



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated 31 August 2022, which reads as follows:*

**“A.C. No. 13414 [Formerly UE Case No. 18-154] (*Antonio Rosaroso vs. Atty. Gabriel J. Cañete*).** – Before the Court is an administrative Complaint<sup>1</sup> dated 20 June 2017 for disbarment filed by Antonio Rosaroso (Antonio) against Atty. Gabriel J. Cañete for allegedly making unwarranted declarations against his clients.

In his Affidavit,<sup>2</sup> Antonio alleged that Atty. Cañete is his and his co-heirs’ counsel in a case for nullity of documents with damages, docketed as Civil Case No. CEB-16957, since January 1996.<sup>3</sup> Atty. Cañete drafted an Ex-Parte Motion<sup>4</sup> dated 9 September 2015, authorizing a certain Manuel D. Rosaroso (Manuel) to receive a check amounting to PhP 498,480.00 and to deliver to the heirs their respective shares. Repudiating the motion, Antonio filed a Protest<sup>5</sup> dated 21 September 2015. Further, Antonio alleged that Atty. Cañete filed an Ex-Parte Motion to Order Honorable Jeffrey S. Joaquin (Clerk of Court) not to Delay Further the Release of the Check<sup>6</sup> on 5 June 2017, where Atty. Cañete stated that majority of the heirs revoked Antonio’s authority as the administrator of the estate.<sup>7</sup> For these reasons, Antonio charged Atty. Cañete with making unwarranted declarations against him and his other clients.

In a Report and Recommendation<sup>8</sup> dated 19 August 2019, the Director for Bar Discipline of the Integrated Bar of the Philippines – Commission on

<sup>1</sup> *Rollo*, Vol. I, pp. 2-3.

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

<sup>3</sup> *Id.* at 2.

<sup>4</sup> Ex-Parte Motion to Order Office of the Clerk of Court (O.C.C.) to Release the Amount of P498,480.00 Pursuant to the Order of this Honorable Court dated July 27, 2015; *id.* at 8.

<sup>5</sup> *Id.* at 6-7.

<sup>6</sup> *Id.* at 18-19.

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

<sup>8</sup> *Rollo*, Vol. II, pp. 2-3.

Bar Discipline (IBP-CBD) recommended that the administrative case be dismissed outright for lack of merit.<sup>9</sup> The IBP-CBD found that there was no sufficient basis to charge Atty. Cañete with making unwarranted declarations against his clients, *viz.*:

No wrongdoing can be ascribed to respondent as regards the 1<sup>st</sup> Ex-Parte Motion, since it appears to have been signed by the other heirs. Hence, there is no basis to charge respondent of making unwarranted declarations against them in the said pleading. Besides, complainant admittedly did not sign the same nor does it appear that respondent filed the said pleading in court. As such, complainant was neither prejudiced nor damaged by the same.

Similarly, no wrongdoing can be ascribed to respondent as regards the 2<sup>nd</sup> Ex-Parte Motion, since it appears that respondent was referring to an agreement of the heirs. Hence, it does not appear that respondent made the allegations on his own accord and without basis. In any case, the veracity of the said allegations is subject to judicial determination. And without an explicit finding by the court *a quo* that the said allegations are false and unwarranted, there is no basis to charge respondent of making unwarranted declarations in the 2<sup>nd</sup> Ex-Parte Motion.<sup>10</sup>

On 26 January 2020, the IBP Board of Governors passed a Resolution<sup>11</sup> adopting the aforesaid report and recommendation, to wit:

*RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Director of Bar Discipline in the above-entitled case and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, the case is hereby **DISMISSED** for lack of merit.*

Antonio moved for reconsideration,<sup>12</sup> but the same was denied by the IBP Board of Governors in its 2 December 2021 Resolution.<sup>13</sup>

The IBP-CBD forwarded the Notice of Resolution and records of the case to this Court pursuant to Rule 139-B, Rules of Court.<sup>14</sup>

The issue before this Court is whether Atty. Cañete should be held administratively liable based on the allegations in the complaint.

The Court resolves to adopt and approve the findings and recommendation of the Director for Bar Discipline as approved by the IBP Board of Governors on the dismissal of the complaint against Atty. Cañete.

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<sup>9</sup> Id.

<sup>10</sup> Id. at 3.

<sup>11</sup> Id. at 1.

<sup>12</sup> Id. at 4.

<sup>13</sup> Id., unpaginated.

<sup>14</sup> Id., unpaginated.

Jurisprudence is replete with cases ruling that an attorney enjoys the legal presumption that he is innocent of 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>15</sup>

In *Reyes v. Atty. Nieva*,<sup>16</sup> the Court settled that the quantum of proof necessary to be applied in administrative cases against lawyers is substantial evidence:

Based on a survey of cases, the recent ruling on the matter is *Cabas v. Sususco*, which was promulgated just this June 15, 2016. In the said case, it was pronounced that:

**In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, i.e., that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.** Further, the complainant has the burden of proving by substantial evidence the allegations in his complaint. The basic rule is that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.” (Emphasis in the original)

**Accordingly, this more recent pronouncement ought to control and therefore, quell any further confusion on the proper evidentiary threshold to be applied in administrative cases against lawyers.**

Besides, the evidentiary threshold of substantial evidence — as opposed to preponderance of evidence — is more in keeping with the primordial purpose of and essential considerations attending this type of cases. As case law elucidates, “[d]isciplinary proceedings against lawyers are *sui generis*. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, there is neither a plaintiff nor a prosecutor therein. It may be initiated by the Court *motu proprio*. Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney. In such posture, there can thus be no occasion to speak of a complainant or a prosecutor.” (Emphasis supplied; citations omitted)

<sup>15</sup> *Aba, et al. v. Attys. De Guzman, Jr., et al.*, 678 Phil. 588, 599-600 (2011), citing *In Re: De Guzman*, 154 Phil. 127 (1974); *De Guzman v. Tadeo*, 68 Phil. 554 (1939); *In Re: Tionko*, 43 Phil. 191 (1922); *Acosta v. Serrano*, 166 Phil. 257 (1977).


<sup>16</sup> 794 Phil. 360, 379-380 (2016).

After a careful review of the case, the Court finds that Antonio failed to adduce substantial evidence to establish that Atty. Cañete violated the Lawyer's Oath by making unwarranted declarations against his clients. Other than his bare allegations, Antonio did not adduce proof to substantiate his charges against Atty. Cañete.

**WHEREFORE**, in view of the foregoing, the Court resolves to **ADOPT** and **APPROVE** the Resolution dated 26 January 2020 of the Board of Governors of the Integrated Bar of the Philippines. Accordingly, the administrative Complaint against Atty. Gabriel J. Cañete is **DISMISSED** for lack of merit.

**SO ORDERED."**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
8/9/18

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**121-II**  
SEP 19 2022

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Office of the Bar Confidant (x)  
Supreme Court

Atty. Gabriel J. Cañete  
Respondent  
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