



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **21 March 2022** which reads as follows:*

**“A.C. No. 13077 (Maximo Ricohermoso, Ernesto Rina, Albert James Alivio, Clarito Fruelda, Antonio Castro, Frances Yu-Palang, Raymondo Patuasi, Jacinto Jamero, Carmen Leyco, Braulio Sto. Domingo, Jr., Adrian Ybanez, Ligaya Bataclan, Renee Canoy, Rosario Kiamko and Benito Sia v. Atty. Audie C. Arnado).** — This is an administrative complaint<sup>1</sup> for disbarment filed by Maximo Ricohermoso, Ernesto Rina, Albert James Alivio, Clarito Fruelda, Antonio Castro, Frances Yu-Palang, Raymondo Patuasi, Jacinto Jamero, Carmen Leyco, Braulio Sto. Domingo, Jr., Adrian Ybanez, Ligaya Bataclan, Renee Canoy, Rosario Kiamko and Benito Sia (complainants) against respondent Audie C. Arnado (Atty. Arnado) for violation of the Code of Professional Responsibility (CPR).

Complainants alleged that they filed a complaint<sup>2</sup> before the Housing and Land Use Regulatory Board (HLURB) Regional Field Office in Central Visayas for ratification of election results, nullification of the declaration of failure of election of Board of Directors, with prayer for the issuance of a Cease and Desist Order (HLURB Case).

Complainants averred that during the election for Board of Directors, the then incumbent members of the Sto. Niño Village Homeowners’ Association Board of Directors (Old SNVHAI-BOD) allegedly caught the blatant acts of electioneering, intimidation, and fraud perpetrated by one candidate for election and her staff, which acts were recorded by the CCTV installed in the polling place. Upon petition filed by the Old SNVHAI-BOD to the Election Committee (ELECOM) praying for the declaration of a failure of election, the ELECOM, did not proclaim the winning candidates and thereafter declared a failure of

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<sup>1</sup> *Rollo*, Vol I, pp. 1-17.

<sup>2</sup> *Rollo*, Vol. II, pp. 208-219.

election. Thus, the Old SNVHAI-BOD issued a Resolution declaring that they will be acting on a hold-over capacity until a new election shall have been conducted.<sup>3</sup>

Aggrieved, complainants, composed of a majority of the winning candidates, filed an election protest with prayer for the issuance of a Cease and Desist Order (CDO) with the HLURB-Regional Office. After due hearing, the Regional Arbiter, Ultimo Servande (Arbiter Servande), issued a CDO<sup>4</sup> on August 7, 2014 which ordered the Old SNVHAI-BOD to recognize the winning candidates, and directing the latter to assume office. On October 7, 2014, a Writ of Execution for CDO<sup>5</sup> was issued by Arbiter Servande upon the complainants' payment of the required bond.

On September 5, 2014, the old SNVHAI-BOD, through their counsel, herein respondent, filed an appeal<sup>6</sup> from the CDO. In the said appeal, respondent claimed that his office received a copy of the CDO only on September 4, 2014., when in truth, he received the same on August 20, 2014.<sup>7</sup> Respondent likewise filed a petition for injunction wherein he appended a copy of the CDO showing that the date of receipt is September 4, 2014 in order to show that he has timely filed the appeal from the CDO.

In his motion to quash the CDO, respondent also made it appear that his office received the complainants' motion for execution of the CDO and the writ of execution issued therein, only on October 9, 2014 when in fact, he received them on September 12, 2014 and October 7, 2014, respectively.<sup>8</sup> According to complainants, the tampering of actual dates of receipt of the aforesaid documents was done purposely by respondent because he failed to timely file a position paper for his clients and to excuse himself from his unjustified inaction on the pleadings and Orders of the HLURB.<sup>9</sup>

Complainants also alleged that respondent and his clients visited Arbiter Servande in his office and attempted to bribe him with a sum of money in order to convince him to render a decision in their favor.<sup>10</sup> Respondent likewise filed a motion for inhibition requesting Arbiter Servande to inhibit himself from proceeding to hear, try and decide the pending case. He even charged Arbiter Servande administratively before the Office of the Ombudsman to coerce him to inhibit from further trying the case. In order to avoid untoward incidents and to erase doubts as to his impartiality, Arbiter Servande involuntarily recused himself from handling the case and recommended its elevation to the Legal Services Group for proper disposition.<sup>11</sup>

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<sup>3</sup> *Rollo*, Vol. I, at 31.

