



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 March 2022** which reads as follows:*

**“A.C. No. 11625 (Wilfredo D. Rivera vs. Atty. Annemarie Acosta-Quiros).** – We resolve the administrative Complaint<sup>1</sup> filed by Wilfredo D. Rivera (complainant) against respondent Atty. Annemarie Acosta-Quiros (respondent) for violation of the Lawyer’s Oath.<sup>2</sup>

**Antecedents**

Complainant filed the administrative case before the Office of the Bar Confidant wherein he alleged the following:

- (1) Sometime in 2013, he learned that two (2) parcels of land located in Jimenez, Misamis Occidental, which he inherited from the estate of his father, were already in the possession of, and titled to, Spouses Felix and Alice Antipuesto;
- (2) The transfer of the properties were made by virtue of a Deed of Absolute Sale<sup>3</sup> dated 04 April 1999 allegedly signed by complainant;
- (3) It would have been impossible for him to sell said properties on the date and place so stated in the Deed of Absolute Sale since he was then in the Ninoy Aquino International Airport (NAIA) in Manila and bound for the United States;
- (4) His signature appearing on the Deed of Absolute Sale is a forgery;
- (5) He consulted with respondent regarding the matter and was convinced by the latter that they could get his properties back;
- (6) With respondent’s assistance, two (2) cases were filed against Felix Antipuesto before the Regional Trial Court (RTC) in Oroquieta City (one for Declaration of Nullity of Deed of Absolute Sale with Damages and the other for reconveyance). Both these

<sup>1</sup> *Rollo*, pp. 2-6.

<sup>2</sup> *Id.* at 5.

<sup>3</sup> *Id.* at 10.

- cases were dismissed for want of jurisdiction;
- (7) On 03 October 2014, and after the RTC dismissed the case for declaration of nullity for lack of jurisdiction, respondent filed the same case, this time before the Municipal Circuit Trial Court (MCTC) of Jimenez-Sinabacan. This complaint, however, was also dismissed on the ground of extinctive prescription. Respondent filed a motion for reconsideration but this was also denied.
  - (8) Respondent did not notify him of dismissal by the MCTC nor did she file an appeal therefrom;
  - (9) When he received a copy of the MCTC Resolution, he immediately went to see respondent at her office but the latter was allegedly out of town and “did no effort to protect the complainant;”
  - (10) He also asked respondent to prepare a complaint against Atty. Benjamin Galindo (Atty. Galindo), the notary public who notarized the allegedly spurious Deed of Absolute Sale;
  - (11) Respondent prepared the complaint against Atty. Galindo but refused to notarize the same, claiming that she was friends with the latter. Complainant was thus constrained to have the complaint notarized elsewhere; and
  - (12) He is currently charged with the crime of perjury before the Municipal Trial Court in Cities (MTCC), Oroquieta City, due to respondent’s alleged negligence in the preparation of the complaint for estafa they filed against the Spouses Antipuesto.<sup>4</sup>

In view of the foregoing, complainant prayed that respondent be “declared to have violated her oath as a lawyer and be imposed with penalty/ies accordingly.”<sup>5</sup>

In a Resolution<sup>6</sup> dated 25 April 2017, this Court resolved to require respondent to file her comment within ten (10) days from notice.

Subsequently, respondent filed her Comment<sup>7</sup> dated 18 September 2017 denying complainant’s allegations and claiming that the complaint “is malicious and full of lies and half truths...”<sup>8</sup> She maintained that the actions she filed on complainant’s behalf were based on established jurisprudence and were wrongly dismissed. However, and “since [complainant] was in a hurry,” they decided to file the action for declaration of nullity of the Deed of Absolute Sale (which was dismissed by the RTC for lack of jurisdiction)

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<sup>4</sup> Id. at 2-4.

<sup>5</sup> Id. at 5.

<sup>6</sup> Id. at 107.

<sup>7</sup> Id. at 112-115.

<sup>8</sup> Id. at 112.

with the MCTC as directed by the RTC, instead of appealing the dismissal before the CA. When respondent received the resolution from the RTC also dismissing their action for reconveyance for lack of jurisdiction, she informed complainant and they agreed “to pursue the case after the resolution of the nullity case [they filed before the MCTC].”

Respondent also insisted that she updated respondent, through her secretary Elvie Polutan, about the MCTC’s dismissal of their case but that complainant told them that he has already engaged another lawyer in Cagayan de Oro City. When asked to get the MCTC order from respondent’s office so that it can be “properly disposed of” by his new counsel, complainant did not come. Respondent was thus constrained to file a motion for reconsideration with the MCTC to buy time for complainant (and his new counsel). When the motion for reconsideration was denied, respondent again asked her secretary to contact complainant. Complainant went to respondent’s office but left soonafter as respondent was in a meeting with another client at the time. Nevertheless, complainant was still advised to ask his new lawyer to file an appeal. Later on, complainant returned and confirmed that he was already able to file an appeal but that his lawyer wanted to get the records of the case.

Respondent also explained that she did not follow complainant’s order to file a disbarment complaint against Atty. Galindo as the same would be premature, “considering that the nullification of the document said to be forged and notarized by [Atty. Galindo] was still pending in court.”

On 14 December 2017, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, Report and Recommendation.<sup>9</sup>

### **Report and Recommendation of the IBP**

In his Report and Recommendation<sup>10</sup> dated 20 January 2020, Investigating Commissioner Roland B. Beltran recommended that the complaint against respondent be dismissed for lack of merit. The salient portion of the Report reads:

Complainant Rivera’s allegations of “carelessness and lack of zeal of [respondent] to defend his client” has not been adequately proven. [Complainant] was given the opportunity to substantiate his accusations against [respondent], but failed. He did not appear during the

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<sup>9</sup> Id. at 165.

