



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated February 13, 2023, which reads as follows:

A.C. No. 13572 (Formerly CBD Case No. 18-5682) - FORTUNA MARCOS BARBA, Complainant, v. ATTY. ROMAN EJAN LORETO, Respondent.

This is a Verified Petition for Disciplinary Action¹ under Rule 139-B in relation to Section 27, Rule 138 of the Rules of Court, filed by Fortuna Marcos Barba (**Barba**) against Atty. Roman Ejan Loreto (**Atty. Loreto**) for malpractice, gross misconduct, and willful and blatant violation of the Lawyer's Oath in relation to the duties of attorneys under Section 20, Rule 138 of the Rules of Court, and Canons 10 and 12 of the Code of Professional Responsibility.

The Facts

The misconduct complained of in this Petition were allegedly committed in relation to Atty. Loreto's representation of his clients in Civil Case No. 35-31352, before the Metropolitan Trial Court (**MeTC**) Branch 35, Quezon City, entitled "*Eliadora Fe P. Bote-Vera v. Pingkian III Homeowners Association, Inc., et al.*," which stemmed from a complaint for ejectment filed by Barba almost two decades ago.

Barba is the registered owner of four parcels of land located at Pingkian Village III, Barangay Pasong Tamo, Quezon City covered by Transfer Certificate of Title Nos. 59721, 59725, 59726 and 59727.² On August 1, 1993, Barba filed a complaint for ejectment against 128 individuals, former members of the Pingkian III Homeowners Association, Inc., who have occupied the properties under her name.³ The defendants were represented

¹ *Rollo*, pp. 1-20.

² *Id.* at 126.

³ *Id.* at 151.

by several lawyers, including the group of Rafael M. Cruz (**defendants**), who were represented by Atty. Mark John F. Dumbrique (**Atty. Dumbrique**).⁴

On January 28, 1994, the MeTC Branch 35 rendered a Decision in favor of Barba in the ejectment case. However, the Decision was never executed.⁵

On August 26, 2013, Eliadora Bote-Vera (**Vera**), the transferee of Barba's property, filed an action to revive the judgment in the ejectment case. Thus, on June 28, 2013, MeTC Branch 36 issued an Order reviving the 1994 Decision, and directing the issuance of a writ of execution.⁶

The defendants in the ejectment case filed a Motion for Reconsideration of the Order granting the revival of the judgment and directing the issuance of a writ of execution. The Motion for Reconsideration was denied by the MeTC Branch 36 in its Order,⁷ dated December 12, 2013.

Thereafter, they filed a Notice of Appeal, which was denied due course by the MeTC Branch 36 in its Order, dated November 10, 2015. In denying the Notice of Appeal, the MeTC Branch 36 ratiocinated that the Order denying the Motion for Reconsideration is not a final order, and consequently not a proper subject of an appeal.⁸

Upon motion of the defendants in the ejectment case, Judge Edgardo B. Bellosillo of MeTC Branch 36 inhibited, and the case was re-raffled to MeTC Branch 39.

On May 5, 2015, the MeTC Branch 39, issued an Order for the issuance of a writ of execution. The Writ for Execution was issued on June 25, 2015.

On November 16, 2015, the Court Sheriff submitted a Report informing the MeTC that despite the lapse of the grace period, defendants in the ejectment case remained in the property, claiming ownership of the structures they erected thereon. The Court Sheriff requested for the issuance of a Special Order of Writ of Demolition, prompting Vera to move for a Writ of Demolition.

On December 16, 2015, Atty. Adonis Basa (**Atty. Basa**) entered his appearance as collaborating counsel for the defendants represented by Atty. Dumbrique. He filed an Entry of Appearance and Urgent Motion *Ex-Parte*

⁴ *Id.* at 97.

⁵ *Id.* at 5.

⁶ *Id.* at 64.

⁷ *Id.* at 69.

⁸ *Id.* at 74.

