commissioner Oliver A. Cachapero, Commission on Bar Discipline (CBD), Integrated Bar of the Philippines (IBP), follows:

**REPORT AND RECOMMENDATION**

x x x x

On July 19, 1993, two (2) employees of Mar Fishing Co., Inc., (“MFCI” for brevity) namely, Sergia Malukuh and Genaro Alvarez filed a case for Illegal Dismissal x x x against MFCI and/or Robert B. Buehs, husband of Complainant, in his capacity as General Manager, and the Mar Fishing Workers Union National Federation of Labor (“NFL” for brevity) docketed as NCMB RB IX Case No. VA-12-0045-879. The case was assigned to Respondent who is an accredited Voluntary Arbitrator of the National Conciliation and Mediation Board of the Department of Labor and Employment, Regional Office 9, Zamboanga City.

Subsequently, Respondent rendered a decision in favour of the two employees ordering MFCI and NFL to pay their separation pay, backwages, moral damages, exemplary damages and other benefits amounting to P1,563,360.00. MFCI and NFL appealed the

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<sup>1</sup> Rollo, pp. 1-9.  
<sup>2</sup> Id. at 110-113.

decision to the Court of Appeals but the court affirmed the decision with modifications. After sometime the decision of the appellate court became final and executory.

Thereupon and on motion of the two employees, Respondent issued a writ of execution. To enforce the said writ, Respondent issued levy on execution on the properties of Miramar Fish Company, Inc. which is not a party to the labour case. The company questioned the said levy before the Court of Appeals and the court issued a TRO and later on a Writ of Preliminary Injunction restraining Respondent from enforcing levy on the properties of the company.

During the pendency of the proceedings, the two employees, with Respondent as their counsel, filed a criminal case for violation of Art. 41 of the Labor Code against Robert Buehs and Teodoro Gabor, Jr. Not only that, Respondent issued a Hold-Departure Order / Watchlist Order against Robert Buehs without hearing and notice. On the strength of the said order, the Bureau of Immigration and Deportation placed Buehs in the Watchlist Order thus preventing him from travelling abroad.

Buehs elevated the matter to the Court of Appeals by way of Petition for Certiorari and the court issued a TRO and later on a writ of preliminary injunction. Subsequently[,] the court granted the petition and the HDO and WO were set aside.

Respondent once again issued a Writ of Execution against the herein petitioner who has not been named a party to the case. On the strength of the said writ, the deposit of the petitioner with the Bank of Philippine Communications was frozen. Aggrieved, the Petitioner moved to quash the writ but Respondent set the hearing of the same after an uncharacteristically long period of three (3) months.

Petitioner scored the Respondent for his act of issuing a writ of execution against her who is [a] non-party to the pending labor case. Hence, this case.

#### ISSUE

Whether or not Respondent had shown conduct that is wanting in moral character, honesty, probity, and good demeanor and should be disbarred or his name stricken off the roll of attorneys[.]

#### DISCUSSIONS

The present case delves on Respondent's performance of his duty as an accredited Voluntary Arbitrator of the National Conciliation and Mediation Board of the Department of Labor and Employment. His position requires him to discharge the

adjudicative responsibilities of a judge, and, therefore, his conduct as such is being weighed up herein in relation to the Code of Judicial Conduct.

Canon 3 of the Code requires that a judge should perform official duties honestly, and with impartiality and diligence. In every case, a judge shall endeavour diligently to ascertain the facts and the applicable law unswayed by partisan interests, public opinion or fear of criticism.

The question to ask is, "*Has the Respondent as Arbitrator displayed the above traits in his handling of NCMB RB IX Case No. VA-12-0045-879?*"

The undersigned resolves to answer in the negative.

To be sure, there are just too many indications of the partisan conduct of the Respondent in favour [of] the two employees of Mar Fish Company, Inc. Firstly, his issuance of a levy on execution of the properties of Miramar Fish Company, Inc. is clearly overboard. The company was neither impleaded as a party respondent nor was it shown that it had [voluntarily] made itself a party to the complaint. Hence, it was rather simplistic that its properties could not be made to answer for the obligation of Mar Fish Company, Inc[.] In any event and as if to underscore the frivolity and thoughtlessness of the order, the Court of Appeals had thumbed the levy down and forthwith issued a TRO and later a writ of preliminary injunction to stop its implementation.

