



**Republic of the Philippines
Supreme Court
Manila**

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 17, 2022 which reads as follows:

“A.C. No. 12791 [Formerly CBD Case No. 15-4597] (*Glenda V. Dechavez v. Atty. Roland G. Rosales and Atty. Jose E. Batungbacal, Jr.*). – This is a Complaint¹ for disbarment filed by Glenda V. Dechavez (Dechavez) against Atty. Roland G. Rosales (Atty. Rosales) and Atty. Jose E. Batungbacal, Jr. (Atty. Batungbacal; collectively, the respondents) for violation of Canon 1, Rule 1.01 of the Code of Professional Responsibility (CPR).

Antecedents

The present Complaint for disbarment is one of several actions filed by Dechavez against the officers and directors of VRNR Construction and Development Corp. (VRNR), Atty. Rosales and Atty. Batungbacal. These complaints relate to the house and lot purchased by Dechavez sometime in October 2008, situated in West Fairview, Quezon City, owned and developed by VRNR, for a total purchase price of ₱1,194,800.00. Dechavez was only able to make a down payment in the amount of ₱220,000.00, while the balance was supposed to be paid by financing with the Home Development Mutual Fund (HDMF). Dechavez was also required to pay certain fees and charges.

At the time of the sale, VRNR has not obtained a Certificate of Registration and a License to Sell for the project. This prevented Dechavez from taking out a loan from the HDMF, for lack of proper documentation. Dechavez inquired with the Housing and Land Use Regulatory Board (HLURB, now the Department of Human Settlements and Urban Development (DHSUB)) and found out that VRNR was penalized by the HLURB for selling units without the corresponding Certificate of Registration and License to Sell.

¹ *Rollo*, Vol. 1, pp. 1-7.

On 10 July 2015, Dechavez filed a criminal Complaint² for Syndicated Estafa and Estafa by means of false pretenses against the officers and directors of VRNR, including respondents Atty. Rosales and Atty. Batungbacal. She claimed that VRNR misrepresented having the necessary accreditations, permits and licenses to sell the property. She claimed that respondents even pressured her and the other buyers to pay up numerous charges.³

A few months after, Dechavez filed a Complaint⁴ before the HLURB for damages and refund of the amounts she paid to VRNR. Likewise, Dechavez filed this disbarment Complaint against Atty. Rosales and Atty. Batungbacal, who were both officers and directors of VRNR.⁵ She argued that as lawyers, respondents cannot feign ignorance of the necessity of securing the required government permits, especially in highly regulated industries such as real estate development. As the son of the President of the company, Atty. Rosales could not have been unaware that the said corporation is selling properties without the necessary documentation. She even claimed that the respondents used their clout as lawyers and the dignity of the legal profession to entice buyers into buying from them.⁶ Since the corporation can only act through its directors, then the liability extends to its directors. In all, the respondents violated Canon 1, Rule 1.01 of the CPR which read:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.⁷

In their Joint Verified Answer,⁸ respondents denied taking part in the transaction. They claimed that they never signed the Contract to Sell⁹ and the Reservation Agreement¹⁰ executed between VRNR and Dechavez.¹¹ They also claimed that they met Dechavez years after the transaction took place. For Atty. Rosales, he met Dechavez for the first time in 2013 after he took over the company due to his father's death and because he needed to talk to Dechavez regarding her delinquent account.¹² On the other hand, Atty. Batungbacal only met Dechavez for the first time during the preliminary investigation of the criminal complaint filed against them.¹³ In fact, Atty.

² Id. at 76-78.

³ Id. at 4.

⁴ Id. at 222-230.

⁵ Id. at 11.

⁶ Id. at 5.

⁷ Id.

⁸ Id. at 231-258.

⁹ Id. at 211-221.

¹⁰ Id. at 220-221.

¹¹ Id. at 180.

¹² Id.

¹³ Id. at 181.

Batungbacal had resigned in July 2008, prior to the time VRNR sold the property to Dechavez.¹⁴

Finally, respondents claimed that Dechavez has been benefitting from the the property for more than six years without paying the full purchase price, even earning income by leasing a portion of the property.¹⁵

Meanwhile, the Office of the City Prosecutor in its Resolution¹⁶ dated 27 May 2015 dismissed Dechavez' Complaint for Estafa against the respondents and other officers of VRNR for insufficiency of evidence.

Report and Recommendation of the Integrated Bar of the Philippines (IBP)

In a Report and Recommendation¹⁷ dated 05 September 2017, the Investigating Commissioner recommended the dismissal of the disbarment complaint against respondents for lack of merit. The Investigating Commissioner determined that based on the parties' submissions, that the respondents could not have possibly sold the property to Dechavez, much more use their clout as lawyers in enticing her and the other customers to purchase properties from VRNR.¹⁸ The Investigating Commissioner also determined that Dechavez refused to pay her balance and that she decided to file cases against VRNR and its officers to delay payment or to excuse herself from paying the balance of the purchase price.¹⁹

On 29 August 2018, the IBP Board of Governors (Board) resolved to approve and adopt the Report and Recommendation of the Investigating Commissioner.²⁰

Petitioner moved for reconsideration,²¹ but the same was denied by the Board in its Resolution²² dated 17 June 2019.

Ruling of the Court

After a judicious review of the records of the case, We adopt the recommendation of the IBP to dismiss the disbarment complaint against respondents.

The primary purpose of administrative proceedings is to discipline delinquent lawyers, uphold the law, and prevent the ranks of the legal pro-

¹⁴ Id. at 179.

