



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **September 14, 2020**, which reads as follows:

“**A.C. No. 6913 (Atty. Manuel L. Ortega v. Attys. Roberto M.J. Lara and Grace Eloisa J. Que)**. – This administrative case for disbarment arose from a Letter-Complaint¹ dated September 20, 2005 filed by Atty. Manuel L. Ortega (Atty. Ortega) against respondents Atty. Roberto M.J. Lara (Atty. Lara), and Atty. Grace Eloisa J. Que (Atty. Que).

The records of the case disclosed that Digna Rosales (Rosales) was granted a ₱14.6 million revolving promissory note line and a ₱6 million medium term loan by Dao Heng Bank, now Banco De Oro Universal Bank (BDO). These were secured by a real estate mortgage over her property located in Baguio (Baguio property) covered by Transfer Certificate of Title (TCT) No. 60435.²

Due to Rosales’ failure to pay her obligation with BDO, the Baguio property was extrajudicially foreclosed. Thereafter, the parties entered into a compromise agreement for the loan obligation of Rosales in the amount of ₱22,612,833.34 as of March 23, 1999.³ Under the terms of the Compromise Agreement,⁴ Rosales undertook to pay the loan obligation within 120 days from the date of filing of the Compromise Agreement with the Regional Trial Court (RTC) of Baguio, Branch 6. On January 2, 2002, the RTC of Baguio approved the Compromise Agreement.⁵ However, Rosales failed to comply with her obligations under the Compromise Agreement. Thus, BDO proceeded with the foreclosure of the Baguio property in the amount of ₱11,361,190.40, leaving a deficiency judgment in the amount of ₱55,809,482.43.⁶

¹ *Rollo*, pp. 1-5.

² *Id.* at 10.

³ *Id.* at 8, 11-17, 75-80.

⁴ *Id.* at 11-17.

⁵ *Id.* at 13.

⁶ *Id.* at 8, 17, 19

On January 24, 2005, BDO filed a Motion for the Issuance of a Writ of Execution (Motion for Execution) with the RTC of Baguio.⁷ Since the Baguio property was insufficient to cover Rosales' entire loan obligation, BDO went after Rosales' luxurious rest house in Tali Beach, Nasugbu, Batangas (Batangas property) covered by TCT No. T-66722.⁸ However, on February 14, 2005, while the Motion for Execution of BDO was pending before the RTC of Baguio, Rosales sold the Batangas Property to Atty. Ortega.⁹ Thereafter, less than a month after the sale transaction, the Batangas property was mortgaged to Filipinas Integrated Link Finance Corporation (Fil-Finance) for P3,500,000.00¹⁰

Incidentally, the Motion for Execution BDO filed was denied in an Order¹¹ dated March 22, 2005. The RTC of Baguio ruled that the remedy of BDO is to file a separate suit or action to recover and claim the deficiency on the principal. The RTC explained that the mortgaged property is but a security and not a satisfaction of indebtedness.¹² In an Order¹³ dated April 26, 2005, the RTC of Baguio denied the Motion for Reconsideration of BDO.¹⁴

BDO attempted to register an affidavit of adverse claim¹⁵ on the title covering the Batangas property. However, the Register of Deeds of Nasugbu, Batangas refused to register the affidavit of adverse claim due to its alleged failure to state how and under whom the alleged right or interest of BDO is acquired.¹⁶ Thus, BDO elevated the denial *en consulta* to the Land Registration Authority (LRA).¹⁷

While the case was pending before the LRA, BDO filed a complaint for rescission of the sale of the Batangas property between Rosales and Atty. Ortega and its subsequent mortgage at the RTC of Nasugbu, Batangas, Branch 14.¹⁸ After the case was filed, BDO was able to register a *lis pendens* on the title of the Batangas property which rendered the case before the LRA moot and academic. Consequently, BDO filed a Motion to Withdraw¹⁹ the case which was granted by the LRA.²⁰

Thereafter, Atty. Ortega instituted a perjury case²¹ against Edric Fernandez, Assistant Vice-President of the Remedial Management Unit of BDO, and the present administrative case against respondents Atty. Lara and

⁷ Id. at 8.

⁸ Id. at 8, 81-81A.

⁹ Id. at 84-85.

¹⁰ Id. at 82-83.

¹¹ Penned by Judge Ruben C. Ayson; id. at 10-27.

¹² Id. at 26.

¹³ Penned by Judge Ruben C. Ayson; id. at 28-36.

¹⁴ Id. at 36.

¹⁵ Id. at 8.

¹⁶ Id. at 37.

¹⁷ Id. at 39-44.

¹⁸ Id. at 65-70.

¹⁹ Id. at 60.

²⁰ Id. at 167.

²¹ Id. at 168-170.

