



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. 13354 [Formerly CBD Case No. 18-5607] (*Aurabel V. Carcellar v. Atty. Isaiah\* C. Asuncion, Jr.*). – This is a Complaint<sup>1</sup> for appropriate sanctions and any recoverable damages filed before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) by Aurabel Velasco Carcellar- (complainant) against Atty. Isaiah C. Asuncion, Jr. (respondent). Complainant alleged that respondent violated Canons 1 and 10 of the Code of Professional Responsibility (CPR).<sup>2</sup>

In the Report and Recommendation<sup>3</sup> dated 10 December 2018 in CBD Case No. 18-5607, the Investigating Commissioner of the IBP-CBD recommended that respondent be suspended from the practice of law for two years for violation of the Lawyer’s Oath and of the CPR. The IBP Board of Governors initially adopted the Investigating Commissioner’s recommendation.<sup>4</sup> However, on 26 September 2020, in Resolution No. 2020-09-38,<sup>5</sup> the Board of Governors of the IBP resolved to modify the penalty imposed to suspension of one year.<sup>6</sup>

**Antecedents**

Complainant initiated the administrative case against respondent through an undated letter to the IBP-CBD.<sup>7</sup> It was stamped received on 26 January 2018.<sup>8</sup> She alleged that respondent facilitated the issuance of a title

\* Also referred to as Isiahs in some parts of the records.

<sup>1</sup> *Rollo*, Vol. 1, pp. 1-4.

<sup>2</sup> Report and Recommendation, p. 1.

<sup>3</sup> *Id.* at 1-9. Penned by Commissioner Erwin L. Aguilera.

<sup>4</sup> Notice of Resolution, p. 1. Signed by National Secretary Patricia-Ann T. Prodigalidad.

<sup>5</sup> *Id.* Signed by National Secretary Roland B. Inting.

<sup>6</sup> *Id.* at 1-2. Signed by National Secretary Roland B. Inting.

<sup>7</sup> *Rollo*, Vol. 1, pp. 1-4.

<sup>8</sup> *Id.* at 1.

in her parents' names through a simulated Deed of Sale. Respondent was accused of the following offenses: (1) Falsification of Public Document committed on 24 July 2014; (2) Violation of the Notarial Law committed on 24 July 2014; (3) Two counts of Estafa committed on 09 and 10 July 2013; (4) Conduct Unbecoming of a Lawyer; and (5) Violation of Ethics of the Legal Profession.<sup>9</sup>

Apolinar Bermudez Velasco (Velasco), complainant's father, inherited a parcel of land measuring 11,471 square meters (sqm.) in Moncada, Tarlac from his aunt Apolonia Bermudez (Bermudez). Velasco was designated as administrator and overseer of Bermudez's land when she immigrated to the United States of America. When Bermudez passed away on 23 September 2012, Velasco inherited the land under his administration. Respondent's services were recommended to Velasco and his spouse Aurea (spouses Velasco) when they sought assistance for the transfer in their name of the title to the inherited land.<sup>10</sup>

Respondent received from the spouses Velasco the total amount of ₱100,000.00. It was paid in two installments: ₱50,000.00 on 09 July 2013 and ₱50,000.00 on 10 July 2013. Handwritten receipts signed by both respondent and the spouses Velasco were submitted to prove that respondent indeed obtained payment.<sup>11</sup> After more than a year, the spouses Velasco were able to obtain title in their names allegedly without signing any documents. Transfer Certificate of Title (TCT) No. 185378<sup>12</sup> in the name of Bermudez was canceled and TCT No. 043-2014010030<sup>13</sup> under the name of the spouses Velasco was issued in its stead. The title was dated 30 September 2014.<sup>14</sup>

The spouses Velasco later learned that a simulated Deed of Absolute Sale<sup>15</sup> was used to obtain title to the land. They were planning to sell a portion of the land over the opposition of Marilyn Mañalac (Mañalac). Mañalac was a mortgagee of the 600 sqm. portion of the land, which was not part of the intended sale.<sup>16</sup>

Aurea, together with the barangay captain, went to the office of Atty. Sotero Rambayon (Atty. Rambayon) to discuss why Mañalac was opposed to the sale. Atty. Rambayon is Velasco's distant relative who facilitated the lease of the land to Mañalac. During the meeting, Atty. Rambayon produced a copy of the simulated Deed of Absolute Sale, which was dated 26 July 2014, or almost two years after Bermudez's death. The deed was purportedly signed by the Velasco spouses as vendees and Bermudez as vendor. The

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<sup>9</sup> Id. at 40.

