



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **October 4, 2023**, which reads as follows:*

“**A.C. No. 13305 (AURELIA CALPATURA, Complainant, v. Atty. KATHERINE MAE HOGGANG, Respondent).** – The Court resolves the administrative complaint<sup>1</sup> filed by Aurelia Calpatura (complainant) against Atty. Katherine Mae Hoggang (respondent) before the Office of the Bar Confidant for unlawfully engaging in private practice while being a public official and for the alleged institution of a baseless, unfounded, and frivolous action.

*The Antecedents*

Complainant alleged that respondent, a public official currently employed in the Department of Education (DepEd) Central Office, appeared as counsel in a petition for letters of administration, a special proceedings case docketed as SPC PROC No. 2016-06, without first obtaining authority from the Head of DepEd and without securing the withdrawal of the former counsel, Atty. Moises M. Pardo.<sup>2</sup> She further alleged that respondent filed a defective Omnibus Motion (*i.e.*, a motion without the “Notice of Hearing” portion) that became the basis of the Order<sup>3</sup> dated March 9, 2021 of Branch 31, Regional Trial Court (RTC), Cabarroguis, Quirino that directed complainant to surrender the title involved in the case.<sup>4</sup> Then, on December 13, 2021, respondent filed a Petition for Indirect Contempt<sup>5</sup> against her before the RTC based on the Order dated March 9, 2021. However, complainant pointed out that the RTC, in its Order<sup>6</sup> dated June 22, 2021, already vacated, and reconsidered the Order dated March 9, 2021.<sup>7</sup>

Hence, the complaint.

<sup>1</sup> *Rollo*, pp. 1–12. Denominated as a Petition.

<sup>2</sup> *Id.* at 1–2, Complaint.

<sup>3</sup> *Id.* at 23. Penned by Presiding Judge Andrew P. Dulnuan.

<sup>4</sup> *Id.* at 3–4, Complaint.

<sup>5</sup> *Id.* at 15–18.

<sup>6</sup> *Id.* at 32. Penned by Presiding Judge Andrew P. Dulnuan.

<sup>7</sup> *Id.* at 3 and 5, Complaint.

In her Verified Answer/Comment,<sup>8</sup> respondent affirmed that she is employed by the DepEd but clarified that she is appointed as Attorney III/Legal Officer at the Schools Division Office of Caloocan City and not the Central Office as alleged by complainant.<sup>9</sup> Respondent explained that she appeared as counsel for Antonio Villamor, Jr. (Villamor, Jr.) in SPC PROC No. 2016-06 with the approval and permission of the head of the Schools Division Office Caloocan City, her immediate superior, in compliance with Civil Service Commission (CSC) Memorandum Circular No. 24, Series of 2017,<sup>10</sup> and in doing so, she has not prejudiced the public service.<sup>11</sup>

In addition, respondent stated that she submitted her written request to practice her profession in private in compliance with DepEd Order No. 002, Series of 2021,<sup>12</sup> but despite numerous follow-up requests, she had yet to receive a formal approval from the DepEd Central Office. Nonetheless, respondent asserted that by virtue of Republic Act No. (RA) 11032,<sup>13</sup> or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018, all applications duly submitted to an agency will be automatically approved if the agency fails to process the application within the prescribed time frame; thus, her request for authority for limited practice was deemed approved.

### *The Issue*

The issue for the Court's resolution is whether respondent should be held administratively liable for her actions.

### *The Court's Ruling*

The Court dismisses the case for patent lack of merit.

Well settled is the rule that administrative complaints cannot stand on mere allegations, conjectures, and suppositions.<sup>14</sup> Here, complainant failed to substantiate her allegations against respondent.

Section 28, Canon II of A.M. No. 22-09-01-SC,<sup>15</sup> or the Code of Professional Responsibility and Accountability (CPRA), provides the

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<sup>8</sup> *Id.* at 39–57.

<sup>9</sup> *Id.* at 39 and 43, Comment.

<sup>10</sup> With the subject, "2017 Omnibus Rules on Appointments and Other Human Resource Actions."

<sup>11</sup> *Id.* at 39–40 and 43–44.