<sup>10</sup> Id. at 198-201.

opportunity to substantiate his accusations against [respondent], but failed. He did not appear during the Mandatory Conference which was reset on several occasions. The basic rule is that "mere allegation is not evidence and is not equivalent to proof."

On the other hand, record of the case shows that [respondent] prepared and filed the necessary pleadings and motions, she has exercised ordinary diligence required of her by law and jurisprudence. The subsequent dismissal of the cases she filed on behalf of her client is of no moment. The rule is that the client is bound by the mistakes of his counsel.<sup>11</sup>

On 10 October 2020, the IBP Board of Governors passed Resolution No. CBD-2020-10-18 adopting Commissioner Beltran's Report and Recommendation, thus:

RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case to **DISMISS** the case, after finding the recommendation to be fully supported by the evidence on record and the applicable laws and rules.<sup>12</sup>

### **Ruling of the Court**

In *Tan v. Alvarico*,<sup>13</sup> this Court, speaking through Chief Justice Diosdado Peralta, held:

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. In disbarment proceedings, the quantum of proof is substantial evidence and the burden of proof is on the complainant to establish the allegations in his complaint.

Substantial evidence is defined under Section 6, Rule 133 of the 2019 Amendments to the 1989 Revised Rules on Evidence as "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion," while burden of proof is defined under Section

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<sup>11</sup> Id. at 200.

<sup>12</sup> Id. at 196.

<sup>13</sup> A.C. No. 10933, 03 November 2020.

1, Rule 131 as "the duty of a party to present evidence on the facts in issue necessary to establish his or her claim or defense by the amount of evidence required by law."

The basic rule is 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 his 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.<sup>14</sup>

Here, the IBP Investigating Commissioner found insufficient evidence to support complainant's contention that respondent was negligent in handling his affairs. We see no reason to depart from the IBP's findings.

The Complaint filed before the OBC had several supporting documents. These include copies of the Complaints<sup>15</sup> drafted and/or filed by respondent on complainant's behalf before the courts. Far from establishing a case for negligence, however, these only proved that respondent did, in fact, file a number of pleadings on complainant's behalf. Furthermore, and as noted by the IBP, the dismissal of the cases *per se* does not necessarily equate to negligence on the part of counsel.

On the other hand, respondent, citing a number of rulings issued by this Court, was able to explain the basis for her disagreement with the RTC's dismissal of their cases. While she advised pursuing an appeal, they instead decided to re-file the case with the MCTC, as directed by the RTC, since complainant was "in a hurry." Respondent also sufficiently explained why she did not accommodate complainant's directive to file an administrative complaint against Atty. Galindo (that is, the case for annulment of the allegedly spurious deed notarized by Atty. Galindo was still pending resolution).

Moreover, the record shows evidence submitted by respondent to prove that she had been updating and advising complainant on the status of his cases<sup>16</sup> and even filed a Motion for Reconsideration<sup>17</sup> to protect complainant's interests and to give him and his new counsel time to get their bearings on the cases. This Court also notes that complainant did not bother

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<sup>14</sup> *Id.*

<sup>15</sup> *Rollo*, pp. 7-17, 19-27, 33-35.

<sup>16</sup> *Id.* at 130, 135-136.

<sup>17</sup> *Id.* at 81-82.

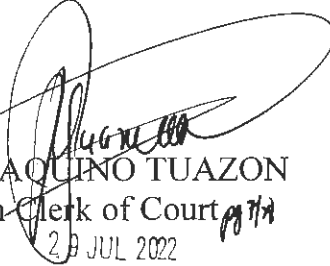
to appear, much less offer controverting evidence, in the mandatory conference between the parties scheduled by the IBP, despite several re-settings.<sup>18</sup>

Charges meriting disciplinary action against members of the Bar generally involve the motives that induced them to commit the acts or acts charged, and that, to justify disbarment or suspension, the case against them must be clear and free from doubt, not only as to the acts charged, but as to their motive.<sup>19</sup> In consideration of the gravity of the consequences of the disbarment or suspension of a member of the bar, we have consistently held that a lawyer enjoys the presumption of innocence, and the burden of proof rests upon the complainant to satisfactorily prove the allegations in his complaint through substantial evidence.<sup>20</sup> Over all, the Court finds that complainant failed to prove, by substantial evidence, his claims that respondent should be administratively held liable for violating her oath as a lawyer.

**WHEREFORE**, premises considered, the administrative Complaint against respondent Atty. Annemarie Acosta-Quiros is **DISMISSED** for lack of merit.

**SO ORDERED.”**

By authority of the Court:

  
TERESITA AQUINO TUAZON  
Division Clerk of Court  
29 JUL 2022

<sup>18</sup> Id. at 167, 173, 177, 182, 183, 192; The record shows that mandatory conference was scheduled and rescheduled on the following dates: 26 July 2018, 21 September 2018, 25 October 2018, 09 January 2019.

<sup>19</sup> *Biliran v. Bantugan*, A.C. No. 8451, 30 September 2020.

<sup>20</sup> *Rico v. Atty. Mardazo*, A.C. No. 7231, 01 October 2019, citing *Goopio v. Maglalang*, 837 Phil. 565 (2018).

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\*For this resolution only  
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