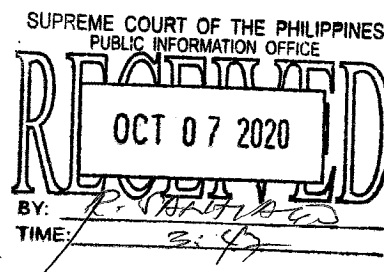




Republic of the Philippines
Supreme Court
Manila



SPECIAL THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **June 29, 2020**, which reads as follows:

“A.C. No. 11846 (ANTONIO C. ANTONIO, *complainant* v. ATTY. MARLITO I. VILLANUEVA, *respondent*). — This resolves the Motion for Reconsideration¹ of this Court’s Resolution² dismissing the Disbarment Complaint³ filed by Antonio C. Antonio (Antonio) against Atty. Marlito I. Villanueva (Atty. Villanueva) for lack of merit.

To recall, Atty. Villanueva served as counsel for Teresita A. Santos Cuenca (Cuenca) and Erlinda A. Santos Magat (Santos-Magat) in a special proceeding for the allowance of Rosario Antonio Balmaceda (Balmaceda)’s will then pending before the Regional Trial Court, Branch 93 of Balanga City, Bataan. Catherine Antonio and Victoria Miranda (intervenors) filed a Petition-in-Intervention, alleging that part of the estate claimed by Balmaceda’s heirs belonged to them. Antonio is the brother of Catherine Antonio and a son of Victoria Miranda.⁴

Cuenca and Magat, through Atty. Villanueva as counsel, moved to dismiss the Petition-in-Intervention, alleging that the intervenors did not pay the required docket fees. As evidence, they presented a letter-reply issued by Clerk of Court Romeo L. De Lemos (the Clerk of Court), confirming that no docket fees had been paid.⁵

Claiming that this letter-reply was false, Antonio filed the Disbarment Complaint against Atty. Villanueva. He alleged that the intervenors had fully paid the docket fees for the Petition-in-Intervention, and in so offering the false certification in evidence, Atty. Villanueva must be disciplined.⁶

¹ *Rollo*, pp. 228–242.

² *Id.* at 222–226, Resolution dated June 4, 2018.

³ *Id.* at 1–11.

⁴ *Id.* at 222.

⁵ *Id.* at 223.

⁶ *Id.*

In his Comment, Atty. Villanueva countered that Antonio had no personal knowledge of the incidents in the trial court proceedings as he was not a party to the case.⁷

The lawyer then denied knowing that the letter-reply was false. He explained that while the intervenors orally manifested in court that they had paid the docket fees, they presented no proof of such payment. This led his client, Santos-Magat, to inquire with the Clerk of Court, which then issued the letter-reply declaring that the intervenors had not paid the required docket fees.⁸

As the Clerk of Court is the officer tasked with evaluating, assessing, and receiving docket fees, Atty. Villanueva claimed that he and his clients had the right to rely on the Clerk of Court's letter-reply and present it as evidence. At any rate, he noted that when the intervenors countered with a receipt showing that the docket fees had already been paid, he filed a Supplemental Motion to Dismiss, arguing that the docket fees paid were insufficient. The letter-reply, therefore, was effectively withdrawn as evidence.⁹

In the June 4, 2018 Resolution,¹⁰ this Court dismissed the Disbarment Complaint, finding no *prima facie* case against Atty. Villanueva. It said that the lawyer did not knowingly present a false documentary evidence in court as the letter-reply was issued by the Clerk of Court. According to this Court, Atty. Villanueva did not err in relying on the letter-reply, which was presumed to have been prepared in the regular performance of official duties.¹¹

On August 10, 2018, Antonio filed this Motion for Reconsideration,¹² insisting that Atty. Villanueva should be disbarred for knowingly offering a false document as evidence. For him, Atty. Villanueva remains liable because the lawyer refused to withdraw the false certification as evidence despite the acknowledgment receipt showing that the intervenors had fully paid the required docket fees.

Commenting¹³ on the Motion for Reconsideration, Atty. Villanueva called for its dismissal. He argued that Antonio merely rehashed the arguments he had earlier made, which had been squarely passed upon by this Court in its June 4, 2018 Resolution.¹⁴

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id. at 222-226.

¹¹ Id. at 224.

¹² Id. at 228-242.

¹³ Id. at 372-375.

¹⁴ Id. at 372.

