



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **09 September 2020** which reads as follows:*

“A.C. No. 9800 (*Sarah Teresa S. Esguerra v. Atty. Evelio R. Leonardia*) - This Petition for Disbarment<sup>1</sup> filed by petitioner Sarah Teresa S. Esguerra (Esguerra) charges respondent Atty. Evelio R. Leonardia (Atty. Leonardia) with alleged violation of the Code of Professional Responsibility (CPR).

**The Facts**

On June 18, 1938, Commonwealth Act (CA) No. 326 creating the City of Bacolod was approved. Decades later, on July 26, 1993, Republic Act (RA) No. 7724 was enacted declaring October 19 of every year as a special non-working public holiday to commemorate the Charter Day of Bacolod City.<sup>2</sup>

On May 28, 2008, the *Sangguniang Panlungsod* (SP) of Bacolod City passed Resolution No. 439<sup>3</sup> or “A Resolution Commemorating the Seventieth Year Since Bacolod Became a City on June 18, 1938 by Virtue of Commonwealth Act No. 326 Authored by Senator Pedro Hernaez, Then Assemblyman and Representative of the Second District of Negros Occidental, Which Included the Town of Bacolod.”<sup>4</sup>

On April 25, 2011, Atty. Leonardia, as the Mayor of Bacolod City, issued Executive Order (EO) No. 15-A<sup>5</sup> series of 2011 entitled “Amending Executive Order No. 15 Series of 2011 Designating the 113<sup>th</sup> Independence Day Committee to Undertake the Celebration of the 150<sup>th</sup> Birthday of Dr. Jose P. Rizal and the 73<sup>rd</sup> Charter Day of Bacolod City.” EO No. 15-A expressly provided in its *Whereas* clause that Bacolod City will celebrate its 73<sup>rd</sup> Charter

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<sup>1</sup> *Rollo*, pp. 1-7.

<sup>2</sup> *Id.* at 1-2 and 55-56.

<sup>3</sup> *Id.* at 66-68.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 9-10.

Day on June 18, 2011.

On May 8, 2012, City Ordinance No. 588<sup>6</sup> entitled “An Ordinance Commemorating Every June 18 and Every Year Thereafter As the Date of the Signing Into Law of Commonwealth Act (CA) No. 326 Otherwise Known as the ‘Charter of the City of Bacolod[’]” was passed. In light of this, the SP of Bacolod City requested the Office of the President (OP) to declare June 18 as a special non-working holiday to commemorate the signing of the Charter of Bacolod City. The OP, however, denied the said request in a letter<sup>7</sup> dated June 14, 2012, stating that although CA No. 326 was signed into law on June 18, 1938, RA No. 7724 specifically provided that the Charter Day Anniversary of Bacolod City should be celebrated every October 19 of each year.

In the same vein, the National Historical Commission, represented by its Chair, Dr. Maria Serena I. Diokno, stated in a letter<sup>8</sup> dated December 21, 2012 that Bacolod City’s corporate existence commenced on October 19, 1938. She emphasized that the signing of CA No. 326 is distinct from the beginning of the corporate existence of Bacolod City. Additionally, she pointed out that for the first seventy-two (72) years of its existence, Bacolod City has been celebrating its “Charter Day” on the 19<sup>th</sup> of October. Thus, it has acquired the character of custom and tradition.

In light of these events, Esguerra filed a Petition for Disbarment against Atty. Leonardia for violation of Rule 1.02, Canon 1 of the CPR. She contended that Atty. Leonardia attempted to amend RA No. 7724 when he issued EO No. 15-A changing the date of the Charter Day of Bacolod City from October 19 to June 18.

For his part, Atty. Leonardia asserted that June 18 was intended to commemorate the signing into law of CA No. 326 while October 19 was meant to observe the City’s inauguration or organization.<sup>9</sup> He also averred that City Ordinance No. 588 emphasized the preservation of Bacolod’s City’s “birth” on June 18, 1938 which must not be overshadowed by the *MassKara* festival usually held in October.<sup>10</sup> Moreover, Atty. Leonardia argued that he did not violate the CPR when he issued EO No. 15-A as he was not practicing his profession as a lawyer but was acting in his capacity as the City Mayor.<sup>11</sup>

Esguerra countered that Atty. Leonardia intended to modify or repeal RA No. 7724 as evidenced by a Proposed City Ordinance<sup>12</sup> dated April 10, 2012 filed by SP Member Atty. Caesar Z. Distrito which moved the date of commemoration of the creation of Bacolod City from October 19 to June 18 of

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<sup>6</sup> Id. at 11-13.