<sup>4</sup> *Rollo*, Vol. II, pp. 221-223.

<sup>5</sup> *Id.* at 96-98.

<sup>6</sup> *Id.* at 58-73.

<sup>7</sup> *Id.* at 8.

<sup>8</sup> *Rollo*, Vol. I, p. 8.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 7.

<sup>11</sup> *Id.* at 7.

Moreover, in all the subsequent pleadings filed by respondent in the pending case before the HLURB, he repeatedly characterized complainants as usurpers, illegal occupants and plunderers for allegedly taking the funds and properties of SNVHAI without authority.<sup>12</sup>

Complainants further accused respondent of misusing the processes to delay the execution of the Decision of the HLURB calling for a special election of SNVHAI BOD, by filing an opposition thereto, and initiating a series of dilatory motions (e.g., motion to disqualify the ELECOM created by the HLURB to conduct the special election, complaint against the ELECOM before the Office of the Ombudsman, manifestation and motion praying that the HLURB declare and hold the complainants as “members not in good standing,” and thus be disallowed from voting and be voted upon in the special election, motion reiterating prayer for issuance of temporary restraining order [TRO] and/or preliminary injunction, praying to stop the ELECOM from conducting the special election of the Homeowners’ Association, second supplemental motion for issuance of TRO and/or preliminary injunction, praying to stop the holding of the special election of the Homeowners’ Association).<sup>13</sup>

In view of these acts of harassment, the duly constituted ELECOM were compelled to recuse themselves. Thus, the HLURB was constrained to appoint new members of the ELECOM. However, in his appeal memorandum, respondent once again prayed that the newly appointed members of the ELECOM be restrained and enjoined from conducting the special election. Consequently, the special election was cancelled and postponed three times on May 20, 2015, June 20, 2015 and June 27, 2015, until the same was finally conducted on July 4, 2015.<sup>14</sup>

However, after the special election which resulted in the landslide victory of the herein complainants, respondent filed anew a motion for inhibition requesting Arbiter Marife C. Doblada, the HLU Arbiter who took over the case after the inhibition of Arbiter Servande, to inhibit herself from handling the case.<sup>15</sup>

Meanwhile, complainants instituted an extremely urgent motion for immediate turnover of association funds, records, assets, etc. which was also opposed by respondent.<sup>16</sup>

After the complainants took over, they discovered that Atty. Arnado charged the Old SNVHAI-BOD an unconscionable amount of ₱930,880.20 for his legal services for a period of just five months from February to July 2015.

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<sup>12</sup> Id. at 9-10

<sup>13</sup> Id. at 11-13.

<sup>14</sup> Id. at 13.

<sup>15</sup> Id.

<sup>16</sup> Id. at 14.

And even prior to February 2015, respondent allegedly received the amount of ₱522,504.75, also as attorney's fees from the Old SNVHAI-BOD.<sup>17</sup>

For his part, Atty. Arnado filed a motion to dismiss with seriatim answer<sup>18</sup> dated November 9, 2015, praying for the dismissal of the disbarment complaint against him on the ground of procedural infirmities, such as lack of a valid jurat for failure of the affiant to present a competent proof of identity or his or her community tax certificate, for failure of the complainants to personally appear before the notary public, and the failure of the notary public to indicate his office address in the verification and certification on non-forum shopping attached to the complaint.

