



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 27, 2023**, which reads as follows:*

“A.C. No. 11572 – JUDGE MONA LISA T. TABORA, Complainant, v. ATTY. REYNALDO B. CAJUCOM and ATTY. ABELARDO DUMAGUING, Respondents. – It appearing that to date, complainant has not submitted her compliance with the Resolution dated August 14, 2019, which required her to furnish respondent Atty. Abelardo B. Dumaguing a copy of the complaint (relative to Atty. Dumaguing’s Manifestation dated November 18, 2018 stating that he has not received a copy of the complaint, thus, he cannot file his comment thereon), the Court resolves to **DISPENSE** with the filing of respondent Atty. Dumaguing’s comment on the complaint, as required in the Resolution dated March 13, 2017.

For resolution of the Court is a Complaint¹ filed by Judge Mona Lisa T. Tabora (**Judge Tabora**) against respondents Atty. Reynaldo B. Cajucum (**Atty. Cajucum**) and Atty. Abelardo Dumaguing (**Atty. Dumaguing**). The Complaint originated from an administrative complaint filed by Atty. Cajucum against Judge Tabora before the Office of the Court Administrator (**OCA**) for gross neglect, gross incompetence, and violation of Canon 6 of the New Code of Judicial Ethics, in relation to the case of *People v. Bela-o* (**Bela-o Case**), docketed as Criminal Case No. 37096-R.²

The Facts

Respondent Atty. Cajucum was the counsel for the accused in Criminal Case No. 37096-R, entitled “*People of the Philippines v. Elmo Bela-o, et al.*” before the Regional Trial Court (**RTC**) Branch 7, Baguio City, Benguet, presided over by Judge Tabora. As no warrant of arrest was issued, Atty. Cajucum filed a Motion for Judicial Determination of Probable Cause, which was denied by Judge Tabora.³

¹ *Rollo*, p.1.

² *Id.* at 51.

³ *Id.*

The Position of Atty. Cajucom

Atty. Cajucom claimed that Judge Tabora has a constitutional duty to personally examine his motion and the witnesses, but instead, Judge Tabora issued the warrant of arrest despite the pendency of the motion for reconsideration filed before the Department of Justice to set aside the resolution recommending the filing of the carnapping case against his clients.⁴

Atty. Cajucom insisted that Judge Tabora was remiss in her duties when she failed to examine the affidavit of private complainant Theodore del Amen Libag, and instead merely relied on the finding of probable cause of the public prosecutor.⁵

Atty. Cajucom also alleged that during pre-trial, while he was trying to explain that the taking of the vehicle was an official act, Judge Tabora repeatedly said that he was not ready, and called him “dishonest” in open court.⁶

On September 3, 2015, Atty. Cajucom filed a Motion to Withdraw as Counsel for the Accused⁷. However, on October 6, 2015, Atty. Cajucom filed a Letter Request for Inhibition⁸ in the carnapping case and in all other cases being handled by him. According to Atty. Cajucom, in light of the administrative complaint filed by him, Judge Tabora’s inhibition is proper in order to avoid any suspicion of bias in deciding the cases handled by him.⁹

The Position of Judge Tabora

In a Comment,¹⁰ dated April 22, 2016, Judge Tabora explained that there was no need to file a motion for judicial determination of probable cause, much less conduct a hearing thereon, as doing so would cause further delay in the proceedings.

Judge Tabora further claimed that under Section 6, Rule 112 of the Rules of Criminal Procedure, the judge is not required to conduct a separate investigation to make a finding of probable cause for purposes of issuing a warrant of arrest, as it is enough that such finding is based on the judge’s personal evaluation of the prosecutor’s resolution and supporting documents, which was what was done in the case.

⁴ *Id.* at 34.

⁵ *Id.* at 4-5.

⁶ *Id.* at 52.

⁷ *Id.* at 39-40.

⁸ *Id.* at 34-35.

⁹ *Id.* at 34.

¹⁰ *Id.* at 4-9.

