



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **16 February 2022** which reads as follows:*

“A.C. No. 6616 (Crusade Against Violence, represented by its National Vice President, Thelma Chiong, and the surviving brothers of Alona Ecleo, namely: Angelito, Ricky, and Josibel, all surnamed Bacolod, complainants v. Attys. Cezar R. Tajanlangit, Vicente T. Mañalac, Napoleon H. Alburo, Jose Neil Lao Nuñez, Jr., and Luis F. Salazar, respondents). – Before the Court is an appeal¹ filed by the Crusade Against Violence (CAV) represented by its National Vice-President, Thelma Chiong, and the surviving brothers of Alona Ecleo (Alona), namely: Angelito, Ricky, and Josibel, all surnamed Bacolod, (collectively, complainants) from the Resolution No. XX-2012-263² dated July 21, 2012 of the Integrated Bar of the Philippines (IBP) Board of Governors. The IBP Board of Governors adopted and approved the Report and Recommendation³ of the Investigating Commissioner that dismissed the Amended Complaint.⁴

The Antecedents

Complainants filed on November 18, 2004 an Amended Complaint⁵ before the Office of the Bar Confidant (OBC) against: Judge Ildefonso B. Suerte (Judge Suerte), Branch 60, Regional Trial Court (RTC), Barili, Cebu City; City Prosecutor Cezar R. Tajanlangit (Prosecutor Tajanlangit); Assistant Regional State Prosecutor Vicente T. Mañalac⁶ (Prosecutor Mañalac); Acting Provincial Prosecutor of Cebu

¹ See Appeal from the Resolution Dated July 21, 2021 of the IBP, *rollo*, Vol. III, pp. 1413-1433.

² See Notice of Resolution signed by National Secretary Nasser A. Marohomsalic, *id.* at 1401-1402.

³ *Id.* at 1436-1445. Penned by Commissioner Jose Roderick F. Fernando.

⁴ *Rollo*, Vol. I, pp. 133-168.

⁵ *Id.*

⁶ Spelled as “Manalac” in some parts of the *rollo*.

Napoleon H. Alburo (Prosecutor Alburo); Atty. Jose Neil Lao Nuñez, Jr.⁷ (Atty. Nuñez); and Atty. Luis F. Salazar (Atty. Salazar) (collectively, respondents).

Complainants accused respondents of conspiring to muddle the case of Parricide filed against Ruben Ecleo, Jr. (Ecleo) for the alleged murder of Ecleo's wife, Alona, which was then pending before the RTC of Cebu City. They averred that respondents orchestrated the extra-judicial confession of Cedrick Quinones Divinadera⁸ (Divinadera), who claimed that the murder of Alona was committed by the victim's brother, Ben Bacolod.⁹

Respondents, except Judge Suerte, filed their respective answers. Prosecutor Tajanlangit adopted the counter-affidavits he submitted in the cases filed against them by complainants before the Office of the Ombudsman and the Department of Justice.¹⁰

The instant complaint was thereafter referred to the IBP for investigation, report, and recommendation.¹¹

Meanwhile, the Court on December 17, 2004 rendered its Resolution in A.M. No. 04-7-373-RTC¹² and A.M. No. 04-7-374-RTC¹³ wherein it dismissed Judge Suerte from the service for taking cognizance of the Divinadera case, among other reasons.¹⁴

IBP Commission on Bar Discipline's Ruling

On May 30, 2011, IBP Commissioner Jose Roderick F. Fernando (Commissioner Fernando) submitted his Report and Recommendation¹⁵ with the following conclusion:

WHEREFORE, it is the recommendation of the undersigned that the instant case be DISMISSED as against ALL respondents for

⁷ Spelled as "Nunez" in some parts of the *rollo*.

⁸ Spelled as "Devinadera" in some parts of the *rollo*.

⁹ *Rollo*, Vol. III, p. 1405.

¹⁰ Docketed as OMB-V-C-04-0346-G, OMB-V-A-04-0305-E, and OMB-V-C-04-0641-L; *id.* at 1406-1410, 1436.

¹¹ *Id.* at 1437.

¹² *Re: Report on the Judicial Audit Conducted in the RTC, Branch 60, Barili, Cebu*, 488 Phil. 250 (2004).

¹³ *Re: Violation of Judge Ildefonso Suerte, RTC, Branch 60, Barili, Cebu, of Administrative Order No. 36-2004 dated March 3, 2004*, 488 Phil. 250 (2004).

¹⁴ *Id.*

¹⁵ *Rollo*, Vol. III, pp. 1436-1445.

lack of merit.¹⁶

According to Commissioner Fernando:

The charge of conspiracy is, at most, based on circumstantial evidence. No direct proof was presented tending to show that indeed all of the respondents conspired to manipulate the case against Divinadera and to ultimately effect the parricide case against Ecleo.