<sup>7</sup> Id. at 14-15.

<sup>8</sup> Id. at 20-22.

<sup>9</sup> Id. at 56.

<sup>10</sup> Id. at 57.

<sup>11</sup> Id. at 59-60.

<sup>12</sup> Id. at 87-89.



every year. Likewise, Resolution No. 171<sup>13</sup> series of 2012 dated February 29, 2012 was passed, approving on first reading the proposed Ordinance stating that June 18 be declared as the Charter Day of Bacolod City as it is the date of signing into law of CA No. 326. In addition, Esguerra averred that Atty. Leonardia pushed through with the celebration of the 74<sup>th</sup> Charter Day Anniversary of Bacolod City on June 18, 2012 as demonstrated by the following: an invitation with the program of activities,<sup>14</sup> announcements in tarpaulin,<sup>15</sup> a newspaper clipping<sup>16</sup> and Memoranda<sup>17</sup> issued to government employees of Bacolod City.

Esguerra also appended a Memorandum<sup>18</sup> dated May 9, 2012 from Ramon Ricardo A. Roque (Roque) addressed to the House of Representatives denying his issuance of a certification to the effect that the Charter Day of Bacolod City should be celebrated on June 18. Roque added that Atty. Leonardia was using the alleged certification to “modify” or “overthrow” RA No. 7724 which declared October 19 of every year as the Charter Day anniversary of Bacolod City. He clarified that he only transmitted to Atty. Leonardia a certified true copy of CA No. 326 which the latter asked him to procure.

On September 19, 2016, We referred<sup>19</sup> the instant case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

Relevantly, Atty. Leonardia charged Esguerra with Unjust Vexation<sup>20</sup> but it was dismissed in a Decision<sup>21</sup> dated November 15, 2016 issued by Branch 4 of the Municipal Trial Court in Cities of Bacolod City.

#### ***Report and Recommendation of the IBP:***

In a Report<sup>22</sup> dated July 14, 2017, Investigating Commissioner Narciso A. Tadeo found Atty. Leonardia to have violated Canon 1 and Rule 1.02 of the CPR.

The Investigating Commissioner declared that commemorating the signing into law of the Charter on June 18 and the Charter Day of Bacolod City on October 19 created confusion among the residents of Bacolod City. As City Mayor, Atty. Leonardia approved City Ordinance No. 588 and issued EO No. 15-A series of 2011 despite the prohibition by law for City Mayors to engage in the practice of law. The Investigating Commissioner opined that whenever Atty.

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<sup>13</sup> Id. at 91.

<sup>14</sup> Id. at 17-18 and 97-99.

<sup>15</sup> Id. at 19.

<sup>16</sup> Id. at 94.

<sup>17</sup> Id. at 95-96.

<sup>18</sup> Id. at 90.

<sup>19</sup> Id. at 103.

<sup>20</sup> Id. at 71-72.

<sup>21</sup> Id. at 160-181; penned by Presiding Judge Francisco S. Pando.

<sup>22</sup> Id. at 222-224; penned by Commissioner Narciso A. Tadeo.

Leonardia performs his functions as a Mayor, he could not dissociate himself from being a lawyer; and that “[r]espondent [Atty. Leonardia] said that June 18 merely celebrates the signing into law of the Bacolod Charter but this is belied by the title of the Executive Order No. 533 [15-A] stating that June 18 [is] the 73<sup>rd</sup> Charter Day of Bacolod City.”<sup>23</sup> He likewise noted that as a public official, Atty. Leonardia should expect to be criticized occasionally and that he should not be too sensitive as to retaliate by filing an Unjust Vexation case against Esguerra for publishing the disbarment case against him.<sup>24</sup>

Withal, the Investigating Commissioner averred that as a lawyer, Atty. Leonardia is expected to respect and follow the law yet he contravened the mandate of RA No. 7724. Hence, he recommended that Atty. Leonardia be suspended from the practice of law for a period of three (3) months to be reckoned from the expiration of his term as the City Mayor of Bacolod City.<sup>25</sup>

In a Resolution<sup>26</sup> dated February 22, 2018, the IBP-Board of Governors (BOG) resolved to dismiss the petition finding that Atty. Leonardia acted in his capacity as Mayor and not as a lawyer, and that his actions were done in support of the ordinance passed by the SP of Bacolod City.