As to Atty. Cajucom's claim that Judge Tabora called him "dishonest" in open court, she explained that her statement must be viewed in the proper context. As shown by the transcript of stenographic notes, Judge Tabora merely reminded Atty. Cajucom to be more circumspect about what he says in court. This reminder was made because Atty. Cajucom allegedly kept making admissions, only to retract them later on. To Judge Tabora's mind, such act showed dishonesty on the part of Atty. Cajucom.¹¹

As to Atty. Dumaguing, Judge Tabora alleged that Atty. Dumaguing was "coaching" Atty. Cajucom during the hearing. Judge Tabora likewise claimed that Atty. Dumaguing was prohibited from practicing law at that time, as he was serving a suspension order, and that Atty. Dumaguing demanded from the stenographer a copy of the transcript of the pre-trial in the *Bela-o case*, although he was not privy to the said case. Lastly, that Atty. Dumaguing declared to those present in her office that Atty. Cajucom will file an administrative case against Judge Tabora.¹²

Judge Tabora prayed that her comment be treated as a complaint against Atty. Cajucom and Atty. Dumaguing for violation of the Code of Professional Responsibility (CPR).¹³

The Ruling of the OCA

On September 20, 2016, the OCA recommended the dismissal of the administrative complaint against Judge Tabora for lack of merit. According to the OCA, there was no need for Atty. Cajucom to file a motion for the judicial determination of probable cause, because under Section 6, Rule 112 of the Rules of Criminal Procedure, the judge is required to make such determination within 10 days from the filing of the complaint.¹⁴

The OCA likewise found that no bad faith, malice, or corruption can be inferred from Judge Tabora's conduct.¹⁵ Finally, the OCA recommended that Judge Tabora's Comment, dated April 22, 2016, be converted into an administrative complaint against Atty. Cajucom and Atty. Dumaguing. Thus, the case was referred to the Office of the Bar Confidant (OBC) for appropriate action.¹⁶

¹¹ *Id.* at 7.

¹² *Id.* at 8.

¹³ *Id.* at 9.

¹⁴ *Id.* at 54.

¹⁵ *Id.* at 100-101.

¹⁶ *Id.* at 55.

In a Resolution,¹⁷ dated November 23, 2016, the Court adopted the recommendation of the OCA and dismissed the administrative complaint against Judge Tabora for lack of merit, and resolved to treat the latter's Comment as a complaint against Atty. Cajucom and Atty. Dumaguing.

On February 22, 2017, Atty. Cajucom filed a Motion for Reconsideration¹⁸ of the ruling of the OCA recommending the dismissal of the administrative case filed against Judge Tabora. Atty. Cajucom reiterated that Judge Tabora's use of the word "dishonest" is inappropriate.

On January 23, 2017, the OBC required Atty. Cajucom and Atty. Dumaguing to comment on the Complaint.¹⁹

On May 11, 2017, Atty. Cajucom filed his Comment²⁰ and stated that he is adopting his arguments in his Motion for Reconsideration. Atty. Dumaguing did not file a comment. On November 18, 2018, Atty. Dumaguing filed a Manifestation²¹ stating that he has not received a copy of Judge Tabora's Complaint, thus, he cannot file his comment. In a Resolution²², dated August 14, 2019, the Court required Judge Tabora to furnish Atty. Dumaguing a copy of the Complaint.

Subsequently, the Court, through a Resolution,²³ dated June 23, 2021, reiterated its directive to Judge Tabora to furnish Atty. Dumaguing a copy of the Complaint. However, to this date, the Court has not yet received proof of service of the copy of the Complaint required, nor any comment from Atty. Dumaguing.

The Issue

Are Atty. Cajucom and Atty. Dumaguing guilty of violating the CPR?

The Ruling of the Court

The Court resolves to dismiss the Complaint.

Judge Tabora claims that Atty. Cajucom violated Rules 9.01, 10.03, 12.04, and 18.02 of the CPR for the conduct he exhibited in court, and that Atty. Dumaguing violated Rule 9.01 of the CPR for actively coaching Atty.

¹⁷ *Id.* at 1-2.

¹⁸ *Id.* at 64-68.

¹⁹ *Id.* at 56.

²⁰ *Id.* at 59-63.

²¹ *Id.* at 90.

²² *Id.* at 118.

²³ *Id.* at 124.

Cajucom during the hearing while being suspended from the practice of law at the time.