Antonio then filed his Motion for Leave to File,¹⁵ with the Reply¹⁶ attached.

The issue remaining is whether or not respondent Atty. Marlito I. Villanueva should be disbarred for introducing in evidence a letter-reply issued by the Clerk of Court, a certification which turned out to be inaccurate given that docket fees had indeed been paid by the intervenors.

The Motion for Reconsideration must be denied.

In seeking respondent's disbarment, complainant invokes the following provisions of the Code of Professional Responsibility and the Canons of Professional Ethics:

CODE OF PROFESSIONAL RESPONSIBILITY

....

CANON 10 — A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead or allow the Court to be misled by any artifice.

....

CANON 18 — A lawyer shall serve his client with competence and diligence.

....

Rule 18.02 A lawyer shall not handle any legal matter without adequate preparation.

CANONS OF PROFESSIONAL ETHICS

....

15. *How far a lawyer may go in supporting a client's cause*

Nothing operates more certainly to create or to foster popular prejudice against lawyers as a class, and to deprive the profession of that full measure of public esteem and confidence which belongs to the proper discharge of its duties than does the false claim. Often set up by the unscrupulous for the defense of questionable transactions, that it is the duty

¹⁵ Id. at 378-381.

¹⁶ Id. at 382-388.

of the lawyer to do whatever may enable him to succeed in winning his client's cause.

It is improper for a lawyer to assert in argument his personal belief in his client's innocence or in the justice of his cause.

The lawyer owes "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability," to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. No fear of judicial disfavor or public popularity should restrain him from the full discharge of his duty. In the judicial forum the client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land, and he may expect his lawyer to assert every such remedy or defense. But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand of him for any client, violation of law or any manner of fraud or chicanery. He must obey his own conscience and not that of his client.

....

22. *Candor and fairness*

The conduct of the lawyer before the court and with other lawyers should be characterized by candor and fairness.

It is not candid nor fair for the lawyer knowingly to misquote the contents of a paper, the testimony of a witness, the language or the argument of opposing counsel, of the language of a decision or a textbook; or with knowledge of its invalidity, to cite as authority a decision that has been overruled or a statute that has been repealed, or in argument to assert as a fact that which has not been proved, or in those jurisdictions where a side has the opening and closing arguments to mislead his opponent by concealing or withholding positions in his opening argument upon which his side then intends to rely.

It is unprofessional and dishonorable to deal other than candidly with the facts in taking the statements of witnesses, in drawing affidavits and other documents, and in the presentation of causes.

A lawyer should not offer evidence which he knows the court should reject, in order to get the same before the jury by arguments for its admissibility, nor should he address to the judge arguments upon any points not properly calling for determination by him. Neither should he introduce into an argument, addressed to the court, remarks or statements intended to influence the bystanders.

These and all practices are unprofessional and unworthy of an officer of the law charged, as is the lawyer, with the duty of aiding in the administration of justice.

....

32. *The lawyer's duty in its last analysis*

No client corporate or individual, however, powerful nor any cause, civil or political, however important, is entitled to receive nor should any lawyer render any service or advice involving disloyalty to the laws whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

....

41. *Discovery of imposition and deception*

When a lawyer discovers that some fraud or deception has been practiced, which was unjustly imposed upon the court or party, he should endeavor to rectify it; at first by advising his client, and if his client refuses to forego the advantage thus unjustly gained, he should promptly inform the injured person or his counsel, so that they may take appropriate steps.

At the core of complainant's action is respondent's failure to file a motion to withdraw from the court records the letter-reply declaring that the intervenors had not paid the docket fees. However, as pointed out by respondent, this is a mere rehash of the arguments made in the Disbarment Complaint, all of which had already been addressed by this Court in its June 4, 2018 Resolution.

This Court said that respondent effectively withdrew the letter-reply when he filed the Supplemental Motion to Dismiss anchored on different grounds: insufficient docket fees and belated payment. Thus, respondent no longer relied on the letter-reply. In the words of this Court:

Here, complainant failed to satisfactorily demonstrate that respondent knowingly and persistently introduced a false document in violation of his oath as a lawyer and the Code of Professional Responsibility, as well as the Revised Penal Code and Canons of Professional Ethics. Contrary to complainant's assertions, a perusal of the attached supplemental motion would show that non-payment of docket fees was no longer invoked by Cuenco and Santos-Magat, through respondent, as ground for the dismissal of the petition for intervention; rather, the dismissal was anchored on different grounds, to wit: 1) insufficiency of the amount paid for the docket fees of the petition-in-intervention, and/or 2) payment of the docket fees was beyond the reglementary period. Therefore,

respondent's supplemental motion no longer relied on the strength of the false or incorrect certification issued by the Clerk of Court.¹⁷

