



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 30, 2023, which reads as follows:*

**“A.C. No. 13578 (Salvador J. Bagamasbad\* v. Atty. Roger E. Dino). –** This pertains to a verified Complaint<sup>1</sup> filed by Salvador J. Bagamasbad (complainant) against Atty. Roger E. Dino (respondent) for alleged violation of the Code of Professional Responsibility (CPR) and the Lawyer’s Oath.

**Antecedents**

Complainant avers that he purchased two condominium units which were financed by housing loans that he secured from BDO Unibank, Inc. (BDO). Sometime in 2019, he allegedly used his available finances and retirement savings to fully pay and settle the said loans. He then intended to sell both condominium units to finance his wife’s medical needs.

However, when complainant demanded the documents for the release of his loan obligations, particularly the Condominium Certificates of Title (CCTs) for his condominium units, BDO refused. According to BDO, complainant still had to settle the outstanding financial obligation that he incurred through his BDO American Express credit card.

Complainant denied that he had an outstanding credit card debt with BDO, asseverating, *inter alia*, that the amount referred to by BDO was only ₱8,000.00<sup>2</sup> which he actually disputed some 20 years ago; that his BDO credit card is “ancient;” and that the said unpaid obligation “besides being unproven, became barred by laches and prescription.”<sup>3</sup>

Thereafter, complainant sent a demand letter<sup>4</sup> to the developers of his condominium units, SM Development Corporation and SM Synergy, respectively, demanding payment of moral damages in the amount of

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\* Also appearing as an Attorney in some parts of the *rollo*.

<sup>1</sup> *Rollo*, pp. 1-24.

<sup>2</sup> The records do not specifically show the exact amount of complainant’s alleged outstanding credit card obligation with BDO.

<sup>3</sup> *Rollo*, p. 4.

<sup>4</sup> *Id.* at 27-29.

₱2,000,000.00 and attorney's fees in the amount of ₱300,000.00 for refusing to deliver to him the CCTs in question. However, the said developers did not give in to complainant's demands.<sup>5</sup>

Consequently, complainant filed against Nestor V. Tan (Tan), President of BDO, a complaint for Estafa, docketed as NPS No. V-01-INV-21D-100-101, before the Office of the City Prosecutor of Iriga City, Camarines Sur. Said complaint was dismissed, as evidenced by a pleading denominated as "Urgent Appeal for Honesty and Truthfulness to Nestor V. Tan, BDO Unibank, Inc. President; and Urgent Appeal for Nestor V. Tan Not to Mislead the Honorable DOJ"<sup>6</sup> which complainant filed with the Secretary of the Department of Justice.

Complainant also wrote a letter<sup>7</sup> dated November 11, 2021, addressed to then Bangko Sentral ng Pilipinas (BSP) Governor Benjamin E. Diokno, to report Tan's purported "lies and perjuries"<sup>8</sup> in relation to the withholding of the CCTs to his condominium units. He also filed against Tan a Complaint<sup>9</sup> for "Bank Fraud, Extortion, Coercion, Incessant lies (Perjuries), Circumvention of Presidential Decree No. 957, Violation of Credit Card Regulations, Unscrupulous Oppression of Sick Senior Citizens & Grave Misconduct" before the Office of Special Investigation of the BSP.

In a letter<sup>10</sup> dated May 23, 2022, respondent, in his capacity as Deputy General Counsel of the BSP, informed complainant that the BSP could not process his complaint against Tan due to lack of jurisdiction, as well as complainant's failure to specify the particular violations that Tan allegedly committed. The pertinent portions of respondent's letter read as follows:

In your *Complaint*, you accuse Mr. Tan with bank fraud, extortion, coercion, perjuries, violation of Presidential Decree No. 957, violation of credit card regulations, oppression of senior citizens, and grave misconduct. These accusations arose from BDO's alleged refusal to release the two (2) Condominium Certificates of Title which you used as collaterals, despite your having fully paid the home loans you obtained from said bank.

We wish to inform you that pursuant to Rule I, Section 2 of *Bangko Sentral Circular No. 1012, Series of 2018 x x x*, or the *BSP's Revised Rules of Procedure on Administrative Cases Involving Directors and Officers of BSP-Supervised Financial Institutions [BSFIs]*, the jurisdiction of this Office is limited only to administrative cases against directors and/or officers of BSFIs, thus:

*Section 2. Applicability – These Rules shall apply to administrative cases filed with the Office of Special Investigation (OSI), BSP, involving directors and officers of*

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<sup>5</sup> Id. at 29.

