REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

N O T I C E

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **23 February 2022** *which reads as follows:*

"A.C. No. 11230 (Cipriano O. Namocatcat, v. Atty. Jim L. Amarga.) – The instant administrative case stemmed from a complaint[1] filed by Cipriano O. Namocatcat (complainant) against Atty. Jim L. Amarga (respondent) for violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR).

Antecedents

Complainant filed an Affidavit-Complaint dated 10 March 2016, charging respondent with violation of the Lawyer's Oath and Rules 1.01 to 1.04 of the CPR for allegedly advising, suggesting, directing, and not preventing his client, Ms. Virginia Manial (Ms. Manial), from forcibly entering Lot Nos. 317, 318, and 319-A (subject lots) located in Kitaro, Lingating, Baungon, Bukidnon.

Apparently, complainant filed before the Regional Trial Court (RTC) of Manolo Fortich, Bukidnon a case for Reconveyance, Quieting of Title, and Cancellation of *Katibayan ng Original na Titulo Blg.* P-43913 (Katibayan) against Ms. Manial. He claimed that his family has been in actual occupation, cultivation, open, continuous, and notorious possession of the said lots since 1960.

In its Decision[2] dated 23 March 2006, the RTC dismissed the case, finding that the *Katibayan* issued in the name of Ms. Manial covers Lot No. 317. It also found that complainant failed to prove his claim of adverse possession of Lot Nos. 317 and 318. Meanwhile, the evidence showed that complainant was in open, continuous, and adverse possession of Lot No.

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[1] *Rollo*, pp. 1-7.
[2] *Id.* at 15-19.

319. The judgment was affirmed by the Court of Appeals[3] and this Court,[4] which issued an Entry of Judgment[5] dated 14 March 2014.

On 10 June 2014, respondent filed a Motion for Execution and/or Restitution before the RTC. Meanwhile, complainant filed on 04 August 2014, a Manifestation with Comment[6] with the RTC, stating that Ms. Manial forcibly entered the subject lots, and installed thereon barbwire fences and "no trespassing" signs.

Complainant further alleged that on 06 August 2014, without court order or writ of execution, respondent persuaded his client, Ms. Manial, to forcibly enter the subject lots. Allegedly, Ms. Manial, together with several hired persons and policemen, forcibly entered and, in the presence of complainant and his family, demolished complainant's house, destroyed cassava crops, and cut several trees standing on the subject lots.

According to complainant, the unlawful acts were advised or suggested by respondent as counsel of Ms. Manial as "[n]o person in his right mind" would do the same "if [respondent] did not consent or even directed such."[7]

On 15 September 2014, the RTC granted the motion for execution, ordering the Clerk of Court "to issue a writ of execution or restitution of the Decision of this court dated 23 March 2005, concerning Lot 317."[8] A Writ of Execution[9] dated 22 September 2014 was issued.

On 24 September 2014, the sheriff implemented the writ. The sheriff, together with Ms. Manial and her companions, demolished the house found in Lot 319-A, which is registered under the names of complainant's wife and son. Thus, complainant filed a complaint for forcible entry before the Municipal Circuit Trial Court (MCTC) of Baungon, Bukidnon against Ms. Manial and her cohorts.

Complainant asserted that the above incidents happened through the "suggestion and direction" of respondent. He contended that by "advising, suggesting, and directing" Ms. Manial and her cohorts to forcibly enter the subject lots, or at least "knowing" that they were about to do said acts but did not stop them, or not stopping his client despite having known such acts,

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3 *Id.* at 47-56.
4 *Id.* at 82.
5 *Id.* at 20-21.
6 *Id.* at 22-24.
7 *Id.* at 3.
8 *Id.* at 28.
9 *Id.* at 27-29.

respondent violated his oath and the CPR and should be disciplined.

In his Comment,[10] respondent denied any prior knowledge or information regarding the alleged incidents. He argued that there was no evidence to sustain complainant's claims, or that he had prior knowledge regarding such entry. He pointed out that he was not present during the implementation of the writ as he did not even know the date of its implementation. He further argued that the fact that he filed, on behalf of Ms. Manial, a motion for execution, shows that he did not advise, suggest, or direct the alleged forcible entry. Moreover, respondent argued that the sheriff implemented the writ and had the control and discretion to enforce the same.

Respondent likewise asserted that this complaint is a harassment suit considering that complainant has lost all the cases he filed against Ms. Manial, which, aside from the reconveyance and forcible entry cases, included complaints against Ms. Manial for annulment of tax declarations; land registration proceedings; indirect contempt;[11] protest[12] against Ms. Manial's applications before the DENR; criminal complaint for falsification of public document; as well as administrative cases against the RTC Judge and the sheriff.[13]

In a Resolution[14] dated 05 September 2016, the Court resolved to refer the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

Ruling of the IBP

In his Report and Recommendation[15] dated 16 January 2020, the Investigating Commissioner dismissed the complaint. In a Resolution[16] dated 13 June 2020, the Board of Governors of the IBP adopted and approved the Investigating Commissioner's report and recommendation.

Issue

The sole issue for determination is whether or not respondent should

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[10] *Id.* at 38-46.
[11] *Id.* at 77-81.
[12] *Id.* at 83-84.
[13] *Id.* at 85-87.
[14] *Id.* at 89.
[15] *Id.* at 222-228. Signed by Commissioner Oliver A. Cachapero.
[16] *Id.* at 158.

be held liable for violations of his oath and the CPR.

