



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **October 9, 2019**, which reads as follows:

“A.C. No. 9171 [*Formerly* CBD Case No. 14-4419] (*Demie John C. Honrado v. Attys. Rex G. Rojo and Manuel M. Magbanua, Jr.*). — This is a Complaint¹ for dishonesty and for violation of the Lawyer’s Oath and the Code of Professional Responsibility (CPR) filed by complainant Demie John C. Honrado (Honrado) against respondents Atty. Rex G. Rojo (Atty. Rojo) and Atty. Manuel M. Magbanua, Jr. (Atty. Magbanua).

The antecedent facts are as follows:

Atty. Rojo was a member of the Sangguniang Panlungsod (SP) of La Carlota City from June 30, 2001 to June 30, 2004. However, Atty. Rojo tendered his resignation as SP member on March 17, 2004. The following day, March 18, 2004, he was appointed as SP Secretary. His resignation as SP member and subsequent appointment as SP Secretary was later questioned before the Civil Service Commission (CSC) and the same even reached the Supreme Court via G.R. No. 181367. Incidentally, Atty. Magbanua was Atty. Rojo’s co-counsel in G.R. No. 181367, a Petition for Review for the nullification of Atty. Rojo’s appointment as SP Secretary for allegedly being unconstitutional and contrary to the existing rules and regulations in the civil service.

During the pendency of G.R. No. 181367, Atty. Rojo executed a Complaint-Affidavit² charging herein complainant Honrado, then Chief Political Affairs Officer in the Office of Hon. Jeffrey P. Ferrer of the 4th District of Negros Occidental, with Open Disobedience (Art. 231 of the Revised Penal Code) for his alleged refusal to comply with the directives of the CSC to reinstate Atty. Rojo to his position as SP Secretary. This Complaint-Affidavit was later endorsed by herein respondent Atty. Magbanua to the Office of the Ombudsman for its appropriate action, which prompted Honrado to file this present administrative complaint before the Office of the

¹ *Rollo*, pp. 1-11.

² *Id.* at 60-61.

Bar Confidant. Honrado claimed that Atty. Rojo and Atty. Magbanua were guilty of dishonesty and violation of the Lawyer's Oath and the Code of Professional Responsibility when they allegedly twisted the facts and concealed important details in their Complaint-Affidavit and Letter-Referral to the Ombudsman. According to Honrado, Atty. Rojo and Atty. Magbanua presented the facts in order to impress upon the Office of the Ombudsman that he, as well as La Carlota City, Negros Occidental Mayor Juliet Marie D. Ferrer (Mayor Ferrer) and Vice-Mayor David T. Baja, Jr., refused Atty. Rojo's demands for reinstatement and to pay his backwages and other benefits and thus were indeed guilty of open disobedience, "despite of and contrary to CSC Resolution No. 05-0654."³ For Honrado, a cursory reading of the said CSC Resolution would show that the CSC never directed the reinstatement and payment of backwages of Atty. Rojo. In addition, Atty. Rojo allegedly misled the Ombudsman when he omitted to mention that Mayor Ferrer promptly responded to his queries. They also failed to apprise the Ombudsman of the pendency of G.R. No. 181367 upon which the claim of Atty. Rojo is anchored. In sum, Honrado averred that Attys. Rojo and Magbanua did not inform the Ombudsman the full details of Atty. Rojo's appointment presumably to make it appear that Honrado and Mayor Ferrer were indeed guilty of open disobedience.

In their Comment,⁴ Atty. Rojo and Atty. Magbanua argued that the filing of this complaint was pure harassment on the part of Honrado and of his continuing refusal to reinstate Atty. Rojo as Secretary of the SP of La Carlota City, in contravention to the CSC's Resolutions. Atty. Rojo further asserted that to suit his version, Honrado "nitpicked"⁵ on his Complaint-Affidavit by not incorporating the entirety of Atty. Rojo's Complaint-Affidavit and omitting to mention other material allegations in this present complaint in an effort to mislead the Court. Atty. Rojo insisted that CSC Resolution No. 05-0654 approved his appointment as SP Secretary, which Resolution was used by Atty. Rojo as primary basis in the filing of the criminal case for open disobedience before the Ombudsman against Honrado.

