



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 August 2021** which reads as follows:*

A.C. No. 11267 (Hobart Dator, Jr. v. Atty. Valeriano B. Mariano). — Before this Court is a Verified Complaint-Affidavit¹ dated February 29, 2016 filed by complainant Hobart Dator, Jr. (Dator) before the Office of the Bar Confidant (OBC) against respondent Atty. Valeriano B. Mariano (Atty. Mariano) for violation of Canon 1² of the Code of Professional Responsibility (CPR).

The Facts

Dator alleged that on August 1, 2014, Atty. Mariano filed a Complaint for Recovery of Possession, Ownership, Cancellation of Documents and Damages³ (Complaint) in behalf of his clients, the Heirs of Fausta Beltran (Heirs of Beltran), docketed as Civil Case No. 2014-52 against Dator and his wife before the Regional Trial Court of Lucena City (RTC).⁴ The Complaint declared that the Heirs of Beltran were owners of a parcel of land denominated as Lot 3312, Cad. 340-D, Lucban Cadastre covered by Free Patent Title No. (IV-3) 269 and Original Certificate of Title No. P-17884 (subject property). As such, the Complaint sought the cancellation and/or annulment of Dator and his wife's patent title over the subject property for allegedly being secured through fraud, deceit, misrepresentation, bad faith, illegal means, and in violation of the Public Land Law. The Complaint also acknowledged that two (2) cases were already filed relative to the subject property: (a) reversion proceedings filed by the Republic of the Philippines (the Republic) against some of the Heirs of Beltran and the Register of Deeds of Quezon, docketed as Civil Case No. 8668;⁵ and (b) a case for specific performance filed by Dator against some of the Heirs of Beltran, docketed as Civil Case No. 8486.⁶ The Complaint indicated that the RTC issued a Joint Decision for both cases in favor of the Republic and Dator, which was affirmed by the Court of Appeals (CA). The appeal was likewise dismissed by the Supreme Court, and an Entry of Judgment

¹ Rollo, pp. 2-6.

² CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

³ Rollo, pp. 8-13.

⁴ Id. at 2-6.

⁵ Id. at 86-68.

⁶ Id. at 123-126.

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was issued.⁷ In response to the Complaint, Dator and his wife filed an Answer with Counterclaim and Motion to Dismiss,⁸ leading to the issuance of the Order⁹ of the RTC dated April 15, 2015 dismissing the Complaint on the ground of forum shopping.

Atty. Mariano's act of filing the Complaint, despite being aware that the reversion and the specific performance cases have been resolved and an entry of judgment has been issued, leading to the declaration that the Heirs of Beltran's Free Patent Title No. (IV-3) 269 and Original Certificate of Title No. P-17884 over the subject property is null and void as well as reverting ownership to the State, is tantamount to forum shopping. Hence, the filing of this administrative complaint for violation of Canon 1 of the CPR against Atty. Mariano.

For his part, Atty. Mariano argued that the elements of forum-shopping are absent, warranting the dismissal of the complaint.¹⁰

In a Notice¹¹ dated March 13, 2017, the Court referred the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

The IBP's Report and Recommendation

In a Report¹² dated July 25, 2018, the Investigating Commissioner found Atty. Mariano administratively liable for forum shopping, and accordingly, recommended the penalty of suspension for two (2) months.¹³

The Investigating Commissioner found that Atty. Mariano should have desisted from filing the Complaint as the merits thereof were already adjudicated and resolved with prejudice in previous cases. It likewise found that Atty. Mariano's act constituted abuse of the court's processes and, undoubtedly, resulted in improper conduct. However, considering his advance age and his prior service as an officer of the local IBP Chapter, it recommended the imposition of a lower penalty.¹⁴

In a Resolution¹⁵ dated September 14, 2018, the IBP Board of Governors adopted the Investigating Commissioner's Report.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not grounds exist to hold Atty. Mariano administratively liable for forum shopping.

⁷ Id. at 64-69.