Ruling of the Court

At the outset, the Court notes that the IBP, in arriving at its recommendation, mentioned different standards of proof. It stated that in administrative complaints against lawyers, the complainant must establish his charge by "clear, convincing and satisfactory proof," and that "clear preponderance of evidence" is required to establish liability for disbarment or suspension of a lawyer.[17] Indeed, previous jurisprudence applied different evidentiary thresholds in administrative proceedings involving lawyers.

In *Reyes v. Nieva*,[18] the Court acknowledged that previous rulings appear to conflict as to which quantum of proof should be applied in administrative cases against lawyers. Thus, to quell any further confusion, the Court held that substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is the proper evidentiary threshold, being more in keeping with the purpose of such cases, thus:

> Besides, the evidentiary threshold of substantial evidence — as opposed to preponderance of evidence — is more in keeping with the primordial purpose of and essential considerations attending this type of cases. As case law elucidates, "[d]isciplinary proceedings against lawyers are sui generis. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. It may be initiated by the Court motu proprio. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor."

Thus, the evidentiary threshold to be applied in administrative cases against lawyers is substantial evidence, and not preponderance of evidence or clear, convincing, and satisfactory proof.

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[17] *Id.* at 226.

[18] 794 Phil. 360 (2016). Citation omitted.

case, complainant still failed to prove his charges against respondent. The Court thus agrees with the recommendation of the IBP to dismiss the instant complaint.

An attorney enjoys the legal presumption of innocence until the charges against him or her is proved. As an officer of the Court, he or she is presumed to have performed his or her duties in accordance with his or her oath.[19] Bare allegation or accusation is neither evidence nor equivalent to proof. Charges based on mere suspicion and speculation cannot be given credence.[20]

As aptly found by the IBP, complainant "delved merely on speculation and guesswork" in proving his charges that respondent breached his duty as a lawyer by "advising," "suggesting," and "directing" Ms. Manial to forcibly enter the subject lots. The IBP also noted that respondent was not even part of the demolition team when the writ of execution was implemented or present during the 06 August 2014 and 24 September 2014 incidents. In fact, complainant did not make such allegation in his Affidavit-Complaint or any of his later pleadings. On the contrary, complainant's evidence shows that respondent did not advise his client to forcibly enter the subject lots. As mentioned, respondent filed a motion for execution after this Court dismissed with finality the reconveyance complaint. This motion and the fact that respondent was not, or was even alleged to be, present during the 06 August 2014 and 24 September 2014 incidents, contravene complainant's allegations against respondent.

Meanwhile, respondent's defense that he had no prior knowledge about the 06 August 2014 and 24 September 2014 incidents was corroborated by Ms. Manial in her Judicial Affidavit[21] dated 03 May 2017. She confirmed that she did not visit or call respondent prior to the said incidents. She only communicated with respondent when complainant filed the forcible entry case, to which respondent advised Ms. Manial the need to conduct a relocation survey to determine whether she entered Lot No. 319-A on 24 September 2014.

Consistent with such advice, Ms. Manial, represented by respondent in the forcible entry case, agreed to conduct a relocation survey. The survey report confirmed that the area occupied and entered into by Ms. Manial and her co-defendants on 24 September 2014 was Lot 319-A. Ms. Manial and her co-defendants vacated Lot No. 319-A after the conduct of the relocation

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[19] *Tan v. Alvarico*, A.C. No. 10933, 03 November 2020, citing *BSA Tower Condominium Corporation v. Atty. Reyes*, A.C. No. 11944, 20 June 2018 and *Zara v. Atty. Joyas*, A.C. No. 10994, 10 June 2019.

[20] *Cabas v. Sususco*, A.C. No. 8677, 15 June 2016 [Per J. Peralta], citing Dr. De Jesus v. Guerrero III, 614 Phil. 520, 529 (2009).

[21] *Rollo*, pp. 207-216.

survey.[22]

In the same manner, respondent cannot be faulted for not being able to "stop his client" as complainant failed to show that respondent had prior knowledge or information about Ms. Manial's plans or intentions before the alleged entry on 06 August 2014 and 24 September 2014. Clearly, respondent cannot reasonably be expected to prevent something he was not shown to be aware of and had the opportunity to do so.

Other than his bare allegations, complainant failed to present adequate proof to substantiate his charges. There is simply no evidence of any of complainant's allegations or respondent's supposed violation of his oath or duty as a lawyer. Considering that complainant failed to discharge the burden of proving his charges by substantial evidence, the Court finds the recommendation of the IBP to be in order.

WHEREFORE, the Court **ADOPTS** and **APPROVES** the Resolution dated 13 June 2020 of the Board of Governors of the Integrated Bar of the Philippines. Accordingly, the administrative complaint against respondent Atty. Jim L. Amarga is hereby **DISMISSED** for lack of merit.

Further, the Court **NOTES**:

1. the letter dated 04 August 2021 of the Intergrated Bar of the Philippines transmitting the documents pertaining to this case; and

2. the Notice of Resolution dated 13 June 2020 of the IBP Board of Governors, approving and adopting the report and recommendation of the Investigating Commissioner, and dismissing the case after finding the recommendation to be fully supported by the evidence on records and the applicable laws and rules.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court
20 JUN 2022

[22] *Rollo*, p. 62.

CIPRIANO O. NAMOCATCAT (reg)
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