



Copy for:
PUBLIC INFORMATION
OFFICE

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE
RECEIVED
AUG 24 2020
BY: LCH
TIME: 8:55

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 11, 2020**, which reads as follows:*

“A.C. No. 12029: (CONCERNED CITIZEN OF THE PROVINCE OF AKLAN, complainant v. ATTY. SYLVANO F. SARABIA, respondent). — This resolves an administrative matter resulting from Bar Matter No. 1713, which held in abeyance the taking of the Lawyer’s Oath of a 2006 Bar Exam passer, on the ground that he had been convicted for estafa. As he had been acquitted on appeal, Bar Matter No. 1713 was re-docketed as an administrative matter pending his compliance with the civil liability adjudged in the criminal case.

Sometime in 1996, Augustus Gonzales (Gonzales) and Sylvano F. Sarabia (Sarabia) entered into the business of lending money, where Sarabia acted as industrial partner while Gonzales supplied the capital. Business had been doing well for the two until the 1997 Asian Financial Crisis.

Gonzales ended up filing several cases for estafa and violation of Batas Pambansa Blg. 22 (Bouncing Checks Law) against Sarabia.¹ Sarabia, for his part, filed a civil case² for the nullity of the 30 checks that he issued, on the ground that the checks were not issued for any obligation.³

Meanwhile, Sarabia took the 2006 Bar Examinations and passed. However, on April 10, 2007, the Office of the Bar Confidant received an undated letter from a “Concerned Citizen of the Province of Aklan” stating that Sarabia should not be allowed to take the Lawyer’s Oath in view of his conviction for estafa.⁴ Sarabia, for his part, filed a Petition to Take the Oath as a Lawyer,⁵ alleging that the cases for Batas Pambansa Blg. 22 had been

¹ Rollo, p. 66.

² Id. at 17–25.

³ Id. at 24.

⁴ Id. at 1.

⁵ Id. at 4–9.

dismissed and that his conviction for estafa was currently pending appeal.⁶ This matter was docketed as Bar Matter No. 1713.⁷

On June 12, 2007, this Court issued a Resolution⁸ adopting the Office of the Bar Confidant's recommendation⁹ that action on Sarabia's Petition to Take the Lawyer's Oath be held in abeyance pending the resolution of his appeal in the estafa cases.

On March 2, 2012, the Court of Appeals in CA-G.R. CR No. 00593 rendered a Decision¹⁰ acquitting Sarabia of estafa. He was, however, ordered to pay Gonzales ₱630,000.00 without interest. The dispositive portion of the Decision states:

WHEREFORE, in view of all the foregoing, the *Consolidated Decision* dated August 8, 2006 of the Regional Trial Court (RTC), 6th Judicial Region, Branch 6 Kalibo, Aklan, is **REVERSED AND SET ASIDE**. Appellant Sylvano F. Sarabia is **ACQUITTED** in Criminal Case Nos. 6320, 6321, 6322, 6323, 6324, 6326, 6327 and 6328 for estafa.

Appellant Sylvano F. Sarabia is **ORDERED** to pay private complainant Augustus Gonzales the sum of Six Hundred Thirty Thousand Pesos (P630,000.00) without interest. However, from the time this judgment becomes final and executory, the amount due shall earn interest of twelve percent (12%) per annum until full payment.

Costs against appellant Sylvano F. Sarabia.

SO ORDERED.¹¹ (Emphasis on the original)

Both Sarabia and Gonzales filed Motions for Reconsideration of the Decision.¹²

The Court of Appeals, however, issued an Entry of Judgment on March 2, 2012 but only with respect to the criminal aspect.¹³

Due to the finality of the March 2, 2012 Decision of the Court of Appeals in CA-G.R. CR No. 00593, the Office of the Bar Confidant recommended that Sarabia's oath taking be held in abeyance until he submits

⁶ Id. at 4.

⁷ Id. at 66.

⁸ Id. at 68.

⁹ Id. at 66–67.

¹⁰ Id. at 76–85. The Decision was penned by Associate Justice Victoria Isabel A. Paredes and concurred in by Associate Justices Edgardo L. Delos Santos (Chair, now Associate Justice of this Court) and Ramon Paul L. Hernando (now an Associate Justice of this Court) of the Nineteenth Division of the Court of Appeals, Cebu City.

