



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 15, 2022** which reads as follows:*

**“A.C. No. 9355 (Captain Reynaldo Casareo vs. Atty. Edwin S. Dela Cruz).** – Before the Court is an administrative Complaint<sup>1</sup> for disbarment filed by Captain Reynaldo Casareo (complainant) against respondent Atty. Edwin S. Dela Cruz (Atty. Dela Cruz) on the grounds of dishonesty and false representations, in violation of the Code of Professional Responsibility (CPR).

Complainant was one of the respondents in a labor complaint filed by seafarer Nelson S. Oblena (Oblena) before the National Labor Relations Commission (NLRC) docketed as NLRC-NCR Case No. 08-11869-09 and entitled *“Nelson S. Oblena v. Cargo Safeway Inc., and/or TOEI Japan LTD. and/or Capt. Reynaldo Casareo.”*<sup>2</sup> Meanwhile, Atty. Dela Cruz was Oblena’s counsel in the case.<sup>3</sup>

On August 25, 2010, the Labor Arbiter (LA) rendered a decision declaring Oblena totally and permanently disabled on the sole basis of his position paper. Accordingly, the LA ordered therein respondents Cargo Safeway Inc., TOEI Japan LTD, and complainant (complainant’s group) to pay Oblena the amount of US\$60,000.00 as disability benefits and 10% attorney’s fees.<sup>4</sup> Aggrieved, complainant’s group filed an appeal which the NLRC dismissed in its decision dated November 26, 2010. Thereafter, complainant’s group moved for reconsideration, but the NLRC, in its decision dated March 31, 2011,

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

<sup>2</sup> See Complaint dated August 20, 2006, *id.* at 6.

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

<sup>4</sup> *Id.* at 84.

affirmed its earlier ruling with *modification* in that it ordered the amount of ₱80,254.22 previously received by Oblena to be deducted from the judgment award.<sup>5</sup>

Unfazed, complainant's group filed a petition for *certiorari* before the Court of Appeals (CA) docketed as CA-G.R. SP No. 121419.<sup>6</sup>

On November 24, 2011, the CA directed Oblena to file his comment to the petition for *certiorari* and manifest whether the case can be referred to the Philippine Mediation Center – Court of Appeals (PMC-CA).<sup>7</sup>

On December 7, 2011, Oblena, through Atty. Dela Cruz, filed a Motion for Extension of Time to File Comment and Manifestation<sup>8</sup> (subject motion) requesting for an extension of 30 days, or up to January 6, 2012, to file his comment to the petition and manifestation as regards the referral of the case to the PMC-CA. In support of the subject motion, Atty. Dela Cruz stated that as of the filing of the motion, he needed ample time to “consult”, “contact”, and “locate” Oblena.<sup>9</sup> He further stated that he needed more time to “confer” with Oblena and study the wisdom of referring the case to the PMC-CA as he was fearful that a referral would only cause undue delay to the case.<sup>10</sup>

However, unknown to the CA, Oblena died on June 18, 2011, or more than five months *before* the filing of the subject motion.<sup>11</sup>

Hence, the complaint.

Complainant alleged that Atty. Dela Cruz violated Rule 1.01<sup>12</sup> and Rule 10.01<sup>13</sup> of the CPR: (1) when he signed the verification of the labor complaint before the NLRC and, in effect, made it appear that it was executed by Oblena;<sup>14</sup> and (2) when he failed to disclose to

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<sup>5</sup> *Id.* at 109.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 9.

<sup>8</sup> *Id.* at 10-12.

<sup>9</sup> *Id.* at 11.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 16.

<sup>12</sup> Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

<sup>13</sup> Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice.

<sup>14</sup> *Rollo*, p. 2.

the CA that Oblena was already deceased and gave the impression that the latter was still alive through the filing of the subject motion.<sup>15</sup> To support his contention that Atty. Dela Cruz was aware of Oblena's death prior to the filing of the subject motion, complainant submitted a copy of a Motion For Substitution Due to Death of Complainant<sup>16</sup> dated June 26, 2011 filed by Atty. Dela Cruz before the NLRC.

In his Comment with Prayer to Hold Complainant in Contempt of Court<sup>17</sup> dated May 21, 2012, Atty. Dela Cruz asserted that the allegations of complainant lacked merit. He argued that he cannot be held liable for dishonesty and/or false representation due to the absence of factual and legal bases to support it.<sup>18</sup>

As to the first allegation, Atty. Dela Cruz contended that he never forged the signature of Oblena but only wrote his name above his client's name and signed thereon.<sup>19</sup> He further argued that he was legally authorized to institute such action and file the labor complaint pursuant to the Special Power of Attorney<sup>20</sup> that Oblena executed in favor of the lawyers of the Dela Cruz and Entero Law Office. Hence, there was no dishonesty to speak of.<sup>21</sup> As to the second allegation, Atty. Dela Cruz explained that his failure to disclose to the CA that his client was already deceased was an honest mistake and never meant to mislead the CA. He added that he already apologized to the CA for the inadvertence, but clarified that his admission to the inadvertence was not tantamount to dishonesty.<sup>22</sup>

In the Resolution<sup>23</sup> dated August 29, 2012, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

#### *The IBP's Report and Recommendation*

In the Report and Recommendation<sup>24</sup> dated June 18, 2013, the Investigating Commissioner found Atty. Dela Cruz to have violated Rule 10.01 of the CPR and recommended that he be suspended from

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<sup>15</sup> *Id.* at 3-4.

<sup>16</sup> *Id.* at 14-15.

<sup>17</sup> *Id.* at 19-29.

<sup>18</sup> *Id.* at 28.

