



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 31, 2022 which reads as follows:*

**“A.C. No. 13367 [Formerly CBD Case No. 15-4839] (*Ofelia Salutan and Isidoro Naguit*\* *v. Atty. Ramiro*\*\* *V. Alzate, Jr.*). – This is a complaint<sup>1</sup> for disbarment and damages filed before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) by complainants Ofelia Salutan and Isidoro Nuguit (collectively, complainants) against respondent Atty. Ramiro V. Alzate, Jr. (respondent).**

**Antecedents**

Complainants were defendants in separate actions for ejectment<sup>2</sup> filed before the 10<sup>th</sup> Municipal Circuit Trial Court (MCTC) of Catarman-Lope de Vega, Catarman, Northern Samar. They were represented by respondent in his capacity as a Public Attorney II of the Public Attorney’s Office (PAO).<sup>3</sup>

The demolition of complainants’ residence, their lack of relocation site, and corresponding homelessness were all attributed to respondent. The MCTC’s Decision<sup>4</sup> dated 16 July 2012 ordered complainants to vacate the property they were leasing and to peacefully surrender its possession, among others. Respondent filed the Notice of Appeal<sup>5</sup> for complainants. The Order<sup>6</sup> dated 18 September 2012 of Branch 19 of the Regional Trial Court of

\* Initially, the complainants included Leo Salutan and Elena Naguit, the respective spouses of herein complainants. However, their names were crossed out. The word “deceased” was written beside their names. *Rollo*, p. 1. Also, “Naguit” is sometimes spelled as “Nuguit” in other parts of the record.

\*\* Also referred to as Ramero in other parts of the record. In his Answer, respondent stated that his first name is RAMIRO. *See rollo*, Vol. 1, p. 17.

<sup>1</sup> *Rollo*, Vol. 1, pp. 1-6.

<sup>2</sup> *Id.* at 28-29. Ofelia and her deceased husband Leo Salutan were the defendants in Civil Case No. 2011-325-C. The spouses Isidro and Elena Nuguit were the defendants in Civil Case No. 2011-326-C.

<sup>3</sup> *Id.* at 11-13. Respondent signed the Notice of Appeal before the MCTC as a lawyer from PAO.

<sup>4</sup> *Id.* at 7-10. Penned by Judge Jose C. Ocenar.

<sup>5</sup> *Id.* at 11-13.

<sup>6</sup> *Id.* at 14. Penned by Judge Norma Megenio-Cardenas.

Catarman, Northern Samar (RTC) mandated complainants to file their appeal memorandum with a warning that failure to do so shall be a ground for dismissal of the appeal.

Despite the RTC's directive, respondent did not file the required memorandum. In his Answer,<sup>7</sup> respondent claimed that he disagreed with complainants' desired course of action to appeal. He alleged that complainants were mere lessees of the property as evidenced by their contracts of lease.<sup>8</sup> However, in the appeal, they claimed ownership over the property as heirs of a certain Carlos Delgado.<sup>9</sup> Respondent admitted that he failed to submit the required memorandum because of this disagreement. Despite this, and due to the ongoing negotiations among the contending parties regarding complainants' relocation and the execution of a compromise agreement, respondent remained as counsel for complainants. According to respondent, he believed that a compromise agreement is in the best interest of complainants.<sup>10</sup>

On the other hand, complainants still engaged the services of respondent even after the dismissal of their appeal. There was a continuing offer for complainants' relocation and the execution of a compromise agreement while the motions for the issuance of writs for execution and demolition were being heard. The negotiations allegedly failed due to disagreement on the terms of the intended relocation.<sup>11</sup> Respondent claimed that his desire to protect the property rights of complainants is constrained by the bounds of the law and circumstances of the case.<sup>12</sup>

### **Proceedings before the IBP**

The IBP-CBD directed the parties to appear in the preliminary conference set on 22 March 2016.<sup>13</sup> Respondent appeared with counsel and complainants were absent.<sup>14</sup> Admitted by the respondent were the following: (1) the facts in his Answer; (2) the documents existing and coming from the proper courts; and (3) the existence of the attachments in the Complaint which are mostly records of the courts.<sup>15</sup> He proposed that the IBP-CBD resolve the following issues: (1) whether his failure to submit the appeal memorandum was justified under the circumstances; and (2) whether he is guilty of negligence which would warrant a disciplinary action.<sup>16</sup> The Investigating Commissioner terminated the conference and ordered the parties to file their verified position papers.<sup>17</sup>

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<sup>7</sup> Id. at 17-20.

