



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **July 27, 2022** which reads as follows:*

“A.C. No. 11979 [Formerly, CBD Case No. 12-3456] (Sylvia M. Ramirez* Vda. De Alma Jose v. Atty. Oscar G. Serrano). — Before this Court is a Complaint¹ filed by Sylvia M. Ramirez vda. De Alma Jose (complainant) charging respondent Atty. Oscar G. Serrano (Atty. Serrano) with alleged violation of the Oath of Attorney, Conduct Unbecoming of a Lawyer, Gross Misconduct, and deliberate violation of the Code of Professional Responsibility (CPR).

The antecedent facts are as follows:

Version of the Complainant

Complainant is the widow of the late Atty. Juvenal Marquez Alma Jose (Atty. Juvenal), who predeceased his parents, Marcelo L. Alma Jose and Margarita M. Alma Jose (Spouses Alma Jose), on October 24, 1983. Atty. Juvenal was survived by complainant and their two children who were then minors.²

Upon the demise of the Spouses Alma Jose, complainant attempted to protect the rights and interest of her minor children over the estate of their grandparents, by filing a Petition for the Intestate Succession of the Estates of Spouses Marcelo L. Alma Jose and Margarita M. Alma Jose with Prayers for Letters of Administration,³ docketed as SP. PROC. No. 91-58392, at the Regional Trial Court of


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* Also spelled as Ramires in some parts of the records.

¹ *Rollo*, pp. 2-8.

² *Id.* at 2.

³ *Id.* at 3.



Manila, Branch 37 (Intestate Proceeding). Complainant and her then minor children were represented by Atty. Julius A. Magno (Atty. Magno).⁴

Meanwhile, Atty. Serrano represented Priscilla M. Alma Jose (Priscilla), the only sibling of the late Atty. Juvenal, as oppositor to the intestate proceeding.⁵

Eventually, Atty. Serrano was appointed co-administrator of Atty. Magno in the estate of the Spouses Alma Jose.⁶

Complainant postulated that Atty. Serrano violated the CPR for inculcating to his client, Priscilla, that complainant's act of filing the petition on behalf of her then minor children was aimed solely to get all the estates of the Spouses Alma Jose, pre-empting Priscilla to oppose, without explaining the true and real purpose of the petition.⁷ Consequently, complainant argued that Atty. Serrano violated Rule 15.07 of Canon 15 of the CPR which states that "[a] lawyer shall impress upon his client compliance with the laws and the principles of fairness."⁸

Complainant further asserted that Atty. Serrano instigated controversy and conflict instead unity for the Alma Jose family; and encouraged Priscilla's deceitful acts of dissipating and concealing the estate of the Spouses Alma Jose in order to deprive her and her children.⁹ Priscilla and a certain Juvy Rofa perjured an Extra-Judicial Settlement of Estate by declaring, among others, that they are the only heirs of the Spouses Alma Jose thus facilitating the sale of parcels of land which formed part of the estate. Atty. Serrano is thus liable for having countenanced such an utterly fraudulent act in violation of Rule 19.02,¹⁰ Canon 19 of the CPR.¹¹

In addition, complainant averred that in a Motion for Reconsideration¹² which Atty. Serrano prepared and filed with the Court of Appeals, it mentioned that "a certain [Juvy] is an

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⁴ Id.

⁵ Id. at 3 and 357.

⁶ Id. at 3.

⁷ Id. at 3 and 357.

⁸ Id. at 3 and 358.

⁹ Id. at 4 and 358.

¹⁰ Rule 19.02 of Canon 19 provides that: "A lawyer who has received information that his client has in the course of the representation, perpetrated a fraud upon a person or tribunal, shall promptly call upon the client to rectify the same, and failing which he shall terminate the relationship with such client in accordance with the Rules of Court.

¹¹ *Rollo*, pp. 4 and 358.

