



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **August 1, 2022** which reads as follows:*

“A.C. No. 13417 [Formerly CBD Case No. 18-5599] (Maria Remedios Gana-Lim, complainant v. Atty. Sinforoso Ordiz, Jr., respondent). – The Court **NOTES** the Integrated Bar of the Philippines (IBP) Board of Governors’ (1) Notice of Resolution No. CBD-2020-09-26 dated September 12, 2020 which adopted and approved the Report and Recommendation dated June 28, 2019 of the Investigating Commissioner, with modification to suspend respondent from the practice of law for one [1] year for violation of Article 1491[5] of the Civil Code, and (2) Notice of Resolution No. CBD-XXV-2022-01-21 dated January 22, 2022 which denied respondent’s motion for reconsideration and upheld the Board’s Resolution dated September 12, 2020; both transmitted by letter dated March 30, 2022 of Director Avelino V. Sales, Jr., IBP Commission on Bar Discipline, together with the records and flash drive file of the case.

In CBD Case No. 18-5599, complainant Maria Remedios Gana-Lim charged Atty. Sinforoso Ordiz, Jr. (Ordiz, Jr.) before the Integrated Bar of the Philippines (IBP) with violation of Canons 1 and 15 of the Code of Professional Responsibility (CPR) and Article 1491(5) of the Civil Code. Complainant averred that she and her late brother Antonio P. Gana were the heirs of their late mother Ma. Luisa Potenciano Taylor (Ma. Luisa). Her mother had a sibling named Milagros Potenciano Reyes (Milagros). When the latter passed away, her estate was taken over by her children, Ma. Teresa P. Reyes (Ma. Teresa) and Dr. Carlos P. Reyes (Carlos).¹

During their lifetime, Ma. Luisa and Milagros were the registered owners of a 32,447-square meter parcel of land located in Pulo-Diezmo Road, Barangay Pulo, Cabuyao, Laguna and covered by Transfer Certificate of Title No. (TCT) T-152827. In 1987, they entered

¹ *Rollo*, p. 2.

into a Subdivision Contract² with Leonilo & Consolacion Marketing and Development Corporation (L&C). The latter undertook to develop the lot into a subdivision and promote its sale in the market. It would pay for all expenses of the project in exchange for 60% of the lots and its sale proceeds. In a Supplemental Agreement,³ Ma. Luisa and Milagros conveyed, through a Deed of Absolute Sale, 25% of the subdivided lots to L&C as advance payment of its 60% share. Unfortunately, L&C failed to complete the subdivision project.⁴

Ma. Teresa and Dr. Carlos, as heirs of Milagros, through Atty. Ordiz, Jr., sued L&C for rescission of contract, reconveyance, and recovery of possession of land before the Housing and Land Use Regulatory Board (HLURB). Despite knowing that the lot was co-owned by Milagros with Ma. Luisa, Atty. Ordiz, Jr. failed to include them (complainant and her brother) in the proceedings. Thus, she and the rest of the heirs of Ma. Luisa were not duly represented and had not participated in the HLURB proceedings. Also, Atty. Ordiz, Jr. brokered and enticed Ma. Teresa and Dr. Carlos to execute a compromise agreement⁵ with L&C, again, without taking into account that they (complainant and her brother) too are co-owners of the subdivision. Worse, Atty. Ordiz, Jr. acquired for himself two (2) subdivided lots as and by way of attorney's fees. This acquisition was incorporated in the compromise agreement itself, *viz.*:

4.2. The respondent shall give up four (4) lots from its share in favor of herein complainants, with the latter having the choice as to what lots to take, provided that two (2) of the four (4) lots shall pertain to the counsel for the complainants as his agreed attorney's fees.⁶

On May 7, 2012, the HLURB approved the entirety of the compromise agreement and issued its Judgment Upon Compromise.⁷

For deliberately excluding her from the proceedings before the HLURB, Atty. Ordiz, Jr. violated the following provisions of the CPR, *viz.*:

Rule 1.01, Canon 1

A lawyer shall not engage in unlawful, dishonest, immoral and deceitful conduct.

² Id. at 9-13.

³ Id. at 14-16.

