



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 19, 2022**, which reads as follows:*

“A.C. No. 13362 [Formerly CBD Case No. 18-5879] (*Aurora S. Camaclang v. Atty. Elgar Cruz*). — Aurora S. Camaclang (Camaclang) filed a disbarment Complaint¹ against Atty. Elgar Cruz (Atty. Cruz) for the latter’s alleged violation of Canon 12, Rule 12.07² of the Code of Professional Responsibility (CPR). This stemmed from nine counts of perjury initiated by Camaclang against Juliana C. Dolojan (Juliana), Luis Alfonso S. Camaclang (Luis), and Maria Carizza M. Camaclang (Maria), among others, who were represented by Atty. Cruz in said case.

In the disbarment complaint, Camaclang averred that Informations³ for nine counts of perjury were filed against Juliana, Luis, Maria, and several others (Juliana *et al.*) for making untruthful statements in a pleading entitled “Opposition (Ad Cautelam) with Motion to Dismiss”⁴ which they filed in response to Camaclang’s petition for guardianship.⁵ Camaclang asserted that she intended to present Dr. Ramon S. Francisco (Dr. Francisco), the attending doctor of her mother Servillana Camaclang (Servillana), as a witness to prove that Juliana *et al.* committed perjury in making their statements as reflected in the aforementioned pleading.⁶

Since the pre-trial stage until Dr. Francisco was about to take the witness stand, Atty. Cruz was well-aware that the former will be presented as a witness, but he never raised any objection to such move. However, during the

¹ *Rollo*, pp. 1-6.

² CANON 12 – A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

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RULE 12.07 – A lawyer shall not abuse, browbeat or harass a witness nor needlessly inconvenience him.

³ *Rollo*, pp. 7-24.

⁴ *Id.* at 25-53.

⁵ *Rollo*, pp. 2 and 7. See also *rollo*, p. 97.

⁶ *Rollo*, p. 2.

hearing on February 1, 2018, Atty. Cruz harassed and threatened Dr. Francisco of a suit in violation of the Data Privacy Act should he proceed with his testimony.⁷ Camaclang claimed that Dr. Francisco does not process data as contemplated under the said law. Therefore, Dr. Francisco was misled with the threat of Atty. Cruz thereby preventing the former from completing his testimony. Camaclang concluded that the acts of Atty. Cruz were clearly intended to harass and intimidate Dr. Francisco, and to repress evidence.⁸

In addition, Camaclang stated that Atty. Cruz was unethical when the latter, as defense counsel, directly talked to Dr. Francisco who was the prosecution's witness during a court recess. Atty. Cruz made Dr. Francisco reach out to his hospital's legal counsel, and the former kept talking to Dr. Francisco reiterating his threats and adding unnecessary apprehension to the latter. Consequently, when the hearing resumed, Dr. Francisco expressed his apprehension which constrained Camaclang to withdraw Dr. Francisco as witness despite the materiality and relevance of his testimony.⁹ These incidents prompted Camaclang to file the disbarment case against Atty. Cruz.

In his Answer,¹⁰ Atty. Cruz denied having harassed the prosecution's witness nor committed unethical conduct in violation of the CPR.¹¹ He asseverated that Dr. Francisco was presented as a witness in the perjury case to testify on the mental condition of Servillana. Dr. Francisco's testimony was irrelevant and immaterial to the subject matter of the alleged perjured statements.¹² Atty. Cruz felt obliged to inquire from Dr. Francisco if he was aware of the legal consequences of the testimony that he was about to give in light of the physician-patient privileged communication between Dr. Francisco and Servillana.¹³ Atty. Cruz clarified that it was Dr. Francisco's own legal counsel who advised him to desist from testifying until his hospital's counsel was apprised of the consequences of Dr. Francisco's testimony.¹⁴ In sum, Atty. Cruz contended that the disbarment complaint was instituted to harass, vex, and annoy him for taking the cause against Camaclang.¹⁵

In Camaclang's Reply,¹⁶ she reiterated that Atty. Cruz committed serious unethical acts and threatened Dr. Francisco that "instilled false fear upon [him] such that he decided to no longer testify in the said perjury case."¹⁷

⁷ Id. at 3.

⁸ Id.

⁹ Id. at 4.

¹⁰ Id. at 96-102.

¹¹ Id. at 96.

¹² Id. at 99.

¹³ Id.

¹⁴ Id. at 100.

¹⁵ Id.

¹⁶ Id. at 109-112.

¹⁷ Id. at 110.

The Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) set the mandatory conference on October 24, 2019, and directed the parties to submit their respective mandatory conference briefs.¹⁸ On said date, only Atty. Cruz appeared, hence, the IBP-CBD reset the same on December 3, 2019.¹⁹ Atty. Cruz and Camaclang's counsel, Atty. Veronica Lladoc, appeared during the scheduled mandatory conference, which was likewise terminated on the same day.²⁰

Report and Recommendation of the Integrated Bar of the Philippines

In the IBP-CBD's Recommendation²¹ dated September 25, 2020, it found no tinge of harassment that transpired during the court hearing for the perjury case. Camaclang's allegation of harassment was not even corroborated by Dr. Francisco who was the subject of the alleged harassment. Hence, Camaclang's assertion was purely speculative.²² The IBP-CBD also ratiocinated that the court could have at least reprimanded Atty. Cruz had he been harassing or browbeating Dr. Francisco during the hearing itself. Courts will not tolerate such kind of improprieties in all proceedings. Similarly, the private prosecutor did not even object to the statements or questions propounded by Atty. Cruz.