¹² Id. at 5.

acknowledged natural child of the late [Atty. Juvenal]" while likewise acknowledging therein that the complainant is the wife of the latter.¹³ Complainant pointed out that Atty. Serrano declared in another pleading filed with the RTC suggesting that Juvy is a legitimate child of Atty. Juvenal and that her mother, Ruth Timola Sumili (Ruth), was married to him. As such, complainant averred that Atty. Serrano violated Rule 138, Section 20(d) of the Revised Rules of Court for having failed to "employ for the purpose of maintaining the causes confided to him, such means only as are consistent with truth and honor and never seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law."¹⁴

Moreover, complainant asserted that evidence in the settlement of the estate proceedings showed that she is the only wife of Atty. Juvenal while the claim that Ruth is also a wife of the former or that Juvy is his daughter was not duly proven.¹⁵ Thus, complainant postulated that: (i) Atty. Serrano's act of knowingly introducing the foregoing unproven facts was "deliberately misleading and deceiving the court and giving it inaccurate appreciation of facts in utter violation of his lawyer's oath to do no falsehood nor consent to the doing of any in court;"¹⁶ and (ii) Atty. Serrano's allegation that Ruth is the wife of Atty. Juvenal and Juvy is his daughter during the intestate proceeding despite knowing of it as untrue was tantamount to consenting to the commission of a falsehood before a court, in violation of the CPR.¹⁷

Furthermore, complainant averred that Atty. Serrano's actions destroyed and besmirched her family's reputation. In particular, complainant underscored the following malicious statements of Atty. Serrano: (i) during the hearing of the intestate proceeding on March 26, 2012, he told Atty. Juvenal's first cousins that complainant was not married to him while within her hearing distance;¹⁸ and (ii) maliciously suggesting in a pleading in the same proceeding that "[Atty. Juvenal] was married to, and cohabited with [Ruth]."¹⁹ To support her claim that Atty. Juvenal was not married to Ruth, complainant showed the following: (a) that the latter was married to

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¹³ Id. at 5 and 358.

¹⁴ Id. at 5 and 358-359.

¹⁵ Id. at 5-6 and 359.

¹⁶ Id. at 6 and 359.

¹⁷ Id.

¹⁸ Id. at 6 and 360.

¹⁹ Id. at 6-7 and 360.

one Alfredo C. Sumele;²⁰ (b) that the Local Civil Registrar of Burauen, Leyte has certified that there was no record of marriage between Ruth and Atty. Juvenal;²¹ and (c) that Ruth in a duly sworn document, declared that she has never claimed to be the legitimate wife of Atty. Juvenal.²² Thus, in view of the malicious suggestions, complainant averred that Atty. Serrano “was delinquent in his duty as a lawyer to abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged,” as provided by Rule 138, Section 20(f) of the Revised Rules of Court.²³

In sum, complainant claimed that Atty. Serrano dishonored the sacredness of the Oath of Attorney and violated the following provisions of the CPR: (a) Rule 1.01 of Canon 1; (b) Rule 10.01 of Canon 10; (c) Rule 15.07 of Canon 15; and (d) Rules 19.01 and 19.02 of Canon 19. In addition, complainant asserted that Atty. Serrano likewise violated paragraphs (d) and (f) of Section 20 of Rule 138 of the Revised Rules of Court.²⁴

Version of Respondent

Atty. Serrano denied the allegation that he was stirring up controversy between the family of the late Atty. Juvenal and his client, Priscilla. He mentioned of an instance when the complainant took possession of the fishpond of Priscilla, then under contract with a “namumuwisan,” but Priscilla did not file a case against the complainant as per his advice as counsel.²⁵

His appointment as co-administrator of the estate of the deceased Spouses Alma Jose was “at the instance of the Court, with the agreement of the parties.”²⁶

In the case for the settlement of the estate, he was the one who “suggested the inclusion in the Compromise Agreement” entered into by the parties the provision which reads: “Any other property that may be discovered as belonging to the subject estate shall be divided

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²⁰ Id. at 7 and 30.

²¹ Id. at 31.

²² Id. at 6-7, 32-34 and 360.

²³ Id. at 7 and 360.

²⁴ Id. at 360.

²⁵ Id. at 38 and 361.

