



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **June 14, 2023**, which reads as follows:*

“A.C. No. 12190 [Formerly CBD Case No. 18-5862] (Robert P. Guzman, Complainant, versus Atty. Emerito B. Quilang and Atty. Angelique Lucero-Tungcul, Respondents). — Before the Court is a Complaint-Affidavit¹ dated March 12, 2018, filed by Robert P. Guzman (Guzman) against City Prosecutor Emerito B. Quilang (Atty. Quilang) and Assistant City Prosecutor Angelique S. Lucero-Tungcul (Atty. Lucero-Tungcul) (collectively, respondents) for gross ignorance of the law, grave misconduct, and unlawful rendition of unjust resolution.

In a complaint² dated November 8, 2016, Ma. Ana Kristina C. Mabborang (Mabborang), Account Officer of Social Security System (SSS), Tuguegarao Branch, charged Guzman with violation of Republic Act No. (RA) 8282³ before the Office of the City Prosecutor of Tuguegarao City (OCP, Tuguegarao City).

Mabborang alleged that Guzman failed to report and remit the SSS contributions of his employee, Marino Iringan Lugtu (Lugtu), covering the period from March 1978 up to November 2015.⁴ In support thereof, Mabborang attached a copy of the demand letter sent by SSS,⁵ a copy of Guzman’s Consolidated Statement of Contributions and Penalties Receivable,⁶ and Lugtu’s Affidavit⁷ dated March 8, 2016.

In a Resolution⁸ dated May 25, 2017, respondents found probable cause against Guzman and recommended the filing of an Information against the latter,⁹ viz.:

¹ *Rollo*, pp. 1-13.

² *Id.* at 15-16. See Complaint-Affidavit (Re: Violation of the Security Act of 1997)

³ Social Security Act of 1997, approved on May 1, 1997.

⁴ *Rollo*, p. 15.

⁵ *Id.* at 27-28.

⁶ *Id.* at 18-25.

⁷ *Id.* at 26.

⁸ *Id.* at 80-81.

⁹ *Id.* at 284.

In exculpation, respondent Engr. Robert P. Guzman claims that although he is the proprietor of the said business establishment, he hired his brother, Rene P. Guzman to be the manager as respondent was managing his property in Manila in the 1970's up to the late 1990's. As the manager, his brother Rene Guzman, was then in charge for the preparation of payrolls as well as remittances of collections with the SSS, withholding tax, etc. He claims that Marino Lugtu, the person who initiated the filing of this complaint was hired as a tricycle driver and later on as dump truck driver in 1978. He was terminated from employment on October 19, 1995 because he nearly killed a co-worker and from then on[,] his name was removed from the payroll and his [SSS] contributions were no longer remitted. On November 13, 1995, Lugtu filed a labor case against respondent before the National Labor Relations Commission until it reached the Court of Appeals where he was granted separation pay and backwages. Respondent claimed that the demand on him by the SSS based [on] the Affidavit-Complaint of Lugtu had no factual and legal basis as Lugtu is questioning without any evidence the period from 1978 to 1995 while the demand of SSS is up to November 2015 which is outside the claim of Lugtu. He asserted that complainant failed to produce in this complaint the period when the premiums were remitted and when not as Lugtu answered in his Affidavit-Complaint that his SSS contributions were irregularly remitted. He admitted having received letters from the SSS dated April 15, 2016, May 14, 2016, August 10, 2016 and September 28, 2016 demanding payments of [SSS] contributions of Lugtu but he refused to heed because he claims that there is no factual and legal basis on the demands made upon him. He reiterated that from October 20, 1995 up to November 20, 2015, he could not possibly deducted (*sic*) and failed to remit SSS contributions for Lugtu because the latter did not earn any wage from RG Construction as his employment was terminated during those times. Hence, he prays that this criminal complaint should be dismissed.

We now resolve.