<sup>6</sup> Id. at 66-69.

<sup>7</sup> Id. at 36-42.

<sup>8</sup> Id. at 39.

<sup>9</sup> Id. at 49-63.

<sup>10</sup> Id. at 64-65.

*BSP-supervised financial institutions in relation to Section 37 of Republic Act No. 7653 (The New Central Bank Act) and Section 16 of Republic Act No. 8791 (The General Banking Law of 2000).*

Relatedly, Section 37 of Republic Act No. (RA No.) 7653, as amended, states that administrative sanctions may be imposed “upon any bank or quasi-bank, their directors and/or officers” for, among others, “any willful failure or refusal to comply with, or violation of, any banking law or any order, instruction or regulation issued by the Monetary Board, or any order, instruction or ruling by the Governor; or any commission of irregularities, and/or conducting business in an unsafe or unsound manner as may be determined by the Monetary Board.”

From the close reading of BSP Circular No. 1012 and RA No. 7653, it is clear that this Office can take cognizance only of administrative cases involving violations of banking laws or BSP rules and regulations. For this reason, this Office cannot act on your Complaint considering that the charges stated therein pertain to possible violations of criminal laws, which are under the jurisdiction of regular courts and already beyond the authority of this Office to resolve.

In addition, the resolution of the issue involving your alleged outstanding credit card obligation necessarily entails the interpretation of your contract with American Express, as well as of your contract with BDO in relation to your home loans – a task which also falls within the exclusive jurisdiction of the regular court.

Furthermore, while you named Mr. Tan as the sole respondent in your *Complaint*, we note that you failed to identify specific acts or omissions on his part that will establish his direct participation in the transactions being complained of. Clearly, he is being impleaded in the *Complaint* in his capacity as the representative of BDO.

Finally, we reiterate that under BSP Circular No. 1012, our Office can take cognizance only of administrative cases filed against directors and/or officers of BSFIs for violations of banking laws or BSP rules and regulations. Hence, we cannot process your *Complaint* pursuant to BSP Circular No. 1012. Should you, however, desire to file an administrative complaint against BDO as a juridical entity, you may address the same to BSP’s Financial Supervision Sector, the supervisor of banks, for its appropriate action.<sup>11</sup>

Dissatisfied, complainant sent respondent a letter<sup>12</sup> dated June 4, 2022, calling respondent’s correspondence a “big disappointment” and “irregular and anomalous.” He then asked respondent to issue a “proper” order or decision on his complaint. At the bottom part of his letter, complainant made it appear that the same was copy furnished to the Complaints and Action Unit of the Office of the President, as well as the Office of the Ombudsman.

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<sup>11</sup> Id.

<sup>12</sup> Id. at 70-71.

Thereafter, complainant filed with BSP's Office of the General Counsel and Legal Services a document dated June 8, 2022 which he denominated as "Urgent Motion to Comply with the Procedural Requirements of BSP Circular 1082, Series of 2018; and Urgent Motion to Require Mr. Tan to Produce and Submit to the Honorable BSP the Supporting Documents/Evidence of Complainant's Alleged 'Credit Card Obligation.'"<sup>13</sup>

Complainant also filed on August 3, 2022 a Complaint-Affidavit<sup>14</sup> before the Office of the Ombudsman accusing respondent and Tan of violating Section 3(e) of the Anti-Graft and Corrupt Practices Act, Article 204 of the Revised Penal Code, Obstruction of Justice, and Dereliction of Duty. Apart from criminal and administrative sanctions against respondent and Tan, complainant asked that he be awarded ₱10,000,000.00 as actual damages, ₱20,000,000.00 as moral damages, ₱5,000,000.00 as exemplary damages, and ₱5,000,000.00 as attorney's fees.