<sup>10</sup> Id. at 1.

<sup>11</sup> Id. at 50-51.

<sup>12</sup> Id. at 6-10.

<sup>13</sup> Id. at 11-12.

<sup>14</sup> Id. at 1.

<sup>15</sup> Id. at 13.

<sup>16</sup> Id. at 2.

signature of Bermudez's husband, Wenceslao Santiago, Jr., signified his marital consent.<sup>17</sup> Atty. Rambayon declared that the spouses Velasco could be jailed for signing such document.<sup>18</sup>

The spouses Velasco, with respondent as counsel, filed an agrarian dispute case to be able to proceed with the sale of the land. Atty. Rambayon continued to insist that the Deed of Absolute Sale was simulated. Respondent, however, assured the spouses Velasco that their title was not fake.<sup>19</sup> Unsatisfied with respondent's assurance, the spouses Velasco paid a visit to Atty. Simplicio M. Sevilleja, Sr. (Atty. Sevilleja), the lawyer who notarized the deed. They were only able to speak with his secretary, who told them that it was not Atty. Sevilleja's signature that was in the document. She showed the spouses Velasco a specimen of Atty. Sevilleja's signature, which is markedly different from that in the simulated Deed of Absolute Sale.<sup>20</sup> They also learned that the deed was not among the documents submitted by Atty. Sevilleja to the Clerk of Court of Urdaneta, Pangasinan.<sup>21</sup>

IBP-CBD subsequently ordered respondent to submit his verified Answer in an Order<sup>22</sup> dated 05 March 2018. Respondent filed a Motion for Extension of Time to File an Answer<sup>23</sup> on 11 April 2018 and asked for an extension of 15 days from receipt.

In his Answer<sup>24</sup> dated 25 April 2018, respondent denied being responsible for the preparation of Deed of Absolute Sale as well as the transfer of the title of the land. He declared that Rogelio Gajardo (Gajardo) had a contact person who facilitated the transfer. He further asserted that he had no participation in the preparation and notarization of the Deed of Absolute Sale and that he never went to the Office of the Register of Deeds in Tarlac to cause the transfer of title.<sup>25</sup> He admitted that he endorsed to Gajardo the work of transferring the title.<sup>26</sup> Since the title was issued in 2014, respondent also admitted that he was surprised that complainant questioned the issuance of the title only in 2018.<sup>27</sup> Finally, respondent declared that the complaint should be dismissed because complainant is not the real party in interest and had no legal personality to file the case.<sup>28</sup>

Attached to respondent's Answer is an affidavit<sup>29</sup> executed by Gajardo. In his affidavit, Gajardo stated that he arranged a meeting between respondent and the spouses Velasco. They came to an agreement regarding

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<sup>17</sup> Id. at 13.

<sup>18</sup> Id. at 3.

<sup>19</sup> Id. at 2-3.

<sup>20</sup> Id. at 3.

<sup>21</sup> Id. at 46, 60.

<sup>22</sup> Id. at 17.

<sup>23</sup> Id. at 18-19.

<sup>24</sup> Id. at 20-23.

<sup>25</sup> Id. at 20.

<sup>26</sup> Id. at 21.

<sup>27</sup> Id.

<sup>28</sup> Id. at 22.

<sup>29</sup> Id. at 24-25.

the expenses incurred in the transfer of title.<sup>30</sup>

The IBP-CBD directed the parties to appear during the preliminary conference on 21 June 2018.<sup>31</sup> Respondent filed a Motion for Postponement<sup>32</sup> dated 08 June 2018 and attached the court orders related to his hearing scheduled on the same date as the preliminary conference. The preliminary conference proceeded as scheduled. Complainant appeared without counsel and respondent was absent. The Investigating Commissioner terminated the conference and ordered the parties to file their verified position papers.<sup>33</sup>

On 26 September 2018, complainant filed a Motion to Withdraw and Dismiss the Complaint.<sup>34</sup> She declared that she clarified matters in the case with the respondent.