⁸ Id. at 83-89.

⁹ Id. at 92-96.

¹⁰ See IBP Report and Recommendation; id. at 194.

¹¹ Id. at 155.

¹² Id. at 193-197. Penned by Commissioner Sherwin C. de Joya.

¹³ Id. at 196

¹⁴ Id.

¹⁵ Id. at 216-217. Penned by Assistant National Secretary Doroteo L.B. Aguila.

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The Court's Ruling

The Court affirms and adopts the findings of the IBP Board of Governors.

The essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.¹⁶ Forum shopping can be committed in three (3) ways, namely: (1) through *litis pendentia* or the filing of multiple cases based on the same cause of action and with the same prayer; (2) through *res judicata* or the filing of multiple cases based on the same cause of action and the same prayer, the previous case having been finally resolved; or (3) through splitting of causes of action where the ground for dismissal is also either *litis pendentia* or *res judicata*.¹⁷

The second circumstance exists in this case as Atty. Mariano committed forum shopping through *res judicata* when he filed the Complaint despite his knowledge that Civil Case Nos. 8668 and 8486 have been resolved with finality. The Complaint itself even provides a narration of these previous cases and acknowledges that an Entry of Judgment was issued therefor, as follows:

15. That it appears that the defendants filed a case for Specific Performance against some of the plaintiffs herein before the Regional Trial Court of Quezon Province, Lucena City;

16. That likewise, it appears that the Republic of the Philippines filed a case for Annulment/Cancellation of Title and Reversion before the Regional Trial Court of Quezon Province, Lucena City relative to the property in question;

17. That thereafter and in both cases, a decision was rendered jointly by Branch 56 of the Regional Trial Court of Quezon Province, Lucena City in favor of the defendants and against the plaintiffs herein;

18. That the plaintiffs herein who are the defendants in the aforesaid cases appealed said decision to the Court of Appeals in CA-CV No. 33533 and on May 28, 1997 affirmed the decision of the Regional Trial Court;

19. That on appeal to the Supreme Court from the decision of the Court of Appeals of the aforesaid case, same was dismissed; [and]

20. That an Entry of Judgment was issued on March 16, 1999[.]¹⁸

As Atty. Mariano was aware that an Entry of Judgment was issued for Civil Case Nos. 8668 and 8486, he should have been similarly knowledgeable that the final disposition of the cases, as decided by the RTC and affirmed by both the CA and the Court, ordered the: (a) nullification and voiding of the Heirs of Beltran's Free Patent Title No. (IV-3) 269 and Original Certificate of Title No. P-17884 over the subject property; and (b) cancellation of the Original Certificate of Title No. P-

¹⁶ See *Alonso v. Relamida, Jr.*, 640 Phil. 325, 334 (2010).

¹⁷ See *Heirs of Sotto v. Palicte*, 726 Phil. 651, 662-663 (2014).

¹⁸ *Rollo*, p. 67.

17884 and the reversion of the subject property to the mass of public domain.¹⁹ Thus, the Complaint's prayer to order Dator and his wife to deliver possession and transfer ownership of the property to the Heirs of Beltran²⁰ seeks to reverse a matter that has already been decided with finality. As a responsible member of the bar, Atty. Mariano should have explained the effect of such final and executory decision on his clients' rights, instead of encouraging them to file another case involving the same property and asserting the same rights.²¹

Further, Atty. Mariano cannot disclaim liability under the ground that he was not a counsel in Civil Case Nos. 8668 and 8486. His act of filing the Complaint despite knowing that Civil Case Nos. 8668 and 8486 were already decided with finality and that, pursuant thereto, the subject property was already reverted to the State makes him culpable in the eyes of the law.²²

Moreover, it is worthy to emphasize that the RTC, in dismissing Civil Case No. 2014-52, stated that the case was barred by *res judicata* due to the judgment in Civil Case Nos. 8668 and 8486.²³ The Court of Appeals too recognized that the Heirs of Beltran had no cause of action against Dator since the subject property was already judicially-ordered reverted to the State under previous proceedings.²⁴

As the elements of *res judicata* are present, Atty. Mariano is adjudged administratively liable for forum shopping and in violation of Canons 1 and 12 of the CPR,²⁵ which provide:

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

CANON 12 – A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER IT HIS DUTY TO ASSIST IN THE SPEEDY AND EFICIENT ADMINISTRATION OF JUSTICE.

