



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated July 4, 2022, which reads as follows:*

“A.C. No. 13382 (*Abdulmajid P. Macre v. Atty. Luisito T. Gaudier*). – For resolution is the verified Complaint<sup>1</sup> dated October 18, 2018, filed by Abdulmajid P. Macre (complainant) before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) against Atty. Luisito T. Gaudier (respondent) for violation of the Code of Professional Responsibility.

The antecedent facts are as follows:

Complainant filed a complaint before the Office of the Ombudsman against then Baguio City Mayor Mauricio Domogan and other officials of Baguio City. The Ombudsman, however, dismissed the case. Complainant then transferred to Imus, Cavite, and signed a rental contract with 678 Corporation, with respondent serving as the Corporation’s Legal Officer. Complainant consulted with respondent regarding the dismissal of his Ombudsman’s case. Respondent advised him to file a petition for review before the Court of Appeals (CA). When complainant followed up the case with respondent in January 2016, respondent told him to leave it alone and simply wait. In March 2016, respondent left papers with complainant’s relative, who was also a tenant of 678 Corporation, with the instruction to bring the papers to the Supreme Court. Following respondent’s instructions, complainant brought the documents to the Supreme Court, but he was told that the papers were not in order, and that it was his attorney who was supposed to submit the same. In August 2016, complainant met with respondent, who handed him three (3) folders pertaining to the case.<sup>2</sup>

Sometime in January 2017, when complainant went to the CA to verify the status of his case, he found out that his case had been withdrawn. He also noticed that his signatures in some documents were forged. He claimed that when respondent learned that he went to the CA, the latter was enraged and his staff began taking his merchandise from his store. He further alleged that on May 4, 2017, his stall was padlocked without a prior court order. Thereafter,

<sup>1</sup> *Rollo*, pp. 1-5.

<sup>2</sup> *Id.* at 410.

respondent's staff, Leo Cabacang and Arnold Failano, filed a case against him for grave threats and attempted homicide. Complainant also believed that respondent was involved in the carnapping of his vehicle. Complainant averred that because of his actions, respondent violated the Code of Professional Responsibility.<sup>3</sup>

In his Answer,<sup>4</sup> respondent asserted that complainant's accusations against him arose out of his actions as the Legal Officer of 678 First Cavite Molino Blvd. Dampa Seafoods and Market Corporation, a privately owned and operated market in Bacoor, Cavite. His duties included attending meetings with tenant groups, issuing demand letters to suppliers and service providers, and issuing memoranda to tenants concerning policies of the market, as well as notices of violation to any of the tenants with respect to their contract. Respondent stated that complainant sought his advice regarding his case with the Ombudsman. He maintained that he filed the needed documents with the CA, hence, his obligation to complainant was fulfilled. Unfortunately, when respondent tried to contact complainant with regard to the CA decision, the latter could not be reached. Since complainant did not respond to his text messages, respondent was left with no choice but to leave a copy of the decision with complainant's relative, with the instruction to elevate the matter to the Supreme Court. However, when respondent saw complainant again in August 2016, all possible legal remedies had already lapsed. Respondent claimed that the falsification in the documents was actually committed by complainant and his wife.<sup>5</sup>

With regard to the closure of the leased stall, respondent clarified that complainant failed to pay his rent, monthly dues and utility bills amounting to ₱88,806.00. Complainant had several opportunities to settle his arrears prior to the closure, but he failed to do so. Thus, Mr. Alfredo Ong, the company's Vice-President for operations, had no other option but to issue a Notice of Padlock and Disconnection dated April 26, 2017. Complainant was given five (5) days to settle his obligation, which he ignored. Consequently, the market personnel padlocked complainant's store. Moreover, respondent insisted that he had no actual participation in the closure of complainant's store and in the confiscation of his merchandise. As the company's legal officer, it is not respondent's duty to physically padlock the store and confiscate the goods. In fact, he even gave complainant the opportunity to remove his merchandise from the stall. Furthermore, while the case filed against complainant had been dismissed, it does not mean that the case itself was fabricated or bogus. Lastly, respondent denied that he was involved in the carnapping of complainant's vehicle. He simply helped the media men in preparing a counter-affidavit. Respondent prays that the complaint against him be dismissed.<sup>6</sup>

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<sup>3</sup> Id.

<sup>4</sup> Id. at 173-185.

<sup>5</sup> Id. at 411-412.

<sup>6</sup> Id. at 412.

**The Report and Recommendation of the IBP -  
Commission on Bar Discipline<sup>7</sup>**

The IBP-Commission on Bar Discipline recommended that the complaint against Atty. Gaudier be dismissed, to wit:

**WHEREFORE, in view of the foregoing,** it is respectfully recommended that the Complaint dated 10 October 2018 be **DISMISSED** and respondent **Atty. Luisito T. Gaudier** be **ABSOLVED** from administrative liability.

**RESPECTFULLY SUBMITTED.<sup>8</sup>**

The Investigating Commissioner found that respondent has not committed any act or omission constituting any offense for which he may be disciplined as a member of the bar.

