



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 11, 2023** which reads as follows:*

“A.C. No. 13562 [Formerly CBD Case No. 18-5697] (Theodore C. Britanico v. Atty. Alberto Celestino Borbon Reyes II). – The Court resolves to:

- 1) **NOTE** the **NOTICE OF RESOLUTION NO. CBD-2020-11-08¹** dated November 14, 2020 of the Integrated Bar of the Philippines’ Board of Governors (IBP-BOG), reversing and setting aside the undated Resolution² of the Investigating Commissioner, and recommending that respondent Atty. Alberto Celestino Borbon Reyes II (Atty. Reyes) be suspended from the practice of law for one year for violation of the rule on conflict of interest, and directing the Commission on Bar Discipline to prepare an Extended Resolution, explaining the recommendation of the IBP-BOG in this case; and
- 2) **ADOPT and APPROVE** the findings of fact, conclusions of law, and recommendation of the IBP-BOG in its **EXTENDED RESOLUTION³** dated July 3, 2022, which reversed and set aside the undated Resolution of the Investigating Commissioner, and recommended that Atty. Reyes, be suspended from the practice of law for one year, for violation of the rule on conflict of interest, transmitted by Letter⁴ dated July 12, 2022 of the IBP Director for Bar Discipline, together with the records and flash drive file.

¹ *Rollo*, Vol. 2, pp. 680-681.

² *Id.* at 682-684.

³ *Id.* at 685-690.

⁴ *Id.* at 679.



In reversing and setting aside the undated Resolution of the Investigating Commissioner, the IBP-BOG cites *Hornilla v. Atty. Salunat*,⁵ which is akin to the facts in the case before Us.

In said case, respondent Atty. Ernesto S. Salunat, as managing partner of ASSA Law and Associates, served as counsel for the Philippine Public School Teachers Association (PPSTA). However, when complainants, who are members of PPSTA, filed an intra-corporate case against PPSTA's Board of Directors for unlawful spending and undervalued sale of real property of the PPSTA, Atty. Salunat entered his appearance as counsel for PPSTA's Board members.⁶

The Court in the said case deemed this to be a conflict of interest:

Having thus laid a suitable foundation of the basic legal principles pertaining to derivative suits, we come now to the threshold question: **can a lawyer engaged by a corporation defend members of the board of the same corporation in a derivative suit?** On this issue, the following disquisition is enlightening:

The possibility for conflict of interest here is universally recognized. Although early cases found joint representation permissible where no conflict of interest was obvious, the emerging rule is against dual representation in all derivative actions. *Outside counsel must thus be retained to represent one of the defendants.* The cases and ethics opinions differ on whether there must be separate representation from the outset or merely from the time the corporation seeks to take an active role. Furthermore, this restriction on dual representation should not be waivable by consent in the usual way; the corporation *should be presumptively incapable of giving valid consent.*⁷ (Italics in the original; emphases supplied)

In the case before Us, Atty. Reyes is the counsel not only of North Haven Real Estate Development Corporation (North Haven), but he also acted as counsel of the Laurrauri Group,⁸ against whom complainant Theodore C. Britanico (complainant) filed a case on behalf of North Haven.⁹ This is essentially the same as what Atty. Ernesto S. Salunat had done, and for which the Court found him to be representing conflicting interests. Thus, We find Atty. Reyes likewise guilty of representing conflicting interests, and note that he was unable to refute such charge, as he countered only by saying that

⁵ 453 Phil. 108 (2003).

⁶ Id. at 109.

⁷ Id. at 113.

⁸ North Haven Board members composed of LAREB Enterprises, Inc., Jose Antonio J. Laurrauri, the spouses Juan M. Ordoveza, Jr. and Cherry Ordoveza, Atty. Eduardo E. Dela Cruz and respondent Atty. Reyes. See *rollo*, Vol. 1, pp. 3-5.

⁹ Id. at 6.

he was authorized to represent North Haven as counsel, but did not address the conflict of interest in likewise representing the Larrauri Group.¹⁰ Atty. Reyes violated Rule 15.03 of the Code of Professional Responsibility¹¹ (CPR) which states:

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.

In addition to his representation of conflicting interests, Atty. Reyes was also manifestly disrespectful against a Presiding Judge, in violation of Canon 11 of the CPR:

CANON 11 — A lawyer shall observe and maintain the respect due to the Courts and to judicial officers and should insist on similar conduct by others.

Complainant was able to adduce evidence of such disrespect when he annexed Atty. Reyes' Motion for Reconsideration¹² filed before the Regional Trial Court of Makati City, Branch 147, which contains the following language:

Whatever remaining trust that the defendants had on the Presiding Judge vanished when the latter issued his Order dated December 5, 2017 x x x.

The Presiding Judge chose to turn a blind eye on the fact that x x x.

x x x x

The Order dated December 5, 2017 *vis-à-vis* the Judicial Affidavits of defendants' witnesses is akin to judicial consent to the victimization of the defendant Corporation and its majority stockholders x x x.

Undeniably, the Order dated December 5, 2017 (*vis-à-vis* the Judicial Affidavits) of the Presiding Judge favors only the plaintiffs.¹³

Atty. Reyes' imputations against the Presiding Judge shows a lack of restraint in his choice and use of words, which is "conduct unbecoming of an officer of the court."¹⁴

For the foregoing reasons, We adopt the IBP-BOG's recommendation that Atty. Reyes be suspended for one year from the practice of law.

¹⁰ Id. at 5.

¹¹ Promulgated June 21, 1988.

¹² *Rollo*, Vol. 1, pp. 85-87.

¹³ Id. at 85-86.

¹⁴ *Gimeno v. Atty. Zaide*, 759 Phil. 10, 23 (2015).

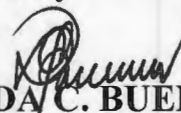
WHEREFORE, the Court finds respondent Atty. Alberto Celestino Borbon Reyes II **GUILTY** of violations of Canon 15, Rule 15.03 and Canon 11 of the Code of Professional Responsibility. Accordingly, he is **SUSPENDED** from the practice of law for one (1) year, with a **STERN WARNING** that a repetition of the same offense or the commission of a similar act shall be dealt with more severely.

The suspension from the practice of law shall take effect immediately upon receipt of this Resolution by respondent Atty. Alberto Celestino Borbon Reyes II. 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 for recording in the personal file of Atty. Alberto Celestino Borbon Reyes II; the Office of the Court Administrator for dissemination to all courts of the Philippines; and the Integrated Bar of the Philippines for distribution to all its chapters.

SO ORDERED.” *Hernando, J., on leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *971*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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FEB 09 2023

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