¹¹ Id. at 84–85.

¹² Id. at 378.

¹³ Id. at 86.

proof of compliance with his civil liability per the Court of Appeals' March 2, 2012 Decision.¹⁴

In a June 26, 2012 Resolution¹⁵, this Court resolved to adopt the Office of the Bar Confidant's recommendation.

Sarabia then filed a Motion for Reconsideration¹⁶ of this Resolution, explaining that on September 17, 2001, he filed with the Regional Trial Court a Complaint for Nullity of the 30 checks he had issued to Gonzales, which was docketed as Civil Case No. 6416. On April 26, 2012, the Regional Trial Court rendered a Decision¹⁷ in Sarabia's favor, nullifying the checks, including the eight (8) checks that were subject of the criminal case in CA-G.R. CR No. 00593.¹⁸ The dispositive portion of the Decision read:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Declaring the thirty (30) checks subject of this case as null and void.
2. As to the accounting and declaration of remittances of the joint venture partnership, the same has not been duly conducted and proved in the course of trial to which this Court cannot determined [sic] what deems to be joint venture property, and
3. No award of damages would be awarded to both parties as discussed above.

No costs.

SO ORDERED.¹⁹

The Office of the Bar Confidant, however, recommended that Sarabia's oath taking still be held in abeyance until he pays his civil liability since this was the basis of the petition to disqualify him from taking the Lawyer's Oath.²⁰

On October 2, 2012, this Court issued a Resolution²¹ adopting the Office of the Bar Confidant's recommendation.

¹⁴ Id. at 94-98.

¹⁵ Id. at 99.

¹⁶ Id. at 101-104.

¹⁷ Id. at 107-123. The Decision was penned by Presiding Judge Ronald H. Exmundo of the Regional Trial Court of Kalibo, Aklan, Branch 4.

¹⁸ Id. at 101-102.

¹⁹ Id. at 122-123.

²⁰ Id. at 146-147.

²¹ Id. at 148.

On May 14, 2015, Sarabia filed a Submission of Additional Evidence to inform this Court that he had since filed a Motion for Reconsideration of the civil liability adjudged in CA-G.R. CR No. 00593, and that this was currently pending appeal. He requested instead that he be required to pay Gonzales only when the Decision becomes final and executory.²²

The Office of the Bar Confidant, while admitting that it was “a bit confused”²³ by the filing of the Motion for Reconsideration, nonetheless recommended that Sarabia’s oath taking be held in abeyance since the Court of Appeals’ March 12, 2012 Decision in CA-G.R. CR No. 00593 had already become final and executory.²⁴

On June 23, 2015, this Court issued a Resolution²⁵ adopting the Office of the Bar Confidant’s recommendation.

On August 27, 2015, Sarabia filed a Supplementary Petition to the Petition to Take Oath,²⁶ reiterating his previous arguments that his civil liability had since been negated in a related civil case.²⁷ He likewise prayed that he should be allowed to take the Lawyer’s Oath on humanitarian grounds, since he had several financial issues and that he was already a senior citizen with a meager salary as a college instructor and contractual advisor.²⁸ He also sent a check for ₱20,000.00 as partial payment and as a sign of good faith so that he could finally be able to take the oath.²⁹

The Office of the Bar Confidant reiterated its previous recommendation to hold in abeyance Sarabia’s oath taking in view of the finality of the Court of Appeals March 12, 2012 Decision. It, however, recommended the return of the ₱20,000.00 check as this was not required of him by this Court.³⁰

On December 1, 2015, this Court issued a Resolution³¹ adopting the Office of the Bar Confidant’s recommendation.

On June 27, 2017, Sarabia filed a Motion for Reconsideration to the Petition to Take Oath,³² reiterating that: (1) he had been acquitted of estafa; (2) his civil liability had been negated by a related civil case; and (3) he had

²² Id. at 150–152.

²³ Id. at 208.

²⁴ Id. at 208–209.

²⁵ Id. at 210.

²⁶ Id. at 213–217.

²⁷ Id. at 215–216.

²⁸ Id. at 216–217.

²⁹ Id. at 218.

³⁰ Id. at 244–249.

³¹ Id. at 250–251.

³² Id. at 254–262.

several health and financial issues that should serve as equitable reasons for him to take the Lawyer's Oath.