In its Extended Resolution<sup>27</sup> dated February 1, 2019, the IBP-BOG declared that Esguerra failed to establish with substantial evidence that Atty. Leonardia violated the CPR.

The IBP-BOG found that by virtue of CA No. 326, June 18, 1938 is the date which gave birth to Bacolod City while RA No. 7724 first organized the city government on October 19, 1938. It pointed out that October 19 coincided with the *MassKara* Festival or the tourism festivity of the city. Hence, the two dates are commemorating separate and distinct historical events and should not be confused with each other. Moreover, it found that repeal of laws should be made clearly and expressly and that the questioned issuances (EO No. 15-A and City Ordinance No. 588) did not repeal RA No. 7724.<sup>28</sup>

Also, the IBP-BOG declared that the complained acts of Atty. Leonardia were in furtherance of his duties as the Mayor of Bacolod City and not as a lawyer. As provided in Section 455, Article 1, Chapter III, Title III of the Local Government Code, the issuance of an Executive Order is within the power of a City Mayor. It further stated that the Local Chief Executive of a city has the discretion to sustain a resolution or ordinance or to veto and return it with his objections to the SP. Hence, when Atty. Leonardia issued EO No. 15-A and approved City Ordinance No. 588, he was merely exercising the prerogatives

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<sup>23</sup> Id. at 224.

<sup>24</sup> Id.

<sup>25</sup> Id.

<sup>26</sup> Id. at 220-221.

<sup>27</sup> Id. at 225-237.

<sup>28</sup> Id. at 230-233.



and duties expressly granted to him as the Local Chief Executive.<sup>29</sup>

### The Ruling of the Court

The Court adopts the findings and approves the recommendation of the IBP-BOG to dismiss the instant Petition for Disbarment against respondent Atty. Leonardia.

Upon assessment of the attendant circumstances, We agree with the IBP that Atty. Leonardia merely performed his duties as the City Mayor and not as a lawyer. Stated differently, he was acting in his capacity as the Local Chief Executive of Bacolod City and not as a member of the Bar engaged in the practice of law when he issued and approved the assailed issuances.

We cannot hold Atty. Leonardia liable for his acts as a City Mayor when he issued an Executive Order declaring June 18 as the anniversary of the signing of CA No. 326 which created the City of Bacolod, separate from the celebration on October 19 to commemorate the Charter Day of Bacolod City or to celebrate the city's formal organization through the appointment of its first City Mayor. Atty. Leonardia was acting in accordance with Resolution No. 439 previously issued by the SP of Bacolod City in 2008 which commemorated the 70<sup>th</sup> year since Bacolod City became a city on June 18, 1938 pursuant to CA No. 326. It may have caused confusion among the residents of Bacolod City and there may have been a different intention on the part of Atty. Leonardia but his acts did not in any manner constitute a violation of the CPR.

It should likewise be noted that the ground cited in the instant Petition for Disbarment mainly rested on the controversy regarding the date of the Charter Day of Bacolod City. This is not enough justification for the imposition of any disciplinary action on Atty. Leonardia since, as earlier discussed, he was acting as a City Mayor imbued with Local Chief Executive powers and not as a lawyer. The grounds for disbarment were not raised in the instant petition and were not substantiated with proof. More importantly, the complained acts did not amount to a violation of the CPR or the Lawyer's Oath.

In light of these circumstances, as similarly found by the IBP-BOG, the Court finds that Esguerra did not present substantial evidence to show that Atty. Leonardia violated Canon 1 and Rule 1.01<sup>30</sup> of the CPR.

**WHEREFORE**, the Petition for Disbarment filed by Sarah Teresa S. Esguerra against Atty. Evelio R. Leonardia is hereby **DISMISSED**.

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<sup>29</sup> Id. at 235.

<sup>30</sup> CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW OF AND LEGAL PROCESSES.

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

**SO ORDERED.**" (Inting, *J.*, on official leave; Baltazar-Padilla, *J.*, on leave.)

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Deputy Division Clerk of Court *With 9/23*

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