Atty. Arnado denied harassing or exerting unlawful pressure upon Arbiter Servande. He filed the motion for inhibition upon the order of his client, Old SNVHAI-BOD because Arbiter Servande has shown acts of bias in favor of the complainants when he prematurely ruled on the merits of the HLURB case, without hearing, in the guise of a CDO; and when he refused to act on their appeal from the CDO and to elevate the records of the HLURB case to the HLURB Board of Commissioners, to the damage and prejudice of his client. The instant complaint for disbarment against him was resorted to by Arbiter Servande, through the willing complainants, to revenge, retaliate and avenge his fall as arbiter of the HLURB.<sup>19</sup>

Respondent likewise denied the alleged tampering of the actual date of receipt of his office of the pleadings furnished by complainants and the issuances of Arbiter Servande. In support thereof, Atty. Arnado submitted a copy of the August 7, 2014 CDO<sup>20</sup> issued by Arbiter Servande as well as his August 8, 2014 Order,<sup>21</sup> requiring Atty. Arnado's client, Old SNVHAI-BOD, to submit their position paper within 15 days from receipt thereof, to show that his law office received the same on September 4, 2014 and not on August 20, 2014 as claimed by the complainants and Arbiter Servande.<sup>22</sup> Atty. Arnado further submitted a certification<sup>23</sup> from the Cebu Central Post Office dated November 12, 2015, certifying that the registered mail bearing registry receipt no. 4066 (August 7, 2014 CDO) was duly received by Elleueria D. Yek, also known as Ellie D. Yek (Ellie), on September 4, 2014. The said receipt was also confirmed by Ellie through an affidavit<sup>24</sup> she executed on November 12, 2015, attesting that she indeed received the foregoing legal documents on September 4, 2014.

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<sup>17</sup> *Rollo*, Vol. II, pp. 356-357.

<sup>18</sup> *Id.* at 7-30.

<sup>19</sup> *Id.* at 13-17.

<sup>20</sup> *Id.* at 51-53.

<sup>21</sup> *Id.* at 56-57.

<sup>22</sup> *Id.* at 8.

<sup>23</sup> *Id.* at 55.

<sup>24</sup> *Id.* at 101-102.

With respect to the Order<sup>25</sup> of Arbiter Servande directing the issuance of a writ of execution for the CDO, the writ of execution<sup>26</sup> itself and its transmittal,<sup>27</sup> all dated October 7, 2014, respondent attached copies thereof showing that they were sent by personal service and received by respondent's staff, Dina "Julie" Atem (Dina) at 9:45 a.m. of October 9, 2014 and not on October 7, 2014 via registered mail, as claimed by the complainants. In support thereof, Dina also executed an affidavit<sup>28</sup> stating that she received the three documents by personal service on October 9, 2014.

Anent Atty. Arnado's undesirable characterization of the complainants as usurpers and illegal occupants, he averred that he was merely relaying or echoing the sentiments of his client. Atty. Arnado also denied misquoting any decision or order of the HLURB as in fact he quoted the Decision of the HLURB-Board of Commissioners faithfully and word for word.<sup>29</sup>

With respect to the alleged misuse of court processes to delay the case, Atty. Arnado asserted that the pleadings he submitted were legitimate and that he lawfully availed of the legal remedies allowed by law and the rules.<sup>30</sup> He merely exhausted all available administrative remedies before resorting to judicial recourse under the principle of exhaustion of administrative remedies.<sup>31</sup> He opined that he cannot be subjected to administrative liability for any acts he committed since he acted in good faith.

As regards Atty. Arnado's repeated attempt to cancel or cause the postponement of the conduct of the special election of the SNVHAI BOD, he posited that the said postponement was upon the Order of the HLURB to give way to the creation of and publication of the Election Rules and Guidelines of the Special Election as well as the publication of the list of qualified voters and candidates for the election.<sup>32</sup>

Atty. Arnado also denied having opposed the turnover of the association funds, records, assets, etc. for his own benefit and gain. He cited Section 62, Rule 10 of the Implementing Rules and Regulations of Republic Act No. 9904 or the Magna Carta for Homeowners and Homeowners Association which mandates the turnover of association books, records and assets within 60 days from the election of the new board of directors. Atty. Arnado claimed that the request for turnover by the newly elected BOD was premature and thus contrary to law and the rules because at that time, the 60-day period has not yet lapsed.<sup>33</sup>

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<sup>25</sup> Id. at 93-95.

<sup>26</sup> Id. at 96-98.

<sup>27</sup> Id. at 99-100.

<sup>28</sup> Id. at 101-102. Affidavit of Dina and Ellie.

<sup>29</sup> Id. at 22-24.

<sup>30</sup> Id. at 25.

<sup>31</sup> Id. at 26.