In the present administrative complaint, complainant prays that respondent's name be stricken off the Roll of Attorneys because the latter: (1) "hijacked" his complaint in order to favor Tan; (2) helped Tan to suppress the document related to the contested credit card obligation; (3) committed obstruction of justice; (4) did not follow the BSP's process in the evaluation of administrative complaints; (5) committed falsehoods when he declared that the BSP did not have jurisdiction over his complaint against Tan; (6) has maliciously delayed the progress of his complaint for money; (7) violated Canon 1 of the Code of Judicial Conduct; (8) unduly "demoted" Tan to a mere bank representative; and (9) "whitewashed" his complaint against Tan.<sup>15</sup>

By virtue of respondent's alleged violations, complainant likewise prays for the Court to award him ₱10,000,000.00 as actual damages, ₱20,000,000.00 as moral damages, and ₱3,000,000.00 as attorney's fees.<sup>16</sup>

In addition, the instant complaint contains motions asking the Court (1) to not refer the same to the Commission on Bar Discipline of the Integrated Bar of the Philippines; and (2) to quickly resolve the same in view of complainant's advanced age.<sup>17</sup>

Although not explicitly stated in the complaint, the records show that complainant is a member of the Philippine Bar.<sup>18</sup>

### Issue

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<sup>13</sup> Id. at 72-77.

<sup>14</sup> Id. at 78-99.

<sup>15</sup> Id. at 16-18.

<sup>16</sup> Id. at 22.

<sup>17</sup> Id. at 21-22.

<sup>18</sup> Complainant was admitted to the Philippine Bar on April 30, 1977 under Roll No. 26962. See <https://sc.judiciary.gov.ph/lawlist/79431/>; last accessed: October 4, 2022.

Whether or not respondent must be held administratively liable for violating the CPR.

### The Ruling of the Court

The complaint fails to establish a *prima facie* case against respondent. Since it constitutes a baseless administrative charge made by one lawyer against another with the underlying purpose of receiving some monetary gain, it is an affront against the dignity of the legal profession and must, perforce, be dismissed outright.

#### I.

The practice of law is a privilege burdened with conditions, and so delicately affected it is with public interest that both the power and the duty are incumbent upon the State to carefully control and regulate it for the protection and promotion of the public welfare.<sup>19</sup> Of all classes and professions, it is the lawyer who is most sacredly bound to uphold the laws, for he or she is their sworn servant.<sup>20</sup>

To preserve the nobility and honor of the legal profession, disbarment, no matter how harsh it may be, is a remedy resorted to by the Court in order to purge the law profession of unworthy members of the bar.<sup>21</sup> Public interest is the primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such.<sup>22</sup>

Considering the gravity of the consequences of the disbarment or suspension of a lawyer, the Court has consistently ruled that a lawyer enjoys the presumption of innocence<sup>23</sup> and that, as an officer of the Court, he or she has performed his or her duties in accordance with his or her oath.<sup>24</sup> It is only when such presumption is overcome by convincing proof of the lawyer's misconduct that the serious consequences of disbarment or suspension should follow.<sup>25</sup>

The proper evidentiary threshold in disciplinary or disbarment cases, as would overcome this presumption, is substantial evidence<sup>26</sup> or "that amount of relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds, equally reasonable, might conceivably opine otherwise."<sup>27</sup> This burden of proof lies upon the complainant to

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<sup>19</sup> *Goopio v. Maglalang*, 837 Phil. 565, 574 (2018).

<sup>20</sup> *Foronda v. Alvarez, Jr.*, 737 Phil. 1, 10 (2014).

<sup>21</sup> *Sitaca v. Palomares, Jr.*, 859 Phil. 1, 15 (2019).

<sup>22</sup> *Rico v. Salutan*, 827 Phil. 1, 6 (2018).

<sup>23</sup> *Spouses Nocuenca v. Bensi*, 870 Phil. 430 (2020).

<sup>24</sup> *Lanuza v. Magsalin III*, 749 Phil. 104, 112 (2014).

<sup>25</sup> *Zara v. Joyas*, 853 Phil. 21, 25 (2019).

<sup>26</sup> *Domingo v. Sacdalan*, 850 Phil. 553, 560 (2019).

<sup>27</sup> *Laurel v. Delute*, 880 Phil. 474 (2020).

establish the allegations in his or her complaint.<sup>28</sup> The dubious character of the act done, as well as the motivation thereof, must be clearly demonstrated.<sup>29</sup>

Here, complainant has miserably failed to discharge his burden of proving that respondent violated the CPR or the Lawyer's Oath. A cursory reading of the imputations thrown by complainant against respondent readily shows that the same are not worthy of warranting against the latter any administrative liability as a member of the legal profession. Complainant's accusations are not supported by any evidence, and, thus, appear to be more imagined than real.