There was nothing proven to be irregular in the preliminary investigation in the case against Divinadera. Atty. Manalac was authorized to conduct the same and his finding of probable cause, as affirmed by Atty. Tajanlangit, is purely an exercise of their discretion as Prosecutors. They were correct in not taking into account extraneous matters that were not present in the instant case under consideration by their Office.

There was likewise nothing irregular, as to the participation of Attys. Alburo, Nunez and Salazar, in the manner by which the arraignment and promulgation of judgment was carried out. As public prosecutor, Atty. Alburo could not look behind the Information filed with the trial court. He had to presume that it went through the regular process before it was filed with the court. Likewise, he could fully delegate authority to prosecute the case in favor of the private prosecutor, Atty. Nunez, as that was sanctioned by the Rules of Court.

As to the participation of the other lawyers, if in the discretion of Atty. Nunez that the plea of guilty by Divinadera was acceptable to his client, and there is no evidence that the private complainant Jaime Bacolod objected to the same, then there was nothing wrong in agreeing to have Divinadera plead to a lesser offense. In the same vein, it was the duty of the defense counsel, Atty. Salazar, to get the best possible outcome for his client. Thus, if pleading guilty would give Divinadera the least prison time, then it was incumbent upon Atty. Salazar to accept the same.¹⁷

IBP Board of Governors' Ruling

On July 21, 2012, the IBP Board of Governors passed a resolution,¹⁸ viz.:

RESOLUTION NO. XX-2012-263
Adm. Case No. 6616
Crusade Against Violence vs.

¹⁶ *Id.* at 1412.

¹⁷ *Id.* at 1411-1412.

¹⁸ *Id.* at 1401-1402.

Attys. Cezar R. Tajanlangit, Vicente
T. Manalac, Napoleon H. Alburo, Jose
Neil Lao Nuñez, Jr. and Luis F. Salazar

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A," and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, considering that the case lacks merit, the same is hereby DISMISSED.*¹⁹

Complainants then went to this Court asserting that:

“WITH DUE RESPECT TO THE FINDINGS OF THE BOARD OF GOVERNORS OF THE IBP, IN ITS ASSAILED RESOLUTION, THE SAME IS NOT SUPPORTED BY THE EVIDENCE ON RECORDS AND OF SETTLED JURISPRUDENCE, HENCE THE SAME IS A REVERSIBLE ERROR.”²⁰

Complainants found suspicious the length of time it took the Investigating Commissioner to release his report. While other cases took only about a week to a month, this case took 14 months to finish.²¹ They also maintained that there was a conspiracy among respondents as found in A.M. No. 04-7-373-RTC and A.M. No. 04-7-374-RTC which cited the Memorandum dated July 12, 2004 of then Court Administrator Christopher Lock that stated: “[i]t appears that there is a grand conspiracy in order to exculpate and acquit Ruben Ecleo x x x Procedural lapses were uncovered during the preliminary investigation and hearing proper of the subject case.”²²

Prosecutor Mañalac filed a Comment²³ and reiterated his stance that the preliminary investigation was conducted in accordance with the Rules of Criminal Procedure.²⁴

Prosecutor Alburo meanwhile filed an Opposition and questioned

¹⁹ *Id.* at 1401.

²⁰ *Id.* at 1414.

²¹ *Id.* at 1417-1418.

²² *Id.*, citing *Re: Report on the Judicial Audit Conducted in the RTC, Branch 60, Barili, Cebu*, *supra* note 12.

²³ See Comments on Plaintiffs Appeal From the Resolution Dated July 21, 2012 of the Integrated Bar of the Philippines, *id.* at 1522-1528.

²⁴ *Id.*

complainants' failure to file a motion for reconsideration from the IBP Board of Governors' Resolution.²⁵

As regards Prosecutor Tajanlangit and Atty. Nuñez, the Court on October 20, 2014 required complainants to provide the correct addresses of the two respondents.²⁶ In a Resolution²⁷ dated September 14, 2016, the Court ordered complainants to show cause and comply with the Resolution dated October 20, 2014.²⁸ On January 30, 2017, the Court also required the IBP to submit the latest addresses of the two respondents.²⁹ On July 3, 2017, the Court noted the compliance of the CAV and the IBP.³⁰ On February 5, 2018, the Court ordered complainants to submit anew the current addresses of respondents.³¹ On October 18, 2019, the OBC reported that the CAV received the Resolution dated February 5, 2018 but made no compliance thereto.³²

Atty. Salazar meanwhile did not file any responsive pleading.

The Court's Ruling

Generally, courts do not interfere with prosecutors' conduct of preliminary investigation. The prosecutors' determination of probable cause is solely within his or her discretion. Prosecutors are given wide latitude of discretion to determine whether an information should be filed in court or whether the complaint should be dismissed.³³

If prosecutors, however, perform acts that constitute misconduct as government officials, and such acts are of such character as to affect their qualification as lawyers or show moral delinquency, then the Court may exercise its power and discipline such lawyers as members of the Bar on such ground.³⁴

It is recognized that if the acts complained of arose from respondents' performance or discharge of official duties as prosecutors

²⁵ *Id.* at 1531-1535, citing *Office of the Court Administrator v. Atty. Liangco*, 678 Phil. 305 (2011).

