



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 26, 2022 which reads as follows:

“A.C. No. 13214 [Formerly CBD Case No. 18-5625] (Josie Camille C. Gopico, *Complainant* vs. Atty. Zara Teodora B. Cabanlet, *Respondent*). – The instant disbarment case stemmed from the Affidavit-Complaint¹ filed by Josie Camille C. Gopico (complainant) against Atty. Zara Teodora B. Cabanlet (respondent) for violation of the Code of Professional Responsibility (CPR), the Lawyer’s Oath, the Judicial Affidavit Rule (JAR), and the Revised Penal Code (RPC), premised on the latter’s drafting of a false joint judicial affidavit and doing falsification as a notary public.²

Complainant is the accused in Criminal Case No. 4364 (criminal case) filed with the Municipal Circuit Trial Court (MCTC) of General Luna, Surigao del Norte for reckless imprudence resulting in homicide for the death of Mike Espejon Escoltura (Mike) and double physical injuries.³ On the other hand, respondent is the counsel of Adelaida Espejon Escoltura (Adelaida), Mike’s mother. She assisted in the drafting and preparation of a Joint Judicial Affidavit of Witnesses⁴ dated June 30, 2017 (subject affidavit) used as supporting evidence in the preliminary investigation phase of the criminal case.⁵

Complainant alleged that respondent violated the Lawyer’s Oath, the CPR, the JAR, and the RPC, by making it appear that a certain Floyd Cotecson Minglana (Minglana) participated in the

- over – five (5) pages ...

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¹ *Rollo*, pp. 2-5.

² *Id.* at 2.

³ *Id.* at 31-32.

⁴ *Id.* at 6-10.

⁵ *Id.* at 203.

execution of the subject affidavit when in fact, Minglana, based on his Affidavit of Recantation⁶ dated July 12, 2017, did not actually answer all the questions in the subject affidavit.⁷ Complainant added that respondent, in preparing the subject affidavit, fabricated another version of the incident and painted complainant in a bad light by making it appear that she was the one at fault in the accident.⁸

Hence, the present complaint.

In her Answer,⁹ respondent denied complainant's allegations and asserted that she neither falsified nor fabricated any of the statements made in the subject affidavit. She further narrated that: (1) Minglana did not execute the subject affidavit on the same day as his co-affiants, namely: Mark Espejon Escoltura, Charles Day Lopez Mendavia, and Den Anison Mula Lambus (collectively, co-affiants); (2) Minglana went to see her a few days after his co-affiants signed and executed the subject affidavit; (3) she showed the subject affidavit to Minglana and asked him if he has any corrections and to affirm the contents thereof; and (4) Minglana, after reading the contents of the subject affidavit, confirmed the veracity thereof and signed it.¹⁰ Lastly, she alleged that she accepted the case *pro bono* and that she had no motives to destroy the reputation of complainant.¹¹

In an undated Resolution,¹² Investigating Commissioner Greg Joseph SJ. Tiongco (Investigating Commissioner Tiongco) found that Minglana is complainant's first cousin. As such, his recantation is viewed with disfavor.¹³ Nonetheless, Investigating Commissioner Tiongco found that while all the pages of the subject affidavit was signed by Minglana and his co-affiants, the last page, however, did not indicate Minglana's printed name in accordance with Section 3(e)¹⁴ of the JAR. Thus, there is no way of knowing whose signature

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⁶ Id. at 11-12.

⁷ Id. at 2. For clarity, Floyd Cotecson Minglana stated in his Affidavit of Recantation that he answered "some but not all questions therein" in the subject affidavit, id. at 11.

⁸ Id. at 3.

⁹ Id. at 31-38.

¹⁰ Id. at 32-33.

¹¹ Id. at 35-36.

¹² Id. at 197-201.

¹³ Id. at 201.

¹⁴ Section 3(e) of the Judicial Affidavit Rule provides:

SECTION 3. *Contents of Judicial Affidavit.* — A judicial affidavit shall be prepared in the language known to the witness and, if not in English or Filipino, accompanied by a translation in English or Filipino, and shall contain the following:

x x x x.