**The Resolution of the IBP Board of Governors<sup>9</sup>**

On November 19, 2021, a resolution was passed by the IBP-Board of Governors, as follows:

**RESOLUTION NO. CBD-XXV-2021-11-09**

**CBD Case No. 19-6103**

**Abdulmajid P. Macre vs.**

**Atty. Luisito T. Gaudier**

*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.<sup>10</sup>*

**The Court's Ruling**

After a careful review of the case, we adopt and approve the factual findings of the IBP, dismissing the complaint against respondent for lack of merit. Complainant miserably failed to present substantial evidence to support his accusations against respondent.

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.<sup>11</sup> 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

<sup>7</sup> Id. at 147-155; signed by Commissioner Perpetuo T. Lucero, Jr.

<sup>8</sup> Id. at 416.

<sup>9</sup> Id. at 406-407; signed by Jose Angel B. Guidore, Jr.

<sup>10</sup> Id. at 406.

<sup>11</sup> *BSA Tower Condominium Corporation v. Atty. Reyes*, 833 Phil. 588, 594 (2018); *Zara v. Jayas*, A.C. No. 10994, June 10, 2019.

complaint.<sup>12</sup> The basic rule is that reliance on mere allegations, conjectures and suppositions will leave an administrative complaint with no leg to stand on.<sup>13</sup> Charges based on mere suspicion and speculation cannot be given credence.<sup>14</sup> Thus, failure on the part of complainant to discharge his burden of proof by substantial evidence requires no other conclusion than that which stays the hand of the Court from meting out a disbarment order.<sup>15</sup>

In this case, complainant blames respondent for the withdrawal of the petition before the CA. He also alleged that respondent forged his signatures in some documents. The records show that respondent filed a Motion for Extension of Time to File Petition for Review (under Rule 43), and that the CA granted the same. Thereafter, a Motion to Withdraw Petition was filed, which complainant signed. Respondent filed a Motion to Withdraw in order for the party to avail of, and file the correct remedy of petition for *certiorari* under Rule 65. In fact, respondent filed the petition for *certiorari*, but the same was dismissed by the CA due to lack of material dates and other procedural defects. Respondent could not be faulted for failure to elevate the case to the Supreme Court because it was complainant who could not be reached. With regard to the claim of forgery, other than the Motion to Withdraw Petition and the Resolution granting the same, complainant failed to present evidence to substantiate his allegation.<sup>16</sup>

Furthermore, complainant asserts that respondent is responsible for the illegal closure of his business. A perusal of the records, however, shows that the stall being leased by complainant was closed due to his failure to pay rent, monthly dues, and utility bills despite having received notice. Mr. Alfredo Ong, Vice-President for Operation of the market, sent complainant a Notice of Padlock and Disconnection dated April 26, 2017. Aside from presenting evidence of the closure of the stall and the confiscation of the goods, complainant failed to prove that respondent had actual participation in the said activity. In addition, complainant was not able to establish that the filing of the criminal case against him was fabricated. Respondent was merely performing his duty as the legal officer of the corporation when he filed the complaint. Finally, there was no evidence at all linking respondent to the carjacking of complainant's car.<sup>17</sup>

Jurisprudence dictates that in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not obliged to prove their exception or

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<sup>12</sup> Id.

<sup>13</sup> *Zara v. Joyas*, supra note 11.

<sup>14</sup> *BSA Tower Condominium Corporation v. Atty. Reyes*, supra note 11; *Zara v. Joyas*, supra note 11.

<sup>15</sup> *Edgar M. Rico v. Atty. Jose R. Madrazo, Jr., Antonio V.A. Tan and Leonido C. Delante*, A.C. No. 7231, October 1, 2019.

<sup>16</sup> Id. at 414.

<sup>17</sup> Id.

defense.<sup>18</sup> Basic is the rule that, mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.<sup>19</sup> It is likewise well to remember that, in suspension or disbarment proceedings, lawyers enjoy the presumption of innocence.<sup>20</sup> Thus, complainant has the burden to prove by substantial evidence that respondent violated the Code of Professional Responsibility. In this case, complainant failed to prove his allegations by substantial evidence and therefore, the administrative case against respondent must be dismissed.

**WHEREFORE**, the November 19, 2021 Resolution of the Integrated Bar of the Philippines-Board of Governors in **CBD-XXV-2021-11-09** is **NOTED**. The Court resolves to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendation of Integrated Bar of the Philippines-Commission on Bar Discipline. The instant administrative case against respondent Atty. Luisito T. Gaudier is hereby **DISMISSED** for lack of merit.

Accordingly, the case is considered **CLOSED** and **TERMINATED**.

**SO ORDERED.”**

By authority of the Court:

*MisDCCBatt*  
**MISAEAL DOMINGO C. BATTUNG III**  
Division Clerk of Court  
GER  
911577

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Atty. Amor P. Entila  
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<sup>18</sup> See *Bruselas, Jr. v. Mallari*, A.C. No. 9683, IPI No. 17-250-CA-J, IPI No. 17-251-CA-J, *et al.*, February 21, 2017.

<sup>19</sup> *Cabas v. Atty. Sususco, et al.*, 787 Phil. 167, 174 (2016), citing *Dr. De Jesus v. Guerrero III, et al.*, 614 Phil. 520, 529 (2009).

<sup>20</sup> *Nocuencia v. Bensi*, A.C. No. 12609, February 10, 2020.

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**A.C. No. 13382**

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