



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:*

“G.R. No. 230486 (Dr. Steve Mark Gan v. Dr. Reynaldo B. Garcia).
— This Petition for Review on *Certiorari*¹ seeks to reverse and set aside the Decision² dated 08 September 2016 and the Resolution³ dated 06 March 2017 of the Court of Appeals (CA) in CA-G.R. SP No. 143520. The CA reversed and set aside the Decision⁴ dated 08 July 2014 and the Order⁵ dated 23 September 2015 of the Board of Dentistry (BOD) of the Professional Regulation Commission (PRC).

Antecedents

In a Report/Recommendation⁶ dated 14 October 2010, the Ad Hoc Committee (committee) chaired by Dr. Reynaldo B. Garcia (respondent) recommended the filing of an administrative complaint against Dr. Steve Mark Gan (petitioner) for gross violation of the Code of Dental Ethics and Dental Practice. Thus, Dr. Ma. Isabel G. Brual, President of the Philippine Dental Association (PDA), issued Board Resolution No. 17 Series of 2010⁷ (board resolution) authorizing the committee to file said complaint with the PRC.

¹ *Rollo*, pp. 09-22.

² *Id.* at 24-31; penned by Associate Justice Ramon R. Garcia and concurred in by Associate Justices Leoncia R. Dimagiba and Jhosep Y. Lopez (now a Member of this Court).

³ *Id.* at 33-34.

⁴ *Id.* at 67-70. Signed by Chairman Rannier F. Reyes, Interim Members Melinda L. Garcia and Gloria M. Bumanlag and Member Dominador H. Santos, Jr. while Interim Member (herein petitioner) did not sign.

⁵ *Id.* at 80-81. Signed by Members Melinda L. Garcia and Gloria M. Bumanlag while Chairman Dominador H. Santos, Jr., Member (herein petitioner), and OIC/Member Rannier F. Reyes did not sign.

⁶ *Id.* at 36-43.

⁷ *Id.* at 35.

On 20 December 2010, the PDA, represented by respondent, filed a Complaint⁸ against petitioner with the BOD, docketed as Administrative Case No. L-1091 (AC L-1091). Respondent alleged that petitioner had violated Sections 19.2,⁹ 19.3,¹⁰ and 21¹¹ of Article III of the Code of Ethics for Dentists, Dental Hygienists, and Dental Technologists (Code of Ethics), for naming his dental practice “Gan Advanced Osseointegration Center,” employing celebrities to promote his dental clinic, and placing advertisements in a magazine.¹²

Petitioner countered that respondent was not authorized to file the complaint in behalf of PDA. The board resolution that purportedly authorized respondent to file the complaint was signed only by the president of the PDA and not by the majority of the members of the Board of Trustees (Trustees). Petitioner also denied violating the Code of Ethics since he did not solicit endorsements from celebrities or cause advertisements to be placed in a magazine. Thereafter, petitioner filed a motion to dismiss the complaint before the BOD. In an Order dated 15 September 2011, the PRC granted petitioner’s motion to dismiss. Consequently, the PDA, represented by respondent, filed a petition for review before the CA docketed as CA-G.R. SP No. 127819.¹³

On 23 October 2013, the CA rendered its Decision¹⁴ in CA-G.R. SP No. 127819 granting the petition for review and declaring the assailed PRC Order null and void. The CA held, among others, that respondent had the legal personality to represent the PDA in filing the complaint against petitioner. Further, the PRC overstepped its powers when it took over the complaint from the BOD and wrested away the latter’s jurisdiction over the complaint. Accordingly, the CA directed the BOD to resume proceedings in AC L-1091.¹⁵

⁸ Id. at 44-49.

⁹ Section 19.2 Title of the practice – To maintain the dignity of the profession, a dentist shall only use the term “Clinic” or “Office” in reference to the dental practice. The name of the practice shall conform to the high esteem of the profession avoiding commercialized names, which may be inappropriate to the profession.

¹⁰ Section 19.3 Soliciting Patients – A dentist shall not solicit patients personally or employ his/her patients, agents, or agencies to solicit patients for him/her. He/she shall not accept/offer rebates or receive commissions for referrals; nor engage in any promotional activity which will be degrading the dignity of the profession.

¹¹ Section 21. Announcement – The dentist shall use newspaper announcement only when opening a new clinic, or when changing location, or limiting the character of his/her practice; provided, that the newspaper announcement shall not be larger than 2 column by 2 column inches. Announcements in print, website, e-cards, and other electronic form of communication shall be posted within thirty (30) days from the date of opening. Announcement cards may be sent when there is a change in location, or an alteration in the character of practice, but to other dentists, members of the health profession, and patients-of-record.

¹² *Rollo*, pp. 25, 45-47.

¹³ Id. at 25, 51.

¹⁴ Id at 25. See footnote 5. Penned by Associate Justice Rosmari D. Carandang (now a retired Member of this Court) and concurred in by Associate Justices Ricardo. R. Rosario (now a Member of this Court) and Leoncia R. Dimagiba.

¹⁵ Id at 25-26.

