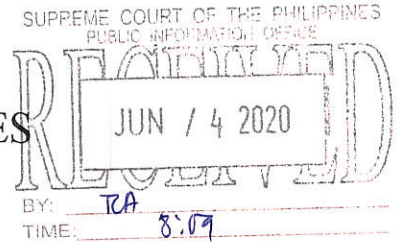




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila



SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **24 February 2020** which reads as follows:*

*“A.C. No. 12678 (Shank Kaye v. Atty. Christopher S. Garcia). — This administrative complaint for disbarment filed by **Shank Kaye** (complainant) against **Atty. Christopher S. Garcia** (respondent).*

The Facts

In his complaint-affidavit,¹ complainant alleged that he purchased a condominium unit from Kamari Overseas Ltd. (Kamari), and the respondent is the lawyer of Kamari for the said transaction. He claimed that the respondent, in collusion with the insiders that they have connections with, in the Bureau of Internal Revenue and/or Taguig Register of Deeds, transferred the title of the Kamari condominium unit from Kamari to him without paying the proper taxes. He also asserted that the respondent obtained and gave him a fake Certificate Authorizing Registration (CAR) and Tax Clearance Certificate (TCC) for the said transaction.²

According to the complainant, he was completely unaware of the said anomalous transaction until he sold the Kamari condominium unit to Mr. Lee Jong Wan, who later on filed a case for Estafa thru Falsification of Public Document against him.³

In the respondent's answer,⁴ he denied having committed any act of fraud, deception or falsification. According to the respondent, he did not handle the payment of taxes related to the said transaction, instead, it was Atty. Robert Santos (Atty. Santos), the complainant's own lawyer, who secured the alleged fake CAR and TCC.⁵ He likewise explained that the deed of absolute sale between the complainant and Kamari states that the

¹ *Rollo*, pp. 2-6.

² *Id.* at 2-3.

³ *Id.* at 3.

⁴ *Id.* at 68-77.

⁵ *Id.* at 70.

transfer taxes shall be for the vendee's account.⁶ Thus, the complainant is responsible for paying the taxes related to the sale, which he did through Atty. Santos.⁷

Report and Recommendation of the Investigating Commissioner of the Integrated Bar of the Philippines – Commission on Bar Discipline (IBP-CBD)

In his Report and Recommendation,⁸ the Investigating Commissioner of the IBP-CBD, Jose Martin R. Tensuan, recommended that the administrative complaint be dismissed for want of merit.⁹ After a meticulous examination of the evidence presented, the IBP-CBD was not convinced that the respondent committed any wrongdoing. According to the Investigating Commissioner, the evidence on record show that the respondent did not handle the payment of taxes of the sale of condominium between Kamari and the complainant. Instead, it was the own lawyer of the complainant who handled the alleged anomalous tax payment. The IBP-CBD also noted the inconsistent statements of the complainant which placed his credibility in question. In light of the absence of clear preponderant evidence against the respondent, the serious consequences of disbarment or suspension cannot follow.¹⁰

Resolution of the IBP Board of Governors

On May 28, 2019, a Resolution¹¹ was passed by the IBP Board of Governors dismissing the complaint against respondent, to wit:

**CBD Case No. 17-5414
Shank Kaye vs.
Atty. Christopher Garcia**

*RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner to **DISMISS** the complaint.*

The Court **NOTES** the Notice of Resolution dated May 28, 2019 of the IBP Board of Governors which resolved to adopt and approve the report and recommendation of the Investigating Commissioner in the Report dated February 6, 2019, and dismissed the complaint for failure of the complaint to establish any wrong doing of respondent; transmitted by letter dated October 1, 2019 of IBP Director Randall C. Tabayoyong, CBD, together with the records of the case and a compact disc of pdf file.

⁶ Id.
⁷ Id.
⁸ *Rollo*, pp. 448-474.
⁹ Id. at 473.
¹⁰ Id. at 467-474.
¹¹ Id. at. 499.

Unfazed, the complainant filed a petition for review¹² dated September 13, 2019.

Our Ruling

The petition is bereft of merit.