It must be noted that an attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved, and that as an officer of the Court, he is presumed to have performed his duties in accordance with his oath.²⁴

The Court clarified in *Reyes v. Atty. Nieva*²⁵ that the quantum of proof for administrative proceedings against lawyers is substantial evidence and not preponderance of evidence. The evidentiary threshold of substantial evidence, as opposed to preponderance of evidence, is more in keeping with the primordial purpose of and essential considerations attending disciplinary cases.²⁶ The Court explained:

The evidentiary threshold of substantial evidence – as opposed to preponderance of evidence – is more in keeping with the primordial purpose of and essential considerations attending this type of cases. As case law elucidates, '[d]isciplinary proceedings against lawyers are *sui generis*. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. It may be initiated by the Court *motu proprio*. Public interest is its 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. Hence, in the exercise of its disciplinary powers, the Court merely calls upon the member of the Bar to account for his actuations as an officer of the Court with the end in view of purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or prosecutor.'²⁷

Complainants have the burden of proving by substantial evidence the allegations in their complaints. The basic rule is that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.²⁸ The burden to establish the charges rests upon the complainant. The case should be dismissed for lack of merit if the complainant fails to show in a satisfactory manner the facts upon

²⁴ *BSA Tower Condominium Corporation v. Atty. Reyes*, 833 Phil. 588, 594 (2018).

²⁵ 794 Phil. 360 (2016).

²⁶ *Id.* at 379.

²⁷ *Id.*

²⁸ *Cabas v. Sususco*, 787 Phil. 167, 174 (2016).

which his accusations are based.²⁹ The respondent is not even obliged to prove his exception or defense.³⁰

Guided by the foregoing pronouncements, the Court finds that Judge Tabora failed to discharge her burden of proof.

Here, Judge Tabora charged Atty. Cajucom with violating Rules 10.3³¹, 12.04,³² and 18.02,³³ and Rule 9.01³⁴ of the CPR as to Atty. Dumaguing,

The specific acts complained of by Judge Tabora pertain to the following: (1) Atty. Cajucom's insistence that she was remiss in her duty in the *Bela-o case*, when she failed to act on the latter's Motion for Judicial Determination of Probable Cause; (2) Atty. Cajucom's claim that Judge Tabora's "incompetence" was shown by her neglect in not personally examining the complainant in the *Bela-o case* for purposes of issuing a search warrant; (3) Atty. Cajucom's filing of a Letter for Inhibition after filing a Motion to Withdraw as Counsel for the Accused; and (4) Atty. Dumaguing's participation in the *Bela-o case* while serving a suspension order.

The abovementioned acts, to Judge Tabora, showed Atty. Cajucom's and Atty. Dumaguing's disregard for court procedures, which amounted to a violation of the CPR.

The Court disagrees.

The basic rule is that reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on.³⁵ In this case, there is paucity of evidence to prove Judge Tabora's charges against Atty. Cajucom and Atty. Dumaguing. It must be noted that the only pleading filed by Judge Tabora is her Comment to Atty. Cajucom's Complaint, which was later considered as a Complaint against the latter.

²⁹ *National Bureau of Investigation v. Conrado M. Najera*, G.R. No. 237522, June 30, 2020..

³⁰ *Bruselas, Jr. v. Mallari*, A.C. No. 9683, February 21, 2017.

³¹ Rule 10.03 – A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

³² Rule 12.04 – A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

³³ Rule 18.02 – A lawyer shall not handle any legal matter without adequate preparation.

³⁴ Rule 9.01 – A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the bar in good standing.

³⁵ *Elisa Zara v. Atty. Vicente Joyas*, 853 Phil. 21, 24 (2019).

There is thus no way for the Court to assiduously consider the liability of Atty. Cajucom and Atty. Dumaguing in view of the scarcity of evidence in this case.

Finally, the Court notes that several Resolutions were issued by this Court requiring Judge Tabora to furnish Atty. Dumaguing a copy of her Complaint to allow him to file his comment thereon. However, to this date, Judge Tabora has not complied with said directive. This is demonstrative of Judge Tabora's indifference, if not recalcitrance, to the lawful orders of this Court. It bears stressing that a judge does not have the option not to heed a directive coming from this Court; nor to treat a directive as a mere "request" that may or may not be ignored to his or her whim or fancy.

Thus, as to the Complaint against Atty. Dumaguing, the Court resolves to dismiss the same, as he was not able to file his comment due to Judge Tabora's failure to furnish him a copy of the Complaint.

Since there is no proof, apart from the allegations of the letter-complaint, to hold Atty. Cajucom and Atty. Dumaguing liable for the afore-stated charges against them, the Court deems it proper to dismiss said charges for lack of merit.

WHEREFORE, the Court resolves to **DISMISS** the case against Atty. Reynaldo B. Cajucom and Atty. Abelardo Dumaguing for lack of merit, and consider the same as **CLOSED** and **TERMINATED**.

SO ORDERED."

By authority of the Court:

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