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. 12736 (*Glee Properties Corporation, Inc., represented by Gaspar E. Llamas, Jr. vs. Atty. Blanche A. Salino*). – Before the Court is a Complaint-Affidavit dated 26 November 2015 filed by Glee Properties Corporation, Inc. (complainant), represented by Gaspar R. Llamas, Jr. (Llamas), accusing respondent Atty. Blanche A. Salino of violating Section 27, Rule 138 of the Rules of Court, for willful disobedience of a lawful order of a superior court, grave misconduct, and corruptly or willfully appearing as an attorney for a party to a case without authority to do so, as well as for violating the Lawyer's Oath and the Code of Professional Responsibility.

As a background, complainant and respondent's clients were parties in a compromise agreement, which was not fully implemented, prompting respondent to file a petition for Revival of Judgment, which inadvertently included Llamas as a petitioner. Respondent's clients prevailed, and subsequently moved for the issuance of, and were granted, a writ of execution by the trial court. Consequently, the sheriff issued two (2) Notices of Garnishment to the bank, the first covering the personal properties of the officers of complainant, and the second, covering the properties of complainant itself. When respondent filed her Comment/Objection to complainant's Urgent Motion to Lift Notice of Garnishment, she only made reference to the second Notice of Garnishment. Thus, complainant claimed that respondent: (a) filed a petition on Llamas' behalf without any authority; (b) used her influence as a former Clerk of Court and colluded with the sheriff for the issuance of the Notices of Garnishment even if the writ of execution did not mention

garnishment; and (c) tried to mislead the trial court by not informing it of the issuance of two Notices of Garnishment.

The IBP Investigating Commissioner recommended the dismissal of the complaint.[1] The Investigating Commissioner found that respondent did not intend to represent complainant corruptly or willfully since respondent, without any prompting from complainant, moved for the amendment of the petition to clarify that Llamas was not one of the petitioners in the case, which amendment was admitted by the trial court. Moreover, there was no evidence to support the claim of collusion between respondent and the sheriff in the issuance of the Notices of Garnishment. Finally, the Investigating Commissioner found that there was no intent on respondent's part to mislead the court by referring only to the second Notice of Garnishment since she was not aware of the first Notice of Garnishment.

On 22 March 2018, the IBP Board of Governors adopted the findings of fact and recommendation of the Investigating Commissioner to dismiss the complaint.

The Court likewise adopts the same.

As correctly found by the IBP, respondent could not have disobeyed the writ of execution, which was a lawful order of the court, when the Notices of Garnishment were issued. In the first place, the writ was not addressed to respondent, but to the sheriff, who has the duty to enforce the writ according to its terms in the manner provided under Section 8, Rule 39 of the Rules of Court,[2] as well as to garnish the debts due and credits belonging to the prevailing party. Such duty to exhaust all efforts to recover the balance, and the procedure therefor are found in Section 9, Rule 39 of the Rules of Court.[3]

We likewise find no basis for the charge of collusion between respondent and the sheriff. There is no evidence to show that respondent and the sheriff acted together pursuant to a common plan

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[1] Report and Recommendation dated 25 June 2017.

[2] SEC. 8. Issuance, form and contents of a writ of execution. – The writ of execution shall: (1) issue in the name of the Republic of the Philippines from the court which granted the motion; (2) state the name of the court, the case number and title, the dispositive part of the subject judgment or order; and (3) require the sheriff or other proper officer to whom it is directed to enforce according to its terms, in the manner herein after provided:

x x x x

[3] *Marsada vs. Monteroso*, A.M. No. P-10-2793, 08 March 2016.

of action for the issuance of the two (2) Notices of Garnishment. Neither are we convinced that respondent violated the writ indirectly by using her influence on the sheriff as a former Clerk of Court. Any error or irregularity in the issuance of the Notices of Garnishment should be on the account of the sheriff alone.

The allegation that respondent appeared for Llamas without the latter's personal authority is a serious accusation. If proven, it could subject respondent to disciplinary action or even punished for contempt as an officer of the court who has misbehaved in his official transaction.[4] However, such was not the case here. As found by the IBP, Llamas' inclusion in the petition could not have been deliberate. Once respondent realized her mistake and, without any prompting or notice from complainant, she rectified the same by amending the petition, clearly identifying the real petitioners to the exclusion of complainant.

The claim that respondent violated Canon 10, Rules 10.2 and 10.3, Code of Professional Responsibility, must likewise fail.

> CANON 10 - A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.
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> Rule 10.02 - A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which has not been proved.
>
> Rule 10.03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

Complainant anchored this accusation on respondent's allegations in her Comment/Objections, which referred only to the contents of the second Notice of Garnishment. However, we agree with the Investigating Commissioner that there was no proof of intent to misrepresent or misquote, and it may be seen from the crafting of the said pleading that respondent was only aware of the second Notice of Garnishment.

Considering the serious consequences of the disbarment or suspension of a member of the bar, the Court has consistently held

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[4] *Dr. Domiciano F. Villahermosa, Sr., vs. Atty. Isidro L. Caracol*, A.C. No. 7325, 21 January 2015.

that clearly preponderant evidence is necessary to justify the imposition of an administrative penalty on a member of the bar.[5] Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other or that which is more convincing to the court as worthy of belief than that which is offered in opposition thereto. Conversely, bare allegations, unsubstantiated by evidence, are not equivalent to proof.[6] Complainant's failure to discharge its burden of showing that respondent committed the alleged violations warrants the dismissal of the instant complaint.

WHEREFORE, the Complaint against respondent Atty. Blanche A. Salino is **DISMISSED** for lack of merit.

Accordingly, the case is considered **CLOSED** and **TERMINATED**.

SO ORDERED."

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court
18 AUG 2022

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Supreme Court, Manila

Please notify the Court of any change in your address.
AC12736. 2/23/2022(223)URES

[5] *Aba, et al. vs. Atty. De Guzman, Jr., et al.*, A.C. No. 7649, 14 December 2011.
[6] *Tabuzo vs. Gomos*, A.C. No. 12005, 23 July 2018.