All lawyers must bear in mind that their oaths are neither mere words nor an empty formality. When they take their oath as lawyers, they dedicate their lives to the pursuit of justice. They accept the sacred trust to uphold the laws of the land. Canon 1 of the CPR states that '[a] lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.' Moreover, lawyers, in reciting their oath, promised not to 'wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid or consent to the same.'²⁶ The Court has repeatedly warned lawyers against resorting to forum shopping as the same clogs the Court dockets and can lead to conflicting rulings. In fact, willful and deliberate forum shopping has been made punishable either as direct or indirect

¹⁹ Id. at 40-41.

²⁰ Id. at 69.

²¹ *Siy Lim v. Montano*, 518 Phil. 361, 371 (2006).

²² See *Villanueva v. Atty. Alentajan*, A.C. No. 12161, June 8, 2020.

²³ *Rollo*, pp. 94-96.

²⁴ See Decision in CA-G.R. CV No. 105771; id. at 169-178.

²⁵ See *Villanueva v. Atty. Alentajan*, A.C. No. 12161, June 8, 2020.

²⁶ See *Go v. Teruel*, A.C. No. 11119, November 4, 2020.

contempt of court under SC Administrative Circular No. 04-94 dated April 1, 1994.²⁷

Having established Atty. Mariano's administrative liability, the Court now determines the proper penalty to be imposed.

It is well-settled that "the determination of the appropriate penalty to be imposed on an errant lawyer involves the exercise of sound judicial discretion based on the facts of the case."²⁸ In the past, the Court has suspended lawyers from the practice of law for committing forum shopping. In the cases of *Court of Appeals v. Tarroza*,²⁹ *Williams v. Enriquez*,³⁰ and the recent case of *Villanueva v. Alentajan*,³¹ the errant lawyers who committed forum shopping through *res judicata* were suspended for one (1) month, six (6) months, and three (3) months, respectively.

These pronouncements notwithstanding, in several administrative cases, the Court has refrained from imposing the standard penalties in the presence of mitigating factors. Factors such as respondent's length of service, the acknowledgement of the infraction committed, feelings of remorse, family circumstances, humanitarian and equitable considerations, advanced age, among others, are considered by this Court in determining the imposable penalty.³² In this regard, taking into consideration Atty. Mariano's old age and his prior service as an officer of the local IBP chapter, the Court agrees with the recommendation of the IBP to suspend him from the practice of law for a period of two (2) months.

WHEREFORE, Atty. Valeriano B. Mariano is found **GUILTY** of violating Canons 1 and 12 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of two (2) months effective upon receipt of this Resolution, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

Atty. Mariano 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. Mariano'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 is directed to circulate them for their information and guidance.

SO ORDERED." (Rosario, J., designated additional member per Special Order No. 2835 dated July 15, 2021.)

²⁷ *Teodoro III v. Atty. Gonzales*, 702 Phil. 422, 431 (2013).

²⁸ *Venterez v. Atty. Cosme*, 561 Phil. 479, 490 (2007).

²⁹ See Notice of Resolution in *Court of Appeals v. Atty. Tarroza*, A.C. No. 7037, March 10, 2015.

³⁰ 769 Phil. 666, 673 (2015).

³¹ A.C. No. 12161, June 8, 2020.

³² See *Rayos v. Atty. Hernandez*, 544 Phil. 447, 463 (2007).

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *Wth*
05 Oct 2021 10/5

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*Note: For Circularization to all Courts.
Please notify the Court of any change in your address.
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