An accusation is not synonymous with guilt.<sup>30</sup> Charges based on mere suspicion and speculation cannot be given credence.<sup>31</sup> Reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on.<sup>32</sup> Apart from his bare allegations expressing his disagreement with respondent's exercise of his duties, complainant was not able to establish a *prima facie* case against him. And because the Court affords protection to members of the Bar who are at times maliciously charged,<sup>33</sup> the instant complaint warrants an outright dismissal.

Certainly, the Court will not hesitate to mete out proper disciplinary punishment upon lawyers who are shown to have failed to live up to their sworn duties, but neither will it hesitate to extend its protective arm to them when the accusation against them is not indubitably proven.<sup>34</sup>

Verily, respondent's accountability as an official performing or discharging his official duties is always to be differentiated from his accountability as a member of the Philippine Bar.<sup>35</sup> Since the charges in this case pertain to respondent's performance or discharge of his official duties as Deputy General Counsel of the BSP, jurisdiction properly lies with the Ombudsman<sup>36</sup> and, by virtue of Section 17 of the New Central Bank Act, as amended, the BSP Governor.

Since complainant has already filed a complaint before the Office of the Ombudsman, the instant administrative complaint appears to be a pure harassment suit.

Moreover, complainant's tawdry ploy of asking for exorbitant amounts of damages and attorney's fees (when he is not even represented by a counsel on record) denigrates the nature of this administrative proceeding, in

<sup>28</sup> *Tan v. Alvarico*, A.C. No. 10933, November 3, 2020, 959 SCRA 165, 175.

<sup>29</sup> *Yagong v. Magno*, 820 Phil. 291, 294 (2017).

<sup>30</sup> *Office of the Court Administrator v. Runes*, 730 Phil. 391, 395 (2014).

<sup>31</sup> *Macaventa v. Nuyda*, A.C. No. 11087, October 12, 2020, 958 SCRA 190, 196.

<sup>32</sup> *Re: Letter of Rafael Dimaano*, 813 Phil. 510, 518 (2017).

<sup>33</sup> *Yagong v. Magno*, *supra*.

<sup>34</sup> *Guanzon v. Dojillo*, 838 Phil. 228, 235 (2018).

<sup>35</sup> *Segura v. Garachico-Fabila*, 861 Phil. 11, 17 (2019).

<sup>36</sup> *Guevarra-Castil v. Trinidad*, A.C. No. 10294, July 12, 2022.

particular, and the legal profession, in general. We will not indulge complainant's petty tactics by giving any more attention to the instant complaint apart from granting it the outright dismissal that it deserves.

## II.

Notwithstanding his *argumentum ad misericordiam* at invoking his alleged "cancer-stricken wife" at every opportunity, complainant's conduct in filing this baseless administrative complaint cannot be overlooked.

The Court frowns upon complainant's profligacy at throwing unfounded accusations of impropriety, bordering on calumnies, against a fellow lawyer. Complainant's swift conclusion, without proof nor enough basis on record and based only on gut feeling, that respondent has been bribed or had acted for a valuable consideration, oversteps the bounds of courtesy, civility, fairness and candor.<sup>37</sup>

The first paragraph of Section 2 as well as Section 13 of Canon II of the Code of Professional Responsibility and Accountability (CPRA) state:

### CANON II PROPRIETY

A lawyer shall, at all times, act with propriety and maintain the appearance of propriety in personal and professional dealings, observe honesty, respect and courtesy, and uphold the dignity of the legal profession consistent with the highest standards of ethical behavior.

X X X X

**SECTION 2. *Dignified conduct.*** — A lawyer shall respect the law, the courts, tribunals, and other government agencies, their officials, employees, and processes, and act with courtesy, civility, fairness, and candor towards fellow members of the bar.

X X X X

**SECTION 13. *Imputation of a misconduct, impropriety, or crime without basis.*** — A lawyer shall not, directly or indirectly, impute to or accuse another lawyer of a misconduct, impropriety, or a crime in the absence of factual or legal basis.