After carefully evaluating and weighing the evidence presented by both parties, we find probable cause that the crime complained of had been committed and that the respondent is probably guilty thereof. Respondent admitted that he had received the demand letters sent by complainant to him[,] but he refused to heed as he claimed that there is no factual and legal basis on the demands made upon him. However, respondent failed to show proof/s that he had in fact settled his obligations with the SSS or at least visited the SSS office to reconcile the records he had with that of the complainant. The failure of the respondent to comply with his obligation to deduct and/or remit his SSS contributions and that of his employee constitutes Violations of Section 22 (a) in relation to Section 22 (d) and 28 (e) of the SS Law. The counter-allegations of the respondent are matter[s] of defense which could be properly threshed out in a [full-blown] trial.

WHEREFORE, above premises considered, it is most respectfully recommended that an Information for Violations of Section 22 (a) in relation to Section 22 (d) and 28 (e) of the Social

Security Law be prepared and filed against respondent ROBERT P. GUZMAN.¹⁰

Aggrieved, Guzman filed a Motion for Reconsideration,¹¹ but the OCP, Tuguegarao City denied it in a Resolution dated June 30, 2017. Thereafter, he elevated the matter to the Department of Justice (DOJ), but the DOJ denied it in a Resolution dated August 25, 2017¹² due to late filing.¹³

Consequently, the OCP, Tuguegarao City duly filed an Information before the Regional Trial Court (RTC) of Tuguegarao City.¹⁴

In an Order dated November 3, 2017, the RTC found probable cause against Guzman and directed the issuance of a warrant of arrest against him.¹⁵

In the meantime, Guzman filed the present administrative complaint against respondents.

Guzman argued that: respondents' act of filing a criminal information against him on the basis of manufactured and fabricated SSS records was a clear display of their gross ignorance of the law and grave misconduct;¹⁶ respondents conveniently omitted the fact that Lugtu was terminated from employment in October 1995;¹⁷ the criminal case had already prescribed; and he could not be prosecuted for acts committed from 1978 to 1995 because RA 8282 took effect only on May 1, 1997.¹⁸ Thus, he concluded that respondents are guilty of violating the Lawyer's Oath, Canon 1,¹⁹ and Rules 6.01²⁰ and 6.02²¹ of Canon 6 of the Code of Professional Responsibility (CPR).²²

¹⁰ Id. at 80-81. Emphasis omitted.

¹¹ Id. at 82-91.

¹² Id. at 284.

¹³ Id. at 161.

¹⁴ Id. at 284.

¹⁵ Id.

¹⁶ Id. at 4.

¹⁷ Id. at 6.

¹⁸ Id. at 8-9.

¹⁹ CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

²⁰ Rule 6.01, Canon 6 of the CPR provides:

RULE 6.01 The primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done. The suppression of facts or the concealment of witnesses capable of establishing the innocence of the accused is highly reprehensible and is cause for disciplinary action.

²¹ Rule 6.02, Canon 6 of the CPR provides:

RULE 6.02 A lawyer in the government service shall not use his public position to promote or advance his private interests nor allow the latter to interfere with his public duties.

²² *Rollo*, pp. 4-5.

In the Resolution²³ dated June 27, 2018, the Court referred the case to the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline (CBD) for investigation, report, and recommendation. Thus, in an Order²⁴ dated January 16, 2019, the IBP-CBD ordered respondents to submit their Answer and to furnish Guzman with a copy thereof within 15 days from receipt.

In their Answer²⁵ dated February 13, 2019, respondents contended that their finding of probable cause against Guzman was legally justified; and as public prosecutors, their duty is merely to find probable cause—not rule on the guilt or innocence of the accused. They stressed that their finding of probable cause was affirmed by the Regional State Prosecutor of the DOJ and the RTC.²⁶

In her Commissioner's Report and Recommendation²⁷ dated November 7, 2019, Investigating Commissioner Maria Leobeth B. Deslate-Delicana recommended the dismissal of the case against respondents.²⁸

In the Resolution No. CBD-XXV-2021-08-21²⁹ dated August 28, 2021, the IBP Board of Governors (IBP Board) approved and adopted the Commissioner's Report and Recommendation to dismiss the complaint against respondents for lack of merit, to wit:

RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the instant case, to DISMISS the complaint against the Respondents for lack of merit.³⁰

Undeterred, Guzman filed a Motion for Reconsideration³¹ dated December 4, 2021. He argued that: the basis stated by respondents in their Resolution was vague; respondents were motivated by bad faith, fraud, dishonesty, or corruption;³² and they failed to perform due diligence in the discharge of their duties as prosecutors in violation of Rule 6.01, Canon 6 of

²³ Id. at 92.