Subsequently, petitioner filed a Petition for Review on *Certiorari* with this Court (G.R. No. 213109), but the same was denied in a Resolution dated 08 September 2014. His motion for reconsideration was also denied in a Resolution dated 19 November 2014.¹⁶

Meanwhile, on 28 June 2012 or during the pendency of AC L-1091, petitioner filed a Complaint¹⁷ for unprofessional and/or dishonorable conduct against respondent before the BOD, docketed as Administrative Case No. 526 (AC 526). Petitioner reiterated that respondent was not duly authorized by PDA to file AC L-1091. He also asserted that his right to due process was violated when he was not asked to take part in the investigation. Allegedly, the committee was created to support a certain Dr. Esquillo, petitioner's nemesis. Respondent's acts of acceding to and actively participating in the unlawful creation of the said committee and the proceedings thereof constituted gross violation of the Regulatory Code of Dental Practice in the Philippines.¹⁸

Respondent, for his part, denied the allegations in the complaint. He argued that the complaint should be dismissed because all the allegations therein were still pending resolution before the PRC and therefore matters *sub-judice*.¹⁹

Ruling of the BOD

In a Decision²⁰ dated 08 July 2014, the BOD held that respondent violated the Code of Ethics and imposed upon him the penalty of suspension for three months. The BOD conceded that while respondent had the authority to initiate AC L-1091, his report and recommendation to the PDA was abusive and violative of petitioner's right to due process.²¹

Dissatisfied, respondent filed a Motion for Reconsideration²² contending that the BOD clearly favored petitioner who was its former Interim Member and Chairman of the Board. There was no way respondent could be found guilty of unprofessional and/or dishonorable conduct to warrant his suspension for he was merely discharging his official duty when he filed AC L-1091 against petitioner.²³ However, the motion for reconsideration was denied in the Order²⁴ dated 23 September 2015.

¹⁶ Id at 25-26, 29, 90.

¹⁷ Id. at 50-57.

¹⁸ Id. at 26, 52-53.

¹⁹ Id. at 63.

²⁰ Id. at 67-70.

²¹ Id. at 68-69.

²² Id. at 71-79.

²³ Id. at 27-28.

²⁴ Id. at 80-81.

Aggrieved, respondent sought recourse to the CA by filing a petition for review docketed as CA-G.R. SP No. 143520.

Ruling of the CA

In its Decision²⁵ dated 08 September 2016, the CA granted the petition for review. The CA reversed and set aside the Decision dated 08 July 2014 and the Order dated 23 September 2015 of the BOD. Accordingly, AC 526 was dismissed. The appellate court held that petitioner failed to substantiate his charges against respondent. Other than his bare allegations that respondent filed a frivolous suit against him in AC L-1091, and that his right to due process was violated when respondent initiated the said complaint, there was nothing in the records showing that respondent's act amounted to unprofessional and dishonorable conduct.²⁶

Petitioner subsequently moved for reconsideration but the CA denied the motion in its Resolution²⁷ dated 06 March 2017.

Hence, the filing of the instant Petition before this Court.

Issue

The sole issue in this case is whether respondent acted in an abusive, unprofessional, and dishonorable manner that would warrant his suspension from the practice of his profession.

Ruling of the Court

The Petition is without merit.

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, or such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. The burden to establish the charges rests upon the complainant. The case should be dismissed for lack of merit if the complainant fails to show in a satisfactory manner the facts upon which his or her accusations are based.²⁸ That quantum of evidence is not met in the instant case.

²⁵ Id. at 24-31.

²⁶ Id. at 28-29.

²⁷ Id. at 33-34.

²⁸ *National Bureau of Investigation v. Najera*, G.R. No. 237522 (Resolution), 30 June 2020.

A perusal of the records of the case will show that during a meeting of the Trustees on 18 October 2010, it resolved, thru the subject board resolution, to file an administrative complaint against petitioner for violation of the Code of Ethics and authorized the committee, chaired by respondent, to institute the complaint.²⁹ Thus, the filing of the complaint against petitioner is not just an individual act of respondent but a collective act of the Trustees. Respondent undoubtedly has the authority and legal personality to represent the PDA in filing the said complaint before the BOD. In fact, the matter of respondent's authority had already been settled in the Decision dated 23 October 2013 rendered in CA-G.R. SP No. 127819, which this Court sustained in its Resolutions dated 08 September and 19 November 2014 issued in G.R. No. 213109.³⁰

Likewise, the Court does not find merit in petitioner's claim of denial of due process. Due process is complied with when a person is notified of the charge against him and given an opportunity to explain or defend himself or herself. In administrative proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him or her constitute the minimum requirements of due process. The essence of due process is simply to be heard, or as applied to administrative proceedings, an opportunity to explain one's side, or an opportunity to seek a reconsideration of the adverse action or ruling.³¹

As correctly observed by the CA, petitioner was not denied his day in court because he was given every opportunity to answer, rebut, and refute the allegations in the complaint filed by the PDA. In fact, he filed an Answer to the Complaint, a Pre-Trial Brief, and a Motion to Dismiss before the BOD. The case was further appealed to the CA and to this Court wherein petitioner filed the necessary pleadings and even sought reconsideration of the rulings of the Courts.³² Undoubtedly, petitioner was duly accorded due process, having been afforded a fair and reasonable opportunity to explain his side.³³

Absent from the records is any evidence showing that respondent acted in an abusive, unprofessional, and dishonorable manner so as to warrant his suspension from the practice of his profession. Clearly, the administrative case against him is utterly devoid of factual and legal basis.³⁴

WHEREFORE, premises considered, the instant Petition for Review on *Certiorari* is hereby **DENIED**. Accordingly, the Decision dated 08

²⁹ *Rollo*, p. 35.

³⁰ *Id.* at 29.

³¹ *Saligumba v. Commission on Audit XIII*, G.R. No. 238643, 08 September 2020, citing *F/O Ledesma v. Court of Appeals*, 565 Phil. 731.

³² *Rollo*, p. 30.

³³ *Vivo v. Philippine Amusement and Gaming Corp.*, 721 Phil. 34, 43 (2013).

³⁴ *Navarro v. Cerezo*, 492 Phil. 19 (2005).

September 2016 and Resolution dated 06 March 2017 of the Court of Appeals in CA-G.R. SP No. 143520, are hereby **AFFIRMED**.

SO ORDERED.” Rosario, J., on official leave.

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *8/2/14*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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FEB 14 2023

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