Acting on this Motion for Reconsideration, the Office of the Bar Confidant recommended that, considering Sarabia's advanced age and his current economic difficulties, he should be allowed to take the Lawyer's Oath so he can start earning income to answer for his civil liability.³³ It, however, reiterated that the March 2, 2012 Court of Appeals Decision had already attained finality and opined that any conflicting decision should be submitted to the Court of Appeals for appropriate action. Thus, it recommended that the matter should be converted into an administrative matter pending Sarabia's compliance of his civil liability.³⁴

On January 10, 2018, this Court issued a Resolution³⁵ adopting the Office of the Bar Confidant's recommendation in allowing Sarabia to take the Lawyer's Oath and sign the Roll of Attorneys. His case, however, was re-docketed as a regular administrative matter against now Atty. Sarabia, under the docket number A.C. No. 12029.

Atty. Sarabia then filed a Manifestation³⁶ on February 15, 2018, manifesting that he had paid the fees for his oath taking and praying that this Court set the date..

The Office of the Bar Confidant reported that Sarabia had since taken his Lawyer's Oath and signed the Roll of Attorneys on June 4, 2018. It, however, recommended that Atty. Sarabia be made to file a manifestation regarding his compliance with the March 2, 2012 Court of Appeals Decision on the payment of his civil liability.³⁷

On August 22, 2018, this Court issued a Resolution³⁸ adopting the Office of the Bar Confidant's recommendation.

In a November 22, 2018 Manifestation,³⁹ Atty. Sarabia thanked this Court for allowing him to take the Lawyer's Oath and prayed that the judicial process for Civil Case No. 6416 be allowed to continue rather than require him to comply with the Court of Appeals' March 2, 2012 Decision.

³³ Id. at 339-341.

³⁴ Id. at 341.

³⁵ Id. at 342.

³⁶ Id. at 347.

³⁷ Id. at 351.

³⁸ Id. at 352-353.

³⁹ Id. at 355-358.

Considering that Atty. Sarabia had yet to comply with this Court's August 22, 2018 Resolution, this Court, in a February 20, 2019 Resolution,⁴⁰ reiterated the order to fully comply with this Court's August 22, 2018 Resolution.

Atty. Sarabia submitted a Motion for Reconsideration⁴¹ asking this Court if he may be allowed to pay the amount of ₱630,000.00 in installment payments. He later submitted an Addendum to his Motion for Reconsideration,⁴² explaining that Gonzales had appealed the Civil Case No. 6416 to the Court of Appeals, docketed as CA-G.R. CV No. 04438. On January 31, 2019, the Court of Appeals issued a Decision⁴³ denying the appeal and remanding the case to the trial court for accounting of the affairs of the Joint Venture's business. The dispositive portion of the Decision reads:

WHEREFORE, the appeal is **DENIED**. The 26 April 2012 Decision of the Regional Trial Court, Branch 4, Kalibo, Aklan in Civil Case No. 6416, is **AFFIRMED** but **MODIFIED** hereby **DELETING** the pronouncement of the trial court insofar as its failure to determine the composition of the Joint Venture property because such was not proven during the trial.

The case is **REMANDED** to the Regional Trial Court, Branch 4, Kalibo, Aklan for the purpose of **ACCOUNTING** the affairs of the Joint Venture's business. The trial court is further **DIRECTED** to receive additional evidence pursuant to the said accounting and to act in accordance with its findings after the said accounting.

SO ORDERED.⁴⁴ (Emphasis in the original)

Gonzales filed a Motion for Reconsideration but it was denied by the Court of Appeals in a Resolution dated October 10, 2019. As neither party filed an appeal before this Court, the Court of Appeals informed the parties that the Decision had become final and executory on August 21, 2019.⁴⁵

In view of these developments, Atty. Sarabia prays that this Court will consider this administrative matter closed, and that the civil liability imposed by the Court of Appeals' March 12, 2012 Decision be invalidated in view of the finality of the Decision in CA-G.R. CV No. 04438.⁴⁶

⁴⁰ Id. at 403-404.

⁴¹ Id. at 411-415.

⁴² Id. at 406-410. Both pleadings were in the same Report for Agenda dated December 11, 2019 of the Office of the Bar Confidant.

