



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 25, 2023** which reads as follows:*

“A.C. No. 13293 (Arlene O. Parreño v. Atty. Samuel SM Lezama). – The instant administrative case stemmed from a Complaint-Affidavit¹ for disbarment filed by complainant Arlene Parreño (complainant) against respondent Atty. Samuel SM Lezama (respondent) before the Integrated Bar of the Philippines (IBP) for violation of Rule 138 of the Rules of Court and the Code of Professional Responsibility (CPR).

Antecedents

Complainant is one of the heirs of the late Celso Ocdinaria (Celso) and Epifania Castilla (Epifania). Allegedly, her parents were the registered owners of Lot 4113 (formerly Lot 2468-C) situated in Escalante City, Province of Negros Occidental, evidenced by OCT No. N-1017. Lot 4113 was the subject of an action for reconveyance and recovery of possession filed by Teodora Bintad, et al., (Bintad, et al.) against complainant’s parents in Civil Case No. X-98 before Branch 59, Regional Trial Court (RTC) of San Carlos City. Pending resolution of the said case, Celso died, leaving a last will and testament that devised and bequeathed most of his estate to his surviving wife, Epifania, to the exclusion of complainant and her siblings. Feeling aggrieved, complainant’s siblings/co-heirs, Filomena O. Aranas (Filomena) and Antonio C. Ocdinaria, filed an action for reconveyance of property and cancellation of certificate of title issued in the name of Epifania in Civil Case No. 483 before Branch 57, RTC of San Carlos City. Respondent appeared as counsel for plaintiffs Filomena and Antonio per the RTC’s order dated 04 December 1996.²

¹ *Rollo*, pp. 1-6.

² *Id.* at 140.

On 27 March 1996, Civil Case No. X-98 was dismissed by Branch 59 for lack of jurisdiction. Bintad filed a Notice of Appeal through respondent as counsel. In doing so, complainant averred that respondent clearly violated Canon 15,³ specifically Rule 15.01⁴ and Rule 15.03 of the CPR.⁵ Respondent likewise caused the annotation of the Notice of *Lis Pendens* in behalf of his clients Bintad, et al., claiming that the case was on appeal and docketed as “UDK-CV6475A,” in the Court of Appeals (CA). Upon verification, complainant learned that said case was non-existent at the Municipal Trial Court (MTC), RTC and CA, Cebu City. To complainant, said fabrications are proscribed under the Lawyer’s Oath and Canon 1,⁶ Rules 1.01-1.04 of the CPR.⁷

In his Answer,⁸ respondent denied having filed any complaint for complainant, her siblings or parents. Neither did he act as their counsel in any petition or proceedings. He pointed to Atty. Rodolfo Parreno, the late husband of complainant, who represented her and her deceased parents in all their cases. Respondent further claimed that he appeared as counsel in Civil Case X-98 when it was elevated on appeal from the RTC to the CA, but did not participate in any way in the presentation of evidence in Civil Case No. X-98 before the RTC.⁹

When Civil Case No. X-98 was decided on 15 March 2002 in favor of Bintad, et al., complainant’s family appealed the decision before the CA and eventually, to this Court, where it was decided with finality. After Branch 59 issued a writ of execution in 2017, complainant still filed a petition for review with this Court, which, as of 18 September 2018, was still pending. It was the late Atty. Erasmo M. Diola who filed the case of Bintad, et al., against complainant’s parents on 30 April 1968, as respondent was not yet a lawyer at that time. Civil Case X-98, then pending before the Court of First Instance (CFI), was only terminated on 27 March 1996, Bintad’s lawyer was the late Atty. Elias Pontevedra.¹⁰

Respondent also claimed that Civil Case No. RTC-483 for reconveyance and cancellation of certificate of title and involving complainant’s siblings, Filomena and Antonio, was handled by Atty. Ivan B. Solidum, Sr. The answer of complainant and her late mother, upon the other hand, was filed by their

³ Canon 15 – A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENTS.

⁴ Rule 15.01 – A lawyer, in conferring with a prospective client, shall ascertain as soon as practicable whether the matter would involve a conflict with another client or his own interest, and if so, shall forthwith inform the prospective client.

⁵ Rule 15.03 – A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

⁶ CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

⁷ *Rollo*, p. 140.

⁸ *Id.* at 48-52.

⁹ *Id.* at 48.

¹⁰ *Id.* at 48-49.

lawyer, Atty. Allan X. Zamora. The civil case of the Ocdinaria siblings and their mother was transferred to Branch 47 upon the instance of complainant's counsel, Atty. Reynaldo C. Depasucat. Respondent admitted however, that he appeared by way of special appearance during the pre-trial conference on 04 December 1996 as counsel for Filomena and Antonio, his personal friends, as their lawyer Atty. Ivan Soldium, Sr., failed to appear.¹¹

Anent the Notice of *Lis Pendens*, respondent claimed that UDK-CV6475-A was a typing error and explained that the rest of the contents of the Notice of *Lis Pendens* are all correct information and clearly referred to the pendency of Civil Case No. X-98.¹²

Report and Recommendation of the IBP

In the Report and Recommendation¹³ dated 25 September 2019, Investigating Commissioner (IC) Abelardo P. De Jesus recommended the dismissal of the administrative case against respondent. According to the IC, there is no showing that respondent committed misconduct and any of the acts specified in Section 27, Rule 138 of the Rules of Court, the Lawyer's Oath and CPR.¹⁴