### **IBP's Report and Recommendation**

The Investigating Commissioner of the IBP-CBD recommended respondent's suspension from the practice of law for two years for violation of the Lawyer's Oath and of the CPR.<sup>35</sup>

Respondent's receipt of the amount of ₱100,000.00 from the spouses Velasco was found to be properly supported by documentary evidence. He also did not deny the allegation that his services were engaged by the spouses Velasco and that he received payment from them.<sup>36</sup> Noting the contrast in the contents of respondent's Answer and Gajardo's affidavit, the Investigating Commissioner declared that the participation of respondent in the transfer of title is "not [of] an on-looker victimized by the circumstances, but [that of] a willing and knowing full participant in the title transfer incident [that] crossed into the illicit."<sup>37</sup>

Complainant was allowed to file administrative charges against respondent in the interest of justice and fair play. Citing *Heck v. Santos*,<sup>38</sup> the Investigating Commissioner affirmed that any interested person or the court *motu proprio* may initiate disciplinary proceedings. The right to file a complaint is not limited to the lawyer's clients. Complainant may be considered as filling in the shoes of her parents as they are no longer physically capable of undertaking the rigors of disbarment proceedings.

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<sup>30</sup> Id. at 24.

<sup>31</sup> Id. at 28.

<sup>32</sup> Id. at 29-30.

<sup>33</sup> Id. at 39.

<sup>34</sup> Id. at 61.

<sup>35</sup> Report and Recommendation, p. 9.

<sup>36</sup> *Rollo*, Vol. 2, p. 6.

<sup>37</sup> Id. at 8.

<sup>38</sup> *See* 467 Phil. 798 (2004).

In its 27 May 2019 Resolution,<sup>39</sup> the IBP Board of Governors resolved to adopt the findings of fact and recommendation of the Investigating Commissioner to impose upon respondent the penalty of two years suspension from the practice of law.

Respondent filed a Motion for Reconsideration<sup>40</sup> dated 08 October 2019. He emphasized that there is no substantial proof that he participated in the execution of the Deed of Absolute Sale notarized by Atty. Sevilleja. There is also no proof that he participated in the transfer of title of the land. The Investigating Commissioner ignored Gajardo's admission that it was his contact who facilitated the transfer of title. He further claimed that his right to due process was denied when the Investigating Commissioner disregarded his motions for postponement and to conduct clarificatory hearing. Finally, complainant's voluntary execution of her Motion to Withdraw<sup>41</sup> was again ignored.<sup>42</sup>

The IBP Board of Governors partially granted respondent's Motion for Reconsideration. In its 26 September 2020 Resolution,<sup>43</sup> they resolved to modify the penalty of suspension imposed upon respondent. From the initial penalty of suspension for two years, the IBP Board of Governors recommended respondent's suspension from the practice of law for one year.

In the Extended Resolution<sup>44</sup> of the IBP Board of Governors, they declared that although respondent's participation in the falsification of the Deed of Absolute Sale was put in doubt by Gajardo's affidavit and complainant's Motion to Withdraw the Complaint, the undisputed fact was that respondent was engaged by complainant's parents for the transfer of title. He was never relieved from doing the work. It was still his responsibility to ensure that all documents are valid and legitimate. Respondent failed to discharge Rule 18.03 of the Code of Professional Responsibility: "[a] lawyer shall not neglect a legal matter entrusted to him [or her], and his [or her] negligence in connection therewith shall render him [or her] liable." His suspension was still warranted as his negligence prejudiced the transfer of title and exposed complainant's parents to possible criminal charges.

The records of this case were transmitted to the Court on 11 January 2022.<sup>45</sup>

### Issue

The issue before Us is whether respondent should be held administratively liable for violating the CPR.

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<sup>39</sup> *Rollo*, Vol. 2, p. 1.

<sup>40</sup> *Id.* at 11-16.

<sup>41</sup> *Rollo*, Vol. 1, p. 61.

<sup>42</sup> *Rollo*, Vol. 2, p. 15.

<sup>43</sup> *Id.*, unpaginated.

<sup>44</sup> *Id.*, unpaginated.

<sup>45</sup> Letter of Transmittal, p. 1.

### Ruling of the Court

We resolve to adopt the findings of fact of the IBP.