Omnibus Motion for voluntary inhibition of the Judge of MeTC Branch 39, and for the transmittal of the original records of the case on appeal to the Regional Trial Court (RTC).⁹

The Motion for Special Order of Writ of Demolition was granted by the MeTC Branch 39, on January 28, 2016.¹⁰

On March 18, 2016, MeTC Branch 39 issued an Order resolving the Urgent Motion *Ex-Parte* Omnibus Motion. It ordered the transmittal of the original records of the case to the RTC. Due to the inhibition of Judge Juvenal N. Bella, the case was re-raffled and re-assigned to MeTC Branch 35.¹¹

On May 2, 2016, the defendants in the ejectment case, through Atty. Basa, filed a Petition for *Certiorari* with Application for Temporary Restraining Order (TRO)/Injunction before RTC Branch 222, docketed as SCA No. R-QZN-16-04340, entitled *Rafael Cruz, et al. v. Metropolitan Trial Court of Quezon City Branch 35, Fortuna Barba, and Eliadora Fe Bote-Vera (First Petition)*.¹²

A Second Omnibus Motion was filed by the defendants on December 12, 2016. This was denied by the MeTC Branch 35 in its Order, dated March 3, 2017.¹³

On April 26, 2017, the defendants in the ejectment case, this time through Atty. Loreto, filed a second Petition for *Certiorari* with Application for TRO/Injunction before the RTC Branch 88, docketed as SCA No. R-QZN-17-04849-CV, entitled “*Rafael M. Cruz, et al., v. MeTC Branch 35, The Implementing and All Assisting Sheriffs of said Trial Court, Fortuna Barba and Eliadora Fe Bote-Vera*” (Second Petition).¹⁴

On August 2, 2017, Barba filed a Petition for Disciplinary Action against Atty. Loreto with the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline. In her complaint, Barba asserted that Atty. Loreto should be disciplined for being guilty of malpractice, gross misconduct, and willful and deliberate violation of the Lawyer’s Oath in relation to his duties under Section 20, Rule 138 of the Rules of Court and Canons 10 and 12 of the Code of Professional Responsibility.¹⁵

⁹ *Id.* at 152.

¹⁰ *Id.*

¹¹ *Id.* at 152-153.

¹² *Id.* at 152.

¹³ *Id.* at 91.

¹⁴ *Id.* at 152.

¹⁵ *Id.* at 2-3.

In particular, Barba claimed that Atty. Loreto:

- a. filed frivolous and dilatory motions and petitions, even belatedly raised new arguments in an attempt to prevent the execution of a final and executory judgment;¹⁶
- b. submitted a false certification against forum shopping, and must be held indirect contempt under Section 5, Rule 7 of the Rules of Court;¹⁷ and
- c. resorted to willful and deliberate forum shopping by filing the second petition for *certiorari* before the RTC Branch 88.¹⁸

Barba further claimed that Atty. Loreto did not even file his entry of appearance when he took over the case from Atty. Basa. She further averred that Atty. Loreto made willful misrepresentations before the RTC Branch 88 and MeTC Branch 35, when he stated that the two petitions for *certiorari* involve different issues.

Through a Memorandum, dated September 2, 2017, the Director for Bar Discipline, Atty. Marlou B. Ubano, endorsed the Complaint against Atty. Loreto for determination if the same is meritorious or presents a *prima facie* case. The Commission on Bar Discipline, directed Loreto to submit his answer within 15 days from his receipt of the Order, dated May 28, 2018.¹⁹

In his Answer, Atty. Loreto vehemently denied the allegations of Barba. He admitted accepting the case *Eliadora Fe Bote-Vera, et al. v. Pingkian Homeowners, Inc., et al.* to represent his clients. He further claimed that upon his assumption as counsel, he formally filed entry of appearance. He attached a copy of his entry of appearance, dated December 12, 2016, and the Order, dated January 9, 2017, of MeTC Branch 35, acknowledging his appearance.²⁰

Atty. Loreto further claimed that he had on occasion seen Barba, who was of advanced age and very weak, suggesting that somebody familiar with the case crafted the complaint, and merely used Barba as complainant.²¹

As to the alleged forum shopping, Atty. Loreto argued that the First Petition was filed by the previous counsel of his clients to question the MeTC's denial of the Notice of Appeal. As for the Second Petition, he filed the same

¹⁶ *Id.* at 8.

