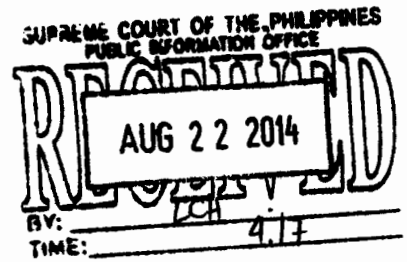




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 28, 2014 which reads as follows:

“A.C. No. 10449 (*Francisco Binay-an, et al. vs. Atty. Atanacio D. Addog*). – The complainants are heirs of Barot Binay-an and plaintiffs in Civil Case No. 005-CAR-07 for Annulment of Documents filed with the National Commission on Indigenous Peoples (NCIP), La Trinidad, Benguet, against the defendants Angeline Damaso (Damaso) and the Cordillera Small Business Assistance Center, Inc. The complainants are represented in said case by Atty. Jerome W. Selmo (Atty. Selmo), while Atty. Atanacio D. Addog (respondent) represented the defendants.

According to the complainants, on February 8, 2008, Damaso, who is the constituted representative of the heirs of Barot Binay-an, called for a meeting in Mandarin Restaurant. Paul Palos (Paul) and Bienvenido Palos (Bienvenido), who are also heirs of Barot Binay-an and their co-plaintiffs in Civil Case No. 005-CAR-07, and the respondent were present in the meeting. During the meeting, Damaso and the respondent managed to convince Paul and Bienvenido to execute separate Affidavits of Desistance, which were later notarized by the respondent. The respondent subsequently submitted the Affidavits of Desistance to the NCIP, which the NCIP Hearing Officer denied. The NCIP Hearing Officer also cautioned the respondent on the ethical consideration in having the affidavits submitted. The respondent later withdrew his representation for the defendants. Thus, the complaint for misconduct against the respondent, which was filed with the Integrated Bar of the Philippines (IBP), docketed as CBD No. 08-2303.¹

In his answer, while admitting that he was present during the meeting in Mandarin Restaurant and notarized the affidavits of desistance, the respondent denied the complainants’ charges and stated that: Paul and Bienvenido’s affidavits of desistance were freely executed; he was not

¹ Rollo, pp. 2-3.

“lawyering” for Paul and Bienvenido; and he submitted the affidavits to the NCIP in behalf of his clients and not in representation of the complainants, among others.

In Resolution No. XIX-2011-191³ dated May 14, 2011, the IBP Board of Governors resolved to adopt and approve, with modification, the Report and Recommendation of the Investigating Commissioner, as follows:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex “A” and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and taking into consideration the seriousness of the misconduct committed, Atty. Atanacio D. Addog is hereby **SUSPENDED** from the practice of law for six (6) months with Warning that a repetition of similar acts shall be dealt with more severely.

The respondent filed a motion for reconsideration, which was denied by the IBP Board of Governors per Resolution No. XX-2014-18⁴ dated February 11, 2014. In a Report⁵ dated June 18, 2014, the Bar Confidant noted that “[t]o date, no petition for review or motion for reconsideration has been filed by either party.”⁶

Finding the IBP Board of Governors’ resolutions to be in order, and the Investigating Commissioner’s report to be in accord with the rules and the evidence presented, the Court hereby adopts the same.

The Investigating Commissioner found merit in the complaint against the respondent and made the following findings:

Respondent, despite knowing that the Complainants Palos were not represented by a counsel during that meeting they had with defendant Angeline Damaso, communicated with the Palos and in fact indications are ripe that it was he who convinced them to execute their affidavits of desistance in exchange for monetary consideration. This presumption is strongly supported by the fact that the affidavits were prepared and notarized by him during the said meeting. Significantly, he did not take it upon himself to inform Atty. Jerome W. Selmo about the act of his clients. He too failed to advise the Palos to first consult their counsel

² Id. at 18-21.

³ Id. at 137-138.

⁴ Id. at 136.

⁵ Id. at 143.