As a preliminary matter, We find it necessary to declare that this is not the first administrative case that involves respondent. He has previously been meted the penalty of suspension for six months by this Court. Our disposition in *Aguinaldo v. Asuncion, Jr.*<sup>46</sup> reads:

WHEREFORE, respondent Atty. Isaiah C. Asuncion, Jr. is hereby found GUILTY of committing dishonest, deceitful, and fraudulent acts prejudicial to the legal profession and in violation of Canon 1, Rule 1.01 of the Code of Professional Responsibility. Accordingly, he is SUSPENDED from the practice of law for a period of six (6) months, reckoned from receipt of this Decision, with WARNING that a similar misconduct in the future shall be dealt with more severely.

Let a copy of this Decision be furnished the Office of the Bar Confidant and the Integrated Bar of the Philippines for their information and guidance. The Court Administrator is DIRECTED to CIRCULATE this Decision to all courts in the country.

SO ORDERED.

Moreover, a motion for withdrawal of the complaint does not automatically warrant the dismissal of an administrative complaint. In *Escalona v. Padillo*,<sup>47</sup> an administrative case filed against a court stenographer, We stated:

This Court has an interest in the conduct and behavior of its officials and employees and in ensuring at all times the proper delivery of justice to the people. No affidavit of desistance can divest this Court of its jurisdiction under Section 6, Article VIII of the Constitution to investigate and decide complaints against erring officials and employees of the judiciary. The issue in an administrative case is not whether the complainant has a cause of action against the respondent, but whether the employee has breached the norms and standards of the courts. Neither can the disciplinary power of this Court be made to depend on a complainant's whims. To rule otherwise would undermine the discipline of court officials and personnel. The people, whose faith and confidence in their government and its instrumentalities need to be maintained, should not be made to depend upon the whims and caprices of complainants who, in a real sense, are only witnesses. Administrative actions are not made to depend upon the will of every complainant who may, for one reason or another, condone a detestable act. Such unilateral act does not bind this Court on a matter relating to its disciplinary power.<sup>48</sup>

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<sup>46</sup> A.C. No. 12086, 07 October 2020.

<sup>47</sup> 645 Phil. 263 (2010). Citations omitted.

<sup>48</sup> Id. at 267-268.

There is no reason not to apply the same principle to lawyers, who are officers of the Court.

In the present case, respondent was specific in limiting his denial to his participation in the preparation of the Deed of Absolute Sale and the transfer of title. He did not deny meeting the spouses Velasco. Neither did he deny receiving payment from the spouses Velasco for his services. He never disavowed that the spouses Velasco were his clients. However, respondent distinctly admitted endorsing the work of the transfer of title to Gajardo.<sup>49</sup>

On the other hand, Gajardo's statements in his affidavit further underscored respondent's involvement with the spouses Velasco's predicament.

4. That I referred [the spouses Velasco] to my former lawyer ATTY. ISAAH C. ASUNCION, JR. who could help in the transfer of the title.

5. That I arranged a meeting between ATTY. ISAAH C. ASUNCION, JR. and the spouses Velasco in the town plaza in Moncada, Tarlac to discuss the matters regarding the transfer of the title.

6. That at the meeting, ATTY. ISAAH C. ASUNCION, JR. and the spouses Velasco came to terms as to the expenses that will be incurred in the transfer of the title.

7. That after several months have lapsed, the spouses Velasco requested me to contact ATTY. ASUNCION as to the progress of the transfer of the title as they were in a hurry because there was already a buyer who was much interested in buying the lot.<sup>50</sup>

Gajardo never absolved respondent from responsibility for the transfer of title. Without explaining the identity of a certain Victor Manalo (Manalo), Gajardo declared that it was Manalo, and not respondent, who had no participation in the preparation and notarization of the deed and in the transfer of title.

12. That Victor Manalo has no participation whatsoever in the preparation and notarization of the deed of absolute sale and in the transfer of the title in the names of the spouses Velasco, the truth being that it was my contact who caused the processing of all the papers, with his assurance that the title that would be issued is a genuine and authentic one.<sup>51</sup>

Given these, We agree with the IBP's finding that respondent was negligent in handling the work entrusted to him by the spouses Velasco. His clear disregard for his clients' welfare was made even more pronounced when he endorsed the work to Gajardo. He did not see it worthy to examine whether Gajardo's contact used questionable methods. Such attitude did not only derail the spouses Velasco's plans of selling the land, it also opened

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<sup>49</sup> *Rollo* (Vol. 1), pp. 20-21.