<sup>32</sup> Id. at 21.

<sup>33</sup> Id. at 28.

Moreover, there is nothing irregular for a lawyer to collect attorney's fees for legal services rendered to a client. However, he denied receiving such huge and excessive attorney's fees as intimated by the complainants.<sup>34</sup>

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

After investigation, Commissioner Dan Joseph T. Cruz (Commissioner Cruz) of the Commission on Bar Discipline of the Integrated Bar of the Philippines (CBP-IBP) recommended the dismissal of the case for lack of merit.<sup>35</sup> He ruled that complainants have not only failed to show sufficient proof in support of their claim, but Atty. Arnado has also successfully rebutted their accusations.

On May 30, 2020, the IBP Board of Governors issued a Notice of Resolution<sup>36</sup> adopting the findings of fact and recommendation of the IBP Commissioner to dismiss the complaint after finding the same to be fully supported by evidence on record and the applicable laws and rules.

### **Our Ruling**

We concur with the findings and recommendation of IBP.

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.<sup>37</sup>

Substantial evidence is defined under Section 6, Rule 133 of the 2019 Amendments to the 1989 Revised Rules on Evidence<sup>38</sup> as "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion,"<sup>39</sup> 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."<sup>40</sup>

Guided by the foregoing, the Court finds that complainants failed to discharge their burden of proof as they did not establish their claims through relevant evidence as a reasonable mind might accept as adequate to support the

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<sup>34</sup> Id.

<sup>35</sup> Id. at 390-398.

<sup>36</sup> Id. at 388-389. Signed by IBP National Secretary, Roland B. Inting.

<sup>37</sup> Id.

<sup>38</sup> A.M. No. 19-08-15-SC.

<sup>39</sup> Section 6, Rule 133, 2019 Amendments to the 1989 Revised Rules on Evidence (A.M. No. 19-08-15-SC).

<sup>40</sup> Section 1, Rule 131, 2019 Amendments to the 1989 Revised Rules on Evidence (A.M. No. 19-08-15-SC).

conclusion that Atty. Arnado is guilty of the acts complained of in transgression of the CPR.

*First*, on the alleged tampering of actual date of receipt the HLURB issuances, We agree with the IBP that Atty. Arnado was able to successfully rebut the allegation of tampering against him. Atty. Arnado explained that the standard procedure in their law office is that as soon as a mail or any document for the law office comes in, the receiving clerk would stamp the actual “date and time of receipt” on the upper right portion of the document. Based on the evidence submitted by Atty. Arnado, it appears that the actual date of receipt of the CDO dated August 7, 2014 and the Order dated August 8, 2014, requiring the parties to file their respective position papers, was on September 4, 2014 as clearly shown on the stamped date and time of receipt on the face of the said documents.<sup>41</sup> It was also indicated therein that the HLURB Orders were sent by registered mail and contained in one mailing envelope bearing Registry Return No. 4066.

Similarly, the same procedure was done by the receiving clerk on the Order granting the execution of the CDO,<sup>42</sup> the writ of execution<sup>43</sup> and the transmittal of the writ of execution,<sup>44</sup> all dated October 7, 2014. Stamped on all three documents was “Received, October 09, 2014 9:45 am” and signed by Dina.

In support thereof, the receiving clerks, Ellie and Dina, executed an affidavit<sup>45</sup> dated November 12, 2015, attesting that the date and time stamped on the upper right hand portion of the subject documents are the true and actual date of receipt by the law office thereof, and that the same were never tampered as claimed by the complainants.

In addition, Atty. Arnado submitted a certification<sup>46</sup> from the Cebu Central Post Office dated November 12, 2015, certifying that the registered mail bearing registry receipt no. 4066 (CDO and Order dated August 8, 2014) was duly received by Ellie on September 4, 2014.

On the other hand, the complainants merely relied on the Order for Inhibition<sup>47</sup> issued by Arbiter Servande dated October 17, 2014 to substantiate their claim of tampering. The allegations of Arbiter Servande in the said order, without more, cannot overcome the overwhelming documentary evidence presented by Atty. Arnado to the contrary. We stress that complainants did not adduce clear and convincing evidence to refute Atty. Arnado’s evidence showing his office’s actual date of receipt of the foregoing documents.