¹⁵ Id. at 185.

¹⁶ Id. at 261-264.

¹⁷ *Rollo*, Vol. II, pp. 2-4.

¹⁸ Id. at 3.

¹⁹ Id. at 4

²⁰ Id. at 1.

²¹ Id. at 5-10.

²² Notice of Resolution signed by National Secretary Patricia-Ann T. Prodigalidad.

fession from being corrupted by unscrupulous practices.²³ However, while the Court will not hesitate to mete out the appropriate disciplinary punishment upon lawyers who fail to live up to their sworn duties, the Court will, on the other hand, protect them from accusations that have failed the crucible of proof.²⁴

The case of *Tan v. Alvarico*²⁵ is instructive on the requisite quantum of proof on disbarment proceedings, thus:

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 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.²⁶

Dechavez faults VRNR for the denial of her HDMF loan application, attributing such denial to the company’s lack of proper documentations, namely: Certificate of Registration and License to Sell from the HLURB. She believes that the VRNR deliberately did not comply with the requirements, with the intent to defraud customers. As directors of the company, the respondents are not only aware, but even took advantage of their status as lawyers and deceive the buyers.

We find the principles of corporation law applicable on whether fault may be attributed to respondents. Generally, a corporation has a personality separate and distinct from those who run and operate it. This means that, in general, the corporation’s liabilities are its own, not those of its directors, officers, and employees. However, this legal fiction may be disregarded, and the directors and its officers may be held liable with the corporation if it was used as a means to perpetrate fraud, an illegal act, or as a vehicle for the evasion of an existing obligation, the circumvention of statutes, or to confuse

²³ *Tabuzo v. Atty. Gomos*, 836 Phil. 297, 321 (2018).

²⁴ *Goopio v. Maglalang*, 837 Phil. 565, 585 (2018).

²⁵ A.C. No. 10933, 03 November 2020.

²⁶ *Id.*

legitimate issues.²⁷

The case does not present a nexus between the acts complained and respondents. Dechavez cannot simply hold respondents responsible just because at some point, they were directors and officers of the company. The law requires that in order to hold a director or officer personally liable for corporate acts, (1) it must be shown that the director or officer assented to patently unlawful acts of the corporation, or that the officer was guilty of gross negligence or bad faith; and (2) complainant must clearly and convincingly prove such unlawful acts, negligence, or bad faith.²⁸

As shown by the records, the contract with Dechavez was executed in 2008. Neither Atty. Batungbacal nor Atty. Rosales signed the contract on behalf of the corporation. In fact, Atty. Batungbacal had already resigned as a director as early as 2006. This fact alone suffices to clear Atty. Batungbacal of any wrongdoing. However, Dechavez claims that the 2012 General Information Sheet (GIS) of VRNR indicates that Atty. Batungbacal was still a director of VRNR. The probative value of the GIS, however, is not conclusive.

In *Lao v. Lao*²⁹ the Court ruled that the mere inclusion of the petitioners in the GIS is insufficient to prove that they are shareholders of the company thus:

While it may be true that petitioners were named as shareholders in the General Information Sheet submitted to the SEC, that document alone does not conclusively prove that they are shareholders of PFSC. The information in the document will still have to be correlated with the corporate books of PFSC.³⁰

The same logic can be applied in the case at bar. The fact that Atty. Batungbacal's name reflects on the 2012 GIS as a director is not conclusive that he is one, especially after he has established that he has resigned since 2006. Such inclusion may have come to pass by mistake, expediency, or negligence,³¹ which is exactly what transpired in the case at bar. Although the 2012 GIS mentioned Atty. Batungbacal's name, this was subsequently amended³² in order to correct this mistake and remove his name from the document.

On the other hand, Atty. Rosales was the Vice-President and Director of the corporation in 2008. However, this fact alone is not sufficient to hold him liable. Dechavez must prove that Atty. Rosales patently assented to the supposed fraudulent transaction, which cannot be simply inferred from the

²⁷ *Bank of Commerce v. Nite*, 764 Phil. 655, 663-664 (2015).

²⁸ *Zaragoza v. Tan*, 822 Phil. 51, 65 (2017).

²⁹ 588 Phil. 844 (2008).

³⁰ *Id.* at 858.

³¹ *Id.*

³² *Rollo*, pp. 209-218.

fact that he was an officer of the VRNR.

Clearly, Dechavez failed to establish that necessary nexus between the alleged fraud and the respondents. She simply speculated that just because respondents are directors, or at some point, were directors of VRNR, they are liable for the transactions entered into by the corporation.

Finally, considering that Dechavez failed to establish any form of wrongdoing on the part of the respondents, the present disbarment complaint must be dismissed. Dechavez, Atty. Rosales, and Atty. Batungbacal may have been outraged as a result of the lack of documentation on the part of VRNR, but the administrative disbarment proceedings should not be utilized in order to put pressure to or oppress a lawyer. A lawyer may only be disbarred or suspended for misconduct, whether in his [or her] professional or private capacity, when he [or she] is shown to be wanting in moral character, honesty, probity, and good demeanor, or unworthy to continue as an officer of the court.³³

WHEREFORE, premises considered, the disbarment complaint against respondents **Atty. Roland G. Rosales and Atty. Jose E. Batungbacal, Jr.** is hereby **DISMISSED** for lack of merit.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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SEP 22 2022

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³³*Jimenez v. Francisco*, 749 Phil. 551, 575 (2014).

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