¹⁷ *Id.* at 11.

¹⁸ *Id.* at 12.

¹⁹ *Id.* at 23.

²⁰ *Id.* at 25.

²¹ *Id.*

the same to question the propriety of the MeTC Order directing the execution of the revived judgment, and the demolition of the houses of his clients.²²

Atty. Loreto insisted that the two petitions are different given that their respondents, nature, purpose, and causes of action are different. He further stressed that as counsel, it was his responsibility to pursue all remedies available and which are allowed under the law, to protect the interests of his clients.²³

Atty. Loreto prayed for the dismissal of the complaint, and filed a counterclaim, for moral and exemplary damages of PHP 50,000.00 each, for Barba's filing of the alleged malicious and unfounded suit.²⁴

The Report and Recommendation of the IBP Investigating Commissioner

In his Report and Recommendation,²⁵ dated December 5, 2019, the IBP Investigating Commissioner Simplicio M. Virtudazo, Jr. found Atty. Loreto guilty of forum shopping, and recommended the imposition of a penalty of one month suspension.

In engaging in forum shopping by filing a second Petition for *Certiorari* before the Regional Trial Court despite knowledge that an earlier petition for the same relief and cause of action had under been filed, Atty. Roman Ejan Loreto violated the rule on forum shopping Section 5, Rule 7 of the Rules of Court. The undersigned Commissioner respectfully recommends that Atty. Roman Ejan Loreto be SUSPENDED FROM THE PRACTICE OF LAW FOR ONE (1) MONTH with a stern warning that repetition of the same or similar offense shall be dealt with more severely.²⁶

The IBP Investigating Commissioner found that the First Petition was not limited to assailing the Notice of Appeal but also assailed the Writs of Execution and Demolition, which are the very same reliefs sought in the Second Petition. Thus, the resolution of either case will constitute *res judicata* as to the other.²⁷

The Resolution of the IBP Board of Governors

On September 12, 2020, the IBP Board of Governors passed a Resolution dismissing the complaint against Atty. Loreto. The Resolution reads:

²² *Id.* at 28.

²³ *Id.*

²⁴ *Id.* at 31.

²⁵ *Id.* at 150-163.

²⁶ *Id.* at 163.

²⁷ *Id.* at 162.

RESOLVED to REVERSE and SET ASIDE, as it is hereby REVERSED and SET ASIDE, the Report and Recommendation of the Investigating Commissioner in the above-entitled case and instead the complaint is hereby recommended to be DISMISSED, considering that no ethical misconduct was committed in this case.

RESOLVE FINALLY, that the Commission prepare an EXTENDED RESOLUTION explaining the recommendation of the Board of Governors in this case.²⁸

In the Extended Resolution,²⁹ dated July 3, 2022, the IBP Board of Governors concluded that while it may appear that there is identity of causes of action in the two petitions, a complete reading of the petitions show that the Second Petition specifically excluded the issues raised in the First Petition. The pertinent portions of the Second Petition were considered in the Extended Resolution:

24. The instant petition will no longer deal on issues relating to the trial court's denial of the appeals taken by the petitioners from the revival judgment of the trial court since it is still pending litigation before RTC Branch 222. Particularly, the petition shall focus on and is assailing the public respondent trial court's action on the following:

- 1) Order dated 3 March 2017, denying the petitioners-defendant's Second Omnibus Motion dated December 12, 2016;
- 2) The public respondent trial court's Order dated January 16, 2016 granting the private respondents' motion for special order of writ of demolition;
- 3) The public respondent trial court's Order dated November 10, 2015 also denying the First Omnibus Motion filed by petitioners-defendants on July 13, 2015;
- 4) The Order dated December 12, 2013 denying the motion for reconsideration of the Order dated June 28, 2014 (*sic*) granting the revival of the Judgment dated January 28, 1994 and ordering the issuance of a writ execution to implement the same.

