



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated August 10, 2022, which reads as follows:*

**“A.C. No. 13458 [Formerly CBD Case No. 18-5613] (Atty. Rowena C. Balasolla v. Atty. Allan Christian F. Mendoza) —** Submitted to this Court, pursuant to Rule 139-B of the Rules of Court, is Resolution No. CBD-XXV-2022-01-09, dated 22 January 2022, of the Board of Governors of the Integrated Bar of the Philippines (IBP), upholding its Resolution No. 2020-09-31, dated 26 September 2020, which approved and adopted the Report and Recommendation of the Investigating Commissioner in CBD Case No. 18-5613, dismissing the Complaint for Disbarment filed against respondent Atty. Allan Christian F. Mendoza (**Atty. Mendoza**).

ANTECEDENTS

Atty. Rowena C. Balasolla (**Atty. Balasolla**) was an Arbiter with the Housing and Land Use Regulatory Board (**HLURB**).<sup>1</sup> During her tenure as HLURB Arbiter, she resolved two complaints in favor of Lualhati Beltran (**Beltran**), whose counsel of record is Atty. Mendoza. The first case was against Mayon Estate Corporation, while the second case was against Carmelita Cruz (**Cruz**).<sup>2</sup>

She ordered Mayon Estate Corporation to immediately complete a certain subdivision and to surrender the possession of two lots in said subdivision to Beltran, who shall pay the purchase price of said lots. She also declared as null and void the previous sale of one of these two lots to Cruz. The Office of the President affirmed both rulings and declared them as final and executory. On appeal, the Court of Appeals (**CA**) and this Court affirmed the rulings. Beltran moved<sup>3</sup> for the execution of the same. On 10 July 2008, the HLURB Board of Commissioners (**BOC**) granted<sup>4</sup> the motion and a writ of execution was issued.<sup>5</sup>

<sup>1</sup> Rollo (Vol. II), CBD Vol. III, p. 3.

<sup>2</sup> *Id.*

<sup>3</sup> Rollo (Vol. I), CBD Vol. I, Motion for Execution dated May 8, 2008, pp. 56-61.

<sup>4</sup> *Id.*, HLURB Board of Commissioners Order dated July 10, 2008, pp. 63-69.

<sup>5</sup> *Id.*, HLURB Arbiter Order dated August 4, 2008, pp. 70-71.

On 4 August 2008, Cruz filed a motion for reconsideration/clarification of the writ.<sup>6</sup> Pending resolution of Cruz's motion, on 27 August 2008, Cruz filed a very urgent motion for the suspension of the implementation of the writ.<sup>7</sup> The following day, Atty. Balasolla granted the motion.<sup>8</sup> On 22 August 2008, through a Notice of Resolution,<sup>9</sup> dated 2 September 2008, the HLURB BOC denied Cruz's motion for reconsideration/clarification.<sup>10</sup> Consequently, Beltran, through Atty. Mendoza, asked Atty. Balasolla to lift the suspension order, but the same was not acted on.<sup>11</sup>

Atty. Balasolla was then administratively charged before the Ombudsman with grave misconduct and violation of the Anti-Graft and Corrupt Practices Act, among others. The complaint was docketed as *Administrative Case No. OMB-C-A-08-0624-K*. On 4 October 2011, the Ombudsman found Atty. Balasolla guilty of grave misconduct and imposed the penalty of dismissal.<sup>12</sup> However, on appeal before the CA, the administrative charge was dismissed.<sup>13</sup>

Meanwhile, finding probable cause for a violation of the Anti-Graft and Corrupt Practices Act, the Ombudsman filed an Information, dated 14 July 2009, against Atty. Balasolla before the Regional Trial Court (RTC). The Information was later docketed as *Criminal Case No. Q-10-165798*. On 29 November 2019, the RTC acquitted Atty. Balasolla for failure of the prosecution to prove her guilt beyond reasonable doubt.<sup>14</sup>

Atty. Balasolla took exception to the charges of misconduct against her and instituted the present complaint for disbarment against Atty. Mendoza. Atty. Balasolla alleges that Atty. Mendoza deliberately omitted and suppressed several important facts, pleadings and events which the latter was very much aware of and which would have proven that the former was not to blame for the non-lifting of the suspension of the subject writ of execution.

On 23 March 2020, the IBP Commission on Bar Discipline (CBD) recommended<sup>15</sup> the dismissal of the complaint for disbarment against Atty. Mendoza.

On 26 September 2020, the IBP Board of Governors approved and adopted the Recommendation of the CBD to dismiss the complaint.<sup>16</sup> On 22

<sup>6</sup> Id., Motion for Reconsideration/Clarification, pp. 72-76.

<sup>7</sup> Rollo (Vol. I), CBD Vol. I, Very Urgent, pp. 77-80.

<sup>8</sup> Id., HLURB Arbitrator Order dated August 28, 2008, pp. 81-82.

<sup>9</sup> Id., p. 88.