⁶ In *Ramientas v. Atty. Reyala* (529 Phil. 128, 135 [2006]), the Court set the guidelines to be observed by the IBP in respect of disciplinary cases against lawyer, thus:

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(3) If no motion for reconsideration has been filed within the period provided for, the IBP is directed to forthwith transmit to this Court, **for final action**, the subject resolution together with the whole record of the case. (Emphasis ours)

about it. In fact he showed that he needed the affidavits badly as in fact he went on to present the same to the NCIP Hearing Officer to prove that the Palos had clearly wanted to withdraw their complaint against the defendants. The affidavits of desistance [were], however, rejected by the NCIP Hearing Officer.⁷

The foregoing findings are supported by the records on hand. Moreover, as shown during the mandatory conference held on February 20, 2009, the respondent even admitted that he was the one who prepared and notarized the joint affidavit of desistance signed by Paul, Isabela Daniel and Romana Palos (Romana).⁸ As regards the affidavit of Bienvenido, the respondent denied drafting the same; nevertheless, he admitted that he notarized it in his office.⁹

Canon 8,¹⁰ Rule 8.02 of the Code of Professional Responsibility states:

A lawyer shall not, directly or indirectly, **encroach upon the professional employment of another lawyer**; however, it is the right of any lawyer, without fear or favor, to give proper advice and assistance to those seeking relief against unfaithful or neglectful counsel. (Emphasis ours)

In this case, the respondent knew that Paul and Bienvenido were represented by counsel, Atty. Selmo. His act of preparing the affidavit of desistance, even assuming that it was only the joint affidavit of Paul, Isabela Daniel and Romana which he drafted and notarized was true, nonetheless encroached upon the legal functions of Atty. Selmo.

Worse, the respondent even disclosed that the affidavits of desistance were executed by the affiants in exchange for a certain sum of money. Thus:

ATTY. ADDOG: Yes, Your Honor, are claiming certain amount which is [P]100,000.00 each, Your Honor, in exchange for the withdrawal of the complaint filed in NCIP, Your Honor. So, I have advised them, if that is the case, for the protection of my clients you execute this affidavit of desistance. So, that was signed.¹¹

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⁷ *Rollo*, p. 141.

⁸ *Id.* at 67-73.

⁹ *Id.* at 68.

¹⁰ A LAWYER SHALL CONDUCT HIMSELF WITH COURTESY, FAIRNESS AND CANDOR TOWARD HIS PROFESSIONAL COLLEAGUES, AND SHALL AVOID HARASSING TACTICS AGAINST OPPOSING COUNSEL.

¹¹ TSN, February 20, 2009, *rollo*, p. 73.

COMM. CACHAPERO: Are you saying, Atty. Addog that those who executed affidavits have already received [P]100,000.00?

ATTY. ADDOG: Yes, Your Honor.¹²

It was unscrupulous of the respondent to compel some of the complainants in Civil Case No. 005-CAR-07 to execute the affidavit of desistance *sans* the knowledge and agreement of Atty. Selmo. In this regard, the respondent should have been mindful of the canon dictating that:

A lawyer should not in any way communicate upon the subject of controversy with a party represented by counsel, **much less should he undertake to negotiate or compromise the matter with him, but should deal only with his counsel.** It is incumbent upon the lawyer most particularly to avoid everything that may tend to mislead a party not represented by counsel, and he should not undertake to advise him as to the law.¹³ (Emphasis ours)

In *Likong v. Lim*,¹⁴ the Court disciplined and imposed a penalty of one (1) year suspension from the practice of law on a lawyer who prepared a compromise agreement between the parties in an action for injunction with damages, without informing the opposing counsel of the agreement. The Court concluded, “[u]ndoubtedly, respondent’s conduct is unbecoming a member of the legal profession.”¹⁵

Similarly in this case, the respondent’s acts clearly violated the ethical tenets of the legal profession and must, therefore, be disciplined. “Such acts constituting malpractice and grave misconduct cannot be left unpunished for not only do they erode confidence and trust in the legal profession, they likewise prevent justice from being attained.”¹⁶

WHEREFORE, Atty. Atanacio D. Addog is hereby imposed the penalty of **SUSPENSION** from the practice of law for a period of **SIX (6) MONTHS**, effective immediately upon his receipt of this Resolution, with **WARNING** that commission of the same or similar acts in the future will be dealt with more severely.

Let a copy of this Resolution be made part of his records in the Office of the Bar Confidant, Supreme Court of the Philippines, and be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator to be circulated to all courts.

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¹² Id. at 78-79.

¹³ Canons of Professional Ethics, Canon 9 (Negotiations with opposite party).

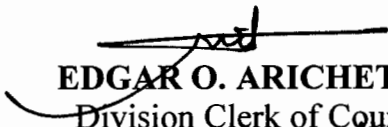
¹⁴ A.C. No. 3149, August 17, 1994, 235 SCRA 414.

¹⁵ Id. at 418.

¹⁶ Id. at 419.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court

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