Neither shall a lawyer, directly or indirectly, file or cause to be filed, or assist in the filing of frivolous or baseless administrative, civil, or criminal complaints against another lawyer.

The Court notes the following passages in the present complaint:

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<sup>37</sup> *Bacatan v. Dadula*, 794 Phil. 437, 444 (2016).

20. While in the estafa case, Mr. Tan found willing allies in **three [3] corrupt city prosecutors who helped him suppress** the loan documents related to complainant’s alleged AMEX credit card obligation, in his administrative complaint before the BSP against Mr. Tan, **herein respondent ROGER E. DINO, the BSP Deputy General Counsel, became his main enabler (nay, his virtual defense counsel) in the corrupt suppression** of these alleged credit card documents, or the TRUTH  
x x x<sup>38</sup>

x x x x

53. It would be the height of naivete and indiscernment if one would answer in the negative the question of whether Mr. Dino delayed complainant’s complaint against Mr. Tan for money. x x x Considering Mr. Dino’s risking his career at BSP, and even his profession as a lawyer, and many other related circumstances, **such belief may not even be considered as a mere suspicion.**<sup>39</sup>

x x x x

56. Really, complainant could not help but laugh at this hilarious and comical maneuver or artifice of Mr. Dino in his unstinting efforts to assist and “lawyer” for the super wealthy banker Mr. Tan. Oh, to what anomalous and ridiculous great lengths Mr. Dino would go to earn Mr. Tan’s favour. Surely, **this is not a simple ass-licking by Mr. Dino xxx**<sup>40</sup>

At this juncture, Section 4, Canon II of the CPRA reads:

**SECTION 4. Use of dignified, gender-fair, and child- and culturally-sensitive language.** — A lawyer shall use only dignified, gender-fair, child- and culturally-sensitive language in all personal and professional dealings.

To this end, a lawyer shall not use language which is abusive, intemperate, offensive or otherwise improper, oral or written, and whether made through traditional or electronic means, including all forms or types of mass or social media.

Complainant’s language is too degrading and is out of place.<sup>41</sup> Though a lawyer’s language may be forceful and emphatic, it should always be dignified and respectful, befitting the dignity of the legal profession.<sup>42</sup> Criticisms, if warranted, must be respectful.<sup>43</sup> Indeed, language abounds with countless possibilities for one to be emphatic but respectful, convincing but not derogatory, and illuminating but not offensive.<sup>44</sup> Civility among members of the legal profession is a treasured tradition that must at no time be lost.<sup>45</sup>

<sup>38</sup> Rollo, p. 5.  
<sup>39</sup> Id. at 15.  
<sup>40</sup> Id. at 17-18.  
<sup>41</sup> *Navarette v. Court of Appeals*, 382 Phil. 427, 436 (2000).  
<sup>42</sup> *Cruz v. Cabrera*, 484 Phil. 173, 183 (2004).  
<sup>43</sup> *Ramos v. Lazo*, 883 Phil. 318 (2020).  
<sup>44</sup> *Gimeno v. Zaide*, 759 Phil. 10, 23 (2015).  
<sup>45</sup> *De la Rosa v. Court of Appeals*, 454 Phil. 718, 727 (2003).



Thus, complainant must be directed to show cause within a non-extendible period of 10 days from receipt of this Resolution why he should not be the subject of administrative liability for his actions in violation of the Code of Professional Responsibility and Accountability and the Lawyer's Oath. This shall be docketed as a new and separate administrative case.

**WHEREFORE**, the complaint is **DISMISSED** for lack of merit. Accordingly, the case against **Atty. Roger E. Dino** is considered **CLOSED** and **TERMINATED**.

Furthermore, **Salvador J. Bagamasbad** is **ORDERED** to **SHOW CAUSE** within a non-extendible period of ten (10) days from receipt of this Resolution why he should not be the subject of administrative liability for his actions in violation of the Code of Professional Responsibility and Accountability and the Lawyer's Oath. This action against Salvador J. Bagamasbad shall be docketed as a new and separate administrative case.

Let a copy of this Resolution be given to the Office of the Bar Confidant for the initiation of the proper disciplinary action against Salvador J. Bagamasbad.

**SO ORDERED."**

By authority of the Court:

*Misael Batt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *Ch 12/18/23*

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