



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated July 4, 2022, which reads as follows:*

“A.C. No. 13206 [Formerly CBD Case No. 17-5319] (*Juanito Militante v. Atty. Rodolfo B. Pollentes, Jr.*). — Upon a perspicacious review of the records of the instant case, this Court resolves to deviate from the recommendation of the Integrated Bar of the Philippines (IBP) Board of Governors in the Resolution<sup>1</sup> dated 28 May 2019 in CBD Case No. 17-5319. As will be discussed hereunder, respondent Atty. Rodolfo B. Pollentes, Jr. is guilty of transgressing Canon 18 as well as Rules 18.02 and 18.03 of the Code of Professional Responsibility (CPR).

Preveniently, Investigating Commissioner Jose Alfonso M. Gomos (Commissioner Gomos) of the IBP Commission on Bar Discipline (CBD) erred when he declared that only clear preponderance of evidence is required to establish the liability of respondent.<sup>2</sup> It is doctrinally established that in administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Further, the complainant has the burden of proving by substantial evidence the allegations in his complaint. 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.<sup>3</sup>

Therewithal, 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.<sup>4</sup>

In the case at bench, not a scintilla of evidence was adduced by complainant Juanito Militante to bolster the contentions in his complaint<sup>5</sup>

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<sup>1</sup> *Rollo* (MR), p. 1.

<sup>2</sup> *Id.* at 8-9.

<sup>3</sup> See *Dillon v. Atty. De Quiroz*, A.C. No. 12876, 12 January 2021.

<sup>4</sup> See *Tan v. Atty. Alvarico*, A.C. No. 10933, 3 November 2020.

<sup>5</sup> *Rollo*, pp. 1-15.

dated 10 November 2016, such as the agreement executed between respondent and the Far Eastern Bank and Trust Company (now the Bank of the Philippine Islands, or the Bank for brevity), his written demand to respondent in 2016, as well as the receipts showing the transfer of large sums of money to respondent on separate occasions. Ineludibly, complainant's bare assertions deserve short shrift.

Complainant professed in his motion for reconsideration<sup>6</sup> dated 21 September 2019 that his failure to attend the mandatory conference and to file his position paper was due to the fact that he did not receive any notice from the CBD. While he omitted to notify the CBD of the change in his address due to various circumstances after he was forced out of his home by the Bank, complainant maintained that he sought the assistance of counsel to follow up on the case. Regrettably, he found out late that the CBD had sent its notices and orders to his old address, and that the case was already submitted for resolution.<sup>7</sup>

Nevertheless, it remains unclear when complainant was actually evicted or why he chose to formally engage the services of Kapunan & Castillo Law Offices in this case only on 1 April 2019. He simply could have notified the CBD of the change in his address immediately after his eviction. After all, under the Rules of Court which apply suppletorily to administrative cases,<sup>8</sup> it is the responsibility of a party to inform the court of the change of their address to enable them to receive resolutions or orders in the event the court ordains that a resolution or order be served on them.<sup>9</sup> Withal, complainant disclosed that he was previously assisted by counsel when he sent a written demand to respondent in 2016.<sup>10</sup> Accordingly, the Court does not discern any impediment which would have hindered complainant from promptly notifying the CBD of the change in his address, whether by himself or through counsel.

Appositely, complainant's indefensible *faux pas* proved fatal to his cause, since non-appearance during mandatory conference shall be deemed a waiver of the right to participate in the proceedings.<sup>11</sup> On the basis alone of the averments in the complaint, he invariably failed to discharge the necessary burden of proving by substantial evidence that respondent committed the accusations against him.<sup>12</sup> This failure on the part of complainant to discharge his burden of proof requires no other conclusion than that which stays the

<sup>6</sup> Id. (MR) at 15-29.

<sup>7</sup> Id. at 17-18.

<sup>8</sup> Rule I, Sec. 3 of the Rules of Procedure of the Commission on Bar Discipline states: "In the absence of any applicable provision in these Rules or in Rule 139-B, the pertinent provisions in the Revised Rules of Court of the Philippines may, in the interest of expeditious justice and whenever practicable and convenient, be applied in a suppletory character and effect."

<sup>9</sup> See *Laguna Lake Development Authority v. Commission on Audit, En Banc*, G.R. No. 211341, 887 SCRA 144, 169, 27 November 2018.

<sup>10</sup> *Rollo*, p. 7.

<sup>11</sup> Rule V, Section 5 of the Rules of Procedure of the Commission on Bar Discipline.

<sup>12</sup> See *PSP Development Corporation v. Atty. Arma*, A.C. No. 12220, 13 November 2018, 885 SCRA 368, 372.

hand of the Court from meting out a disbarment order.<sup>13</sup>

Be that as it may, even if complainant was unable to proffer substantial evidence to support the asseverations in his complaint, respondent himself disclosed in his answer<sup>14</sup> that after signing the contract prepared by the Bank for the repurchase of complainant's properties in exchange for ₱2,200,000.00, he discovered that complainant's house stood on *four* separate lots, and not just the solitary one covered by the same agreement and evidenced by Transfer Certificate of Title (TCT) No. T-65844. To the Court's mind, such admission, which was even echoed by Commissioner Gomos,<sup>15</sup> betrays the lack of diligence on the part of respondent in handling the matter entrusted to him by complainant, which sufficiently constitutes an infraction of the following provisions of the CPR:

**CANON 18** – A lawyer shall serve his client with competence and diligence.

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

**Rule 18.03.** – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

At this juncture, it must be emphasized that whenever lawyers take on their client's causes, they pledge to exercise due diligence in protecting the client's rights. Hence, their failure to exercise that degree of vigilance and attention expected of a good father of a family makes them unworthy of the trust reposed in them by their client and makes them answerable not only to their client but also to the courts and the society.<sup>16</sup> In truth, the mere failure of the lawyer to perform the obligations due to his or her client is considered *per se* a violation of the lawyer's oath.<sup>17</sup>

Even if respondent contended that complainant did not inform him of the identity of the lots involved in the transaction,<sup>18</sup> it behooves any lawyer of good standing to thoroughly study the terms of an agreement before affixing his or her signature thereto. At the very least, respondent should have first conferred with complainant to confirm that the identity of the lots in question, *i.e.*, those covered by TCT Nos. 65842, T-65844, 65845, and 65846, were fully and correctly indicated on the contract prepared by the Bank. It is inconsequential that respondent did not receive legal fees for assisting complainant with the subject transaction.<sup>19</sup> On this score, it bears stressing that whenever a lawyer accepts a case, it deserves his full attention, diligence, skill, and competence, regardless of its importance and whether or not it is for

<sup>13</sup> See *Tan v. Atty. Alvarico*, *supra* note 7.

<sup>14</sup> *Rollo*, pp. 52-53.

<sup>15</sup> *Id.* (MR) at 6.

<sup>16</sup> See *Quitazol v. Atty. Capela*, A.C. No. 12072, 9 December 2020.

<sup>17</sup> See *Costenoble v. Atty. Alvarez, Jr.*, A.C. No. 11058, 1 September 2020.

<sup>18</sup> *Rollo*, p. 52.

<sup>19</sup> *Id.*

a fee or free.<sup>20</sup>

Undoubtedly, by signing the repurchase agreement without observing the proper degree of care expected of him, respondent was remiss in protecting the interests of complainant. Therefore, it cannot be gainsaid that respondent is administratively liable for his negligence in carrying out his duties as an officer of the Court.

Anent the imposable penalty, it is doctrinal that the penalty to be meted to an erring lawyer rests on sound judicial discretion based on the surrounding facts.<sup>21</sup> Many a times has this Court held that a lawyer should never neglect a legal matter entrusted to him or her, otherwise their negligence renders them liable for disciplinary action such as suspension ranging from three (3) months to two (2) years.<sup>22</sup> In light of the prevailing circumstances in this case, the penalty of suspension from the practice of law for three (3) months is apropos against respondent.

*A final cadence.* The Court cannot gloss over respondent's lackadaisical attitude towards the directives of the CBD.

As correctly found by Commissioner Gomos, respondent submitted his Answer<sup>23</sup> dated 8 August 2017 only after five motions for extension.<sup>24</sup> Worse, after seeking additional time to file his Position Paper thrice,<sup>25</sup> he did not file said pleading before the CBD.<sup>26</sup> Ineluctably, his failure without justifiable reason to follow the dictum of the CBD in its Order<sup>27</sup> dated 26 April 2018 to file his Position Paper manifests his disrespect of judicial authorities.<sup>28</sup> For this reason, the Court finds it suitable to impose a fine of Ten Thousand Pesos (P10,000.00) against respondent.<sup>29</sup>

**WHEREFORE**, respondent Atty. Rodolfo B. Pollentes, Jr. is hereby declared **GUILTY** of violating Canon 18, Rule 18.02 and Rule 18.03, of the Code of Professional Responsibility. He is thereby **SUSPENDED** from the practice of law for **THREE (3) MONTHS**, with a **STERN WARNING** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.

Furthermore, respondent Atty. Rodolfo B. Pollentes, Jr. is **ORDERED** to pay a **FINE** of Ten Thousand Pesos (**P10,000.00**) for disobeying an order of the Commission on Bar Discipline of the Integrated Bar of the Philippines.

<sup>20</sup> See *Spouses Aranda v. Atty. Elayda*, A.C. No. 7907, 15 December 2010.

<sup>21</sup> See *Costenoble v. Atty. Alvarez, Jr.*, *supra* note 20.

<sup>22</sup> See *Vda. De Dominguez v. Atty. Agleron, Sr.*, 728 Phil. 541, 545 (2014).

<sup>23</sup> *Rollo*, pp. 50-57.

<sup>24</sup> *Id.* at 19-20, 24-26, 30-32, 36-38, and 43-45.

<sup>25</sup> *Id.* at 105-106, 109-110, and 113-114.

<sup>26</sup> *Id.* (MR) at 9-10.

<sup>27</sup> *Id.* at 96-97.

<sup>28</sup> See *Salazar v. Atty. Quiambao*, A.C. No. 12401, 12 March 2019, 896 SCRA 94, 106.

<sup>29</sup> See *id.* at 107. See also *Robiñol v. Atty. Bassig*, 821 Phil. 28, 35 (2017).

July 4, 2022

This *Resolution* shall take effect immediately. Respondent Atty. Rodolfo B. Pollentes, Jr. is **DIRECTED** to **INFORM** this Court of the date of his receipt of this *Resolution* for the purpose of reckoning the period of his penalty.

Finally, let copies of this *Resolution* be furnished the Office of the Bar Confidant, for the updating of the personal record as attorney of respondent Atty. Rodolfo B. Pollentes, Jr.; the Integrated Bar of the Philippines, for their information and guidance; and the Office of the Court Administrator, for dissemination to all the courts in the country.

**SO ORDERED.”**

By authority of the Court:

*MisldCBatt*  
**MISAEAL DOMINGO C. BATTUNG III**  
*Division Clerk of Court* *7/7/22*

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