



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 8, 2023 which reads as follows:

“A.C. No. 12360 [Formerly CBD/Case No. 16-5146] (*Fritz Ramirez Zosa v. Atty. Albert P. Yruma*). — The instant Verified Complaint-Affidavit¹ (Complaint) filed by complainant Fritz Ramirez Zosa (complainant) seeks the disbarment of respondent Atty. Albert P. Yruma (Atty. Yruma) on the ground of splitting a cause of action and forum shopping.

Antecedents

Complainant claims that Atty. Yruma knowingly and willfully split a cause of action and engaged in forum shopping when he filed a complaint for damages followed by a complaint for injunction, even though the two cases involve the same parties and same factual issues.² To support the charge, complainant attached a copy of the Complaint³ for Damages, docketed as Civil Case No. 1463 and entitled *Beatriz H. Frigillana, represented by Ma. Juanita F. Estacio v. Heirs of Carlos Delgado, represented by Spouses Jimmy and Judith Delgado*. He likewise submitted a copy of the Answer⁴ in Special Civil Case No. 226 for Injunction, entitled *Beatriz H. Frigillana and Antonia H. Frigillana, represented by Juantia F. Estacio v. Heirs of Carlos Delgado, et al.*⁵

According to complainant, Atty. Yruma’s actions transgressed the Lawyer’s Oath not to wittingly or willingly promote or sue any groundless, false, or unlawful suit, or give aid or consent to the same. Furthermore, Atty.

¹ Rollo, pp. 2-7.

² Id. at 3.

³ Id. at 8-13.

⁴ Id. at 14-22.

⁵ Id.

Yruma violated Canon 1 of the Code of Professional Responsibility,⁶ which directs lawyers to obey the laws of the land and to promote respect for the law and legal processes. Atty. Yruma further violated his duties as lawyer to assist in the speedy and efficient administration of justice, and not to unduly delay a case by misusing court processes.⁷

Report and Recommendation of the Integrated Bar of the Philippines

On 09 November 2016, the Investigating Commissioner⁸ tersely recommended the dismissal of the Complaint. He found complainant's evidence insufficient to prove that Atty. Yruma was guilty of splitting a cause of action or otherwise committed forum shopping. The Investigating Commissioner pointed out that in the second complaint for injunction, a certain Atty. Johanness S. Monje (Atty. Monje) was included as a party defendant.⁹

In a 29 November 2016 Resolution,¹⁰ the Board of Governors of the Integrated Bar of the Philippines (IBP) adopted the recommendation of the Investigating Commissioner and dismissed the Complaint for lack of merit.¹¹

Issue

For this Court's resolution is whether Atty. Yruma is administratively liable for violating the rule against non-forum shopping and splitting of cause of action.

Ruling of the Court

The Court affirms the dismissal of the Complaint for lack of merit.

Forum shopping is the institution of two or more suits in different courts, either simultaneously or successively, in order to ask the courts to rule on the same or related causes and/or to grant the same or substantially the same reliefs.¹² It is an act of malpractice that is prohibited and condemned

⁶ *CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW OF AND LEGAL PROCESSES.*

⁷ *Rollo*, pp. 3-4.

⁸ Assistant Director for Bar Discipline Juan Orendain P. Buted.

⁹ *Rollo*, p. 28.

¹⁰ *Id.* at 27.

¹¹ *Id.*

¹² See *Philippine Trust Company v. Spouses Roxas*, 771 Phil. 98, 111 (2015).

because it trifles with the courts and abuses their processes, degrades the administration of justice, and adds to the already congested court dockets.¹³ It can occur in several ways, such as when, although the actions seem to be different, there is nevertheless a splitting of a cause of action.¹⁴

In *Heirs of Sotto v. Palicte*,¹⁵ the Court emphasized that the acts of a party or the counsel clearly constituting willful and deliberate forum shopping shall be a ground for the summary dismissal of the case with prejudice, and shall constitute direct contempt, as well as be a cause for administrative sanctions against the lawyer.¹⁶

In this case, complainant seeks the disbarment of Atty. Yruma for allegedly committing forum shopping and for splitting cause of action by instituting two cases in different courts, even though the complaint for damages and the complaint for injunction involve the same parties and factual circumstances.