25. Nevertheless for emphasis, the factual matters relating to the denial of the petitioner's appeal shall only be discussed herein under for purposes relevant only in the instant petition.³⁰

The IBP Board of Governors found that there is no identity of causes of action, considering that Atty. Loreto limited the issues in the Second Petition and expressly excluded the issues raised in the First Petition.³¹

²⁸ *Id.* at 164.

²⁹ *Id.* at 164-171.

³⁰ *Id.* at 100. Emphasis supplied.

³¹ *Id.* at 169-170.

It was further noted that the crux of the First Petition is whether the lower court gravely abused its discretion in denying due course to the Notice of Appeal based on its opinion that an order denying a motion for reconsideration cannot be a subject of an appeal. The Second Petition, in turn, concerns the lower court's denial of the Second Omnibus Motion, dated December 12, 2016.³²

Additionally, the IBP Board of Governors considered the full disclosure made by Atty. Loreto in the Certification of Non-Forum Shopping attached to the Second Petition. They held that the "full and express disclosure negates the accusation that there was willful and deliberate commission of forum-shopping."³³ Thus, the recommendation to dismiss the complaint against Atty. Loreto.

Following the recommendation by the IBP Board of Governors, the Office of the Bar Confidant confirmed that no motion for reconsideration nor petition for review has been filed by either party as of August 31, 2022.

The IBP Resolution being merely recommendatory in nature, this Court now finally resolves the complaint.

The Issue

Did Atty. Loreto commit forum shopping, in violation of the Lawyer's Oath and the Canons of the Code of Professional Responsibility, when he filed the Second Petition?

The Ruling of this Court

Contrary to the recommendation of the IBP Board of Governors, the Court finds Atty. Loreto guilty of forum shopping. Thus, the Court adopts the finding of the IBP Investigating Commissioner.

The filing of the Second Petition constituted forum shopping in violation of the Rules of Court, the Lawyer's Oath and the Code of Professional Responsibility

³² *Id.* at 170.

³³ *Id.* at 171.

In *The Heirs of Mampo v. Morada*,³⁴ the Court emphasized the deleterious effects of forum shopping in the administration of justice, as it not only adds to the burden of our heavily congested court dockets but also vexes the courts and litigants alike. The Court also reiterated the crucial tests for determining whether forum shopping exists:

Forum shopping is committed by a party who institutes two or more suits involving the same parties for the same cause of action, either simultaneously or successively, on the supposition that one or the other court would make a favorable disposition or increase a party’s chances of obtaining a favorable decision or action. It is an act of malpractice that is prohibited and condemned because it trifles with the courts, abuses their processes, degrades the administration of justice, and adds to the already congested court dockets.

X X X

To determine whether a party violated the rule against forum shopping, the most important factor is whether the elements of *litis pendentia* are present, or whether a final judgment in one case will amount to *res judicata* in another. Otherwise stated, **the test for determining forum shopping is whether in the two (or more) cases pending, there is identity of parties, rights or causes of action, and reliefs sought.**

Hence, forum shopping can be committed in several ways: (1) filing multiple cases based on the same cause of action and with the same prayer, the previous case not having been resolved yet (where the ground for dismissal is *litis pendentia*); (2) filing multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved (where the ground for dismissal is *res judicata*); and (3) filing multiple cases based on the same cause of action but with different prayers (splitting of causes of action, where the ground for dismissal is also either *litis pendentia* or *res judicata*).³⁵

Applying these tests, this Court cannot subscribe to Atty. Loreto’s assertion that he is not guilty of forum shopping as the two cases are different.

