



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

REBECCA M. ALLAN,
Complainant,

A.C. No. 6950

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,

- versus -

HERNANDO,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

Promulgated:

ATTY. ELPIDIO S. SALGADO,
Respondent.

OCT 06 2021

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DECISION

INTING, J.:

Before the Court is a Complaint¹ dated March 7, 2005 for disciplinary action against Atty. Elpidio S. Salgado (respondent) filed by Rebecca M. Allan (complainant) for violation of the Lawyer’s Oath and the Code of Professional Responsibility (CPR).

The Antecedents

On several occasions from August 18, 2004 to November 11, 2004, respondent, representing himself as the owner of the Millenium Park Place, a four-storey two condominium unit, situated at Road 20, Brgy. Bahay Toro, Project 8 corner Mindanao Avenue, Quezon City (subject property), convinced complainant to purchase scrap materials from him. Respondent, together with Fernando “Andy” Cruz (Cruz) and

¹ Rollo, pp. 1-9.

a certain Rodzen (collectively, Salgado group) made complainant to believe that they were looking for a financier for the demolition of the subject property. To entice her, they informed complainant that ₱15,000,000.00 worth of steel scrap may be recovered from the demolition of the subject property.²

Complainant agreed to finance the demolition of the subject property. On August 20, 2004, complainant entered into a Memorandum of Agreement³ (MOA) with respondent. They stipulated in the MOA that respondent was assigning to complainant all the materials which will be recovered from the demolition of the subject property for the contract price of ₱7,000,000.00.⁴ Respondent likewise agreed to deliver to complainant true copies of the demolition permit and other government permits and licenses on or before August 30, 2004 after the release of the initial ₱1,000,000.00.⁵ The MOA was signed in respondent's office located at Room 226, Doña Consolacion Bldg., Araneta Center, Quezon City.⁶

On the same date, complainant released the initial ₱1,000,000.00 to which respondent issued a receipt.⁷ Complainant also gave ₱350,000.00 to Cruz and Rodzen for the purchase of materials to be used in the demolition of the subject property.

Despite receipt of the initial payment, and after the lapse of the agreed period, respondent did not deliver the necessary government permits and licenses. Still, Cruz and Rodzen frequented complainant's house to ask for extra money which they alleged will be used to follow up some documents in the Office of the Building Officials of Quezon City.⁸

Sometime in September 2004, respondent started asking complainant for additional money to help him with an “*under the table*” deal with employees of the Quezon City Engineering Department in

² *Id.* at 2.

³ *Id.* at 11-13.

⁴ The contract price is payable as follows: (1) ₱1,000,000.00 to be paid not later than August 20, 2004; and (2) ₱1,500,000.00 to be paid in four equal installments on the 15th and 30th day of the month beginning September 30, 2004 until fully paid, *id.* at 4-5.

⁵ *Id.* at 12.

⁶ *Id.* at 4.

⁷ *Id.* at 5.

⁸ *Id.*

order to expedite the release of the demolition permits. Respondent assured complainant that the additional amount will be considered as advances deductible from the contract price. Complainant gave respondent: (1) ₱200,000.00 on September 24, 2004; (2) ₱300,000.00 on September 27, 2004; and (3) ₱100,000.00 on October 16, 2004.⁹

Subsequently, respondent introduced to complainant a certain Nick Sanchez (Sanchez) who promised to assist him with the release of the demolition permits.¹⁰

Complainant then came to know from some individuals in the Quezon City Engineering Department about a *modus operandi* committed by persons identified with a certain Atty. Salgado which already victimized a number of people.¹¹ This led complainant to make some inquiries as to the identity of the true owner of the subject property. She then discovered that the subject property was not owned by respondent but co-owned by a certain Daniel Casabar and Rufina Reyes.¹²

When the Salgado group again asked for another ₱300,000.00, complainant immediately reported the matter to the Philippine National Police (PNP) in Camp Karingal.¹³ On November 11, 2004, an entrapment operation was organized by the police which led to the apprehension of Sanchez and respondent.¹⁴ An Information¹⁵ dated November 12, 2004 was filed before the Regional Trial Court of Quezon City charging respondent with the crime of *Estafa*.