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<sup>41</sup> *Rollo*, Vol. II, pp. 51 and 56.

<sup>42</sup> *Id.* at 93.

<sup>43</sup> *Id.* at 96.

<sup>44</sup> *Id.* at 99.

<sup>45</sup> *Id.* at 101-102.

<sup>46</sup> *Id.* at 55.

<sup>47</sup> *Rollo*, Vol. I, pp. 18-20.

*Second*, on the alleged bribery attempt, We observe that the evidence to support this charge consists of pure allegations by Arbiter Servande. The Order of Inhibition issued by Arbiter Servande was based solely on his account. There is no other independent evidence, e.g., testimony of witnesses, that will corroborate his allegation that Atty. Arnado attempted to bribe him, thus, the said imputation does not deserve full faith and credit. The Court has emphasized that “to satisfy the substantial evidence requirement for administrative cases, hearsay evidence should necessarily be supplemented and corroborated by other evidence that are not hearsay.”<sup>48</sup> Unfortunately, no such evidence was presented in this case.

Moreover, the motion for Arbiter Servande’s inhibition from further handling the case could not be considered as an undue influence or pressure. Section 1, Rule 137 of the Rules of Court, provides:

SECTION 1. *Disqualification of judges.* - No judge or judicial officer shall sit in any case in which he, or his wife or child, is pecuniarily interested as heir, legatee, creditor or otherwise, or in which he is related to either party within the sixth degree of consanguinity or affinity, or to counsel within the fourth degree, computed according to the rules of the civil law, or in which he has been executor, administrator, guardian, trustee or counsel, or in which he has presided in any inferior court when his ruling or decision is the subject of review, without the written consent of all parties in interest, signed by them and entered upon the record.

A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above.

The Rules contemplate two kinds of inhibition: compulsory and voluntary. The instances mentioned in the first paragraph of Section 1, Rule 137 conclusively presume that judges cannot actively and impartially sit in a case. The second paragraph, which embodies voluntary inhibition, leaves to the discretion of the judges concerned whether to sit in a case for other just and valid reasons, with only their conscience as guide.<sup>49</sup> Here, the case of Arbiter Servande would fall under the concept of voluntary inhibition.

Under the second paragraph of the Section 1, Rule 137 of the Rules of Court, parties have the right to seek the inhibition or the disqualification of judges who do not appear to be wholly free, disinterested, impartial or independent in handling a case. Whether judges should inhibit themselves therefrom rests on their own “sound discretion.” “That discretion is a matter of conscience and is addressed primarily to their sense of fairness and justice.”<sup>50</sup>

In this case, the client of Atty. Arnado had the right to ask for the inhibition of Arbiter Servande as they have doubted his impartiality in handling the case

<sup>48</sup> *Re: Letter of Lucena Ofendoreyes Alleging Illicit Activities of a Certain Atty. Cajayon Involving Cases in the Court of Appeals, Cagayan de Oro City*, 810 Phil. 369, 373-374 (2017).

<sup>49</sup> *Sunico v. Gutierrez*, 806 Phil. 94, 111 (2017).

<sup>50</sup> *Gochan v. Gochan*, 446 Phil. 432, 447 (2003).

due to his issuance of the CDO which was later declared by the HLURB-Board of Commissioners as null and void for being a premature disposition of the main case by provisional remedy. Thus, the motion for inhibition was founded on legal, valid and reasonable grounds.

Arbiter Servande voluntarily desisted from hearing the HLURB case albeit claiming that he did so involuntarily in order “to evade untoward incidents and to erase doubts of bias and reneged decisions to be rendered” by him. In his Order for Inhibition, Arbiter Servande claimed that Atty. Arnado’s harassment and illegal maneuverings compelled him to inhibit himself.

We are not convinced.

