



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 05, 2022**, which reads as follows:*

“A.C. No. 13500 [Formerly CBD Case No. 18-5826] (Robert J. De Lara v. Atty. Mariano B. Carrasco and Atty. Evangeline Tadlas-Carrasco). – The instant administrative case stemmed from an Affidavit-Complaint¹ for disbarment filed by complainant Robert J. De Lara (complainant) against respondent spouses Atty. Mariano B. Carrasco (Atty. Mariano) and Atty. Evangeline Tadlas-Carrasco (Atty. Evangeline) (respondents, collectively) before the Integrated Bar of the Philippines (IBP) for deceit, malpractice, gross misconduct, and violation of Attorney’s Oath and Canons of Professional Ethics (CPE).

In the Report and Recommendation² dated 28 June 2019, IBP Commissioner Rebecca Villanueva-Maala (Commissioner Maala) recommended the dismissal of the administrative case against respondents for violation of the rule on forum shopping. She also recommended for the Commission and/or the Court to look into the misconduct committed by complainant’s counsel, Atty. Leovigildo D. Tandog, Jr. (Atty. Tandog) for appropriate disciplinary action.³

Commissioner Maala found that complainant together with his counsel, Atty. Tandog, were making a mockery of the rules by intentionally allowing two similar disbarment complaints to proceed before two different tribunals.⁴

On 18 March 2022, the IBP Board of Governors issued a Resolution⁵ which resolved to approve and adopt the Report and Recommendation of the Investigating Commissioner to dismiss the complaint against respondents for

¹ *Rollo*, Vol. 1, pp. 2-13.

² *Rollo*, Vol. 3, pp. 139-144.

³ *Id.* at 151.

⁴ *Id.*

⁵ *Id.* at 147-148.

lack of merit. It further resolved to recommend that Atty. Tandog be directed by the Supreme Court to show cause why he should not be considered as having violated the rule against forum shopping and to explain why he did not inform his client that two essentially similar cases cannot be filed at the same time against respondents.⁶

The Court **NOTES** the Report and Recommendation of the Investigating Commissioner and the Resolution dated 18 March 2022 of the IBP Board of Governors, and resolves to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendations therein.

Section 1, Rule 139-B of the Rules of Court (Rules) provides the procedure for the institution of disbarment proceedings against erring lawyers, viz.:

Section 1. *How Instituted.* — Proceedings for the disbarment, suspension, or discipline of attorneys **may be taken by the Supreme Court *motu proprio*, or upon the filing of a verified complaint of any person before the Supreme Court or the Integrated Bar of the Philippines (IBP).** The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts. (Emphasis and underscoring supplied.)

We note that complainant, unassisted by counsel, filed an affidavit-complaint (first disbarment complaint) with this Court on 15 May 2018. Believing that the same would not be acted upon, complainant no longer complied with the Office of the Bar Confidant's directive relative to the furtherance of the said case.⁷ The complaint at hand (second disbarment complaint) was subsequently filed with the IBP on 07 August 2018, upon the advice, and with the assistance of complainant's counsel, Atty. Tandog. Notably, the filing of the second disbarment complaint with the IBP was already violative of the Rules. This, considering that disbarment complaints may be filed with either the Supreme Court or the IBP and not both.

In the same manner, the IBP duly noted that the affidavit-complaint filed before the Supreme Court is an exact word-for-word copy of the disbarment case filed before the IBP.⁸ This was admitted by Atty. Tandog in his Appearance and Manifestation⁹ where he stated that the same disbarment complaint was earlier filed with this Court.

The essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment.¹⁰ It is an act

⁶ Id.

⁷ Id. at 143,

⁸ Id. at 150.

⁹ Id. at 144.

¹⁰ *Tapang v. Donayre*, A.C. No. 12822, 18 November 2020.

of malpractice that is prohibited and condemned because it trifles with the courts, abuses their processes, degrades the administration of justice, and adds to the already congested court dockets.¹¹

What is truly important in determining whether forum shopping exists or not is the vexation caused the courts and party-litigant by a party who asks different courts to rule on the same or related causes and/or to grant the same or substantially the same reliefs, in the process creating the possibility of conflicting decisions being rendered by the different fora upon the same issue.¹²

The rule against forum shopping embodied Section 5, Rule 7 of the Rules applicable at the time of filing of the disbarment complaints, provides:

SEC. 5. *Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he [or she] has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his [or her] knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he [or she] should thereafter learn that the same or similar action or claim has been filed or is pending, he [or she] shall report that fact within five (5) days therefrom to the court wherein his [or her] aforesaid complaint or initiatory pleading has been filed.

x x x x

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the dismissal of the case without prejudice, unless otherwise provided, upon motion and after hearing. The submission of a false certification or non-compliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the corresponding administrative and criminal actions. If the acts of the party or his [or her] counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

Culled from the same are the two rules on forum shopping which are separate and independent from each other, thus: 1) compliance with the certificate of forum shopping and 2) avoidance of the act of forum shopping itself.¹³

¹¹ *The Heirs of Mampo v. Morada*, G.R. No. 214526, 03 November 2020.

¹² *Chua v. Metropolitan Bank and Trust Co.*, 613 Phil. 143, 153 (2009).

¹³ *The Heirs of Mampo v. Morada*, supra.

The filing of the second disbarment complaint already constitutes forum shopping. Worse, it contained a false Verification/Certification where complainant failed to state that he did not commence any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and that no such other action or claim is pending therein,¹⁴ as required by the Rules. Verily, the dismissal of the second disbarment complaint is warranted based on forum shopping.

Section 5, Rule 7 of the Rules also provides that apart from being a ground for summary dismissal with prejudice, willful, and deliberate forum shopping shall constitute direct contempt and is a cause for administrative sanctions. Indeed, a lawyer's act of filing multiple actions may also violate the Lawyer's Oath, and Rule 12.02 and Canon 1 of the Code of Professional Responsibility.¹⁵

Atty. Tandog, being a lawyer familiar with the Rules and court processes, should have corrected the Verification/Certification attached to the second disbarment complaint to comply with the Rules against forum shopping. Likewise, Atty. Tandog should have advised complainant that there should only be one disbarment complaint and that filing a new one is unnecessary to avoid multiplicity of suits. As it stands, the first disbarment complaint filed by complainant with the Court, docketed as AC No. 12230, remains pending resolution with the Second Division thereof.¹⁶

In view thereof, Atty. Tandog is enjoined to explain why he should not be cited in contempt and held administratively liable for forum shopping.

WHEREFORE, the instant administrative complaint against respondents Atty. Mariano B. Carrasco and Atty. Evangeline Tadlas-Carrasco is hereby **DISMISSED**. Accordingly, the case is deemed **CLOSED** and **TERMINATED**.

Counsel for complainant, Atty. Leovigildo D. Tandog, Jr., is **DIRECTED** to SHOW CAUSE in writing within ten (10) days from notice why he should not be cited for contempt and held administratively liable for committing forum shopping.

The Notice of Resolution No. CBD-XXV-2022-03-37 dated March 18, 2022 of the Integrated Bar of the Philippines' Board of Governors, transmitted by letter dated April 27, 2022 of Atty. Avelino B. Sales, Jr., Director for Bar Discipline, Integrated Bar of the Philippines, together with the records and flash drive file, is **NOTED**.

¹⁴ *Rollo*, Vol. 3, pp. 12-13.

¹⁵ *See Go v. Teruel*, A.C. No. 11119, 4 November 2020.

¹⁶ Per verification from the Case Adjudication System of the Court.

SO ORDERED.” *Marquez, J., on official leave.*

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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