Secondly, he showed his partiality and partisanship to the cause of the two employees by appearing as their counsel in the complaint for violation of Article 41 of the Labor Code against Robert Buehs. In the indorsement for the Complaint-Affidavit of the two employees to the Office of the City Prosecutor, the Respondent signed the same and unabashedly identified himself as the counsel for the Complainants. At that time, the case was still in his hands and awaiting his action to settle the judgment award. By doing as he did, he showed impropriety and partiality to the cause of the two because as voluntary arbitrator of a case in which his clients are the complainants, he was in a special position to influence the decision in favour of his clients.

Amazingly, the Respondent did not stop from. He made his partiality to the cause of the two employees all the more indubitable when he issued the much controversial writ of execution on petitioner who is a non-party to the case. He argued that being the wife of Buehs who is a German National, and who cannot own real properties in the Philippines, the properties of Complainant must be owned by her and her husband under the regime of absolute community of property. Be that as it may, the undersigned need not make an informed judgment on the reliability of the argument or the lack of it. Suffice it to say that Respondent

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already had shown proof that he had assumed the duties of arbitrator as an interested party and his subsequent actions which he had taken under the guise of enforcing the judgment award were indubitably impressed with the appearance that it was partial to the employees.

#### RECOMMENDATION

Foregoing premises considered, the undersigned believes and so holds that the instant complaint is impressed with merit. Accordingly, he recommends that the Respondent be meted with the penalty of CENSURE.

Pasig City, September 25, 2011.<sup>3</sup> (Citations omitted, italics in the original)

In Resolution No. XX-2013-563<sup>4</sup> dated May 10, 2013, the Board of Governors of the IBP adopted and approved, with modification, the Report and Recommendation of the Investigating Commissioner, finding the recommendation to be fully supported by the evidence on record and the applicable laws and rules; and considering Atty. Bacatan's actuation of partiality and partisanship, it suspended him from the practice of law for three (3) months. The IBP-CBD, subsequently, transmitted the records of the case to the Court for our consideration.

In a separate administrative case, however, entitled *Robert Bernhard Buehs v. Atty. Inocencio T. Bacatan*,<sup>5</sup> the Court had already suspended herein respondent, Atty. Bacatan, in its Decision dated June 30, 2009, for the same acts of unlawful representation of conflicting interests and prejudicial conduct in the discharge of his duties as Voluntary Arbitrator in the same labor case involving the same parties. The only difference therein is that the complaint was initiated by Robert Buehs, who was directly involved in the labor case, whereas the present complaint was brought to the Court at the instance of his wife, Aleta Buehs, who was not named as a party in said labor case but was, nonetheless, affected by Atty. Bacatan's issuances. In the said earlier case, the Court disposed as follows:

WHEREFORE, respondent Atty. Inocencio T. Bacatan is found GUILTY of gross misconduct for representing conflicting interests, gross ignorance of the law for issuing an order without authority, and failure to update his membership dues to the IBP; and is SUSPENDED from the practice of law for two (2) years,

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 108-109.

<sup>5</sup> 609 Phil. 1 (2009).

effective upon receipt of this Decision, with a stern warning that a repetition of the same or similar acts will be dealt with more severely.

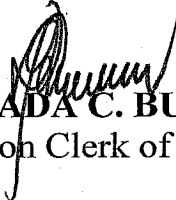
SO ORDERED.<sup>6</sup>


In light of the foregoing ruling, the Court deems it necessary to refrain from imposing on Atty. Bacatan a separate and distinct penalty for the same will constitute double penalty.<sup>7</sup> In said case, we already penalized him for the same misconduct committed against the same parties. Thus, the imposition of another penalty for the same charge is inappropriate.

Finding the recommendation of the Integrated Bar of the Philippines to be supported by the evidence on record and applicable laws, but in view of the previous two (2)-year suspension from the practice of law already imposed in *Buehs v. Atty. Bacatan*,<sup>8</sup> the Court resolves to **AFFIRM**, with **MODIFICATION**, Resolution No. XX-2013-563, dated May 10, 2013, of the Board of Governors of the Integrated Bar of the Philippines. Instead, respondent Atty. Inocencio T. Bacatan is hereby **STERNLY WARNED** that a similar misconduct in the future shall be dealt with more severely.

**SO ORDERED.”** *Inting, J., additional member per Special Order 2726.*

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court *12/10*  
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<sup>6</sup> *Id.* at 13-14.

<sup>7</sup> *Leyrit, et al. v. Solas*, 619 Phil. 668, 682 (2009).

<sup>8</sup> *Supra* note 5.

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