In sum, the IBP-CBD concluded that no untoward incident transpired during the scheduled hearing. Consequently, there was no basis to the charge that Atty. Cruz committed any unethical conduct to warrant his disbarment. Absent substantial evidence, the disbarment complaint should be dismissed,²³ viz.:

IN VIEW WHEREOF, premises considered, the undersigned[,] after a careful scrutiny of the evidence submitted[,] respectfully recommends that the instant complaint be dismissed.

Respectfully recommended.²⁴

The IBP Board of Governors (IBP-BOG), in its Notice of Resolution,²⁵ adopted the findings of IBP-CBD, thus:

*RESOLVED, to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the instant case, to DISMISS the complaint against the Respondent for lack of merit.*²⁶

¹⁸ Id. at 116.

¹⁹ Id. at 144.

²⁰ Id. at 199.

²¹ *Rollo*, unpaginated. Penned by Commissioner Ferdinand P. Ignacio.

²² Id.

²³ Id.

²⁴ Id.

²⁵ Id.

²⁶ Id. Signed by Assistant National Secretary Jose Angel B. Guidote, Jr.

Issue

Whether Atty. Cruz violated Canon 12, Rule 12.07 of the CPR.

Our Ruling

The Court dismisses the disbarment complaint against Atty. Cruz.

Administrative and disbarment complaints and proceedings against members of the bar are *sui generis*. These cases are neither solely civil nor entirely criminal in nature because the Court scrutinizes whether the alleged acts or omissions contravene the ethical standards, which members of the bar are mandated to observe at all times.²⁷ Corollary, the complainant in a disbarment case bears the burden of proving by substantial evidence that the respondent lawyer's conduct is contrary to the CPR or the Lawyer's Oath among other ethical standards requiring compliance.²⁸ If the allegations in the disbarment complaint are not substantiated nor supported by substantial evidence, the complaint may be dismissed, as in this case.

Camaclang complained that Atty. Cruz violated Canon 12, Rule 12.07 of the CPR, which reads:

CANON 12 – A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

RULE 12.07 – A lawyer shall not abuse, browbeat or harass a witness nor needlessly inconvenience him.

Camaclang assailed the conduct of Atty. Cruz during the hearing for the perjury case as amounting to harassment and intimidation aimed to prevent Dr. Francisco from testifying, hence, repressing evidence and unduly delaying the resolution of the case.²⁹ As correctly observed by the IBP-CBD, Camaclang's contentions remained bare allegations because she failed to present any evidence pointing to the specific acts of harassment except for her mere statements. It would have turned out differently if Dr. Francisco corroborated her claim. Unfortunately, no proof was presented to support the allegation that harassment was indeed committed, or that delay was perpetuated by Atty. Cruz. The IBP-CBD specifically discoursed:

The complainant's allegation of harassment was not even corroborated either by the witness Dr. Ramon Francisco, who is alleged to have been harassed or any one of the private prosecutors who were present during the conversation. The statement of Dr. Ramon Francisco is very material in proving the allegation of harassment for it was him alone who could claim with

²⁷ See *Cuñá, Sr. v. Elona*, A.C. No. 5314, June 23, 2020. Citations omitted.

²⁸ *Gow v. De Leon*, A.C. No. 12713, September 23, 2020, citing *Ick v. Atty. Amazona*, A.C. No. 12375, February 26, 2020.

²⁹ *Rollo*, p. 3.

certitude that he was being harassed. But the complainant failed to secure the statement of the witness and whatever she says on the said incident is purely speculative if not hearsay.

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On the part of the accused, being represented by [Atty. Cruz], they were able to finish their presentation within three (3) trial dates as set by the Court. Thereafter, [Atty. Cruz] had formally offered his exhibits and rested his case.

From the foregoing, the undersigned Commissioner is unconvinced that there was a deliberate attempt on the part of [Atty. Cruz] to delay the early disposition of the instant case. What is clear and glaring herein is that [Atty. Cruz] had adhered to the provision of the Continuous Trial which [Camaclang] had failed to do so.³⁰

This Court cannot sanction or disbar a lawyer based on mere allegations, surmises, conjectures, or suppositions. The complainant in disbarment cases must adduce substantial evidence, which is “that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.”³¹ Based on Camaclang’s narration, it cannot be gainsaid that there was a failure to discharge the burden of proving that the conduct of Atty. Cruz amounted to harassment of a witness or delaying the case. Camaclang’s averments are insufficient for this Court to exercise its disciplinary arm or at most to disbar a lawyer, especially one who is merely complying with one’s bounden duty as partakers in the administration of justice. Atty. Cruz appropriately acted and promptly delivered, as expected of a legal practitioner representing one’s client in a suit. By propounding questions to Dr. Francisco, Atty. Cruz did not overstep nor violate any ethical standards. Had there been any improper conduct, the opposing counsel would have objected or raised the same in open court, or that the court itself would have reminded or sanctioned Atty. Cruz for such. This Court, however, finds nothing on record showcasing any incident of such nature. This Court will not impose the extreme penalty of disbarment for alleged wrongful acts which were not substantiated.

This Court will not close its eyes to evident violations of ethical standards which the members of the bar are mandated to uphold. Conversely, this Court will not exercise its disciplinary arm based on speculations and surmises lodged in a disbarment complaint against members of the bar who embody the exacting standards of the legal profession.


WHEREFORE, the disbarment complaint against Atty. Elgar Cruz is hereby **DISMISSED** for lack of merit.

³⁰ *Rollo*, unpaginated.

³¹ *Tan v. Atty. Alvarico*, A.C. No. 10933, November 3, 2020.

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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