In so ruling, the IC found that respondent was able to establish by preponderance of evidence or even proof beyond reasonable doubt that no conflict of interest had existed when he filed the notice of appeal on behalf of Teodora Bintad, et al., in Civil Case X-98. The defendants therein were represented by the late Atty. Rodolfo Parreña, complainant's husband, a fact which remained unrefuted by complainant. Respondent also explained that Atty. Ivan B. Solidum, Sr., was the counsel of complainant's siblings/co-heirs. Respondent only appeared by way of special appearance for complainant's siblings/co-heirs in Civil Case No. RTC-483 on 04 December 1996, in view of Atty. Solidum, Sr.'s unavailability.¹⁵

The IC also supported the defense interposed by respondent as to the typing error in the Notice of *Lis Pendens* relative to UDK-CV6475-A, and which fact was even supported by the Certifications issued by the MTC, RTC and CA as to the non-existence of the said case number. Furthermore, except for the error in UDK-CV6475-A, the Notice of *Lis Pendens*, taken as a whole, pertains to Lot 4113; the names of parties and the court (RTC Branch 59 No. X-98, Negros Occidental) all referred to Civil Case no X-98.¹⁶

¹¹ Id. at 49.

¹² Id. at 50-51.

¹³ Id. at 139-144.

¹⁴ Id. at 144.

¹⁵ Id. at 142.

¹⁶ Id. at 143.

Further, considering that there was no finding of guilt against respondent, the IC also disregarded complainant's claim that respondent had been previously suspended by the Court.¹⁷

On 08 May 2021, the IBP Board of Governors issued a Resolution¹⁸ which resolved to approve and adopt the Report and Recommendation of the Investigating Commissioner to dismiss the case against respondent.¹⁹

Ruling of the Court

The Court agrees with the findings and recommendations of the IBP and adopts the same. However, it bears stressing that the required quantum of evidence in administrative cases is substantial evidence and not preponderance of evidence or even proof beyond reasonable doubt as mentioned in the Investigating Commissioner's report. In *Reyes v. Atty. Nieva*,²⁰ the Court clarified that based on a survey of jurisprudence, the quantum of proof for administrative proceedings against lawyers is substantial evidence and not preponderance of evidence. We stressed that this pronouncement ought to control and quell any further confusion on the proper evidentiary threshold.²¹

At any rate, We find that the dismissal of the complaint against respondent is in order.

Conflict of interest exists when a lawyer represents inconsistent interests of two or more opposing parties. The test is whether in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his or her duty to oppose it for the other client. In short, if he or she argues for one client, this argument will be opposed by him or her when he or she argues for the other client. This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interest if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his or her first client in any matter in which he or she represents him or her and also whether he or she will be called upon in his new relation to use against his or her first client any knowledge acquired through their connection. Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his or her duty of undivided fidelity and loyalty to his or her client or invite suspicion of unfaithfulness or double dealing in the

¹⁷ Id.

¹⁸ Id. at 137-138.

¹⁹ Id. at 137.

²⁰ 794 Phil. 360 (2016).

²¹ Id. at 379.

performance of said duty.²²

As correctly pointed by the IC, respondent was able to establish that no conflict of interest existed when he filed the notice of appeal to the CA in behalf of Bintad, et. al. *First*, there was no showing that respondent represented complainant or her siblings in Civil Case No. X-98. Said case was previously handled by other counsels for Bintad and respondent only represented the latter when the case was subsequently appealed to the CA. As for Civil Case RTC-483, records²³ also showed that it was Atty. Ivan Solidum, Sr., who filed the complaint for complainant's co-heirs on 13 December 1994 and was their counsel on record. Apart from the RTC's order dated 4 December 1996 where respondent apparently appeared as counsel for complainant's co-heirs, and which respondent explained was by special appearance, complainant failed to adduce evidence to show that respondent actively participated in said case as counsel thereof.

On the other hand, complainant's claim that respondent fabricated the details contained in the Notice of *Lis Pendens*²⁴ has no leg to stand. The Notice of *Lis Pendens*, read as a whole, pertained to Lot No. 4113, subject matter of the case in Civil Case X-98, before Branch 59. Except for the case number indicated as UDK-CV-6475-A, and which was harped upon by complainant as non-existent, the RTC in its Decision²⁵ dated 15 July 2013 for CAD Case No. RTC-969 filed by complainant against the Register of Deeds of the Province of Negros Occidental, explained:

The Notice of *Lis Pendens* sought to be cancelled through this action was annotated on the dorsal portions of Transfer Certificate of Titles on February 24, 1997, or ten (10) months after the said Notice of Appeal was filed. We can therefore assume that the said case was on appeal and the records already transmitted to and in the custody of the Court of Appeals by that time. It is very possible then that the case number while on appeal would be (UDK 8475-A). The Certification issued by the Court of Appeals that no such case has been filed with them can be explained by the fact that at that time in 1997, the Court of Appeals stations in Cagayan De Oro City and in Cebu City have yet to be organized. Verification should have been done by the petitioner in the Court of Appeals, Manila.²⁶

WHEREFORE, the Court **RESOLVES** to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendation of the Integrated Bar of the Philippines in the attached Notice of Resolution dated 08 May 2021. Accordingly, the Court **DISMISSES** the complaint against Atty. Samuel SM Lezama for **LACK OF MERIT**.

²² *Orola v. Ramos*, 717 Phil. 536, 544-545 (2013).

²³ *Rollo*, pp. 126-127; 67.



²⁴ *Id.* at 111-112.

²⁵ *Id.* at 131-135.

²⁶ *Id.* at 133.

SO ORDERED.” *Rosario, 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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FEB 14 2023

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