Proceedings before the Court

In the Resolution¹⁶ dated December 14, 2005, the Court required respondent to file his comment on the Complaint. In a Manifestation¹⁷ dated August 17, 2006, respondent averred that he was not furnished a

⁹ *Id.* at 6- 7.

¹⁰ *Id.* at 7.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Docketed as Criminal Case No. O-OY-131087, entitled "*People of the Philippines v. Elpidio Salgado y Sarmen, Nixon Sanchez y Reyes, and Juanito Adlawan y Sarmen;*" *id.* at 18-19.

¹⁶ *Id.* at 20.

¹⁷ *Id.* at 27-29.

copy of the Complaint. Thus, on November 29, 2006, the Court ordered complainant to furnish respondent with a copy of the Complaint.¹⁸ In compliance therewith, complainant personally served a copy of the Complaint in respondent's office located at Doña Consolacion Bldg., General Santos Avenue, Araneta Center, Cubao, Quezon City.¹⁹

Respondent then filed a motion for extension requesting for an additional period of 10 days from February 11, 2007, or until February 21, 2007 within which to file his comment.²⁰ In a Resolution²¹ dated April 18, 2007, the Court granted respondent's motion. However, despite the extension, respondent did not file a comment. Thus, the Court, in a Resolution²² dated November 24, 2010, ordered respondent to show cause as to why he should not be disciplinary dealt with.

On August 8, 2011, the Court imposed upon respondent a fine of ₱2,000.00, or a penalty of five days imprisonment if the fine is unpaid within the prescribed period; and further required him to comply with the Resolution dated December 14, 2005.²³ In a Resolution²⁴ dated March 13, 2013, the Court increased the fine to ₱4,000.00 because of respondent's noncompliance.

On February 14, 2018, the Court issued a Resolution which: (a) directed the National Bureau of Investigation to cause the arrest of respondent and for him to be detained for five days until he shall have complied with the Resolution dated December 14, 2005; and (b) to make a return of the Order of Arrest and Detention to the Court.²⁵

The Issue

Whether respondent is guilty of violating the CPR and the Lawyer's Oath.

¹⁸ *Id.* at 34.

¹⁹ *Id.* at 40-41.

²⁰ *Id.* at 47-48.

²¹ *Id.* at 50.

²² *Id.* at 53.

²³ *Id.* at 55.

²⁴ *Id.* at 59.

²⁵ *Id.* at 66.

The Court's Ruling

Respondent violated his sworn duties under the Lawyer's Oath and the CPR.

Rules 1.01, 1.02, Canon 1, Rule 7.03 and Canon 7 of the CPR reads:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

RULE 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

RULE 1.02 A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

CANON 7 — A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the integrated bar.

RULE 7.03 A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession

The nature of the office of a lawyer requires that he/she shall be of good moral character. This qualification is not only a condition precedent to admission to the legal profession but its continued possession is essential to maintain one's good standing in the profession.²⁶ Lawyers who violate their oath and engage in deceitful conduct have no place in the legal profession.²⁷

The record speaks for itself. Respondent, with the help of Cruz, Rodzen, and Sanchez convinced complainant to part with her money in the total amount of ₱1,600,000.00 by pretending to be the owner of the

²⁶ *Rayos-Ombac v. Rayos*, 349 Phil. 7, 15 (1998), citing *Igual v. Javier*, 324 Phil. 698 (1996), *Villanueva v. Sta. Ana*, 315 Phil. 795, 799 (1995), *People v. Atty. Tuanda*, 260 Phil. 572, 576-577 (1990) and *Melendrez v. Atty. Decena*, 257 Phil. 672, 686-687 (1989).