⁴ Id. at 2-3.

⁵ Signed by HLURB Arbiter Atty. Maria Perpetua Y. Aquino, id. at 204-207.

⁶ Id. at 205-206.

⁷ Id. at 208-210.

Rule 1.03, Canon 1

A lawyer shall not, for any corrupt motive or interest, delay any man's cause.

Canon 15

A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

Also, Atty. Ordiz, Jr. violated Article 1491(5) of the Civil Code for acquiring two (2) lots from the land subject of the litigation, to wit:

Art. 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

x x x x

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

Atty. Ordiz, Jr. countered⁸ that he did not exclude complainant or any person from the HLURB proceedings. In fact, complainant and her counsel, Atty. Edgar A. Pacis (Pacis), were both informed of the proceedings. Consequently, Atty. Pacis had several conferences with him and the counsel of L&C. In any event, the land was already subdivided in three (3) ways – heirs of Ma. Luisa, heirs of Milagros, and L&C. He represented only the portion pertaining to Ma. Teresa and Dr. Carlos. If complainant wanted to protect her own share, she could have intervened in the proceedings at any time before judgment.

Contrary to complainant's claim, he did not broker or entice his clients in entering into a compromise agreement with L&C. The petition could have been dismissed on ground of prescription but the HLURB did not rule on the motion to dismiss filed by L&C and instead directed the parties to go through mediation. After a series of talks, his clients agreed to enter into a compromise agreement with L&C. The terms of the

⁸ See his Answer dated April 13, 2018, id. at 29–37.

compromise agreement were more favorable to his clients compared to those contained in the original Subdivision Agreement. It would also be equally beneficial to complainant if she chooses to adopt the same.⁹

As for the allegation that he acquired material benefits from the litigation, the truth of the matter is that L&C agreed to shoulder his attorney's fees as part of the compromise agreement. Considering that L&C was not liquid, he suggested, out of good will, that instead of the ₱500,000.00 cash, L&C could simply pay him in kind consisting of the two (2) lots from its own share. In fact, said lots had lesser value than the ₱500,000.00 fee due him.¹⁰

Report and Recommendation of the IBP – Commission on Bar Discipline (CBD)

In its Report and Recommendation¹¹ dated June 28, 2019, the IBP-CBD recommended the dismissal of the charge for violation of the CPR, but found Atty. Ordiz, Jr. liable for violation of Article 1491(5) of the Civil Code and meted him the penalty of suspension from the practice of law for two (2) years.

It ruled that the allegations in the amended petition before the HLURB showed no deliberate or material concealment of the fact that complainant's predecessor-in-interest – Ma. Luisa – was a co-owner of the property and a party to the subdivision project. The petition also included a detailed sharing of the subdivided lots among Ma. Luisa, Milagros, and L&C. Thus, respondent's clients, Ma. Teresa and Dr. Carlos could validly file an action to protect their own shares in the property, without having to implead complainant. More, the compromise agreement bore a stipulation that the terms of the original Subdivision Agreement and Supplemental Agreement between complainant and L&C, shall be respected. In any event, the terms of the compromise agreement are more beneficial to Ma. Teresa and Dr. Carlos, and even to complainant herself if she would just adopt the same.¹²

Atty. Ordiz, Jr. is, nevertheless, guilty of violation of Article 1491(5) of the Civil Code when he acquired two (2) subdivided lots from the property subject of the litigation. It is of no moment that the two (2) lots came from L&C and not from his own clients. The prohibition for lawyers

⁹ Id. at 30–33.

¹⁰ Id. at 35.

¹¹ Penned by Commissioner Nelly Annegret Puno-Yambot, id. at 215–228.

¹² Id. at 220–221.

to acquire by purchase or assignment the property subject of litigation is absolute and does not provide for any exception. Notably, the proposal to pay in kind even came from Atty. Ordiz, Jr.¹³

Report and Recommendation of the IBP – Board of Governors

In its assailed Extended Resolution¹⁴ dated April 5, 2021, the IBP–Board of Governors affirmed the findings of the IBP-CBD but reduced the penalty of suspension from two (2) years to one (1) year.