(e) The signature of the witness over his printed name; and

x x x x.

appears thereon. Accordingly, Investigating Commissioner Tiongco recommended that respondent be reprimanded with a stern warning.¹⁵

In its Resolution¹⁶ dated August 14, 2021, the Integrated Bar of the Philippines (IBP) Board of Governors reversed the report of Investigating Commissioner Tiongco, and instead, recommended that the complaint against respondent be dismissed. The IBP Board of Governors then issued an Extended Resolution¹⁷ dated September 1, 2021 wherein it explained that contrary to the findings of Investigating Commissioner Tiongco, Minglana indeed signed the subject affidavit. For one, the subject affidavit submitted by respondent clearly indicated therein that the name “Floyd Minglana” as an affiant and above it is his purported signature. For another, Minglana expressly admitted in his affidavit of recantation that he signed the subject affidavit. Hence, the alleged violation of Section 3(e) of the JAR has no leg to stand on.¹⁸ In any case, the requirements under the JAR should not be strictly applied in the case herein taken that the subject affidavit is more of a supporting affidavit to a complaint under Sections 1 to 3, Rule 110 of the Rules of Court. The more pertinent rules to be applied should be the 2004 Rules of Notarial Practice¹⁹ (Notarial Rules) in view of respondent’s admission that Minglana did not execute the subject affidavit on June 30, 2017 but a few days after.²⁰ After assessing the circumstances, however, the IBP Board of Governors recommended that respondent should not be held liable in the case.

The dispositive portion of the Extended Resolution reads:

WHEREFORE, premises considered, the Board of Governors RESOLVED to REVERSE the recommendation of the Investigating Commissioner and instead recommend that the Complaint against Respondent Atty. Zara Teodora B. Cabanlet be DISMISSED.

SO ORDERED.²¹ (Emphasis omitted)

The Issue

The issue to be resolved in this case is whether respondent should be held administratively liable.

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¹⁵ *Rollo*, p. 201.

¹⁶ *Id.* at 195-196; signed by Assistant National Secretary Jose Angel B. Guidote, Jr.

¹⁷ *Id.* at 202-207; signed by Deputy Director Ernesto A. Altamira III.

¹⁸ *Id.* at 204.

¹⁹ Administrative Matter (A.M.) No. 02-8-13-SC, July 6, 2004.

²⁰ *Rollo*, p. 205.

²¹ *Id.* at 207.

The Court's Ruling

The Court finds no cogent reason to depart from the findings and recommendations of the IBP Board of Governors.

At the outset, that a lawyer enjoys the legal presumption of innocence until the contrary is proved, and that as an officer of the Court, he or she is presumed to have performed his or her duties in accordance with the Lawyer's Oath.²² As such, in disbarment proceedings, the burden of proof rests upon the complainant to establish the allegations in her complaint with substantial evidence or "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."²³

In the instant case, complainant failed to discharge this burden. *First*, other than her bare allegations, complainant failed to support its contention that respondent "intentionally fabricated" another version of the incident. To repeat, allegations are not proof and complainant bears the burden of substantiating the same.²⁴ *Second*, as aptly held by the IBP Board of Governors, while Minglana did not execute the subject affidavit on June 30, 2017 as indicated therein, the record shows that Minglana: (1) did appear before respondent; (2) had the opportunity to go over the assertions in the subject affidavit; (3) validated the contents of the subject affidavit; and (4) affixed his signatures therein. Thus, for all legal intent and purposes, Minglana completed the acts of validly executing the subject affidavit.

Time and again, the Court has held that "it will not hesitate to mete out proper disciplinary punishment upon lawyers who are shown to have failed to live up to their sworn duties, but neither will it hesitate to extend its protective arm to them when the accusation against them is not indubitably proven."²⁵

WHEREFORE, the disbarment complaint against respondent Atty. Zara Teodora B. Cabanlet is **DISMISSED** for lack of merit.

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²² *Tan v. Atty. Alvarico*, A.C. No. 10933, November 3, 2020, citing *BSA Tower Condominium v. Atty. Reyes*, A.C. No. 11944, 833 Phil. 588 (2018) and *Zara v. Atty. Joyas*, A.C. No. 10994, June 10, 2019.

²³ *See v. Adviento*, A.C. No. 12934, February 10, 2021.


²⁴ *Atty. Aguirre v. Atty. Reyes*, A.C. No. 4355, January 08, 2020, citing *Angeles v. Polytex Design, Inc. and/or Cua and Gabiola*, 562 Phil. 152, 160 (2007).

²⁵ *Anacin v. Atty. Salonga*, A.C. No. 8764, January 8, 2020, citing *Atty. Guanzon v. Atty. Dojilo*, A.C. No. 9850, 838 Phil. 228 (2018).

The Resolution No. CBD-XXV-2021-08-06 dated August 14, 2021 and the Extended Resolution dated September 1, 2021 of the Board of Governors, Integrated Bar of the Philippines are **NOTED**.

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

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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JUL 19 2022

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