The IBP Board of Governors committed no reversible error in dismissing the complaint for disbarment against the respondent. The Court resolves to adopt and approve the findings and recommendation of the Investigating Commissioner as approved by the IBP Board of Governors.

A case of suspension or disbarment is *sui generis* and not meant to grant relief to a complainant as in a civil case, but is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts.¹³ Thus, this Court will not penalize lawyers unless it is unmistakably shown that they are unfit to continue being a member of the Bar.¹⁴

The evidence on record establishes that respondent did not handle the alleged anomalous tax payments in the sale of the Kamari condominium unit. Instead, it was the own lawyer of the complainant, Atty. Santos, who handled them for the complainant. In addition, the multiple inconsistencies in the statements of the complainant made it difficult to give credence to him.

Section 3(a), Rule 131 of the Rules of Court provides that every person is presumed innocent of a crime or wrongdoing. Thus, this Court has consistently held that an attorney enjoys the legal presumption that he or she is innocent of the charges against him or her until the contrary is proved, and that as an officer of the court, he is presumed to have performed his duties in accordance with his oath.¹⁵

Moreover, jurisprudence is replete with cases reiterating that in disbarment proceedings, the burden of proof rests upon the complainant.¹⁶ If the complainant failed to show in a satisfactory manner the facts upon which the claims are based, the respondent is not obliged to prove his exception or defense.¹⁷ The quantum of proof in a disbarment proceeding is substantial evidence.¹⁸

¹² Id. at 475-496.

¹³ *Cristobal v. Renta*, 743 Phil. 145, 148 (2014).

¹⁴ *Buntag v. Atty. Toledo*, A.C. No. 12125, February 11, 2019, citing *Fajardo v. Atty. Alvarez*, 785 Phil. 303, 322 (2016).

¹⁵ *Castro v. Atty. John Bigay, Jr.*, 813 Phil. 882, 891 (2017).

¹⁶ Id. at 888; *Goopio v. Atty. Maglalang*, A.C. No. 10555, July 31, 2018; *Concepcion v. Atty. Fandino, Jr.*, 389 Phil. 474, 480-481 (2000).

¹⁷ *Re: Letter of Lucena Ofendoreyes Alleging Illicit Activities of a Certain Atty. Cajayon Involving Cases in the Court of Appeals, Cagayan De Oro City*, 810 Phil. 369, 374 (2017).

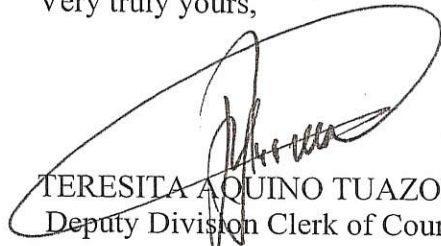
¹⁸ *Buntag v. Atty. Toledo*, A.C. No. 12125, February 11, 2019.

In this case, the Court finds that the complainant failed to establish by substantial evidence that respondent violated the Lawyer's Oath and the Code of Professional Responsibility.

WHEREFORE, in view of the forgoing, the Court **ADOPTS** and **APPROVES** the Resolution of the Integrated Bar of the Philippines - Board of Governors dated May 28, 2019. Accordingly, the administrative complaint against *Atty. Christopher S. Garcia* is hereby **DISMISSED** for lack of merit.

SO ORDERED."

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *p 2/16*
21 MAY 2020

ATTY. JONAS T. CASTRO (reg)
Counsel for Complainant
The Mel-Rose Building
Unit 11, No. 6 A. Luna Street
Tuktukan, Tuguegarao City

SHANK KAYE (reg)
Complainant
No. 301, Banahaw Rainbow Ridge I
Hagonoy, Taguig City

ATTY. CHRISTOPHER S. GARCIA (reg)
Respondent
802 Richville Corporate Centre
1314 Commerce Avenue
Extension, Madrigal Business Park
Ayala Alabang, Muntinlupa City

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
OFFICE OF THE REPORTER (x)
Supreme Court, Manila

INTEGRATED BAR OF THE PHILIPPINES (reg)
Doña Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

THE BAR CONFIDANT (x)
Supreme Court, Manila

Please notify the Court of any change in your address.
AC12678. 2/24/2020(103)URES