<sup>19</sup> *Id.* at 24.

<sup>20</sup> *Id.* at 35.

<sup>21</sup> *Id.* at 24.

<sup>22</sup> *Id.* at 122.

<sup>23</sup> *Id.* at 62.

<sup>24</sup> *Id.* at 121-123; penned by Investigating Commissioner Eldrid C. Antiquiera.

the practice of law for a period of one year, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.<sup>25</sup>

The IBP Board of Governors, in its Resolution<sup>26</sup> dated August 31, 2017, adopted the findings of fact and the recommendation of the Investigating Commissioner with *modification* in that, it reduced the period of suspension from the practice of law from one year to only six months.

Atty. Dela Cruz filed a Motion for Reconsideration,<sup>27</sup> but the IBP Board of Governors denied it in its Resolution<sup>28</sup> dated June 18, 2019.

### *The Issue*

Whether Atty. Dela Cruz should be held administratively liable for his failure to inform the CA of the death of his client prior to the filing of the subject motion.

### *The Court's Ruling*

After due consideration, the Court resolves to adopt the findings and recommendation of the IBP Board of Governors.

Section 16, Rule 3 of the Rules of Court provides:

Section 16. *Death of party; duty of counsel.* - Whenever a party to a pending action dies, and the claim is not thereby extinguished, *it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.*

x x x x. (Emphasis supplied.)

Under the aforementioned provision, a counsel has the duty to inform the court within 30 days after the death of his or her client of the fact of death, and to give the name and address of the deceased's

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<sup>25</sup> *Id.* at 123.

<sup>26</sup> *Id.* at 119; notice signed by Assistant National Secretary Doroteo L. B. Aguila.

<sup>27</sup> *Id.* at 124-154.

<sup>28</sup> *Id.* at 203; notice signed by Assistant National Secretary Doroteo L. B. Aguila.

legal representative/s. Failure to do so constitutes a ground for disciplinary action.<sup>29</sup> Significantly, the counsel's duty of informing the court of his or her client's death is the *only* representation that he or she can perform in such cases considering that the client's very death forecloses any further lawyer-client relationship between them.<sup>30</sup>

In the case, it is undisputed that Atty. Dela Cruz had failed to inform the CA of the fact of Oblena's death within the period required under the rules. Worse, he filed an *unauthorized pleading*, the subject motion, and ostensibly made it appear that Oblena was still alive at the time of its filing. By his conduct, Atty. Dela Cruz violated the following provisions of the CPR:

Canon 10 — A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 — A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

x x x x

Rule 10.03 — A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

Clutching at straws, Atty. Dela Cruz, in a Petition<sup>31</sup> for Review on *Certiorari*, asserted that the IBP had violated his right to due process. He argued that because the complainant accused him of violating Rules 1.01 and 10.01 of the CPR, the Investigating Commissioner committed a serious error in finding him liable for violation of Section 16, Rule 3 of the Rules of Court — a charge not included in the complaint.<sup>32</sup>

While due process in criminal cases requires that an accused be fully informed of the *specific* reason and basis for his or her indictment in order to secure a conviction,<sup>33</sup> the Court, time and again, has consistently held that a complaint for disbarment is *sui generis*, and is in no sense a criminal prosecution.<sup>34</sup> Rather, its focus is to determine the qualification and fitness of a lawyer to continue his or her membership in the Bar.<sup>35</sup> Hence, Atty. Dela Cruz's contention that his right to due process was violated holds no water.

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<sup>29</sup> See *Domingo v. Landicho*, 558 Phil. 364, 377 (2007).

<sup>30</sup> *Judge Sumaljay v. Sps. Literato*, 578 Phil. 48, 56 (2008).

<sup>31</sup> *Id.* at 167-198.

<sup>32</sup> *Id.* at 177-178.

<sup>33</sup> See *Villarba v. Court of Appeals*, G.R. No. 227777, June 15, 2020.

<sup>34</sup> *Reyes v. Atty. Nieva*, 794 Phil. 360, 379-380 (2016).

<sup>35</sup> *Flores-Salado v. Atty. Villanueva*, 796 Phil. 40, 51 (2016).

As to the penalty, the Court, in the 2021 case of *Kokam v. Atty. Boniel*,<sup>36</sup> held that an admonition, or *at most*, a suspension from the practice of law for a period of one month would *ordinarily* suffice to penalize the respondent lawyer for his failure to comply with the duty to inform the court of his client's death within the period specified under the rules. However, the Court therein suspended the respondent lawyer from the practice of law for one year because he was a repeat offender.

In this case, while Atty. Dela Cruz's committed this infraction for the first time. It was, however, compounded by the filing of an unauthorized pleading, ostensibly making it appear that his client was still alive. Hence, the Court adopts the recommendation of the IBP Board of Governors to suspend Atty. Dela Cruz from the practice of law for a period of six months.

*WHEREFORE*, the Court finds respondent Atty. Edwin S. Dela Cruz **GUILTY** of violating Rules 10.01 and 10.03, Canon 10 of the Code of Professional Responsibility as well as Section 16, Rule 3 of the Rules of Court, and **SUSPENDS** him from the practice of law for a period of six (6) months. He is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

The suspension in the practice of law shall take effect immediately upon receipt of this Resolution by respondent Atty. Edwin S. Dela Cruz. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Resolution be furnished the Office of the Bar Confidant to be appended to respondent Atty. Edwin S. Dela Cruz's personal record and the Office of the Court Administrator and the Integrated Bar of the Philippines for their information and guidance.

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<sup>36</sup> A.C. No. 10947, January 12, 2021.

**SO ORDERED.”**

**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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