²⁴ Id. at 94.

²⁵ Id. at 97-102.

²⁶ Id. at 288-289.

²⁷ Id. at 282-293.

²⁸ Id. at 292.

²⁹ Id. at 280-281. Signed by Assistant National Secretary Jose Angel B. Guidote, Jr.

³⁰ Id. at 280. Emphasis omitted.

³¹ Id. at 298-305.

³² Id. at 301-302.

the CPR and Section 9³³ of RA 10071,³⁴ among others.³⁵

In their Opposition/Comment (to the Motion for Reconsideration)³⁶ dated December 20, 2021, respondents stated that Guzman was already found guilty beyond reasonable doubt of non-remittance of monthly SSS contributions in violation of RA 1161,³⁷ as amended, by the RTC in the Judgment³⁸ dated September 28, 2021.³⁹

Issue

The issue for the Court's resolution is whether respondents violated the Lawyer's Oath, Canon 1, and Rules 6.01 and 6.02 of Canon 6 of the CPR when they caused the filing of an Information for violation of Section 22(a) in relation to Section 22(d) and 28(e) of RA 8282 against Guzman.

Our Ruling

Preliminarily, the Court would like to stress that Section 12⁴⁰ of Rule 139-B of the Rules of Court, as amended by Bar Matter No. 1645,⁴¹ has dispensed with the filing of a motion for reconsideration for the review of the IBP Board's Resolution.

³³ Section 9 of RA 10071 provides:

Section 9. *Powers and Functions of the Provincial Prosecutor or City Prosecutor.* — The provincial prosecutor shall:

(a) Be the law officer of the province or city, as the case may be;

(b) Investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of penal laws and ordinances within their respective jurisdictions, and have the necessary information or complaint prepared or made and filed against the persons accused. In the conduct of such investigations, he or any of his/her assistants shall receive the statements under oath or take oral evidence of witnesses, and for this purpose may by subpoena summon witnesses to appear and testify under oath before him/her, and the attendance or evidence of an absent or recalcitrant witness may be enforced by application to any trial court; and

(c) Have charge of the prosecution of all crimes, misdemeanors and violations of city or municipal ordinances in the courts at the province or city and therein discharge all the duties incident to the institution of criminal actions, subject to the provisions of second paragraph of Section 5 hereof.

³⁴ Prosecution Service Act of 2010.

³⁵ *Rollo*, p. 302.

³⁶ *Id.* at 260-262.

³⁷ Social Security Act of 1954, approved on June 18, 1954.

³⁸ *Rollo*, pp. 263-273. Penned by Judge Marivic A. Cacatian-Beltran.

³⁹ *Id.* at 260.

⁴⁰ Section 12, Rule 139-B of the Rules of Court provides:

Section 12. *Review and Recommendation by the Board of Governors.*

a) Every case heard by an investigator shall be reviewed by the IBP Board of Governors upon the record and evidence transmitted to it by the Investigator with his report.

b) After its review, the Board, by the vote of a majority of its total membership, shall recommend to the Supreme Court the dismissal of the complaint or the imposition of disciplinary action against the respondent. The Board shall issue a resolution setting forth its findings and recommendations, clearly and distinctly stating the facts and the reasons on which it is based. The resolution shall be issued within a period not exceeding thirty (30) days from the next meeting of the Board following the submission of the Investigator's report.

c) The Board's resolution, together with the entire records and all evidence presented and submitted, shall be transmitted to the Supreme Court for final action within ten (10) days from issuance of the resolution.

d) Notice of the resolution of the Board shall be given to all parties through their counsel, if any.

⁴¹ Approved on October 13, 2015.