The Court is not convinced.

It has been held time and again that the test of identity of causes of action rests on whether the same evidence would support and establish the former and the present causes of action.¹⁷ In this case, aside from a copy of the first complaint for damages, complainant merely submitted into evidence a copy of defendants' Answer to the complaint for injunction, instead of the copy of the second complaint for injunction itself. There is thus no sufficient evidence for the Court to determine whether the allegations and prayers therein, in fact, would amount to identity of causes of action between the first and second complaints. It is not even clear whether the subject matter of the two cases are the same. As the Answer shows, defendants therein referred to a property registered in the name of Beatriz H. Frigillana under Transfer Certificate No. (TCT) T-12300,¹⁸ whereas the first complaint appears to involve a property covered by TCT No. T-12070.¹⁹ Moreover, the Investigating Commissioner found that the second complaint for injunction impleaded a new party-defendant, Atty. Monje. It was not explained what the participation of Atty. Monje was insofar as the second complaint is concerned.

¹³ Id. at 112.

¹⁴ See *In Re: A.M. No. 04-7-373-RTC, Report on the Judicial Audit Conducted in the Regional Trial Court, Branch 60, Barili, Cebu*, 788 Phil. 492, 503-505 (2016).

¹⁵ 726 Phil. 651 (2014).

¹⁶ Id. at 662-663.

¹⁷ Id. at 658-659.

¹⁸ *Rollo*, p. 18.

¹⁹ Id. at 10.

The Court has often emphasized that lawyers enjoy the legal presumption that they are innocent of the charges against them until the contrary is proved, and that as officers of the Court, they are presumed to have performed their duties in accordance with their oath.²⁰ Accordingly, in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not even obliged to prove their exception or defense.²¹ In addition, the Court has repeatedly ruled that:

x x x basic is the rule that reliance on mere allegations, conjectures, and suppositions will leave an administrative complaint with no leg to stand on. Charges based on mere suspicion and speculation cannot be given credence. Thus, failure on the part of complainant to discharge the burden of proof by substantial evidence requires no other conclusion than that which stays the hand of the Court from meting out a disbarment order.²²

As the complainant failed to discharge his burden, the Complaint against Atty. Yruma must be dismissed.

WHEREFORE, the administrative complaint against Atty. Albert P. Yruma is **DISMISSED** for lack of merit.

The letter dated May 8, 2019 of Director Marlou B. Ubano, Integrated Bar of the Philippines Commission on Bar Discipline, in compliance with the Resolution dated January 23, 2019; and the respondent's manifestation with compliance dated January 10, 2023, informing the Court that the complainant indeed received a copy of the Notice of Resolution No. XXII-2016-598 dated November 29, 2016 and did not take any further action, as shown by the thereto attached Affidavit of Service dated January 5, 2023 signed by complainant, are all **NOTED**.


²⁰See *Tan v. Atty. Alvarico*, A.C. No. 10933, 03 November 2020.

²¹See *Re: Letter of Lucena Ofendoreyes Alleging Illicit Activities of a Certain Atty. Cajayon Involving Cases in the Court of Appeals, Cagayan De Oro City*, 810 Phil. 369, 374 (2017).

²²*Tan v. Atty. Alvarico*, supra.

SO ORDERED.” *Rosario, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court¹³⁶

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
301 & 433
MAR 02 2023

Mr. Fritz Ramirez Zosa
Complainant
Purok 1, Dalakit, Catarman
6400 Northern Samar

Atty. Albert P. Yruma
Respondent
419 Quirino Street, Brgy. J.P. Rizal
Catarman, 6400 Northern Samar

Integrated Bar of the Philippines
15 Doña Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

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