²⁶ Id. at 39 and 361.

among the heirs in accordance with the law on intestacy.”²⁷ As such, the Compromise Agreement is proof that he is not an “instigator of controversy and conflict (but) a mediator for unity of Alma Jose family.”²⁸

In addition, he denied any knowledge or participation in the preparation and execution by his client, Priscilla, of the perjured Extra-judicial Settlement of Estate dated November 29, 1996, which enabled Priscilla and Juvy to sell parcels of land belonging to the estate under settlement. He claimed that the matter was brought to his attention only in 2001.²⁹

He further argued that it has always been the contention of Juvy that she was a legitimate child, as her mother, Ruth, was legally married to her father, the late Atty. Juvenal. Thus, it was because of this claim that complainant filed a criminal case against Juvy and an administrative case against Ruth.³⁰ In the absence of a marriage contract between Atty. Juvenal and Ruth, he advised Juvy “to consider herself as an acknowledged natural child of her father, the late [Atty. Juvenal], notwithstanding her claim to the contrary.”³¹ However, he underscored that Juvy’s claim to being a legitimate child “is not without any legal basis.”³²

Atty. Serrano admitted filing in the settlement of the estate case, a Motion to Determine Share of Heir, on behalf of Juvy, “praying that her hereditary share as a child of the late [Atty. Juvenal] be determined.”³³

Atty. Serrano also recalled the incident of March 26, 2012 at the RTC Branch 37, Manila wherein relatives of Priscilla were so surprised on learning that she was being petitioned to be placed under guardianship when there was no need for it.³⁴ He explained that he also informed the said relatives of the other “pending incidents” including “the Manifestation and Motion to Determine Share of Heir filed by [Juvy] who is now re-asserting her claim that her parents, [Ruth and the late Atty. Juvenal] were legally married and that she is not an illegitimate child.”³⁵

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²⁷ Id.

²⁸ Id. at 42 and 361

²⁹ Id. at 43 and 361

³⁰ Id. at 43 and 361-362.

³¹ Id. at 43-44 and 362.

³² Id. at 44 and 362.

³³ Id.

³⁴ Id. at 46-47 and 362

³⁵ Id. at 47 and 362.

Finally, Atty. Serrano stressed that he “did not commit any violation that would support the instant complaint.”³⁶

**Report and Recommendation of the
Integrated Bar of the Philippines
(IBP)**

In a Report and Recommendation³⁷ dated May 10, 2015, the Investigating Commissioner (IC) recommended that Atty. Serrano be meted a penalty of suspension for three years.³⁸

Firstly, the IC found untenable complainant’s claim that respondent had been an instigator of conflict and controversy instead of a mediator for the unity of the Alma Jose family. The IC gave credence to respondent’s claim that Priscilla did not file a case against complainant upon his advice, when the complainant took possession of Priscilla’s fishpond located in Sauli, Paco, Obando, Bulacan while under contract with a “mamumuwisan.” The IC noted that as per records of the case, the only instance that respondent initiated an action was the ejectment suit filed against complainant’s daughter which the courts sustained.³⁹

Secondly, the IC opined that even as a co-administrator of the estate of Spouses Alma Jose, Atty. Serrano is representing Juvy who is a claimant of the estate. As per the pleadings he prepared and filed, Juvy was alleged therein as either “an acknowledged natural child of the late [Atty. Juvenal]”⁴⁰ or a legitimate child of the latter.⁴¹ The IC noticed that when Atty. Serrano claimed Juvy as an acknowledged natural child of the late Atty. Juvenal, complainant countered by invoking Article 992 of the New Civil Code which expressly prohibits an illegitimate child, like her, from inheriting from the relatives of her father.⁴² Thus, the IC viewed the belated introduction by respondent of Juvy as a legitimate child of Atty. Juvenal, notwithstanding the absence of evidence, “as purely a design to enable her to share in the estate of the Spouses [Alma Jose], despite express prohibition of Article 992 of the New Civil Code.”⁴³

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³⁶ Id. at 47-48 and 362.

³⁷ Id. at 363-366. Penned by Commissioner Jose Alfonso M. Gomos.

