



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

N O T I C E

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 March 2022** which reads as follows:*

“A.C. No. 11696 [Formerly CBD Case No. 18-5661] (Dr. Mirando V. Unciano, Jr. vs. Atty. Irma D. Fermin-Valenzona). – This is a Complaint¹ for disbarment and other disciplinary measures filed by Dr. Mirando V. Unciano, Jr. (complainant) before the Office of the Bar Confidant (OBC) against Atty. Irma Fermin-Valenzona (respondent). Complainant alleged that respondent violated Canon 15, Rule 15.03 and Canon 17 of the Code of Professional Responsibility (CPR) on confidence of a client and for Gross Misconduct.

Antecedents

The Investigating Commissioner of the Integrated Bar of the Philippines (IBP) summarized the antecedent facts as follows:

In his first verified complaint dated April 28, 2017, complainant alleged that respondent violated Canon 15, Rule 15.03 and Canon 17 of the Code of Professional Responsibility for Lawyers by representing two opposing clients and the rule on confidentiality of attorney-client relation. He averred that he is the President of Unciano Colleges and General Hospital Inc., (UCGHI, for brevity) and Unciano Colleges (Antipolo) Inc. (UCAI). That respondent was hired as counsel for UCGHI and UCAI to handle various legal matters of the corporation and to represent complainant as his personal lawyer to which, she was paid [her] professional fees. Because complainant trusted her, he confided to her valuable pieces of information concerning not only business but also personal matters. Unfortunately, [respondent] turned on [sic] the tables against the complainant, his siblings Dr. Estrelita Unciano-Joven and Dr. Eliza Unciano when she sided with his other sister Dr. Natalie Unciano in the power struggle within [UCGHI and UCAI]. In respondent’s letter dated October 26, 2016, she informed complainant that the election of officers during the June 4, 2016 stockholders meeting is null and void and that he is no longer recognized as president and Dr. Estrelita Unciano-Joven as treasurer of the corporation. That these series of actions on the

¹ Rollo, pp. 1-13

part of the respondent were interpreted by complainant as tantamount to committing conflict of interest and a violation of the lawyer's fidelity by not preserving the confidences of the client.

On the other hand, in her Comment dated October 21, 2017, respondent belied the allegations of the complainant for lack of sufficient evidence and/or merit. She argued that the circumstances do not present any violation of confidentiality or fidelity to a client's cause but truly out of revenge or spite against respondent's refusal to side with complainant against his own mother, Dr. Natividad Unciano who is her true client being the owner of UCGHI and UCAI. Complainant wanted to control [his] mother's company to satisfy his greed for power and money which he never had before. Complainant wanted respondent to violate the trust reposed to [sic] her by Dr. Natividad Unciano to help him get company titles to sell against the interest and consent of his mother. Moreover, she argued that there was no conflict of interest committed since no business information was received from complainant who never in the history of the company, previously managed or became an officer and any personal information divulged to respondent is not a secret or confidential in nature since his love life, relationship with his siblings is an open book. In fact, his personal information is known to everyone since he himself talks about it to everyone, and would have no bearing or relevance to any complaint filed against him by [UCGHI and UCAI] with respondent as its counsel. That there was one instance wherein respondent assisted complainant as counsel [at the behest of his brother Dr. Michael Unciano] and that was when he became a suspect in a carnapping case. [Respondent's] service [to complainant] was only temporary as she was later replaced by Atty. Leovillo Agustin during the hearing of an interpleader case before Branch 80, Regional Trial Court, Quezon City.²

Report and Recommendation of the IBP

In the Report and Recommendation³ dated 28 February 2019, the Investigating Commissioner recommended the dismissal of the Complaint for lack of merit.

It was emphasized that mere allegation without proof is not synonymous to evidence. Complainant failed to present sufficient and convincing evidence to warrant respondent's culpability under the CPR. Other than complainant's bare allegations, no substantial evidence was presented to prove that respondent committed acts which show a conflict of interest. There was also no evidence to prove that respondent was unfaithful to her client.⁴

² Id. at 364-365.

³ Id. at 364-366; signed by IBP Commissioner Eldrid C. Antiquiera.

⁴ Id. at 365.

In contrast, respondent was able to establish that her rendition of legal service to complainant was an isolated matter. Her constant and enduring relationship is with complainant's mother, Dr. Natividad Unciano (Dr. Natividad), and her companies UCGHI and UCAI (companies).⁵

In Resolution No. CBD-2020-11-10 dated 28 November 2020, the IBP Board of Governors resolved to adopt the Investigating Commissioner's findings and recommendation.⁶

On 24 February 2022, the OBC reported that no motion for reconsideration or petition for review was filed by either party as of 21 December 2021.⁷

Ruling of the Court

After a review of the arguments and submissions of the contending parties, We adopt the findings and conclusion of the IBP Board of Governors in its 28 November 2020 Resolution and dismiss the disbarment complaint against respondent. We agree with the IBP's observation that complainant failed to substantiate his allegations against respondent.

In consideration of the gravity of the consequences of the disbarment or suspension of a member of the bar, a lawyer enjoys the presumption of innocence, and the burden of proof rests upon the complainant to satisfactorily prove the allegations in his complaint through substantial evidence. A complainant's failure to dispense the same standard of proof requires no other conclusion than that which stays the hand of the Court from meting out a disbarment or suspension order.⁸

Complainant relied on the following precepts of the CPR in the filing of the disbarment case against respondent:

Canon 15 – A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

Rule 15.03 – A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of facts.

⁵ Id.

⁶ Id. at 362.