²⁷ *San Jose Homeowners Association Inc. v. Atty. Romanillos*, 499 Phil. 99, 107 (2005), citing *De Guzman v. Atty. De Dios*, 403 Phil. 222, 226 (2001).

subject property which he “assigned” to the latter by virtue of the MOA, signed and executed by them in his law office. He even issued a receipt for every payment made by the complainant so as not to arouse suspicion. Fortunately, complainant discovered that respondent was not the true owner of the subject property. She then sought the assistance of the PNP. Respondent was eventually apprehended during an entrapment operation conducted on November 11, 2004, wherein he received another ₱300,000.00 from complainant.

Moreover, respondent's continued defiance of the Court Resolutions dated December 14, 2005, November 24, 2010, August 8, 2011, and March 13, 2013 shows a blatant disregard of the system he has vowed to support when he took his oath. A lawyer has the duty to obey lawful orders of a superior court.²⁸ Willful disobedience to such orders, especially to those issued by the Court, is a sufficient ground to disbar a lawyer or suspend him from the practice of law under Section 27,²⁹ Rule 138 of the Rules of Court.

Given the gravity and seriousness of the offenses committed by respondent, disbarment is in order.

Significantly, respondent was already disbarred in the Decision³⁰ dated February 18, 2020 of the Court *En Banc* in A.C. No. 12452 entitled “*Michael M. Lapitan v. Atty. Elpidio S. Salgado*,” the dispositive portion of which reads:

WHEREFORE, respondent Atty. Elpidio S. Salgado, having violated the Code of Professional Responsibility by committing unlawful, dishonest, deceitful conduct, and by willfully disregarding the lawful processes of courts is DISBARRED and his name is ordered STRICKEN OFF the Roll of Attorneys EFFECTIVE IMMEDIATELY.

²⁸ *Verano v. Atty. Diores*, 820 Phil. 360, 367 (2017).

²⁹ Section 27, Rule 138 of the Rules of Court provides:

SEC. 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.*
— A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court *for any deceit, malpractice, or other gross misconduct* in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any *violation of the oath* which he is required to take before admission to practice, or *for a willful disobedience of any lawful order of a superior court*, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. x x x (Italics supplied.)

³⁰ *Lapitan v. Atty. Salgado*, A.C. No. 12452, February 18, 2020.

x x x x.

SO ORDERED.³¹

On this note, respondent can no longer be disbarred, for in this jurisdiction, the Court does not impose double disbarment.³² Nonetheless, the Court in the case of *Nicolas v. Laki*³³ and *Punla v. Villa-Ona*,³⁴ held that a fine of ₱40,000.00 may be imposed in lieu of disbarment.

Considering that respondent is not only unworthy of the legal profession but is also a fugitive from justice and considering the depreciation of the value of the Philippine Peso,³⁵ the Court deems it proper to impose a fine of ₱100,000.00.

WHEREFORE, the Court finds respondent Elpidio S. Salgado **GUILTY** of violating Rules 1.01, 1.02, Canon 1, Rule 7.03 and Canon 7 of the Code of Professional Responsibility. He is **ORDERED to PAY** a fine of ₱100,000.00 in lieu of disbarment and ₱4,000.00 for failure to comply with the various directives of the Court.

Let a copy of this Decision be furnished and properly recorded in the Office of the Bar Confidant to be appended to the personal record of respondent Elpidio S. Salgado.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

³¹ *Id.*


³² *Punla v. Maravilla-Ona*, 816 Phil. 776, 788 (2015)

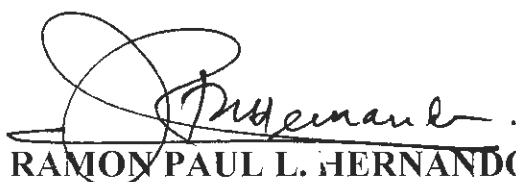
³³ A.C. No. 12881, February 9, 2021.

³⁴ 816 Phil. 776, 788 (2015).


³⁵ In A.M. No. 21-03-17-SC, entitled "Amendments to the Fines Provided in Rule 140 of the Revised Rules of Court," the Court, in increasing the amount of fines to be imposed to erring Judges, took into consideration the fact that the value of the Philippine Peso has decreased.

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