Accordingly, it was unnecessary for Guzman to file a Motion for Reconsideration and for respondents to file an Opposition/Comment (to the Motion for Reconsideration) in the case at bar. Nonetheless, the Court shall consider all documents transmitted by the IBP-CBD, including Guzman's Motion for Reconsideration and respondents' Opposition/Comment (to the Motion for Reconsideration), to fully determine the administrative liability of respondents given the circumstances, if any.

Procedural matters aside, the Court dismisses the present administrative complaint against respondents for lack of merit.

The IBP and the Court has jurisdiction over the case at bar.

In *Guevarra-Castil v. Trinidad*⁴² (*Guevarra-Castil*), the Court laid down the guidelines in the filing and handling of complaints against government lawyers:

x x x [I]n order to do away with the ostensible confusion, and the unethical practice of effective forum shopping, taking into account the suggestions of Senior Associate Justice Estela M. Perlas-Bernabe during the deliberations on this case, the Court hereby lays the following rules in the filing and handling of complaints against government lawyers, to serve as guidelines for both the bench and the bar:

1. All complaints against and which seek to discipline government lawyers in their respective capacities as members of the Bar must be filed directly before this Court. Conversely, complaints which do not seek to discipline them as members of the Bar shall be dismissed for lack of jurisdiction and referred to the Ombudsman or concerned government agency for appropriate action.

2. In connection with paragraph 1, upon filing, the Court must determine whether the concerned agency, the Ombudsman, or the Court, has jurisdiction over the complaint against the government lawyer. In making such determination, the following must be considered: did the allegations of malfeasance touch upon the errant lawyer's continuing obligations under the CPR and/or the Lawyer's Oath? To put it more simply, the primordial question to be asked in making this determination is this: do the allegations in the complaint, assuming them to be true, make the lawyer unfit to practice the profession?

- 2a. If the question in paragraph 2 yields a positive answer, the case properly lies before the Court, which shall retain jurisdiction. This is so because again, the power to regulate the practice of law, and discipline members of the bar,

⁴² A.C. No. 10294, July 12, 2022.

belongs to Us. Necessarily, proceedings to be had before this Court should concern these and only these matters. This rule shall hold, even if the complaint also contains allegations of administrative and/or civil service rules infractions. In such situation however; the Court shall limit its ruling only to the matter of the respondent's fitness as a lawyer.

2b. On the other hand, if the question in paragraph 2 yields a negative answer, the Court, for lack of jurisdiction, shall dismiss the case and refer the same to the appropriate government office or the Ombudsman.

3. If multiple complaints have been filed, the process shall be the same.

In the event that paragraph 2b shall apply, and results in a situation where one or more complaint/s have been dismissed and referred to the appropriate government office or the Ombudsman, and one or more complaint/s have been retained by this Court, the cases shall proceed independently from one another.⁴³ (Emphasis omitted)

Notably, Guzman's allegations against respondents pertained to their performance of their duties as public prosecutors. However, Guzman's allegations, *i.e.*, that respondents suppressed facts or concealed witnesses capable of establishing Guzman's innocence and used their public position as public prosecutors to promote and advance their personal interest, if true, would make them unfit as members of the Bar.

Applying the guidelines set forth in *Guevarra-Castil*, the Court finds that the Court has jurisdiction to resolve the present administrative complaint.

Guzman failed to substantiate his allegations that respondents violated the Lawyer's Oath, Canon 1, and Rules 6.01 and 6.02 of Canon 6 of the CPR.

Time and time again, the Court stressed that the burden is on the complainant, *i.e.*, Guzman, to prove his or her allegations with substantial evidence or "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."⁴⁴ Stated differently, Guzman must prove, by substantial evidence, that respondents: (1) failed to uphold the Constitution, obey the laws of the land and promote respect for law and for legal processes in violation of the Lawyer's Oath and Canon 1 of the CPR; (2) suppressed facts or concealed witnesses capable of establishing Guzman's innocence in violation of Rule 6.01 of the CPR; and (3) used their public position as public prosecutors to (i) promote private interests, (ii) advance private interests, or (iii) allow private

⁴³ Id.