If Arbiter Servande truly believed that he was not biased in the disposition of the case, there was no reason at all for him to recuse himself. Instead, he should have denied Atty. Arnado’s motion for inhibition and continued to hear and decide the case on the basis of the evidence adduced by both parties for after all, mere imputation of bias or partiality is not enough ground for him to inhibit, especially when the charge is without basis.<sup>51</sup>

Moreover, it is incredible that Arbiter Servande did not initiate an administrative complaint against Atty. Arnado despite his allegation that Atty. Arnado attempted to bribe him and harassed him to rule in favor of his client. Bribery is a serious imputation and since Arbiter Servande was the one accusing Atty. Arnado of attempted bribery, he could have instituted the instant case in his own capacity, rather than waiting for the complainants to do so. To Our minds, Arbiter Servande’s failure to administratively charge Atty. Arnado militate against his claim of bribery attempt against Atty. Arnado.

As settled, an accusation of bribery is easy to concoct but difficult to prove. The complainant must present a panoply of evidence in support of such an accusation.<sup>52</sup> Surely, allegations must be proven by sufficient evidence because bare allegation is definitely not evidence.<sup>53</sup> Verily, Arbiter Servande’s lone affidavit is insufficient to sustain the administrative charge, the same being self-serving and a convenient afterthought coming from the mouth of a person who was accused of favoring the complainants and whose CDO was later overturned by the HLURB Board of Commissioners for being null and void.

*Third*, on the alleged misquotation of a decision or authority, the Court takes note of the fact that the characterization by Atty. Arnado of the complainants as usurpers, illegal occupants and plunderers did not necessarily equate to a misquotation of the HLURB-Board of Commissioners’ Decision. An examination of the pleadings containing such depiction of the complainants

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<sup>51</sup> *Sunico v. Gutierrez*, supra note 49.

<sup>52</sup> *Tan v. Usman*, 741 Phil. 142, 148 (2014).

<sup>53</sup> *Aguirre v. Reyes*, A.C. No. 4355, January 8, 2020.

would show that Atty. Arnando neither quoted nor misrepresented the descriptions as coming from the HLURB-Board of Commissioners' Decision.

Further, We agree with the finding of the IBP that such was a mere honest perception of Atty. Arnando and his client especially in light of the CDO issued by Arbiter Servande which prematurely decided the HLURB case by a provisional remedy and the subsequent issuance of a writ of execution for CDO despite the appeal filed by Atty. Arnando. Considering that the said null and void issuances by Arbiter Servande, mandating the COMELEC to recognize the winning candidates, gave undue authority to the complainants to take over the association funds and properties, and to discharge the functions of the SNVHAI-BOD, despite the fact that no proclamation has taken place, it was but natural for Atty. Arnando's client to perceive the complainants as usurpers and illegal occupants of the SNVHAI-BOD.

Be that as it may, Atty. Arnando is reminded to be more careful with his choice of words especially in relaying the sentiments of his clients because his duty as a lawyer is not to his client but primarily to the administration of justice.<sup>54</sup>

*Fourth*, on the issue of misuse of court processes to delay the proceedings, the IBP correctly observed that the motions and pleadings filed by Atty. Arnando mostly after the issuance of the CDO and the writ for its execution, are not prohibited by the HLURB Rules of Procedure. Contrary to Arbiter Servande's claim that the CDO he issued is not appealable as it is an interlocutory order,<sup>55</sup> Section 15, Rule 4 of the Revised Rules of Procedure of the HLURB<sup>56</sup> allows an appeal therefrom. The cited rule provides, *viz.*:

Section 15. *Prohibited Pleadings and Motions.* – The following shall be considered as prohibited pleadings and motions which shall not be entertained:

x x x x

(e) Appeal from any interlocutory order, except cease and desist orders;

Similarly, the manifestation and motion to stay the execution of CDO and the motion to quash the writ of execution for CDO filed by Atty. Arnando, were properly resorted to because according to the HLURB Rules of Procedure, an appeal from the CDO shall stay its execution, thus:

Section 91. *Effect of Filing an Appeal.* – The appeal shall stay the execution of any decision or order of the Arbiter unless otherwise provided in this Rules.<sup>57</sup>

Consequently, due to Arbiter Servande's unjustified refusal to elevate the records of the case to the HLURB-Board of Commissioners despite the appeal

<sup>54</sup> See *Alpajora v. Clayan*, 823 Phil. 93, 115 (2018).

<sup>55</sup> *Rollo*, pp. 383-384.