<sup>50</sup> *Id.* at 24.

<sup>51</sup> *Id.* at 25.

them up to prosecution.

Respondent should be reminded that when a lawyer takes a client's cause, he or she covenants that he or she will exercise due diligence in protecting the latter's rights. Failure to exercise that degree of vigilance and attention expected of a good parent makes the lawyer unworthy of the trust reposed on him or her by his or her client and makes him or her answerable not just to his or her client but also to the legal profession, the courts and society.<sup>52</sup> As We reiterate the IBP's pronouncement, We emphasize respondent's laxity and violation of Rule 18.03 of CPR: "[a] lawyer shall not neglect a legal matter entrusted to him [or her], and his [or her] negligence in connection therewith shall render him [or her] liable."

We examined the penalties that We imposed in the past two years for violations of Rule 18.03. Due to the varying circumstances surrounding each case, penalties have ranged from admonition,<sup>53</sup> reprimand,<sup>54</sup> suspension of three months,<sup>55</sup> suspension of six months,<sup>56</sup> suspension of three years,<sup>57</sup> fine in lieu of disbarment,<sup>58</sup> to disbarment<sup>59</sup>. This Court cannot disregard the circumstances which warrant the affirmation of the penalty imposed by the IBP Board of Governors upon respondent: he admitted endorsement to Gajardo and he was previously found guilty of, and penalized for, an administrative offense. All things considered, the Court deems the penalty of suspension from practice of law for a period of one year, as recommended by the IBP Board of Governors, to be commensurate to respondent's transgressions.

**WHEREFORE**, the Court finds respondent Atty. Isaiah C. Asuncion, Jr., **GUILTY** of violating Rule 18.03 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for one (1) year, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely.

The suspension in the practice of law shall take effect immediately upon receipt of this Decision by respondent Atty. Isaiah C. Asuncion, Jr. He is **ORDERED** to immediately file a Manifestation to the Court that his suspension has started, and to furnish copies to all courts and quasi-judicial bodies where he entered his appearance as counsel.

<sup>52</sup> *Del Mundo v. Capistrano*, 685 Phil. 687, 692 (2012). Citations omitted.

<sup>53</sup> *Gonzales v. Atty. Fajardo, Jr.*, A.C. 12059, 06 October 2021. Note that Section 57(f), Rule 10 of the 2017 Rules on Administrative Cases in the Civil Service states that a warning or an admonition is not considered a penalty.

<sup>54</sup> *Sison v. Atty. Dumlao*, A.C. No. 11959, 28 April 2021.

<sup>55</sup> *Taghoy, v. Atty. Tecson III*, A.C. No 12446, 16 November 2020.

<sup>56</sup> *The Heirs of the Late Spouses Justice Reyes v. Atty. Brillantes*, A.C. No. 9594, 05 April 2022; *Sanchez v. Atty. Perez*, A.C. No. 12835, 03 February 2021; *Quitazol v. Atty. Capela*, A.C. No. 12072, 09 December 2020; *Zamora v. Atty. Gallanosa*, A.C. No. 10738, 14 September 2020.

<sup>57</sup> *Portuguese v. Atty. Centro*, A.C. No. 12875, 26 January 2021; *Costenoble v. Atty. Alvarez, Jr.*, A.C. No. 11058, 01 September 2020.

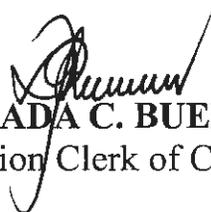
<sup>58</sup> *Nicolas v. Atty. Laki*, A.C. No. 12881, 09 February 2021.

<sup>59</sup> *Bataan Shipyard and Engineering Company, Inc. v. Atty. Consunji*, A.C. No. 11439, 04 January 2022; *Telles v. Dancel*, A.C. No. 5279, 08 September 2020.

Let a copy of this Decision be furnished to the Office of the Bar Confidant to be appended to the records of respondent Atty. Isaiah C. Asuncion, the Integrated Bar of the Philippines for dissemination to all its chapters, and the Office of the Court Administrator for circulation to all courts in the country for their information and guidance.

**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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