⁴⁴ Section 6, Rule 133 of the Revised Rules on Evidence, as amended by A. M. No. 19-08-15-SC.

interests to interfere with public duties, in violation of Rule 6.02 of the CPR.

Here, the Court finds that the records are bereft of any evidence that respondents violated the Lawyer's Oath, Canon 1, and Rules 6.01 and 6.02 of Canon 6 of the CPR when they caused the filing of an Information for violation of Section 22(a) in relation to Section 22(d) and 28(e) of RA 8282 against Guzman.

First. Respondents' reliance on the documents submitted by Mabborang does not constitute violation of Canon 1 of the CPR. To stress, a full and exhaustive presentation of the parties' evidence is not required in a preliminary investigation.⁴⁵ The issues raised by Guzman regarding the authenticity and admissibility of the SSS' records presented before respondents and whether he is excused from remitting Lugtu's SSS contributions during the interregnum between Lugtu's dismissal and the finality of the decision of the Court of Appeals in Lugtu's favor, are matters which are better presented and determined by the trial court in the criminal action against Guzman. In the absence of contrary evidence, what prevails is the presumption that respondents, as public prosecutors, regularly performed their official duties.⁴⁶

Second. The records do not support Guzman's allegations that respondents violated Rules 6.01 and 6.02 of Canon 6 of the CPR. It was clearly stated by respondents in their Resolution dated May 25, 2017 that Lugtu was terminated on October 19, 1995; thus, it cannot be said that the same was conveniently omitted by them in violation of Rule 6.01 of Canon 6 of the CPR. More, Guzman agreed with the respondents' stipulation during the mandatory conference held on June 17, 2019, that respondents have no personal interest on the criminal case against him.⁴⁷ Thus, Guzman is now estopped from alleging that respondents used their public position to advance or promote their private interests in violation of Rule 6.02 of Canon 6 of the CPR.

Lastly, assuming *arguendo* that respondents erred in their finding of probable cause against Guzman, they cannot be held administratively liable for gross ignorance of the law, grave misconduct, and unlawful rendition of unjust resolution by reason thereof unless the same was motivated by bad faith, dishonesty, or hatred, or attended by fraud or corruption.⁴⁸

Here, Guzman alleged that respondents were motivated by bad faith, fraud, dishonesty, or corruption when they caused the filing of an Information for violation of Section 22(a) in relation to Section 22(d) and

⁴⁵ See *Cambe v. Office of the Ombudsman*, 802 Phil. 190 (2016).

⁴⁶ Section 3(m), Rule 131 of the Rules of Court.

⁴⁷ *Rollo*, p. 167.

⁴⁸ See *De la Cruz v. Judge Concepcion*, 305 Phil. 649, 657 (1994).

28(e) of RA 8282 against him⁴⁹ but utterly failed to substantiate these allegations. As held by the Court time and time again, mere allegations are not evidence and are not equivalent to proof.⁵⁰

WHEREFORE, the administrative complaint against respondents City Prosecutor Emerito B. Quilang and Assistant City Prosecutor Angelique S. Lucero-Tungcul is **DISMISSED** for lack of merit.

SO ORDERED.”

By authority of the Court:

Mis-DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *גבולר*

Mr. Robert P. Guzman
Complainant
St. Anne St., San Jose Village
Atulayan Sur, Tuguegarao City
3500 Cagayan

LIBRARY SERVICES
Supreme Court, Manila

Attys. Emerito B. Quilang & Angelique Lucero Tungcul
Respondents
Tuguegarao City Prosecution Office
Old City Hall Compound, Tuguegarao City
3500 Cagayan

Atty. Amor P. Entila
Officer-in-Charge
OFFICE OF THE BAR CONFIDANT
Supreme Court, 1000 Manila

Atty. Avelino V. Sales, Jr.
Director for Bar Discipline
INTEGRATED BAR OF THE PHILIPPINES
Dona Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

JUDICIAL & BAR COUNCIL
Supreme Court, 1000 Manila

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[research_philja@yahoo.com]

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⁴⁹ *Rollo*, pp. 301-302.

⁵⁰ *Real v. Belo*, 542 Phil. 109, 122 (2007).