³⁸ Id. at 366.

³⁹ Id. at 363.

⁴⁰ Id. at 15-19.

⁴¹ Id. at 363.

⁴² Id.

⁴³ Id.

In view of the foregoing, the IC noted that in respondent's efforts to belatedly introduce Juvy as a legitimate child, the former had to claim, even without evidence, that the late Atty. Juvenal was married to Juvy's mother, Ruth. This notwithstanding the fact that in an earlier pleading, respondent had already declared complainant as the wife of Atty. Juvenal.⁴⁴ With this, the IC gave credence to complainant's claim that respondent asserted before Atty. Juvenal's first cousins who attended the proceedings before RTC Br. 37 (Manila) on March 26, 2012 that complainant was "not married to the late [Atty. Juvenal]" which complainant, who heard it, found offensive.⁴⁵ Thus, in uttering the foregoing words within the hearing distance of the complainant, despite knowing it to be baseless, the IC opined that Atty. Serrano may have indeed fallen short of his duty "(t)o abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness" as prescribed under Section 20(f) of the Revised Rules of Court.⁴⁶

The IC also agreed with complainant's claim that in raising the conflicting assertions on the legitimacy of Juvy in the pleadings filed in court, respondent may have indeed failed in his oath "to do no falsehood nor consent to the doing of any in court." Similarly, the IC opined that Atty. Serrano may have also failed to observe Rule 10.01 of Canon 10 which requires him not to "do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice."⁴⁷

The IC further noted that when respondent asserted in his pleadings that Juvy was a legitimate child, and that her mother, Ruth was married to Atty. Juvenal, despite lack of evidence or even evidence to the contrary, he may have indeed failed in his duty "(t)o employ, for the purpose of maintaining the causes confided to him, such means as are consistent with the truth and honor, and never seek to mislead the judge or any judicial officer by any artifice or false statement of fact or law" as imposed upon him under Section 20(d) of the Revised Rules of Court.⁴⁸

Lastly, the IC also noticed the apparent inaction of respondent upon being informed that both his clients, Juvy and Priscilla, were able to sell two parcels of land which formed part of the estate, of

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⁴⁴ Id. at 15-19 and 364.

⁴⁵ Id. at 364.

⁴⁶ Id.

⁴⁷ Id.

⁴⁸ Id. at 364-365.

which he was a co-administrator, by perjuring an Extra-Judicial Settlement of Estate declaring, among others, that they are the only heirs of the late Spouses Alma Jose. In having countenanced said fraudulent act perpetrated by his client, the IC opined that Atty. Serrano may have failed to observe Rule 19.02 of Canon 19, which provides that:

A lawyer who has received information that his client has, in the course of the representation, perpetrated a fraud upon a person or tribunal, shall promptly call upon the client to rectify the same, and failing which he shall terminate the relationship with such client in accordance with the Rules of Court.

The IC further opined that through Atty. Serrano's inaction, he may have also failed in his duty as administrator to preserve the estate of the late Spouses Alma Jose. The IC further noted that Atty. Serrano even opposed the motion for partition filed by complainant as a result of the fraudulent dissipation of the estate, and even brought the matter on appeal, where he even defended the fraudulent dissipation.⁴⁹ Thus, the IC opined, to wit:

In sum, we found the respondent guilty of asserting falsehood before the courts, of failing in his duty as administrator of an estate to preserve the same by having countenanced its dissipation through a perjured document and by having represented an interest against the same, and for displaying offensive personality and advancing some baseless fact prejudicial to the honor or reputation of the complainant.⁵⁰

IV. RECOMMENDATION

It is thus respectfully recommended that the respondent be meted a penalty of SUSPENSION for three (3) years.⁵¹

In its Resolution⁵² dated January 27, 2017 the IBP Board of Governors resolved to adopt the findings of fact and recommendation of the IC.

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⁴⁹ Id. at 364.

⁵⁰ Id. at 365.

⁵¹ Id. at 366.

