



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. 10496 Salome H. Serfino vs. Atty. Manuel A. Polido, Jr. – In an administrative complaint filed with this Court, Salome H. Serfino (complainant) charged Atty. Manuel A. Polido, Jr. (respondent) with gross misconduct and violations of the Code of Professional Responsibility (CPR), specifically Rules 15.01 and 15.03 of Canon 15, as well as Canons 17 and 21, the latter in relation to Section 20(e) of Rule 138, Rules of Court.¹

The pertinent facts:

Complainant requested the legal assistance of respondent in preparing and filing a Protest² dated March 31, 2008 before the Community Environment and Natural Resources Office (CENRO) of Culasi, Antique. It involved a parcel of land, particularly Lot 6041, measuring 4,040 square meters located in Guia, Pandan, Antique. Complainant claimed that in the preparation of the Protest, she gave documents and papers to respondent and divulged material information about the property in question.³

Four years thereafter, a Complaint for Recovery of Ownership and Possession, Reconveyance, Partition of Property and Damages⁴ (Complaint for Recovery) was filed before the Municipal Circuit Trial Court of Pandan, Antique, against complainant and her husband by the Heirs of Mamerto Himbing (Heirs of Mamerto), with respondent as the counsel of the Heirs of Mamerto. The Complaint for Recovery centered on the supposed share of the Heirs of Mamerto in the same property involved in the CENRO Protest. Thus, complainant filed the present disbarment case against respondent for allegedly representing conflicting interests.⁵

¹ *Rollo*, pp. 1–4.

² *Id.* at 5–7.

³ *Id.* at 1.

⁴ *Id.* at 10–12.

⁵ *Id.* at 92.

In his Comment/Answer,⁶ respondent countered that there was no conflict of interests on his part when he represented the Heirs of Mamerto because he merely assisted complainant in the preparation of her CENRO Protest, which was an entirely different case from the Complaint for Recovery. The CENRO Protest was filed by complainant herself, as evidenced by its opening line. As such, the parties never intended to make respondent as the counsel *de officio* of complainant. After the filing of the CENRO Protest, respondent never participated in the proceedings nor was he furnished any notice or order in relation to the case.⁷

Additionally, in the CENRO Protest which complainant filed against third persons, she claimed that the property in question was formerly owned by her father, Bernardo Himbing, and that in the latter's Last Will and Testament, the property was given to complainant and her brother, Mamerto. In the CENRO Protest, complainant acknowledged her co-ownership with Mamerto over Lot 6041. Therefore, complainant and the Heirs of Mamerto had no conflicting interests in the CENRO Protest. The Complaint for Recovery filed by the Heirs of Mamerto was actually not injurious to the co-ownership but it in fact sought to implement it.⁸

Respondent also claimed that he is already 77 years old and has never been the subject of a disciplinary action.⁹ While he may only have a vague memory of the CENRO Protest, he is however certain that the claim of the Heirs of Mamerto was not contrary to the interest of complainant.¹⁰

On June 24, 2019, the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) recommended¹¹ that respondent be sternly warned and reprimanded considering the latter's advanced age by the time this case shall have been resolved.¹²

The IBP-CBD found that the circumstances of the case do not show that respondent committed gross misconduct since he did not intentionally disregard his professional relationship with complainant. Respondent merely treated the CENRO Protest and the Complaint for Recovery as totally different from each other.¹³

Nevertheless, respondent violated Rules 15.01 and 15.03 of Canon 15 and Canon 17 of the CPR. Respondent owed complainant loyalty, fidelity and devotion to her interest, regardless of how minimal his participation was in

⁶ Id. at 21–32.

⁷ Id. at 92.

⁸ Id. at 55.

⁹ Respondent was 77 years old when he filed his Answer on 13 October 2014; id. at 21.

¹⁰ Id. at 93.

¹¹ Id. at 90–100.

¹² Id. at 100.

¹³ Id. at 94.

the preparation of complainant's CENRO Protest.¹⁴ Respondent should have informed complainant and sought her written permission as to his engagement as counsel by the Heirs of Mamerto in connection with the civil case.

In its Resolution dated July 25, 2020,¹⁵ the IBP Board of Governors adopted the recommendation of the IBP-CBD but with the modification that the stern warning given to respondent be deleted considering that the penalty of reprimand has already been meted out.

The issue to be resolved in this case is whether respondent should be administratively sanctioned.

On January 6, 2021, respondent's brother, Santiago A. Polido, informed the IBP-CBD of the death of respondent on September 27, 2019 pending the resolution of the case.¹⁶

As held in the case of *Flores-Concepcion v. Judge Liberty O. Castaneda*,¹⁷ when the respondent in a pending administrative case dies, the case must be rendered moot. Proceeding any further would be to violate the respondent's fundamental right to due process. Thus, the death of respondent Atty. Polido, Jr. before the final resolution of the administrative case against him is a cause for its dismissal.¹⁸ The resolution of whether respondent is administratively liable for his alleged gross misconduct and violations of the CPR is no longer necessary in view of respondent's death.

WHEREFORE, the administrative complaint against respondent Atty. Manuel A. Polido, Jr. is **DISMISSED** in view of his death during the pendency of this case.

¹⁴ Id. at 95.

¹⁵ Id. at 88–89.

¹⁶ Id. at 81–82.

¹⁷ A.M. No. RTJ-15-2438 (formerly OCA IPI No. 11-3681-RTJ), September 2, 2020. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

¹⁸ *Re: Investigation Report on the Alleged Extortion Activities of Presiding Judge Godofredo B. Abdul, Jr., Branch 4, Regional Trial Court, Butuan City, Agusan del Norte*, A.M. No. RTJ-17-2486, September 8, 2020. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

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

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *sh-16*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court *sh-16*
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FEB 17 2023

Ms. Salome H. Serfino
Complainant
Brgy. Fragante, Pandan
5712 Antique

Atty. Manuel A. Polido, Jr.
Respondent
(Deceased)

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