⁷ Id. at 359; signed by Assistant Bar Confidant Amor P. Entila.

⁸ *Goopio v. Atty. Maglalang*, 837 Phil. 565, 575 (2018); Citation omitted.

Canon 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

Contrary to complainant's assertions, respondent acted in accordance with the CPR.

Jurisprudence teaches that there are three tests to determine whether a conflict of interest exists: (a) when a lawyer is duty-bound to advocate for a claim in behalf of one client, and then oppose the same claim for another client; (b) when the acceptance of a new client would prevent full discharge of a lawyer's duty or impress double-dealing in accomplishing such; and (c) when the lawyer would be prompted to use confidential information acquired from the previous client or relation to the new client, prejudicial to the former client.⁹ Complainant failed to substantiate how his allegation of conflict of interest exists. Hence, respondent passed these tests.

Complainant equated respondent's rendition of legal services to the companies with representation of his interests to present a conflict-of-interest situation in his complaint. Respondent, however, was able to counter and overcome complainant's assertions with evidence of her relationship with her actual clients, which are the companies and Dr. Natividad.

Respondent's legal services for the companies were initially retained on March 2014 by complainant's brother, then managing director Dr. Michael V. Unciano (Dr. Michael), for the filing of an ejectment complaint against informal settlers inside company property in Antipolo. During her retention, respondent provided legal consultation; reviewed contracts; prepared documents, correspondence, and position papers; and represented the companies before government agencies and offices. The GIS for the years 2005 to 2012, and then in 2015, consistently showed that complainant had the least number of shares and the controlling and majority stockholder was complainant's mother Dr. Natividad. On 31 October 2016, Dr. Natividad revoked complainant's directorship from the companies and had him endorse back to the companies his nominal shares.¹⁰

Respondent's legal representation of complainant happened in February 2015. She was requested by Dr. Michael to assist complainant for a personal matter at the companies' expense. Complainant was detained by the Highway Patrol Group in Camp Crame because he was charged with carnapping by Jimbo Aquino (Aquino), the registered owner of a Mitsubishi Montero that complainant was caught using. The vehicle still had an

⁹ See *Palm v. Atty. Iledan, Jr.*, 617 Phil. 212, 220 (2009).

¹⁰ *Rollo*, pp. 327-332.

outstanding mortgage with a bank under Aquino's name. Respondent filed an Answer on complainant's behalf to prevent his default. She was later substituted by Atty. Leovilo C. Agustin. Respondent's legal services were merely borrowed from the companies at a time when complainant was still looking for his own lawyer. This sole engagement did not involve any matter connected with the companies or with Dr. Natividad.

The disbarment complaint against respondent was filed on 28 April 2017. In his complaint, complainant admitted that respondent was the lawyer in cases filed against him in connection with his attempts to gain control over the companies. These cases included charges for falsification of public document and perjury, grave coercion, qualified theft, and serious illegal detention. In a classic example of admission against interest, complainant was able to show that respondent was consistent and faithful in representing Dr. Natividad and her companies. An admission against interest is the best evidence that affords the greatest certainty of the facts in dispute, based on the presumption that no man would declare anything against himself unless such declaration is true.¹¹

There is reason to believe that the filing of the disbarment complaint against respondent is connected to the dispute created by complainant in the control of the companies. It is likely that complainant resented respondent for her continued legal service and loyalty to his mother, which is adverse to his interests. However, complainant's resentment and hostility should not result in respondent's disbarment without substantial proof as she was merely acting as legal counsel for his mother and the companies, UCGHI and UCAI.

This Court is aware of the reality that members of the bar, in representing their clients' interests, lend themselves vulnerable to the filing of malicious suits against them. We keep in mind that the primary purpose of administrative disciplinary proceedings against delinquent lawyers is to uphold the law and to prevent the ranks of the legal profession from being corrupted by unscrupulous practices – not to shelter or nurse a wounded ego.¹²

WHEREFORE, finding the recommendation of the Integrated Bar of the Philippines to be fully supported by the evidence on record and applicable

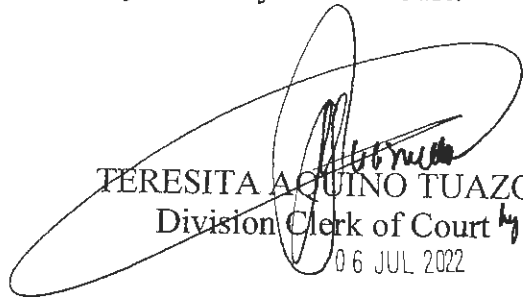
¹¹ *BP Oil and Chemicals International Philippines, Inc. v. Total Distribution & Logistic Systems, Inc.*, 805 Phil. 244, 260 (2017), citing *Taghoy v. Tigol, Jr.*, G.R. No. 159665, 03 August 2010, 626 SCRA 341, 350; *Heirs of Miguel Franco v. Court of Appeals*, 463 Phil. 417, 425 (2003); *Yulionsju v. PNB*, 130 Phil. 575, 580 (1968); *Republic v. Bautista*, G.R. No. 169801, 11 September 2007, 532 SCRA 598, 609; *Bon v. People*, 464 Phil. 125, 138 (2004).

¹² *Tabuco v. Atty. Gomos*, 836 Phil. 297, 321 (2018).

laws, the Court **RESOLVES** to **DISMISS** the complaint against respondent Atty. Irma D. Fermin-Valenzona for lack of merit and consider the same as **CLOSED** and **TERMINATED**.

SO ORDERED."

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by 7/6*
06 JUL 2022

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