



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. 11815 (Cadar M. Tomawis vs. Atty. Alejandro Jose C. Pallugna.) — The instant administrative case stemmed from a Complaint¹ filed by Cadar M. Tomawis (complainant) against Atty. Alejandro Jose C. Pallugna (respondent) for Grave Misconduct and violation of the Lawyer’s Oath.

Antecedents

Complainant filed a Complaint dated 02 August 2017 charging respondent with Grave Misconduct and violation of the Lawyer’s Oath. Allegedly, respondent demanded and received the amount of Four Million Pesos (₱4,000,000.00) from complainant to cause the dismissal of the pending criminal case against complainant’s brother, Amer Tomawis (Amer), and the latter’s wife, Jamilah Tomawis (Jamilah). However, respondent did not cause and did nothing to cause the dismissal of the case.²

As stated in the complaint, Amer and Jamilah contacted complainant sometime in November 2012 and asked him to contact a practicing lawyer in Cagayan de Oro to represent them in their case pending before the Regional Trial Court (RTC) therein. Through their relative, Noel Radia, complainant was referred to respondent.³

Complainant went to respondent’s law office, Pallugna and Pallugna Law Office, in Cagayan de Oro City, and presented to respondent Amer’s problem. Respondent told complainant that he could dismiss the case if complainant pays him the amount of Four Million Pesos (₱4,000,000.00) as he would deal with Judge Macabayao, the presiding judge where the case was pending. Complainant agreed and paid respondent the said amount in

¹ *Rollo*, pp. 1-7.

² *Id.* at 55-57.

³ *Id.* at 1-2.

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two (2) installments. Respondent told complainant not to worry as he will work out to dismiss the case of Amer and Jamilah, which complainant believed because respondent was a lawyer.⁴

To their surprise, instead of working to dismiss the case, respondent worked for the transfer of the case of Amer and Jamilah to Manila, without their consent and without filing any single pleading in the case. Amer then sent someone to demand from respondent the money given to him. However, respondent told him that he had a deal with complainant and the money could not be returned as it was his attorney's fee.⁵

Complainant then confronted respondent with a demand letter, telling him that the amount of Four Million Pesos (₱4,000,000.00) is not the usual amount for an attorney's fee for a criminal case, and that respondent is only entitled to Fifty or One Hundred Thousand Pesos because he did nothing for the case.⁶ In his demand Letter⁷ dated 17 July 2017, complainant demanded from respondent to pay the amount of Four Million Pesos (₱4,000,000.00) within ten (10) days, warning that he will sue him if he fails to do so. Respondent refused to return the money.⁸

Thus, complainant filed this complaint against respondent for disbarment.⁹

In his Comment¹⁰ dated 13 December 2017, respondent denied all the allegations in the complaint. Respondent stated that he did not know complainant and he did not enter into any agreement with him. Respondent pointed out the lack of any written document to prove any contractual relation with complainant. He also pointed out that complainant had no evidence of written receipt of the money purportedly given to him.¹¹

Respondent maintained that his clients were Princess Tomawis, Amer Tomawis, and Sultan Jerry Tomawis (Tomawis clients) in the case referred to by complainant. As counsel, he complied with his obligations under his contract for legal services with the Tomawis clients, and Sultan Jerry and Princess were in fact acquitted of the charges against them. Respondent also alleged that he did not receive any complaint from the Tomawis clients,

⁴ Id. at 2.

⁵ Id. at 3.

⁶ Id.

⁷ Id. at 8.

⁸ Id.

⁹ Id. at 1-7.

¹⁰ *Rollo*, pp. 13-18.

¹¹ Id.

being their counsel for almost five (5) years.¹²

Respondent further denied working for the transfer of the case. He explained that the Department of Justice (DOJ) petitioned the case to be transferred to Manila because one of the co-accused named “Koko Rasuman” was a high-profile target, generating considerable public attention, and his life was in danger. He alleged that he opposed the transfer and that despite the same, he volunteered to continue representing the Tomawis clients. However, the Tomawis clients decided to engage another lawyer in Manila for reasons of practicality and economy, as they would have to pay for respondent’s travel and lodging expenses and appearance fees for the hearings in Manila.¹³

In a Resolution¹⁴ dated 18 April 2018, 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 Recommendation¹⁵ dated 18 March 2019, the Investigating Commissioner recommended the dismissal of the complaint for failure of the complainant to prove his accusations with substantial evidence. In a Resolution¹⁶ dated 28 July 2021, 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 be held liable for Grave Misconduct and for violation of the Lawyer’s Oath.

