



Republic of the Philippines  
Supreme Court  
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated April 19, 2022 which reads as follows:*

**“A.C. No. 11717 [Formerly CBD Case No. 17-5481](Nelson June A. Cusipag, Complainant vs. Atty. Luis T. Donato, Jr., Respondent).** – This administrative case arose from the Complaint<sup>1</sup> dated May 30, 2017 filed by Nelson June A. Cusipag (complainant) before the Court against Atty. Luis T. Donato Jr. (respondent) for alleged violation of the Code of Professional Responsibility (CPR).

Complainant narrated that: (1) he earlier sought the advice of respondent relative to a labor case pending before the Court of Appeals (CA) but respondent entered his appearance for the opposing party;<sup>2</sup> (2) complainant brought the issue of respondent’s conflict of interest before the CA through an Affidavit<sup>3</sup> dated September 8, 2016; and (3) on the basis of his Affidavit, respondent filed a case of Perjury against him before the Office of the City Prosecutor (OCP) of Manila. Aggrieved, complainant filed a disciplinary case (first case)<sup>4</sup> against respondent for alleged conflict of interest.<sup>5</sup>

Subsequently, complainant filed the present Complaint<sup>6</sup> (second case) wherein he alleged that respondent violated Rule 10.01, Canon 10 of the CPR and committed falsehood in three instances:<sup>7</sup> (a) when

- over – four (4) pages ...

102-A

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

<sup>2</sup> See Annex “A” of the Complaint dated Mat 30, 2017, id. at 6-8.

<sup>3</sup> Id. at 11-12.

<sup>4</sup> Id. at 6-8.

<sup>5</sup> Id. at 1-2.

<sup>6</sup> Id. at 1-5.

<sup>7</sup> Id. at 2-3.

he submitted before the CA an *ex-parte* explanation<sup>8</sup> dated October 2, 2016 but the affidavits attached were dated October 3, 2016; (b) when he submitted an addendum to the *ex-parte* explanation<sup>9</sup> dated October 25, 2016 but the affidavits attached were executed on October 28, 2016; and (c) when he filed multiple cases<sup>10</sup> charging complainant with Perjury.<sup>11</sup>

In the Resolution<sup>12</sup> dated July 17, 2017, the Court referred the second case to the Integrated Bar of the Philippines (IBP) for report and recommendation within 30 days from notice.

In his Answer,<sup>13</sup> respondent denied complainant's allegations of conflict of interest and asserted that complainant violated the rules on forum shopping when he filed the instant complaint which is similar to the first case.<sup>14</sup>

In a Report<sup>15</sup> dated June 13, 2019, the Investigating Commissioner recommended the dismissal of the second case for failure of complainant to show that respondent violated Canon 10 of the CPR. The Report was approved and adopted by the IBP-Board of Governors in its Resolution<sup>16</sup> dated August 8, 2020 after finding the recommendation to be fully supported by the evidence on record and the applicable laws and rules.

Thereafter, the Court dismissed the first case in its Resolution<sup>17</sup> dated March 4, 2020, *viz.*:

All the foregoing duly considered, this Court cannot hold respondent administratively liable and impose upon him disciplinary sanction based only on speculations and the unsubstantiated allegations of complainant. x x x.

x x x x.

WHEREFORE, x x x x. The Complaint against Atty. Luis T. Donato, Jr. is hereby DISMISSED.

- over -  
**102-A**

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<sup>8</sup> Id. at 13-18.

<sup>9</sup> Entitled as Addendum to the *Ex parte* Explanation, id. at 29-30.

<sup>10</sup> Id. at 72.

<sup>11</sup> Id. at 3.

<sup>12</sup> Id. at 61.

<sup>13</sup> Id. at 69-75.

<sup>14</sup> Id. at 289.

<sup>15</sup> Id. at 285-291. Penned by Commissioner Leland R. Villadolid, Jr.

<sup>16</sup> Id. at 283.

<sup>17</sup> *Cusipag v. Atty. Donato*, A.C. No. 11503 (Notice), March 4, 2020.

Accordingly, the case is considered CLOSED and TERMINATED.

SO ORDERED.<sup>18</sup>

### *The Issue*

The issue to be resolved in the case is whether respondent should be administratively disciplined based on complainant's allegations.

### *The Court's Ruling*

The Court adopts the findings of fact and the recommendation made by the IBP as affirmed by the IBP Board of Governors.

In disbarment proceedings, the burden of proof rests upon the complainant. 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 has performed his duties in accordance with his oath.<sup>19</sup>

Here, complainant miserably failed to discharge this burden. For emphasis, Rule 10.01, Canon 10 of the CPR reads:

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

As correctly held by the IBP, the fact that respondent's *ex-parte* explanation<sup>20</sup> and addendum to the *ex-parte* explanation<sup>21</sup> contained an earlier date compared to the attached affidavits does not constitute falsehood because the date of the pleading is completely irrelevant to the date of the execution of the attached affidavits. The affiants were merely giving their sworn statements and were not verifying the truthfulness or veracity of the allegations in the *ex-parte* explanation<sup>22</sup> and the addendum to the *ex-parte* explanation.<sup>23</sup> Moreover, respondent did not mislead the court when he filed the Perjury cases against complainant. In fact, there is no court yet to speak of because the filing of the criminal complaints was only made before the OCP.<sup>24</sup>

- over -

102-A

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<sup>18</sup> Id.

<sup>19</sup> See v. *Atty. Adviento*, A.C. No. 12934 (Notice), February 10, 2021.

<sup>20</sup> *Rollo*, pp.13-18.

<sup>21</sup> Id. at 29-30.

<sup>22</sup> Id. at 13-18.

<sup>23</sup> Id. at 290.


<sup>24</sup> Id. at 291.

**WHEREFORE**, the disbarment complaint against Atty. Luis T. Donato, Jr. is **DISMISSED** for lack of merit.

The Notice of Resolution No. CBD-2020-08-14 dated August 8, 2020 of the Integrated Bar of the Philippines-Board of Governors, transmitted by Letter dated August 4, 2021 of Atty. Avelino V. Sales, Jr., Director for Bar Discipline, together with the records of the case and the flash drive file, is **NOTED**.

**SO ORDERED.**” *Gaerlan, J., on official leave.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *4/19/22*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**102-A**  
JUL 19 2022

Mr. Nelson June A. Cusipag  
Complainant  
Cagelco Village, Phase 1, Pallua Sur  
Tuguegarao City, 3500 Cagayan

Atty. Luis T. Donato, Jr.  
Respondent  
No. 22 Lecaros cor. Del Rosario Streets  
Centro 05, Tuguegarao City, 3500 Cagayan

Atty. Rowena H. De Guzman-Donato  
Counsel for Respondent  
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