With respect to the identity of parties, there need not be an absolute identity of parties for forum shopping to exist. It is enough that there is substantial identity of the parties or that the parties represent the same interests in both actions.³⁶ Thus, the needless nitpicking in this regard will not hold. The captions of the two petitions easily reveal that the actions involved essentially the same parties.

SCA-CASE No. R-QZN-16-04340 (Before RTC Branch 222) Second Petition	SCA No. R-QZN-170849-CV (Before RTC Branch 88) First Petition
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³⁴ G.R. No. 214526, November 03, 2020.
³⁵ *Id.* Citations omitted and emphasis supplied.
³⁶ *Philippine College of Criminology v. Bautista*, G.R. No. 242486, June 10, 2020.

Rafael M. Cruz, et al., <i>Petitioners</i> , - versus - Metropolitan Trial Court Branch 35, The Implementing and All Assisting Sheriffs of Said Trial Court, Fortuna Barba and Eliadora Fe Bote Vera, <i>Respondents</i> .	Rafael M. Cruz, et al., <i>Petitioners</i> , - versus - The Metropolitan Trial Court of Quezon City, Branch 35, Fortuna Barba, and Eliadora Fe Bote-Vera, <i>Respondents</i> .
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Ostensibly, as observed by the IBP Board of Governors, the two petitions appear to be grounded on different causes of action – the First Petition questioned the MeTC Order that denied the defendants’ Notice of Appeal, while the Second Petition questioned the MeTC Branch 35 Order that denied the defendants’ Second Omnibus Motion.

However, upon a closer look at these petitions, the Court concurs with the IBP Investigating Commissioner that they are grounded on the same cause of action, and ultimately have for their objective the same reliefs.

In the First Petition, it was alleged that the MeTC Branch 35 gravely abused its discretion when it issued the Order, dated November 10, 2015, which denied the defendants the Notice of Appeal, effectively barring them from appealing the MeTC Branch 35 Order, dated January 28, 2013, that revived the 1994 Judgment.

The Second Petition, imputed grave abuse of discretion on part of the same MeTC, when it issued the Order, dated March 3, 2017, denying the defendants’ Second Omnibus Motion and directing the execution of the 1994 Judgment and the demolition of the defendants’ structures pursuant thereto.

A side-by-side comparison of the reliefs sought in the two petitions will clearly show, that they practically seek the same outcome – an injunction on the implementation of the Writ of Execution and the Order of Demolition, and, ultimately, the annulment of the MeTC’s Order reviving the 1994 Judgment and all writs and orders stemming therefrom.

SCA-CASE No. R-QZN-16-04340 (Before RTC Branch 222) Second Petition	SCA No. R-QZN-170849-CV (Before RTC Branch 88) First Petition
WHEREFORE, it is respectfully prayed that the public respondent trial	WHEREFORE, premises considered, it is most respectfully

Branch 88. Atty. Loreto had full knowledge of the pendency of this case, and to his credit, he fully disclosed the status of the said case in his Certificate of Forum Shopping for his Second Petition.

Regardless, in *Heirs of Sotto, et al. v. Palicte*,³⁷ the Court held that the disclosure of the pendency of another similar case does not negate forum shopping.

The insistence cannot command belief. The disclosure alone of the pendency of a similar case does not negate actual forum shopping. Had Atty. Mahinay been sincere, the least he could have done was to cause the dismissal of the action that replicated those already ruled against his clients. The records show otherwise. The filing of the Motion to Require Matilde Palicte To Turn Over And/or Account Properties Owned by the Estate in Her Possession on June 7, 2000, a day after the trial court denied his motion for reconsideration in Civil Case No. CEB-24293, was undeniably another attempt of the petitioners and Atty. Mahinay to obtain a different resolution of the same claim. Needless to observe, the motion reiterated the allegations in Civil Case No. CEB-24293, and was the subject of the petition in *The Estate of Don Filemon Y. Sotto vs. Palicte*.³⁸

At this point, it must be reiterated that the two rules on forum shopping, under Section 5, Rule 7 of the Rules of Court, require compliance with the disclosures in the certificate of non-forum shopping, and the avoidance of the act of forum shopping itself.³⁹ The rule against the commission of forum shopping will be rendered nugatory if compliance thereby may be substituted by disclosure in the Certificate of Forum Shopping.