<sup>10</sup> Id., HLURB Board of Commissioners Order dated August 22, 2008, pp. 89-90.

<sup>11</sup> Id., Urgent Motion to Lift/Quash Suspension Order Regarding the Implementation of the Writ of Execution, pp. 83-87.

<sup>12</sup> Rollo (Vol. I), pp. 112-120.

<sup>13</sup> Rollo (Vol. II), CBD Vol. III, pp. 42-58.

<sup>14</sup> Id., pp. 60-71.

<sup>15</sup> Id., pp. 2-18.

<sup>16</sup> Id., p. 1.

January 2022, the IBP Board of Governors denied Atty. Balasolla's motion for reconsideration.<sup>17</sup>

On 8 April 2022, the IBP, through Atty. Avelino V. Sales, Jr., Director for Bar Discipline, transmitted the case to the Court, with the IBP's recommendation.<sup>18</sup>

### ISSUE

Was Atty. Mendoza motivated by bad faith in filing the Complaint-Affidavit before the Ombudsman and executing his Judicial Affidavit in the criminal prosecution against Atty. Balasolla, as to make him guilty of gross misconduct?

### DISCUSSION

The Court adopts the findings and recommendation of the IBP.

In administrative proceedings, the complainant bears the burden of proving by substantial evidence the allegations in the complaint, and must satisfactorily show the facts upon which the claims are based. Applied in disbarment proceedings, this rule presupposes that a lawyer is presumed innocent and has performed the attendant duties in accordance with the lawyer's oath, unless proven otherwise.<sup>19</sup>

In the present complaint, Atty. Balasolla claims that Atty. Mendoza violated Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the Code of Professional Responsibility in allegedly giving false testimony in the administrative and criminal cases against her, which constitute unlawful and dishonest conduct.

However, Atty. Balasolla failed to substantiate her claim.

For the Court to uphold gross misconduct as a ground for disbarment, it must be shown that the respondent lawyer acted maliciously and with wanton disregard of a lawyer's duties. It has been held that:

“[g]ross misconduct is defined as any inexcusable, shameful, flagrant, or unlawful misconduct on the part of the person concerned in the administration of justice which is prejudicial to the rights of the parties or to the right determination of a cause. It is a conduct that is generally motivated by a premeditated, obstinate, or intentional purpose.”<sup>20</sup>

<sup>17</sup> Id., Notice of Resolution, (unpagged).

<sup>18</sup> Rollo (Vol. II), CBD Vol. III, p. 1. Letter dated 30 March 2022 addressed to Chief Justice Alexander G. Gesmundo, (unpagged).

<sup>19</sup> *Philippine School of Business Administration, Inc.-Quezon City v. Paulino*, A.C. No. 12947 (Notice), February 10, 2021, citing *Alag v. Senupe, Jr.*, A.C. No. 12115, October 15, 2018 (Per J. Perlas-Bernabe, Second Division).

<sup>20</sup> *Philippine School of Business Administration, Inc.-Quezon City*, supra, citing *Yamol, Jr. v. Ferrer Sr.*, A.C. No. 6585, April 21, 2005, 456 SCRA 475, 491-492.

It is not disputed that Atty. Balasolla did not act on the motion to lift the suspension order against the writ of execution of a final and executory decision even after the HLURB BOC had already denied Cruz's motion for reconsideration/clarification of the writ of execution. It was understandable for Atty. Mendoza to question Atty. Balasolla's inaction on his motion to lift the suspension order because the decision was, for all legal intents and purposes, final and already executory. As the said decision was favorable to the property rights of Atty. Mendoza's client, he must exercise diligence and vigilance to protect his client's interests by ensuring the execution of the judgment.

A finding of gross misconduct requires more than mere allegations of ill will and bad faith. The present complaint merely involves conflicting versions of why the suspension order was not lifted, on the one hand, and why it should have been automatically lifted, on the other. Atty. Mendoza's hurtful allegations in his Complaint-Affidavit and Judicial Affidavit against Atty. Balasolla do not suffice to prove a finding of bad faith or malice. If at all, Atty. Mendoza was being zealous in protecting his client's property rights, which were already upheld by Atty. Balasolla's final and executory ruling with the issuance of a corresponding writ of execution. The inconsistency in Atty. Balasolla's acts brought about Atty. Mendoza's recourse to other available reliefs.

**WHEREFORE**, the disbarment complaint against respondent Atty. Allan Christian F. Mendoza is hereby **DISMISSED** for lack of merit.

The Notice of Resolution, dated 22 January 2022, of the Board of Governors of the Integrated Bar of the Philippines, transmitted by the letter, dated 30 March 2022, of Avelino v. Sales, Jr., Director of the Integrated Bar of the Philippines Commission on Bar Discipline, together with the records and compact disc containing the PDF file of the case, are **NOTED**.

**SO ORDERED."**

By authority of the Court:

*Misael C. Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
*Ma/15/22*

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**A.C. No. 13458**

  
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