This Court pointed out that respondent "cannot be faulted for relying on the letter-reply of the Clerk of Court, for it carries the presumption that it was prepared in the course of official duties that have been regularly performed; in this sense, it is presumed to be accurate, unless proven otherwise."¹⁸

Complainant invites¹⁹ this Court's attention to the Balanga trial court's Order²⁰ dated May 29, 2014. There, the trial court allegedly found bad faith on the part of respondent in introducing the incorrect certification by the Clerk of Court. Complainant then argues that this finding of bad faith is already final since respondent filed no motion for reconsideration of the May 29, 2014 Order.

Complainant is effectively asking us to take judicial notice of the trial court's finding of bad faith against respondent. However, the May 29, 2014 Order only resolved the Motion and Supplemental Motion to Dismiss the Petition-in-Intervention. It is, thus, an interlocutory order that did not completely dispose of the main case: the allowance of Balmaceda's will.²¹ Being a mere interlocutory order, it cannot attain finality as a definitive finding of bad faith on the part of respondent.

Besides, in the May 29, 2014 Order, the trial court found that the intervenors had indeed paid insufficient docket fees. It even ordered the Clerk of Court to assess the intervenors' additional docket fees.²² This shows that the letter-reply introduced in evidence was not entirely incorrect so as to warrant bad faith, since it provided that the intervenors "did not pay the required legal fees":

Mrs. Erlinda A. Santos-Magat,

This is in reference to your letter dated June 12, 2013 asking whether or not the intervenor in SPL. Proc. No. 7523 paid the legal fees for Intervention. We would like to inform you that the intervenors Victoria U. Miranda and Catherine U. Antonio did not pay the required legal fees for their intervention in the aforementioned case.

Very truly yours,

¹⁷ Id. at 224.

¹⁸ Id. at 225.

¹⁹ Id. at 230-232.

²⁰ Id. at 62-69. Penned by Acting Presiding Judge Remegio M. Escalada, Jr.

²¹ See *E.I. Dupont de Nemours and Co. v. Francisco*, 794 Phil. 97, 113 (2016) [Per J. Leonen, Second Division].

²² *Rollo*, p. 69.

(Sgd.) ROMEO L. DE LEMOS
Clerk of Court²³

Certainly, insufficient docket fees are not the required legal fees.

All told, complainant failed to discharge the burden of proving that respondent, in offering the letter-reply as evidence in court, violated his oath and duties as a member of the Bar. The Disbarment Complaint against him was correctly dismissed.

WHEREFORE, respondent Atty. Marlito I. Villanueva's Comment dated February 12, 2018 and Comment and/or Opposition dated August 21, 2018 are **NOTED**. Complainant Antonio C. Antonio's Motion for Leave to File and to Admit Attached Reply dated October 16, 2018 is **GRANTED**, and the Reply dated October 16, 2018 is **NOTED**.

The Motion for Reconsideration is **DENIED with FINALITY**, the basic issues having been passed upon by this Court in the June 4, 2018 Resolution and for lack of substantial matter. Consequently, no further pleadings shall be entertained by this Court.

SO ORDERED."

Very truly yours,

Misael D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

GER
10/15/20

Mr. Antonio C. Antonio
Complainant
47 Charles St., Kingsville Subdivision
Barangay Mayamot, 1870 Antipolo City

Atty. Marlito I. Villanueva
Respondent
VILLANUEVA LAW OFFICE
Unit 318 Palm Tower B
7706 St. Paul St., San Antonio Village
1203 Makati City

Atty. Dominador I. Ferrer, Jr.
Suite No. 4, Goldhill Condo. Bldg.
Annapolis St., Greenhills
1502 San Juan City, Metro Manila

²³ Id. at 5.

Atty. Rosita M. Requillas-Nacional
Deputy Clerk of Court and Bar Confidant
OFFICE OF THE BAR CONFIDANT
Supreme Court, Manila

Atty. Randall C. Tabayoyong
Director for Bar Discipline
INTEGRATED BAR OF THE PHILIPPINES
Dona Julia Vargas Avenue
Ortigas Center, 1600 Pasig City

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