<sup>56</sup> Resolution No. 980, Series of 2019.

<sup>57</sup> Section 91, Rule 23, Resolution No. 980, Series of 2019.

filed by Atty. Arnado, the latter's client, the Old SNVHAI BOD, instructed him to file a motion for the inhibition of Arbiter Servande which is a remedy sanctioned by the HLURB Rules:

Section 26. *Procedure for Inhibition.* – The party seeking the inhibition of an Arbiter shall file a motion for inhibition stating the grounds with the evidence in support thereof. Thereafter, the Arbiter shall rule on the motion.<sup>58</sup>

Likewise, the supplemental appeal with motion to issue TRO and the letters to the HLURB Legal Officer requesting for the transmittal of the records of the case to the HLURB-Board of Commissioners, were all prompted by Arbiter Servande's resistance to act on the appeal based on his mistaken understanding of the rules that the CDO was not appealable.

As for the motions filed, which in effect, caused the postponement of the special elections, the IBP found that the same are not prohibited by the Magna Carta for Homeowners and Homeowner's Associations.<sup>59</sup> Moreover, Atty. Arnado explained that the delay in the conduct of the special elections was partly due to the creation and publication of the Election Rules and Guidelines of the Special Election, as well as the publication of the list of qualified voters and candidates for election. In support thereof, Atty. Arnado attached to his Position Paper, a copy of the Election Committee Resolution.<sup>60</sup> Section 59, Rule 10 of the Magna Carta also provides that in case of failure of election, the Regional Office shall call a special election for the officers of the association and set the rules that shall govern the conduct thereof in consultation with the members thereof.

*Finally*, on the claim of unconscionable legal fees collected by Atty. Arnado from the Old SNVHAI BOD, We note that no evidence was presented to substantiate such allegation. Mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.<sup>61</sup> Aside from the lack of evidence, the complainants were not consistent in the amount allegedly received by Atty. Arnado.

In fine, the Court agrees with the IBP's finding that the complaint against Atty. Arnado must fail for failure of complainants to prove the charges.

We find it apropos to echo Our pronouncement in *Munar v. Atty. Bautista*.<sup>62</sup>

Disbarment is the most severe form of disciplinary sanction and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons and in clear cases of misconduct affecting the standing

<sup>58</sup> Section 26, Rule 7, Resolution No. 980, Series of 2019.

<sup>59</sup> *Rollo*, p. 397. HLURB Board Resolution No. 877, Series of 2011.

<sup>60</sup> *Id.* at. 194.

<sup>61</sup> See *Aguirre v. Reyes*, A.C. No. 4355, January 08, 2020.

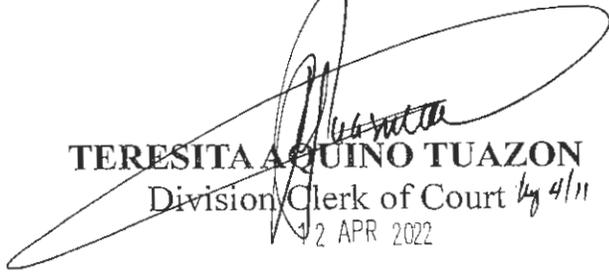
<sup>62</sup> 805 Phil. 384, 398-399 (2017).

and moral character of the lawyer as an officer of the court and member of the bar.<sup>63</sup>

**WHEREFORE**, finding the recommendation of the Integrated Bar of the Philippines to be fully supported by the evidence on record and applicable laws, the Court **RESOLVES** to **DISMISS** the case against Atty. Audie C. Arnado for lack of merit.

**SO ORDERED.**” (*Perlas-Bernabe, S.A.J., on official leave; Hernando, J., Acting Chairperson per Special Order No. 2882 dated March 17, 2022*)

By authority of the Court:

  
**TERESITA AQUINO TUAZON**  
 Division Clerk of Court *by 4/11*  
 12 APR 2022

MAXIMO RICOHERMOSA, ET AL. (reg)

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PHILIPPINE JUDICIAL ACADEMY (x)

Supreme Court, Manila

THE BAR CONFIDANT (x)

Supreme Court, Manila

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AC13077. 03/21/2022(121)URES

<sup>63</sup> Id.