<sup>8</sup> Id. at 21-27.

<sup>9</sup> Id. at 17-18.

<sup>10</sup> Id. at 18.

<sup>11</sup> Id.

<sup>12</sup> Id. at 19.

<sup>13</sup> Id. at 31.

<sup>14</sup> Id. at 39.

<sup>15</sup> Id.

<sup>16</sup> Id.

<sup>17</sup> Id. at 40.

The Investigating Commissioner of the IBP-CBD recommended respondent's suspension from the practice of law for six months. There was no award for complainants' claim of damages for lack of jurisdiction.<sup>18</sup>

Despite being cognizant of respondent's efforts to assist complainants and their acceptance of his continued representation of them, the Investigating Commissioner of the IBP-CBD pointed out that the filing of an appeal memorandum is a legal matter entrusted to him alone. Prudence should have dictated respondent's withdrawal from the case considering that he did not agree with his clients over the resolution of their issue. Hence, respondent should not be absolved from his violation of Rule 18.03, Canon 18 of the Code of Professional Responsibility (CPR) which states that "[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."<sup>19</sup>

In its Resolution<sup>20</sup> dated 28 September 2017, 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 six months' suspension from the practice of law.

Respondent filed a Motion for Reconsideration with Notice of Appearance as Collaborating Counsel<sup>21</sup> dated 18 October 2019. He asked for leniency on the recommended penalty as he readily acknowledged his mistake in handling complainants' appeal.<sup>22</sup> He pointed out that except for the present complaint, he has never been charged in any administrative, criminal, or civil proceedings during his past employment with the PAO and his current employment as Prosecutor II at the Department of Justice (DOJ). Suspension of six months will bring severe economic suffering to him and his family.<sup>23</sup>

In his Supplement to the Motion for Reconsideration (dated 18 October 2019)<sup>24</sup> dated 21 October 2019, respondent raised the issue of jurisdiction of the IBP over the administrative complaint. Respondent asserted that this Court previously ruled that acts or omissions of government lawyers involving official functions during their tenure are within the administrative disciplinary jurisdiction of his or her superior or the Office of the Ombudsman.<sup>25</sup> In their Comment<sup>26</sup> dated 12 January 2020, complainants maintained that suspension is commensurate to respondent's offense.

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<sup>18</sup> *Rollo*, Vol. 2, p. 6.

<sup>19</sup> *Id.* at 5-6.

<sup>20</sup> *Id.* at 1.

<sup>21</sup> *Id.* at 7-12.

<sup>22</sup> *Id.* at 7.

<sup>23</sup> *Id.* at 8.

<sup>24</sup> *Id.* at 13-17.

<sup>25</sup> *Id.* at 14.

<sup>26</sup> *Id.* at 22-24.

The IBP Board of Governors partially granted respondent's Motion for Reconsideration. In its 10 October 2020 Resolution,<sup>27</sup> they resolved to modify the penalty of suspension imposed upon respondent. From the initial penalty of six months' suspension, respondent was meted the penalty of reprimand.

The Extended Resolution<sup>28</sup> of the IBP Board of Governors dated 28 June 2021 did not find cause to dismiss the complaint for lack of jurisdiction. Respondent cannot exculpate himself from liability for his negligence in handling complainants' case by invoking the IBP's lack of jurisdiction over official acts of government lawyers. As respondent's omission as a public attorney is a violation of Rule 18.03 of the CPR, the IBP's jurisdiction holds. The penalty is reduced to a reprimand in view of the extenuating circumstance of continuance of the lawyer-client relationship.<sup>29</sup>

The records of this case were transmitted to the Court on 11 January 2022.<sup>30</sup>

### Issue

The issue before Us is whether respondent should be held administratively liable under the CPR for his failure to file an Appeal Memorandum while he was a PAO lawyer.