⁴³ This Decision was not attached to the *Rollo*.

⁴⁴ *Rollo*, p. 418.

⁴⁵ Id. at 416.

⁴⁶ Id. at 408-409.

The Addendum to the Motion for Reconsideration, to be treated as a Supplemental Motion for Reconsideration, is partly granted.

The Office of the Bar Confidant may have been confused as to the factual antecedents of this case. This confusion may have also been caused by Atty. Sarabia's piecemeal submission of the relevant documents.

From the evidence present, it can be gathered that this administrative matter involves two (2) separate cases: *first*, a criminal case for estafa and Batas Pambansa Blg. 22, docketed as Criminal Case Nos. 6320-6324 and 6326-6328 before the trial court and CA-G.R. CR No. 00593 before the Court of Appeals; and *second*, a civil case for Nullity of Checks docketed as Civil Case No. 6416 before the trial court and CA-G.R. CV No. 04438 before the Court of Appeals. Both of these cases involve 30 checks issued by Atty. Sarabia to Gonzales in their failed business venture.

In the criminal case, the Court of Appeals rendered a Decision acquitting Atty. Sarabia but finding him civilly liable to Gonzales in the amount of ₱630,000.00, the total value of the 30 checks issued.

On March 2, 2012, the Court of Appeals issued an Entry of Judgment but only as to the criminal aspect.⁴⁷ This issuance meant that acquittal had become final and executory *but the matter of civil liability was still pending* as Motions for Reconsideration had been filed.

On July 2, 2015, the Court of Appeals issued a Resolution denying Sarabia's Motion for Reconsideration but granting Gonzales' Motion for Reconsideration to add legal interest to Sarabia's civil liability.⁴⁸ The dispositive portion of the Resolution states:

WHEREFORE, foregoing told, the motion for reconsideration of herein accused-appellant is hereby DENIED for lack of merit; and the motion for reconsideration of herein private complainant is hereby GRANTED.

Consequently, in line with recent jurisprudence, the civil aspect of the assailed decision is hereby MODIFIED by: (1) adding an interest of 6% per annum which should be computed from default or March 30, 1999; and, (2) decreasing the legal interest to 6% per annum, computed from the finality of judgment until its full satisfaction.

SO ORDERED.⁴⁹

⁴⁷ Id. at 86.

⁴⁸ Id. at 379. The Resolution is not attached to the *Rollo*.

⁴⁹ Id.

Neither Atty. Sarabia nor Gonzales appealed to the Supreme Court, thus, on August 20, 2015, the Court of Appeals issued the Entry of Judgment *on the civil liability*.⁵⁰

Thus, the issue of civil liability had only become final and executory on August 20, 2015. The Office of the Bar Confidant, however, made its recommendation to direct Atty. Sarabia to pay his civil liability as early as 2012, on the presumption that the Decision had already become final and executory on March 12, 2012. However, only the matter of acquittal had become final and executory on March 12, 2012. The issue of civil liability was still pending.

Another complication was that in the civil case, which had been simultaneously pending, the Court of Appeals rendered a Decision nullifying the 30 checks and remanding the case to the trial court for the accounting of the affairs of their failed business venture. This Decision had also become final and executory.

The sole issue of this administrative case is whether or not Atty. Sarabia should comply with the payment of the civil liability adjudged by the Court of Appeals in the criminal case.

The final and executory Court of Appeals' Decision in the civil case directly affects Atty. Sarabia's compliance with this Court's prior directive. At this juncture, it would be prudent to dismiss this administrative matter to prevent any confusion that may arise from this Court's directive.

This Court has stated that "[i]n administrative cases, the only issue within the ambit of the Court's disciplinary authority is whether a lawyer is fit to remain a member of the Bar. Other issues are proper subjects of judicial action."⁵¹ *Anacta v. Resurreccion*⁵² further explains:

Anent the issue of whether respondent should be directed to return the amount of ₱ 42,000.00 he received from the complainant, we note that the rulings of this Court in this matter have been diverse. On one hand, there are cases where this Court directed respondents to return the money they received from the complainants. On the other hand, there are also cases where this Court refrained from venturing into this matter on the ground that the same is not within the ambit of its disciplinary authority as the only issue in administrative cases is the fitness of the lawyer to remain a member of the bar.

⁵⁰ Id.

