



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

N O T I C E

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 February 2022** which reads as follows:*

“A.C. No. 9930 [formerly CBD Case No. 16-5186] (*Shirly Vingson v. Prosecutor Armando P. Abanado*). — This administrative case arose from an affidavit of complaint for disbarment or suspension from the practice of law¹ (complaint) dated January 8, 2013 filed by Shirly Vingson² (complainant) against respondent, Prosecutor Armando P. Abanado (respondent).

The Antecedents:

On June 6, 2012, Vingson filed a case against Ester Cuaycong and Gregory Cuaycong (the Cuaycongs), among others, for trespass to dwelling, robbery, carnapping, child abuse, and grave coercion, before the Office of the Prosecutor of Bacolod City.³ The case was docketed as NPS Docket No. VI-03-INV-12F-577.

When respondent did not act on the cases after two months, complainant made several follow-ups.⁴ Complainant likewise wrote to the Secretary of Justice regarding the inaction on the cases.⁵

In a Resolution⁶ dated November 14, 2012, respondent dismissed the four complaints for trespass to dwelling, robbery, carnapping, and child abuse, for insufficient evidence, and found probable cause for grave coercion.

Complainant alleged that respondent’s Resolution was tainted with bias, and was issued in retaliation to complainant’s act of writing and reporting to the

¹ *Rollo*, pp. 3-9.

² Shirly Demaisip or Shirly Vingson in some parts of the record.

³ *Rollo*, p. 3.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at pp. 36-42.

Secretary of Justice the alleged delays in resolving the cases. Complainant further alleged that respondent disregarded the Rules of Court by not observing the quantum of evidence required in criminal cases, and violated the Code of Conduct for Prosecutors, the Code of Professional Responsibility and the Corrupt Practices Act of Public Officers.⁷

On February 28, 2013, complainant filed another petition for disbarment⁸ before the Court against respondent for “displaying mental dishonesty, deceit, arrogance, belligerency, revenge and spite.”⁹ Complainant reiterated the issues she raised in her June 6, 2012 complaint, alleging that respondent completely disregarded the rule that evidence must be credible and must come from a credible witness. Complainant likewise alleged that respondent did not discuss the facts of the case in his Resolution, and did not state the reasons for his findings.¹⁰

In his comment¹¹ dated November 15, 2013, respondent denied the allegations against him and claimed that he does not know the Cuaycongs personally. He asserted that his Resolution was rendered in good faith, without malice or corrupt motive, and was based on evidence presented by the parties. He defended his delay in resolving the cases by reasoning that the Office of the City Prosecutor in Bacolod City is undermanned.¹²

Lastly, respondent interposed that the complaint filed against him is bereft of any factual and legal basis, and that the same was filed prematurely because the legal requirements for filing of complaints were not complied with.¹³ Respondent averred that complainant should have first availed of the remedy under Department of Justice Circular No. 79, which is to appeal or file a petition for review of the Prosecutor’s Resolution in cases subject to preliminary investigation.¹⁴

The Report and Recommendation of the Office of the Bar Confidant (OBC).

In its Report and Recommendation¹⁵ dated January 25, 2016, the OBC recommended that the case be referred to the Integrated Bar of the Philippines (IBP) for further investigation. The Report and Recommendation reads, in part:

In view of the complexity of the issues raised, we find that a thorough investigation of the allegations and surrounding facts is in order. We cannot

⁷ Id. at 4-9.

⁸ Id. at 279-288.

⁹ Id. at 281.

¹⁰ Id. at 281-288.

¹¹ Id. at 102-108.

¹² Id. at 102-103.

¹³ Id. at 103-106.

¹⁴ Id. at 106-107.

¹⁵ Id. at 343-345.

simply close our eyes on matters which could greatly affect the legal system as a whole. We feel there is a need to determine if misconduct has in fact been committed, or if a disbarment case has simply become an avenue for losing complainants to avenge themselves.

RECOMMENDATION

WHEREFORE, in view of the foregoing and all premises considered, we respectfully recommend that this disbarment case (against Prosecutor Armando P. Abonado) be REFERRED to the Integrated Bar of the Philippines (IBP) for further investigation.

Respectfully submitted.¹⁶

The Report of the Commission on Bar Discipline (CBD) and of the Board of Governors (BOG) of the IBP.

On May 15, 2017, the IBP- CBD issued a Report,¹⁷ clarifying additional factual antecedents, to wit:

- (1) That complainant subsequently filed a Petition for Review before the Department of Justice after respondent issued his November 2012 Resolution;¹⁸
- (2) That complainant, not waiting for the result of the Petition, filed a Motion for Reinvestigation before the Office of the Prosecutor of Bacolod City without disclosing that there was a pending Petition for Review;¹⁹
- (3) That the Secretary of Justice designated Senior Deputy Provincial Prosecutor Napoleon Alburo (Alburo) to conduct reinvestigation;²⁰
- (4) That on August 30, 2013, Alburo issued a Resolution²¹ recommending the filing of three Criminal Informations²² for violation of the Child Abuse Act, robbery with use of force upon things and carnapping of two cars;²³
- (5) That the criminal cases were raffled to Regional Trial Court (RTC) Branch 48, Bacolod City presided by Judge Rosario Ester B. Orda-Caise;²⁴

¹⁶ Id. at 345.

¹⁷ *Rollo*, unpaginated. Penned by Commissioner Narciso A. Tadeo.

¹⁸ Id., unpaginated.

¹⁹ Id.

²⁰ Id.

²¹ *Rollo*, pp. 71-83

²² Id. at 90-97 and 102-108.

²³ Id., unpaginated.