By Resolution⁶ dated July 9, 2014, the Supreme Court referred this administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

In a Report and Recommendation⁷ dated January 30, 2016, the Investigating Commissioner⁸ of the Commission on Bar Discipline (CBD) recommended the dismissal of the complaint for lack of convincing evidence. He noted that although the criminal complaint filed by Atty. Rojo against Honrado for open disobedience was eventually dismissed, the said dismissal should not be used as basis for the filing of this administrative complaint. The

³ *Id.* at 7.

⁴ *Id.* at 35-59.

⁵ *Id.* at 37.

⁶ *Id.* at 152-153.

⁷ *Id.* at 265-267.

⁸ Commissioner Gilbert L. Macatangay.

Investigating Commissioner opined that Atty. Rojo's criminal complaint against Honrado (for open disobedience) should not be treated as a false and baseless suit just because it was eventually dismissed, considering that the complaint was based on a series of CSC resolutions which enjoy the presumption of having been regularly issued. The Investigating Commissioner moreover ruled that in disbarment proceedings, the burden of proof is upon complainant Honrado, which the latter unfortunately failed to meet and satisfy.

In its Resolution⁹ No. XXII-2016-540 dated September 24, 2016, the Board of Governors (BOG) of the IBP affirmed the findings and recommendation of the Investigating Commissioner of the IBP-CBD to dismiss the complaint.

The Court's Ruling

The Court resolves to dismiss the complaint against respondents Attys. Rex G. Rojo and Manuel M. Magbanua, Jr. for lack of convincing evidence.

Upon assessment of the records, the Court notes that Honrado indeed omitted to include material portions of the pleadings filed by the respondents before the Ombudsman, which invites suspicion as to his motives. Moreover, as noted by the Investigating Commissioner and the BOG of the IBP, there is a presumption of regularity¹⁰ in the CSC's issuance of CSC Resolution No. 05-0654 which sustained the appointment of Atty. Rojo as SP Secretary of the City of La Carlota, Negros Occidental, as well as the other CSC Resolutions directing Atty. Rojo's reinstatement and payment of backwages.

Furthermore, Honrado cannot insist that the criminal complaint which Atty. Rojo filed against him (which was subsequently dismissed) was a false and baseless suit given that Atty. Rojo was merely asserting his rights in view of the CSC's Resolutions and considering that Honrado refused to abide by the orders of the CSC.

The Court agrees with the findings of the IBP that the evidence presented by Honrado was insufficient to show that Atty. Rojo and Atty. Magbanua were guilty of dishonesty, especially in light of complainant Honrado's own deliberate omission in his instant complaint to include or cite material parts of the pleadings which were filed by the respondents before the Ombudsman. In fine, there was no adequate basis to hold that the respondents committed a violation of the Lawyer's Oath and the CPR considering the attendant circumstances and the parties' respective assertions.

⁹ *Rollo*, pp. 263-264.

¹⁰ RULES OF COURT, Rule 131, Section 3(m); see also *Office of the Ombudsman v. Manalastas*, 791 Phil. 557, 566 (2016) and *Republic v. Court of Appeals*, 317 Phil. 653, 661 (1995).

Instead, We find this occasion apt to remind complainant that “if a court official or employee or a lawyer is to be disciplined, the evidence against him should be substantial, competent and derived from direct knowledge, not on mere allegations, conjectures, suppositions, or on the basis of hearsay.”¹¹ Unfortunately, Honrado failed to prove his allegations with substantial and convincing proof. In fact, it is likely that he initiated this complaint in order to dissuade Atty. Rojo from insisting on the execution of the CSC’s issuances.

WHEREFORE, the Complaint against Attys. Rex G. Rojo and Manuel M. Magbanua, Jr. is hereby **DISMISSED** for lack of merit.

The June 6, 2017 Letter of Atty. Ramon S. Esguerra, Director for Bar Discipline, and the November 26, 2018 Manifestation and Motion for Early Resolution of Atty. Manuel M. Magbanua, Jr. are **NOTED**.

SO ORDERED.” (Inting, J., on official leave.)

Very truly yours,

Mis P DC Batt
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gr 10/22/19
Deputy Division Clerk of Court

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¹¹*Cervantes v. Sabio*, 583 Phil. 491, 495 (2008), citing *Gotgotao v. Millora*, 498 Phil. 379, 385 (2005).