Ruling of the Court

After reviewing the allegations in the Complaint and the evidence on record, the Court adopts and affirms the recommendation of the IBP to dismiss the Complaint.

¹² Id. at 14.

¹³ Id. at 14-17.

¹⁴ Id. at 24.

¹⁵ Id. at 55-57; signed by Commissioner Rebecca Villanueva-Maala.

¹⁶ Id. at 53-54.

It is the duty of the Court towards the members of the bar not only to administer discipline to those found guilty of misconduct, but also to protect them and their reputation from malicious charges. Thus, while the Court will not hesitate to mete out proper disciplinary punishment upon lawyers who are shown to have failed to live up to their sworn duties, it will neither hesitate “to extend its protective arm to them when the accusation against them is not indubitably proven.”¹⁷

An attorney enjoys the legal presumption of innocence until the charges against him or her is proved. As an officer of the Court, a lawyer is presumed to have performed his or her duties in accordance with his or her oath.¹⁸ The burden of proof rests upon the complainant to satisfactorily prove the allegations in his or her complaint through substantial evidence.¹⁹ Bare allegation or accusation is neither evidence nor equivalent to proof. Charges based on mere suspicion and speculation cannot be given credence.²⁰ “He who asserts not he who denies, must prove.”²¹

In this case, complainant failed to substantiate his allegations against respondent. As correctly found by the IBP, “complainant miserably failed to prove these very serious accusations with substantial evidence. In fact, not a single corroborative proof was presented by him other than his bare allegations.”²²

Complainant did not present proof in support of his accusations against respondent other than his bare allegations and an affidavit²³ of his alleged companion, Gerald M. Tomawis (Gerald), in his purported meetings with respondent. No other independent, corroborative proof or evidence was offered by complainant.

Gerald’s affidavit, however, is hearsay as respondent did not have any opportunity to cross-examine Gerald and test his accuracy and truthfulness and freedom from interest or bias, or the reverse, and to elicit all important

¹⁷ *Arcadio v. Atty. Ylagan*, 227 Phil. 157, 165 (1986).

¹⁸ *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.

¹⁹ *Spouses Nocuenca v. Bensi*, A.C. No. 12609, 10 February 2020, citing *Goopio v. Maglalang*, A.C. No. 10555, 31 July 2018.

²⁰ See *Cabas v. Sususco*, 787 Phil. 167, 174 (2016), citing *Dr. De Jesus v. Guerrero III*, 616 Phil. 520, 529 (2009).

²¹ *Advincula v. Macabata*, 546 Phil. 431, 446 (2007), citing *Angeles v. Figueroa*, 507 Phil. 194, 201 (2005).

²² *Rollo*, p. 57.

²³ *Id.* at 9-10.

facts bearing upon the issues. Under the hearsay rule, “no assertion offered as testimony can be received unless it is or has been open to test by cross-examination or an opportunity for cross-examination.”²⁴ The reason for this is that “out-of-court statements amounting to hearsay are not made under oath and are not subject to cross-examination.”²⁵ Consequently, the Court has ruled that hearsay evidence, whether objected to or not, has no probative value.²⁶ Considering that Gerald’s affidavit cannot be considered as proof or evidence, complainant is left with his bare and unsubstantiated accusations.

Complainant, after filing the subject complaint, no longer participated in the subsequent proceedings of this case. He did not appear or participate in the investigation of the IBP nor submit any other pleading, such as his verified position paper, as directed by the Investigating Commissioner. Because of complainant’s absence in the subsequent proceedings, no evidence was adduced to prove his charges, justifying the dismissal of his Complaint.²⁷

In view of the foregoing, complainant has failed to discharge the burden of proving his charges by substantial evidence. There is no evidence of any of complainant’s allegations or respondent’s supposed grave misconduct or violation of his oath or duty as a lawyer. Thus, the Court finds the recommendation of the IBP in order.

WHEREFORE, the Court **ADOPTS** and **APPROVES** the Resolution dated 28 July 2021 of the Board of Governors of the Integrated Bar of the Philippines. Accordingly, the administrative complaint against respondent Atty. Alejandro Jose C. Pallugna is hereby **DISMISSED** for lack of merit.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court 4/7/21

²⁴ *Uytengsu III v. Baduel*, 514 Phil. 1, 12 (2005).

²⁵ *Id.* at 12.

²⁶ See *UCPB General Insurance, Co., Inc.*, G.R. No. 242328, 26 April 2021. 27 JUL 2022

²⁷ See *Banaag v. Salindong*, 212 Phil. 438, 440 (1984).

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