⁵¹ *Spouses Williams v. Atty. Enriquez*, 722 Phil. 102, 110 (2013) [Per J. Carpio, Second Division].

⁵² 692 Phil. 488 (2012) [Per J. Del Castillo, En Banc].

Now is the most opportune time to harmonize the Court's ruling on this matter. Thus, it is imperative to first determine whether the matter falls within the disciplinary authority of the Court or whether the matter is a proper subject of judicial action against lawyers. *If the matter involves violations of the lawyer's oath and code of conduct, then it falls within the Court's disciplinary authority. However, if the matter arose from acts which carry civil or criminal liability, and which do not directly require an inquiry into the moral fitness of the lawyer, then the matter would be a proper subject of a judicial action which is understandably outside the purview of the Court's disciplinary authority. Thus, we hold that when the matter subject of the inquiry pertains to the mental and moral fitness of the respondent to remain as member of the legal fraternity, the issue of whether the respondent be directed to return the amount received from his client shall be deemed within the Court's disciplinary authority.*⁵³ (Emphasis supplied)

Considering that Atty. Sarabia had been acquitted of estafa, the issue of whether Atty. Sarabia should be made to comply with the civil liability despite the existence of a conflicting civil case is not the proper subject of an administrative case.

Atty. Sarabia likewise prays that this Court invalidate his civil liability in the criminal case, in view of the finality of the civil case in his favor.

This Court cannot, in an administrative case involving the discipline of lawyers, invalidate a Court of Appeals decision in a criminal case due to a conflicting civil case. The party seeking this relief must file the proper action with the proper forum. This also means that while this Resolution terminates the administrative matter against Atty. Sarabia, it is without prejudice to whatever future action Gonzales may file to execute the decision in CA-G.R. CR No. 00593, as this decision remains valid and binding against Atty. Sarabia. The dismissal of this administrative case is also without prejudice to the filing of any subsequent administrative case that may arise from that action.

In *Virgo v. Amorin*,⁵⁴ the administrative case against the lawyer was dismissed without prejudice, as this Court could not determine the lawyer's administrative liability without delving into the merits of the related civil case:

While it is true that disbarment proceedings look into the worthiness of a respondent to remain as a member of the bar, and need not delve into the merits of a related case, the Court, in this instance, however, cannot ascertain whether Atty. Amorin indeed committed acts in violation of his oath as a lawyer concerning the sale and conveyance of the Virgo Mansion without going through the factual matters that are subject of the

⁵³ Id. at 500.

⁵⁴ 597 Phil. 182 (2009) [Per J. Austria-Martinez, Third Division].

aforementioned civil cases, particularly Civil Case No. 01-45798. As a matter of prudence and so as not to preempt the conclusions that will be drawn by the court where the case is pending, the Court deems it wise to dismiss the present case without prejudice to the filing of another one, depending on the final outcome of the civil case.⁵⁵

Considering that there are two (2) conflicting Court of Appeals decisions that will directly affect the final determination of the sole issue in this administrative case, and considering further that the determination of the validity of the civil liability may not affect Atty. Sarabia's moral fitness to remain a member of the Bar, this administrative case should now be dismissed. The dismissal, however, shall be without prejudice to any subsequent case, whether civil, criminal, or administrative, that will be filed against Atty. Sarabia, involving the Court of Appeals' decisions in CA-G.R. CR No. 00593 and CA-G.R. CV No. 04438.

WHEREFORE, the administrative case filed against Atty. Sylvano S. Sarabia docketed as A.C. No. 12029 is **DISMISSED** without prejudice to the filing of any subsequent civil, criminal, or administrative case involving the Court of Appeals' judgments in CA-G.R. CR No. 00593 and CA-G.R. CV No. 04438.

Accordingly, this case is considered **CLOSED** and **TERMINATED**.

SO ORDERED."

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
9/17/2020

Atty. Sylvano F. Sarabia
Barangay Old Buswang
5600 Kalibo, Aklan

Atty. Rosita M. Requillas-Nacional
Deputy Clerk of Court & 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

JUDICIAL & BAR COUNCIL
Supreme Court, Manila

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
[For uploading pursuant to A.M. 12-7-1

LIBRARY SERVICES
Supreme Court, Manila

⁵⁵ Id. at 194.