<sup>12</sup> Entitled, "Revised Signing Authorities for Administrative and Financial Matters in the Department of Education," issued on January 5, 2021.

<sup>13</sup> Approved on May 28, 2018.

<sup>14</sup> *See Zara v. Atty. Joyas*, 853 Phil. 21, 24 (2019).

<sup>15</sup> Published on May 14, 2023, and took effect on May 29, 2023. Section 1, General Provisions of the Code of Professional Responsibility and Accountability provides for the application of the CPRA to all pending and future cases, except to the extent that in the opinion of the Court, its retroactive application would not be feasible or would work injustice.

duty of lawyers in government service to observe the standard of conduct under the Code, RA 6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, and other related laws and issuances in the performance of their duties. In the case, the administrative complaint basically pertains to Section 7(b)(2) of RA 6713, which prohibits public officials and employees from engaging in the private practice of their profession during their incumbency:

Section 7. *Prohibited Acts and Transactions.* — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x x

b. *Outside employment and other activities related thereto.* — Public officials and employees during their incumbency shall not:

x x x x

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided that such practice will not conflict or tend to conflict with their official functions; or

x x x x

As an *exception* to the limitation imposed by Section 7(b)(2) of RA 6713, a public official or employee may practice his or her profession in private provided that: (1) private practice is authorized by the Constitution or by the law; and (2) the practice will *not* conflict or tend to conflict with his or her official functions.<sup>16</sup>

Here, record shows that respondent's actions are within the exception of Section 7(b)(2) of RA 6713 considering that:

*First*, she has been complying with Section 18,<sup>17</sup> Rule XIII of CSC Memorandum Circular No. 15, Series of 1999 since her appointment on September 3, 2018. The first letter request for authority to engage in private practice submitted by respondent was on September 5, 2018, which she has been renewing annually.<sup>18</sup>

*Second*, contrary to the contention of complainant, respondent's written requests for authority to engage in private practice were approved

<sup>16</sup> *Query of Atty. Silverio-Buffe, former Clerk of Court- Br. 81, Romblon, Romblon*, 613 Phil. 1, 16 (2009).

<sup>17</sup> Section 18, Rule XIII of CSC Memorandum Circular No. 15, Series of 1999 provides:

SEC. 18. Unless otherwise provided by law, no officer or employee shall engage directly or indirectly in any private business or profession without a written permission from the head of agency. Provided that this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the government: Provided further, that if an employee is granted permission to engage in outside activities, the time devoted outside of office hours should be fixed by the head of the agency so that it will not impair in any way the efficiency of the officer or employee nor pose a conflict or tend to conflict with the official functions.

<sup>18</sup> See Letter-Request to Engage in Limited Practice of Profession of respondent, *rollo*, pp. 108–109, 110–111, 112–113, 116–117 and 120–121.

by the authorized officers as mandated by the applicable memorandum circulars: (i) for the years 2008 to 2020, by the School Division Superintendent under DepEd Memorandum Circular No. 66, Series of 2008; and (ii) for the years 2021 up to present, by the Secretary of DepEd, or his or her authorized representative along with the recommending approval from the respective Regional Director, in accordance with DepEd Memorandum Circular No. 002, Series of 2021.<sup>19</sup>

*Lastly*, in providing her legal services to Villamor, Jr., respondent has not prejudiced the performance of her public duties as evinced by her filing of a leave of absence whenever she attended a hearing for her client, which were, in turn, duly approved by the authorized officers.<sup>20</sup>

With the foregoing, respondent's private practice of the legal profession is clearly within the bounds of RA 6713, the CSC rules, the DepEd issuances, and the CPRA. Respondent cannot be held administratively liable for violation of Section 2, Canon III and Section 1, Canon II of the CPRA for she acted in accordance with the law, and she has not been dishonest in her dealings in the public service and her private practice.

**WHEREFORE**, the Court **DISMISSES** the administrative complaint against respondent Atty. Katherine Mae Hoggang for lack of merit.

**SO ORDERED.**" (Dimaampao, *J.*, on official business; Singh, *J.*, on official business but participated in the deliberations.)

By authority of the Court:

*Micelobatt*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *1/17/24*

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<sup>19</sup> *Id.*

<sup>20</sup> *Id.* at 122-124.

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