Atty. Que. In the Letter-Complaint of Atty. Ortega against Atty. Lara and Atty. Que, he alleged that: (1) they acted in bad faith when they sought to register the adverse claim of BDO against the Batangas property despite the denial of BDO's Motion for Execution by the RIC of Baguio;²² (2) after the Register of Deeds of Nasugbu, Batangas denied the request for the annotation of the adverse claim, they filed a "*consulta*" before the Administrator of the LRA without notifying Atty. Ortega;²³ (3) they trifled with legal processes by withdrawing the *consulta* after the same was submitted for resolution;²⁴ (4) they attempted to cause panic to Fil-Finance when they informed the latter of BDO's adverse claim and of its position that the mortgage is illegal and in fraud of creditors;²⁵ (5) they filed a complaint for rescission on behalf of BDO alleging *inter alia* that they falsely claimed and deliberately made it appear that Rosales and Atty. Ortega are married and share a common address;²⁶ and (6) they engaged in forum shopping by filing a Petition for *Certiorari* under Rule 65 before the Court of Appeals (CA) docketed as CA-G.R. SP No. 90313, appealing the denial of the annotation of the adverse claim to the LRA by way of *consulta*, and filing the complaint for rescission.²⁷

Report and Recommendation of the IBP

On April 10, 2007, Integrated Bar of the Philippines (IBP) Commissioner Atty. Salvador B. Hababag (Commissioner Hababag) made the following recommendation:

WHEREFORE, foregoing considered, it is most respectfully recommended that the instant administrative complaint be dismissed. The complainant being a lawyer is admonished to be more circumspect in dealing with fellow lawyer.²⁸

It was stated in the Report and Recommendation²⁹ of Commissioner Hababag that the present administrative complaint has no legal anchor to stand on.³⁰ It was held that the acts of Atty. Lara and Atty. Que cannot be characterized as gross misconduct and unethical practices as they merely discharged their duty of availing remedies or defenses authorized by law in support of their client BDO.³¹ Commissioner Hababag did not find any convincing proof to suspend or disbar Atty. Lara and Atty. Que.³²

Resolutions of the IBP Board of Governors

²² Id. at 2.

²³ Id.

²⁴ Id. at 3.

²⁵ Id.

²⁶ Id. at 3-4.

²⁷ Id. at 4-5.

²⁸ Id. at 381.

²⁹ Id. at 378-381.

³⁰ Id. at 379.

³¹ Id. at 379-380.

³² Id. at 380-381.

On September 19, 2007, in Resolution No. XVIII-2007-88,³³ the Board of Governors of the IBP adopted and approved the recommendation of Commissioner Hababag with modification, the pertinent portion of which states:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner of 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, the case against Respondents is hereby DISMISSED. However, the Admonition imposed against complainant is hereby deleted considering that no countercharge was filed.³⁴ (Emphasis, italics, and underscoring in the original)

Atty. Lara and Atty. Que filed a Motion for Partial Reconsideration,³⁵ insisting that: (1) they filed a countercharge against Atty. Ortega as reflected in the pleadings they submitted;³⁶ (2) the IBP does not need a countercharge to initiate a disciplinary action and sanction Atty. Ortega;³⁷ (3) considering the level of malice, dishonesty, and depravity displayed by Atty. Ortega in filing the administrative case, the Board of Governors should impose severe disciplinary penalties against him;³⁸ (4) Atty. Ortega used his training, skills and knowledge of law, and misused legal processes to harass Atty. Lara and Atty. Que;³⁹ and (5) Atty. Ortega's moral depravity extends even to the manner by which he treats his legal or common-law spouse Rosales, a fact he now denies, so that the Batangas property can be fraudulently taken beyond the reach of lawful creditors of Rosales.⁴⁰

In Resolution No. XIX-2011-282,⁴¹ the IBP Board of Governors denied the Motion for Partial Reconsideration of Atty. Lara and Atty. Que and affirmed Resolution No. XVIII-2007-88 dated September 19, 2007.

Thereafter, Atty. Lara and Atty. Que filed a Petition for Review⁴² assailing the resolutions issued by the IBP Board of Governors. They prayed *inter alia* that the Court: (1) recognize and acknowledge that a proper and valid countercharge against Atty. Ortega was duly filed through their Comment, Rejoinder, and Position Paper; (2) hold Atty. Ortega guilty of violating Section 20, Rule 138 of the Rules of Court (Rules), and Canons 1, 7 and 8 of the Code of Professional Responsibility (CPR), and for gross

³³ Id. at 377.

³⁴ Id.

³⁵ Id. at 382-398.

³⁶ Id. at 382-385.

³⁷ Id. at 386.

³⁸ Id. at 387-391.

³⁹ Id. at 391-395.

⁴⁰ Id. at 395-396.

⁴¹ Id. at 418.