### Ruling of the Court

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

At the outset, We declare that the IBP properly exercised its jurisdiction over the present case. The IBP's inquisitorial power over government lawyers applies in cases of misconduct amounting to violation of either the Lawyers' Oath or the Code of Professional Responsibility.<sup>31</sup> Here, the allegations against respondent pertain to his fitness as a member of the Philippine Bar, and not as an official in the discharge of his duties as a lawyer of the government.

The impact of this distinction in the allegations of the complaint is further underscored in the guidelines formulated in the recent case of *Guevarra-Castil v. Trinidad*.<sup>32</sup> Paragraph 1 of the guidelines states that "[a]ll complaints against and which seek to discipline government lawyers in their respective capacities as members of the Bar must be filed directly before this Court. Conversely, complaints which do not seek to discipline them as

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<sup>27</sup> Id. (unpaginated)

<sup>28</sup> Id. (unpaginated)

<sup>29</sup> Id. (unpaginated)

<sup>30</sup> Id. (unpaginated)

<sup>31</sup> See *Sismaet v. Cruzabra*, A.C. No. 5001, 07 September 2020.

<sup>32</sup> A.C. No. 10294, 12 July 2022.

members of the Bar shall be dismissed for lack of jurisdiction and referred to the Ombudsman or concerned agency for appropriate action.”

Further, Section 5(5), Article VIII of the 1987 Constitution vests on the Supreme Court the exclusive authority to regulate the practice of law. The Constitution provides:

SECTION 5. The Supreme Court shall have the following powers:

x x x x

(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged. Such rules shall provide a simplified and inexpensive procedure for the speedy disposition of cases, shall be uniform for all courts of the same grade, and shall not diminish, increase, or modify substantive rights. Rules of procedure of special courts and quasi-judicial bodies shall remain effective unless disapproved by the Supreme Court.

Respondent thus cannot exculpate himself from liability by invoking his employment in government. Complainants charge respondent for his omission in violation of the CPR, and not because respondent was a lawyer from the PAO. Canon 18 of the CPR states that “[a] lawyer shall serve his [or her] client with competence and diligence.” In recognition of his imprudence, respondent admitted that he fell short of the highest standard of professional conduct in the performance of his duties as a PAO lawyer in the service of complainants.<sup>33</sup> We also reiterate the directive found in Rule 18.03 the 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.” Clearly, respondent should have been more circumspect in handling complainants’ case.

We cannot, however, discount the prevailing factual milieu. We are mindful about the various factors obtaining in this case: this is the first time that respondent participated in a disciplinary proceeding, respondent’s candidness about his shortcomings and willingness to take responsibility, as well as complainants’ continued reliance on respondent even after the dismissal of their appeal. Moreover, considering the absence of any showing that there was malice, bad faith, or evil motive in respondent’s omission, We deem the recommended penalty of reprimand sufficient under the circumstances.<sup>34</sup>

Finally, We also agree with the IBP Board of Governor’s lack of award of damages to complainants. Disciplinary proceedings against a lawyer, such as that for suspension or disbarment, involve no private interest

<sup>33</sup> *Rollo*, Vol. 1, p. 52.

<sup>34</sup> *See Somosot v. Pontevedra*, 522 Phil. 378, 385 (2006). *See also Vda. de Oribiana v. Gerio*, 177 Phil. 543 (1979).

and afford no redress for grievance.<sup>35</sup> Consequently, public welfare benefits from the enforcement of regulatory measures against erring members of the legal profession.

**WHEREFORE**, the Court finds respondent Atty. Ramiro V. Alzate, Jr. **GUILTY** of violating Rule 18.03 of the Code of Professional Responsibility. Accordingly, he is meted the penalty of **REPRIMAND**, with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely.

Let a copy of this Resolution be entered in Atty. Ramiro V. Alzate, Jr.'s record with the Office of the Bar Confidant, and notice of the same be served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all courts in the country.

**SO ORDERED.**"

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**72-I**

OCT 04 2022

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<sup>35</sup> See *Laurel v. Delute*, A.C. No. 12298, 01 September 2020.