In its Resolution, the IBP Board of Governors, concluded that there was no forum shopping considering that Atty. Loreto fully disclosed the pendency of the First Petition, and specifically carved out the issues in the First Petition from the issues for resolution in the Second Petition. Far from exculpating Atty. Loreto, this very fact evinces that he was well-aware that the issues in the Second Petition have been earlier raised in the First Petition. Moreover, it is clear from the foregoing comparison, that separating the issues in the two causes would have been a futile ordeal considering the similarity of the reliefs sought in the two cases.

Again, it was not enough that Atty. Loreto made full disclosure about the pendency of the First Petition, and specifically excluded the issues raised in the First Petition from the issues for resolution in the Second Petition. Atty. Loreto should have refrained from filing the Second Petition in the first place. The Court fully agrees with the guidance proffered by the IBP Investigating Commissioner:

³⁷ 726 Phil. 651 (2014).

³⁸ *Id.* at 662

³⁹ *Heirs of Mampo v. Morada*, *supra* note 35.

What Atty. Loreto should have done was to wait for the court ruling on the first Petition for Certiorari and if the decision is adverse to his clients, then he could avail of legal remedies sanctioned by the Rules such as elevating the case to the higher courts instead of filing a second Petition for *Certiorari* during the pendency of the first petition.⁴⁰

From the foregoing discussions, it is clear that Atty. Loreto has violated the rule on forum shopping under Section 5, Rule 7 of the Rules of Court, and consequently his duties as a lawyer and an officer of the court.

A lawyer's primary duty is not to his or her clients but to the administration of justice

While the Court recognizes the efforts of lawyers who zealously serve their clients no matter their station, especially those in an ejectment case who stand to lose their cherished homes and dwellings, this Court cannot countenance the disregard of the Rules of Court and Canons of the Code of Responsibility.

The records reveal a plethora of motions, although not all attributable to Atty. Loreto, that seem to buttress Barba's claim that they have been instituted to delay or frustrate the execution of the revived Decision. While this Court is sympathetic to the plight of the defendants in the ejectment case, the fact remains that both Barba and Vera have been adjudged by the lower court to have a better right to the subject properties. Unfortunately, both have passed away without seeing an end to this protracted controversy which should have been put to rest 29 years ago.

The Court reminds lawyers that advancing the interests of their clients must take a back seat to the administration of justice. A lawyer's duty is after all not to just win cases for his or her clients, but to see to it that justice is done. No matter how worthy the cause, meaningful justice cannot be achieved through shortcuts or craft.

In *Ret. Judge Alpajora v. Atty. Calayan*,⁴¹ the Court emphasized that in pursuing remedies for their clients, lawyers must always be circumscribed by law and professional ethics. They must pursue only fair and honest means, and they must not abuse the court's processes. Thus:

Ironically, Atty. Calayan's indiscriminate filing of pleadings, motions, civil and criminal cases, and even administrative cases against different trial court judges relating to controversies involving CEFI, in fact,

⁴⁰ *Rollo*, p. 162.

⁴¹ 823 Phil. 91 (2018).

runs counter to the speedy disposition of cases. It frustrates the administration of justice. It degrades the dignity and integrity of the courts.