²⁶ *Id.* at 1547.

²⁷ *Id.* at 1549.

²⁸ *Id.*

²⁹ *Id.* at 1554.

³⁰ *Id.* at 1567.

³¹ *Id.* at 1591.

³² *Id.* at 1602.

³³ *Maza, et al. v. Judge Turla, et al.*, 805 Phil. 736, 757 (2017).

³⁴ *Gonzales – Austria v. Judge Abaya*, 257 Phil. 645, 659-660 (1989).

of the Department of Justice, the Secretary of Justice (SOJ) as their superior has the authority to discipline them.³⁵ The authority may also pertain to the Office of the Ombudsman, which similarly exercises disciplinary jurisdiction over them as public officials, pursuant to Section 15, paragraph 1³⁶ of Republic Act No. 6770³⁷ or The Ombudsman Act of 1989. It is therefore imperative that respondents' accountability as officials performing or discharging their official duties be differentiated from their accountability as members of the Bar.³⁸

As pointed out by Senior Associate Justice Perlas-Bernabe, however, while the Court's jurisdiction to discipline erring members of the Bar is not lost by the fact that the lawyers are also public officials, the Court should defer from resolving respondents' administrative liability as members of the Bar in this case, since to do so, at this time, would preclude the Secretary of Justice or the Ombudsman from ruling on their administrative liability as public officials. Moreover, the Court is not powerless to dismiss an administrative disciplinary complaint against a government lawyer if the same lacks merit.

Here, the acts complained of against Prosecutors Tajanlangit, Mañalac, and Alburo pertained to acts committed in the performance of their duties.

Complainants call attention to the Court's Resolution in A.M. No. 04-7-373-RTC and A.M. No. 04-7-374-RTC which dismissed Judge Suerte from the service and declared that Judge Suerte improperly took cognizance of the Divinadera case.

As properly resolved by the IBP, however, apart from sanctioning the manner by which Judge Suerte took cognizance of the case, the Court did not find it worthy to point out any other irregularity in the preliminary investigation conducted and the actual filing of the criminal

³⁵ See *Trovela v. Robles*, 832 Phil. 1, 6 (2018).

³⁶ Section 15(1) of Republic Act No. 6770 provides:

Section 15. *Powers, Functions and Duties.* — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases.

³⁷ Entitled "An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and for other Purposes," approved on November 17, 1989.

³⁸ *Segura v. Prosecutor Garachico-Fabila*. A.C. No. 9837, September 2, 2019.

case against Divinadera.³⁹ Thus, the conspiracy theory is based purely on circumstantial evidence that cannot lead to the imposition of administrative sanctions.

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint.⁴⁰ Absent any showing that respondents' acts were of such character as to affect their qualification as lawyers or to show moral delinquency, the Court is constrained to refrain from exercising its disciplinary jurisdiction over respondents as members of the Bar.

As for private lawyers Nuñez and Salazar, the Court similarly finds no sufficient basis to hold them liable.

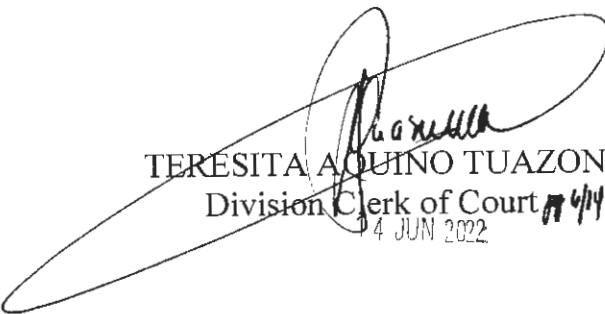
The power to disbar must always be exercised with great caution.⁴¹

As there is no showing of grave abuse or manifest error in dismissing the complaint, the Court gives credence to the findings and recommendation of the Investigating Commissioner and the IBP Board of Governors.⁴²

WHEREFORE, the petition is **DENIED** and the Resolution No. XX-2012-263 dated July 21, 2012 of the Integrated Bar of the Philippines-Board of Governors is hereby **AFFIRMED**.

SO ORDERED."

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court

14 JUN 2022

³⁹ *Rollo*, Vol. III, pp. 1411-1412.

⁴⁰ See *Paz C. Sanidad v. Atty. John Gerald M. Aguas*, AC 9838 June 10, 2019.

⁴¹ *Bellosillo v. Board of Governors of the IBP*, 520 Phil. 676, 689 (2006).

⁴² *Id.* at 690.

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*For this resolution only

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