



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated June 14, 2023, which reads as follows:

“A.C. No. 13189 (Mildred G. Zate, Complainant, versus Atty. Salvador O. Pacana, Respondent). – The Court resolves the administrative complaint¹ filed by Mildred G. Zate (Zate) against Atty. Salvador O. Pacana (Atty. Pacana) before the Office of the Bar Confidant for allegedly casting a bad reputation upon her name in a case she was not involved in.

The Antecedents

The case is rooted on a Petition for Guardianship concerning Theresita Moniz y Blanco (Moniz), Atty. Pacana’s client, that Letecia Acero Generalao, Zate’s mother, instituted before Branch 38, Regional Trial Court of Misamis Oriental, Cagayan de Oro City (RTC), docketed as Special Proceedings No. R-CDO-21-01918-SP (guardianship case).²

In the Answer/Opposition that Atty. Pacana filed with the RTC on behalf of Moniz, he alleged, among others, that his client was subjected to subtle mental and physical pressure and undue influence in order to make her execute a special power of attorney (SPA) authorizing Zate to sell all her real properties under the terms to be decided by the latter.³

This prompted Zate to file the present administrative complaint in which she avers that: *first*, Atty. Pacana acted in bad faith when he mentioned her name in the subject Answer/Opposition considering that she did not have any interest or participation in the guardianship case; *second*, the allegations in the Answer/Opposition cast a bad reputation against her and denigrated her person despite her lack of involvement in the case; and *third*, Atty. Pacana likewise acted in bad faith when: (a) he made the same allegations against her and her family in a Letter dated March 26, 2021

¹ Rollo, pp. 2-5. Denominated as an Affidavit Complaint.

² Id. at 2.

³ Id. at 15.

addressed to Misamis Oriental Mayor Alexis S. Quina (Mayor Quina); and (b) he caused the publication of the deed of revocation of the SPA.⁵

In his Comment,⁶ Atty. Pacana counters that the complaint should be dismissed as the acts complained of therein do not constitute as misconduct. He argues that the averments in the Answer/Opposition, being relevant and pertinent to the issues in the guardianship proceedings, are absolutely privileged.⁷ Atty. Pacana insists that there was no allegation in the Answer/Opposition that was aimed to malign Zate as the pleading simply reiterated the fact that his client executed an SPA in the latter's favor.⁸

The Issue

The issue for the Court's resolution is whether Atty. Pacana should be held administratively liable for his actions.

The Court's Ruling

After a careful review, the Court dismisses the case for patent lack of merit.

It is settled that privileged communication covers statements that are made in the course of judicial proceedings, including all kinds of pleadings, petitions, and motions, provided that these are relevant, pertinent, and/or material to the cause in hand or subject of inquiry.⁹ This means that to avoid being considered as libelous and a ground for administrative sanctions, a pleading must meet the *test of relevancy* that would make it absolutely privileged.¹⁰

In order to be deemed relevant, the allegations in a pleading must be "legitimately related, or so pertinent to the subject of the controversy that it may become the subject of the inquiry in the course of the trial."¹¹ Simply put, the privilege encompasses anything and everything that could be pertinent to, or which has enough connection with, the case that a reasonable man may think it relevant.¹²

Here, the Court finds the allegations that Atty. Pacana made in the subject Answer/Opposition to be *absolutely privileged* given that they are undoubtedly related to the subject of the controversy in the guardianship case. A review of the questioned pleading shows that these statements

⁵ Id. at 2-3.

⁶ Id. at 40-43.

⁷ Id. at 40.

⁸ Id. at 41.

⁹ *People v. Atty. Sesbreno*, 215 Phil. 411, 417 (1984), citing *Tolentino v. Baylosis*, *supra* etc.

¹⁰ Id., citing *Amorit v. Purisima*, 118 SCRA 247.

¹¹ Id.

¹² *Tolentino v. Baylosis*, 110 Phil. 1010, 1016 (1961).

specifically pertained to the reasons why Moniz, Atty. Pacana's client, vehemently opposed the Petition for Guardianship that Zate's mother filed. As such, the allegations complained of are covered by the privilege no matter how defamatory or malicious Zate considers them to be.

Likewise, the Court sees no reason to impose sanctions upon Atty. Pacana for requesting assistance from the Misamis Oriental local government to determine and improve the living situation of Moniz or for publishing the deed of revocation of the SPA that the latter executed in favor of Zate.

For one, in his Letter¹³ dated March 26, 2021 to Mayor Quina, Atty. Pacana merely stated the reasons why the Misamis Oriental Municipal Social Welfare and Development Office should conduct an inquiry as to the living conditions of Moniz. He also informed Mayor Quina of his client's wish to reside in a dwelling of her own choosing with her long-time aide, Emily Jaron.

For another, Atty. Pacana caused the publication of the deed of revocation of the SPA under the direction of Moniz herself, who approved the wording and contents of the notice and paid for it.¹⁴

All things considered, absent clear proof of bad faith, Atty. Pacana's actions simply reflect his utmost fidelity to his client's cause, which should be commended and not vilified.

WHEREFORE, the administrative complaint filed against Atty. Salvador O. Pacana is **DISMISSED** for lack of merit.

SO ORDERED."

By authority of the Court:

Misael Domingo
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *JB 7/14/23*

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¹³ *Rollo*, pp. 11-12.

¹⁴ *Id.* at 41-42.

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