⁴² Id. at 439-468.

ignorance of the law; and (3) impose the penalty of disbarment against Atty. Ortega.⁴³

In his Comment,⁴⁴ Atty. Ortega argues that the petition should be dismissed because: (1) Rule 139-B of the Rules requires an original verified petition as the proper initiatory pleading in an administrative case; (2) the present petition partakes of an appeal which is not contemplated under the Rules; and (3) assuming that the petition for review is an acceptable pleading, it was filed out of time under Section 12, Rule 139-B of the Rules.⁴⁵

Issues

The issues to be resolved in this case are:

1. Whether it was proper for the IBP Board of Governors to delete the recommendation to admonish Atty. Ortega on the ground that no countercharge or separate complaint was filed by Atty. Lara and Atty. Que; and
2. Whether Atty. Lara, Atty. Que and Atty. Ortega should be held administratively liable.

Ruling of the Court

After a careful review of the records of this case, the Court resolves to adopt the findings of the IBP except as to the imposable penalty against Atty. Ortega. The Court finds the removal of the recommendation to admonish Atty. Ortega due to the alleged non-filing of a countercharge or a separate complaint improper.

Section 1, Rule 139-B of the Rules of Court states:

Section 1. *How Instituted.* – Proceedings for the disbarment, suspension, or discipline of attorneys may be taken by the **Supreme Court *motu proprio***, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.

The **IBP Board of Governors may, *motu proprio*** or upon referral by the Supreme Court or by a Chapter Board of Officers, or at the instance of any person, **initiate and prosecute proper charges against erring attorneys including those in the government service; Provided, however, that all charges against Justices of the Court of Tax**

⁴³ Id. at 467.

⁴⁴ Id. at 510-513.

⁴⁵ Id. at 513.

Appeals and the Sandiganbayan, and Judges of the Court of Tax Appeals and lower courts, even if lawyers are jointly charged with them, shall be filed with the Supreme Court; Provided, further, that charges filed against Justices and Judges before the IBP, including those filed prior to their appointment in the Judiciary, shall immediately be forwarded to the Supreme Court for disposition and adjudication.

Six (6) copies of the verified complaint shall be filed with the Secretary of the IBP or the Secretary of any of its chapters who shall forthwith transmit the same to the IBP Board of Governors for assignment to an investigator. (*As amended by Bar Matter No. 1960, effective May 1, 2000*) (Italics in the original; emphasis supplied)

Similarly, Section 1 of Rule 139 of the Rules states:

Section 1. *Motion or complaint.* – Proceedings for the removal or suspension of attorneys may be taken by the **Supreme Court on its own motion** or upon the complaint under oath of another in writing. The complaint shall set out distinctly, clearly, and concisely the facts complained of, supported by affidavits, if any, of persons having personal knowledge of the facts therein alleged and shall be accompanied with copies of such documents as may substantiate said facts. (Emphasis supplied)

It is clear from the foregoing that the Court and the IBP Board of Governors may initiate *motu proprio* an investigation into accusations against erring members of the bar regardless of the form of initiatory complaint brought before it.

In *Villanueva v. Atty. Alentajan*,⁴⁶ the Court held that:

x x x [A] complainant in a disbarment case is not a direct party to the case, but a witness who brought the matter to the attention of the Court. There is neither a plaintiff nor a prosecutor in disciplinary proceedings against lawyers. The real question for determination in these proceedings is whether or not the attorney is still a fit person to be allowed the privileges of a member of the bar.⁴⁷ (Citation omitted)

Due to the *sui generis* character of disciplinary proceedings against lawyers, it is not necessary to strictly require a separate complaint against Atty. Ortega for an administrative case to be pursued against him. Acting as the legal profession's sole disciplinary body, the Court is not strictly bound by the technical rules of procedure and evidence.⁴⁸ Thus, strict adherence to technical rules of procedure should not deprive the Court from disciplining erring

⁴⁶ A.C. No. 12161, June 8, 2020

⁴⁷ Id.

⁴⁸ *Sps. Yumang v. Atty. Alaestante*, A.C. No. 10992, June 19, 2018.

lawyers and outweigh the Court's efforts to rid the legal profession of unscrupulous individuals who intentionally use their knowledge of the law to frustrate, rather than promote, the ends of justice.