A lawyer does not have an unbridled right to file pleadings, motions and cases as he pleases. Limitations can be inferred from the following rules:

1. Rules of Court

a. Rule 71, Section 3. Indirect Contempt to be Punished After Charge and Hearing. - After charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

x x x

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

x x x

2. Code of Professional Responsibility

a. Canon 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

b. Canon 10, Rule 10.03 - **A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.**

c. Canon 12 - **A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.**

d. Canon 12, Rule 12.04 - **A lawyer shall not unduly delay a case, impede the execution of a Judgment or misuse Court processes.**⁴²

By violating the rule on forum shopping, Atty. Loreto not only violated Section 5, Rule 7 of the Rules of Court. He has likewise violated the Lawyer's Oath for failing to obey laws and legal orders and to make good on his promise not to willingly promote groundless suits, and delay no man for money or malice. As an officer of the court, he has likewise failed to observe the rules of procedure,⁴³ and assist in the speedy and efficient administration of justice.⁴⁴

Through the Court's plenary power of discipline over lawyers, it may reduce the penalty in disciplinary cases

⁴² *Id.* at 113-114..

⁴³ Code of Professional Responsibility, Canon 10.

⁴⁴ Code of Professional Responsibility, Canon 12.

The mere commission of forum shopping, regardless of whether it is willful or not, already warrants disciplinary action, as the Court explained in *Alonso v. Relamida*.⁴⁵

A lawyer owes fidelity to the cause of his client, but not at the expense of truth and the administration of justice. The filing of multiple petitions constitutes abuse of the court's processes and improper conduct that tends to impede, obstruct and degrade the administration of justice and will be punished as contempt of court. **Needless to state, the lawyer who files such multiple or repetitious petitions (which obviously delays the execution of a final and executory judgment) subjects himself to disciplinary action for incompetence (for not knowing any better) or for willful violation of his duties as an attorney to act with all good fidelity to the courts, and to maintain only such actions as appear to him to be just and are consistent with truth and honor.**⁴⁶

In *Teodoro v. Atty. Gonzales*,⁴⁷ the Court meted a penalty of censure to a lawyer who committed forum shopping even as the penalty is usually imposed for an isolated act of misconduct of a lesser nature.

In *Festin v. Zubiri*,⁴⁸ the Court reiterated that it had the discretion to impose a less severe penalty to errant lawyers in this wise:

The Court has the plenary power to discipline erring lawyers. In the exercise of its sound judicial discretion, **it may to impose a less severe punishment if such penalty would achieve the desired end of reforming the errant lawyer.** In light of the foregoing discussion, the Court deems that a penalty of suspension from the practice of law for three (3) months is sufficient and commensurate with respondent's infractions.⁴⁹

This Court notes that Atty. Loreto properly disclosed the existence of the First Petition in his Certificate of Forum Shopping. In due deference to the lower courts, he attempted to carve out the issues in the First Petition from the issues for resolution in the Second Petition, albeit the inherent impossibility of doing so, given the similarity of the reliefs sought in the two petitions. While the Court considers these circumstances in Atty. Loreto's favor, it is still necessary to reprimand Atty. Loreto who as a lawyer is expected to be able to determine possible violations of the rule on forum shopping.

Thus, the IBP Investigating Commissioner's recommended penalty is modified from penalty of suspension of one month to censure, with a warning that another violation will be dealt with more severely.

⁴⁵ 640 Phil. 325.

⁴⁶ *Id.* at 334.

⁴⁷ 702 Phil. 422 (2013).

⁴⁸ 811 Phil. 1 (2017).

⁴⁹ *Id.* at 12. Emphasis supplied.

WHEREFORE, the Complaint for Disciplinary Action is found meritorious, and the Court imposes upon Atty. Roman Ajan Loreto the penalty of **CENSURE** for resorting to forum shopping. Further, Atty. Loreto is **STERNLY WARNED** that a repetition of the same or similar violation of his duties as a lawyer shall be dealt with more severely.

SO ORDERED.

By authority of the Court:

Mic+DcBot
MISAELO DOMINGO C. BATTUNG III
9/14/23
Division Clerk of Court

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