⁵² Id. at 354-355. In the January 27, 2017 Resolution, the IBP Board of Governors "RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner **dismissing** the complaint" (*emphasis ours*), which is contrary to the recommendation of the IC that the respondent be meted a penalty of suspension for three (3) years. In view of this, on complainant filed and Omnibus Motion (For Clarification and to Rectify the Resolution dated 27 January 2017); See id. at 369-371.



Issue

Whether respondent Atty. Serrano is administratively liable.

Our Ruling

The Court adopts the findings and recommendation of the IBP. However, We modify the recommended penalty to suspension for three months.

Respondent, as an officer of the court, is bound to encourage a peaceful administration of justice and not to instigate any additional friction to any of the parties. Thus, any kind of fraudulent act countenanced by a lawyer such as respondent's failure as administrator of the estate to preserve the same by having countenanced its dissipation through a perjured document runs contrary to this principle. Moreover, any unnecessary statement made by a lawyer, such as respondent's remarks that complainant is not the wife of Atty. Juvenal while within her hearing distance, regardless of its truthfulness, but simply made to further demoralize the opposing party is certainly not in consonance to his duty and responsibility as representative of the court.

In *Jimeno v. Atty. Jimeno*,⁵³ We underscored that "[t]he Lawyer's Oath enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in *or* out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients. Every lawyer is a servant of the law, and has to observe and maintain the rule of law, as well as be an exemplar worthy of emulation by others." Similarly, respondent's act of pursuing the claim that complainant is not the spouse of Atty. Juvenal despite knowing fully well that it was unfounded, is certainly inconsistent to his oath as a member of the bar.

At this juncture, We remind respondent of the fundamental role of lawyers, to wit:

Indeed, while a lawyer owes fidelity to the cause of his client, it should not be at the expense of truth and the administration of justice. Under the Code of Professional Responsibility, a lawyer has the duty to assist in the speedy and

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⁵³ 834 Phil. 711, 717 (2018).

efficient administration of justice, and is enjoined from unduly delaying a case by impeding execution of a judgment or by misusing court processes. While lawyers owe their entire devotion to the interest of their clients and zeal in the defense of their client's right, they should not forget that they are, first and foremost, officers of the court, bound to exert every effort to assist in the speedy and efficient administration of justice. Their office does not permit violation of the law or any manner of fraud or chicanery. A lawyer's responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions against the other party. Mandated to maintain the dignity of the legal profession, they must conduct themselves honorably and fairly. They advance the honor of their profession and the best interests of their clients when they render service or give advice that meets the strictest principles of moral law.⁵⁴

Thus, a lawyer's fidelity and devotion to his client's interest should not disregard the truth and orderly administration of justice. This is the essential principle in legal ethics and professional responsibility, which is enshrined in the following:

The Lawyer's Oath:

I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients x x x
(Underscoring supplied)

Rule 138, Section 20, Rules of Court:

Duties of attorneys. — It is the duty of an attorney:

x x x x

(c) To counsel or maintain such actions or proceedings only as appear to him to be just, and such defenses only as he believes to be honestly debatable under the law;

x x x x

(g) Not to encourage either the commencement or the continuance of an action or proceeding, or delay any man's cause, from any corrupt motive or interest;

⁵⁴ *Martin-Ortega v. Tadena*, A.C. No. 12018, January 29, 2020.

CPR:

Rule 1.03 — A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

However, We find the recommended penalty of three years suspension too harsh and not commensurate with the infractions committed by respondent. We note that this is the first infraction committed by respondent. We hold that a penalty of three months suspension is fair under the circumstances.


ACCORDINGLY, respondent Atty. Oscar G. Serrano is **SUSPENDED** from the practice of law for a period of three months effective upon receipt of this Resolution, with a **STERN WARNING** that a repetition of a similar offense shall be dealt with more severely.

Atty. Serrano is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let a copy of this Resolution be furnished the Office of the Bar Confidant to be entered in Atty. Serrano's personal record as a member of the Philippine Bar. Further, let copies of this Resolution be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which are directed to circulate them for their information and guidance.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *L/m srio*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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AUG 17 2022

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