Moreover, despite the absence of a separate complaint against Atty. Ortega, there is no miscarriage of justice nor deprivation of his right to due process since the charges and accusations against either parties had been exhaustively discussed in the pleadings filed by both parties and the proceedings conducted in the IBP. It cannot be denied that the countercharge of Atty. Lara and Atty. Que was discussed numerous times in the pleadings they filed such as their Comment and Rejoinder. As correctly pointed out by Atty. Lara and Atty. Que, they attempted to file their own complaint against Atty. Ortega only to be told by Commissioner Hababag that there is "no need" to file a separate complaint as their countercharge will be taken up in the same case. They were even directed to present their issues for stipulation.⁴⁹ They also emphasized that Atty. Ortega himself addressed the countercharge in his own Position Paper where he attempted to rebut their accusations against him.⁵⁰ Thus, the failure to file a separate complaint against Atty. Ortega should not be taken against Atty. Lara and Atty. Que and prevent the Court from imposing the appropriate disciplinary action towards Atty. Ortega, as may be warranted.

Now that the authority of the Court to discipline lawyers despite the absence of a separate complaint or a countercharge has been settled, the Court shall now discuss the acts charged against Atty. Lara, Atty. Que, and Atty. Ortega.

We agree with the finding of the IBP that the complained acts against Atty. Lara and Atty. Que do not constitute any violation of the Rules of Court nor the CPR. They merely performed their respective duty under Canon 17 and 18 of the CPR which state:

CANON 17 - A lawyer owes **fideli ty to the cause of his client** and he shall be mindful of the trust and confidence reposed in him.

CANON 18 - A lawyer shall serve his client with **competence and diligence**. (Emphasis supplied)

In this case, Atty. Lara and Atty. Que merely acted on the belief that Rosales and Atty. Ortega are husband and wife as they have been deporting themselves as such in various articles and documents, both public and private.⁵¹ Because of these pieces of evidence confirming that Rosales hyphenates Atty. Ortega's last name to hers and deports herself as his wife, no bad faith nor unethical act can be imputed to Atty. Lara and Atty. Que. In serving their client with competence and diligence, they are reasonably

⁴⁹ *Rolla*, pp. 280-281.

⁵⁰ *Id.* at 442-444.

⁵¹ *Id.* at 159-160, 179-190.

expected to pursue the theory that the Batangas property was transferred to defraud Rosales' creditors. Accordingly, the Court finds that Atty. Ortega failed to establish through substantial evidence a cause for disciplinary action against Atty. Lara and Atty. Que.

Canons 7 and 8 of the CPR state:

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.

CANON 8 – A lawyer shall conduct himself with courtesy, fairness and candor toward his professional colleagues, and shall avoid harassing tactics against opposing counsel. (emphasis supplied)

In *Tabuzo v. Atty. Gomos*⁵² the Court explained that:

x x x [T]he filing of baseless and unfounded administrative complaints against fellow lawyers is antithetical to conducting oneself with courtesy, fairness and candor. It reduces the Bar's disciplinary process into an avenue for childish bickering and trivial catfights. Realistically, filing harassment administrative complaints definitely causes undue anxiety and considerable psychological stress on wrongly charged respondents. Thus, it should be understood that the aforementioned Canon proscribes the filing of frivolous administrative complaints against fellow members of the legal profession to prevent exploitative lawyers from abusing the disciplinary process. Besides, an important portion of the Lawyer's Oath which should be the guiding beacon of every member of the legal profession states: "I will not wittingly nor willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same."⁵³

Here, Atty. Ortega's propensity for filing frivolous complaints against his adversaries, Atty. Lara and Atty. Que, did not escape the Court's attention. A careful study of the pleadings submitted by Atty. Ortega shows that his allegations against them are baseless and unsubstantiated by any convincing evidence. In the complaint for perjury filed against Edric Fernandez and the administrative complaint filed against Atty. Lara and Atty. Que by Atty. Ortega, his arguments are primarily anchored on his assertion that he is not married to Rosales. This is a factual issue that should be resolved by the trial court in the complaint for rescission filed by the BDO and not in the present administrative case. Again, Atty. Lara and Atty. Que cannot be faulted for exhausting the legal remedies available to their client, BDO, in order to protect its interest as creditor of Rosales. In pursuing these remedies, the Court cannot attribute any malice nor bad faith on the part of Atty. Lara and Atty. Que.

⁵² A.C. No. 12005, July 23, 2018.

⁵³ Id.

In view of the foregoing, the Court deems it proper to admonish and sternly warn Atty. Ortega to refrain from filing and maintaining baseless administrative suits against fellow lawyers under pain of administrative sanctions.

WHEREFORE, the assailed Resolutions dated September 19, 2007 and May 15, 2011 of the Integrated Bar of the Philippines Board of Governors in Administrative Case No. 6913 are **AFFIRMED** insofar as the complaint against respondents Atty. Roberto M.J. Lara and Atty. Grace Eloisa J. Que is **DISMISSED**.

Atty. Manuel L. Ortega is hereby **ADMONISHED** with **STERN WARNING** that a repetition of the same or equivalent acts shall be dealt with more severely in the future.

SO ORDERED."

By authority of the Court:

Misael C. Batt
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Division Clerk of Court

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