²⁴ *Rollo*, Extended Resolution, unpaginated.

- (6) That another Resolution was issued on June 2, 2014 by another prosecutor, Prosecutor General Arellano (Arellano), affirming respondent's November 2012 Resolution;²⁵
- (7) That on September 28, 2015, the RTC Branch 48 resolved the conflicting Resolutions of Arellano and Alburo, and affirmed Arellano and Abanado's Resolutions;²⁶
- (8) That complainant filed a Motion for Reconsideration and a Motion for Inhibition before the RTC, Branch 48 of Bacolod City;²⁷
- (9) That on August 31, 2016, in an Omnibus Resolution,²⁸ the RTC denied for lack of authority to file and for being unmeritorious complainant's Motion for Reconsideration and denied for lack of merit complainant's Motion for Inhibition.²⁹

Subsequently, the Report found that respondent failed to inhibit himself from resolving the cases and allowed his personal relationship with the Cuaycongs to interfere in the resolution of the case.³⁰ The pertinent portions of the Report state that:

The failure of the respondent to inhibit himself from resolving the case affected the administration of justice. Respondent allowed his personal relationship with [the Cuaycongs] to interfere in the resolution of the case. It causes prejudice to the mind of the complainant and the general public in the processes of the administration of justice. Thus, the respondent is administratively liable.

Considering that it is the respondent's first offense he may be meted the penalty of reprimand or one (1) month suspension.

WHEREFORE, it is respectfully recommended that the respondent be held administratively liable for violating Rule 6.02 of Canon 6 and Canon 12 of the Code of Professional Responsibility and be meted the penalty of reprimand or one (1) month suspension.³¹

In an Extended Resolution³² dated February 15, 2019, the IBP BOG reversed the findings of the CBD, holding that complainant failed to exhaust the administrative remedies available to her. The BOG also found complainant's allegations to be without merit, to wit:

²⁵ Id.

²⁶ Id.

²⁷ Id.

²⁸ *Rollo*, Sub-Folder II, pp. 15-23.

²⁹ *Rollo*, Extended Resolution, unpaginated.

³⁰ Id., Report, unpaginated.

³¹ Id.

³² Id. Penned by Deputy Director Franklin B. Calpito.

WHEREFORE, premises considered, the Board resolved to REVERSE the findings of fact and recommendation of the Investigating Commissioner, and instead DISMISS the instant case.³³

Our Ruling

We adopt the recommendation of the IBP to dismiss the complaint for disbarment for *prima facie* lack of merit.

Notably, complainant's allegations centered on the performance of respondent's tasks as a prosecutor, particularly during the preliminary investigation of the five cases that she filed against the Cuaycong. Complainant claimed that respondent acted unfairly and without evidence when he resolved to dismiss four out of the five cases she filed against the Cuaycong. Complainant avers that respondent committed impropriety in the discharge of his duties that adversely affected the functions of his office.

Clearly, this administrative complaint for disbarment is not the proper forum to assail respondent's acts. Besides, as already adverted above, complainant, after filing this administrative complaint, already availed of the proper remedies to assail the adverse resolutions of the respondent by filing a petition for review before the DOJ. In any event, we find complainant's allegations totally bereft of substantiation. At the very least, she should mount her administrative complaint based on substantial evidence. However, other than her self-serving assertions that respondent was bias in his findings, she failed to substantiate her allegations. In addition, respondent merely exercised his discretion as a prosecutor in determining whether there was probable cause in the cases filed by complainant.

WHEREFORE, We **DISMISS** the instant administrative complaint against respondent Prosecutor Armando P. Abanado, for lack of merit.

Let a copy of this Resolution be furnished the Office of the Ombudsman for whatever appropriate action the Ombudsman may wish to take with respect to the possible administrative and criminal liability of respondent Prosecutor Armando P. Abanado.

The Court resolves to:

1. **NOTE** the returned and unserved copies of the Resolution dated September 2, 2020 sent to (a) complainant Shirly Vingson at c/o Mañalac and Associates Law Office, Burgos Street, Mandaue City, and (b) Prosecutor Armando P. Abanado at the Office of the City Prosecutor, Bacolold City, with notations, "RTS-Deceased 2/18/2021," and RTS-Party Retired 12/11/20," respectively;

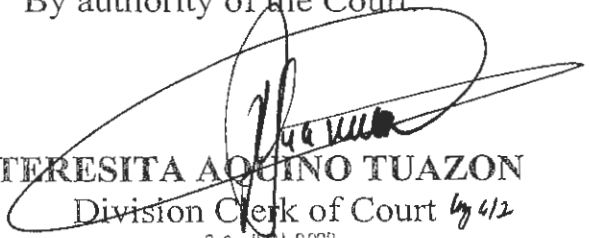
³³ Id.

2. **DISPENSE WITH** the service of the aforesaid Resolution dated September 2, 2020 to complainant; and

3. **DIRECT** the Integrated Bar of the Philippines/Mandatory Continuing Legal Education Office to submit the current address of Prosecutor Armando P. Abanado at the Office of the City Prosecutor, Bacolod City within five days from notice.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *by 4/2*
02 JUN 2022

SHIRLY VINGSON
Complainant
(Deceased)

PROS. ARMANDO P. ABANADO (reg)
Respondent
#20, 1st Lacson Street, Brgy. 17
Bacolod City, Negros Occidental

INTEGRATED BAR OF THE PHILIPPINES (reg)
Doña Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

HON. CHAIRMAN (reg)
Mandatory Continuing Legal Education Office
4th Floor, IBP Building
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Please notify the Court of any change in your address.
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