Atty. Ordiz, Jr. now seeks¹⁵ affirmative relief from the Court and asks that the administrative complaint against him be dismissed. He mainly avers that he did not violate Article 1491(5) of the Civil Code. The lots he got from the Compromise Agreement was taken from the portion of L&C and not from his client's portion. L&C agreed to shoulder his attorney's fees as part of its compromise agreement with his clients. Since it was not liquid, it opted to pay him in kind which took the form of the two (2) lots, instead of paying him with cash. Thus, the fiduciary relationship between a lawyer and his or her client sought to be protected by Article 1491(5) of the Civil Code was not violated as he had no fiduciary relationship with L&C.

Ruling

We affirm the findings of fact and recommendations of the IBP.

Violation of the Code of Professional Responsibility

Complainant charges Atty. Ordiz, Jr. with violation of the following provisions of the CPR:

Rule 1.01, Canon 1

A lawyer shall not engage in unlawful, dishonest, immoral and deceitful conduct.

Rule 1.03, Canon 1

A lawyer shall not, for any corrupt motive or interest, delay any man's cause.

¹³ Id. at 223–227.

¹⁴ Signed by Deputy Director for Bar Discipline Dominic C.M. Solis, id. at 259–261.

¹⁵ See Petition for Review dated April 8, 2022, id. at 262–265.

Canon 15

A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

for allegedly excluding her, as heir of Ma. Luisa, from the HLURB proceedings. Thus, she was allegedly not able to duly protect her rights and interests in the subject property. Worse, Atty. Ordiz, Jr. enticed his clients and her co-owners, Ma. Teresa and Dr. Carlos, to enter into a Compromise Agreement with L&C.

The charge is devoid of merit.

Atty. Ordiz, Jr. did not exclude complainant from the proceedings; nor did he conceal the fact that his clients co-owned the lot with complainant, the surviving heir of Ma. Luisa. As aptly noted by the IBP, the HLURB petition itself expressly alleged that the lot was also owned by Ma. Luisa, viz.:

3. Petitioners are the only surviving heirs of their deceased mother, Milagros Potenciano Reyes. Sometime in October 1997, the said Milagros Potenciano Reyes, thru her attorney-in-fact, Ma. Teresa Potenciano Reyes, one of [the] herein petitioners, **together with her sister, Maria Luisa Potenciano Taylor**, entered into a Subdivision Contract with herein respondent x x x

4. Due to the sweet talk and promises of [r]espondent, petitioners' mother, Milagros **and her sister Maria Luisa** were convinced to enter into such subdivision contract x x x

5. x x x x

6. The sharing of the home lots was 40-60, so that respondent got 88 home lots, while petitioners' mother got only 30 home lots, **while their aunt, Maria Luisa got 32 home lots** x x x¹⁶ (Emphases supplied)

Clearly, Atty. Ordiz, Jr. never hid the fact that his clients co-owned the lot with another person.

Too, the reports submitted by Atty. Ordiz, Jr. to his clients mentioned that complainant's counsel was present and even actively participated during the series of conferences held with L&C's counsel.

¹⁶ Id. at 18-19.

In fine, the charge against respondent for violation of Rule 1.01 and 1.03, Canon 1, and Canon 15 of the CPR should be dismissed, for utter lack of factual and legal bases.

Violation of Article 1491(5) of the Civil Code

Article 1491(5) of the Civil Code reads:

Article 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another.

x x x

x x x

x x x

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

The provision forbids lawyers from acquiring, by purchase or assignment, the property that has been the subject of litigation in which they have taken part by virtue of their profession.¹⁷ Notably, Canon 10 of the old Canons of Professional Ethics contained a similar prohibition. Although the new CPR does not bear the same provision, still Canon 1 therein ordains that every lawyer must uphold the Constitution, obey the laws of the land, and promote respect for law and legal process.¹⁸ To be sure, Article 1491(5) of the Civil Code is one of such laws.

The underlying rationale for the prohibition in Article 1491(5) is founded on public policy. It disallows the transactions in view of the fiduciary relationship involved, *i.e.*, the relation of trust and confidence and the peculiar control exercised by the persons enumerated in the provision. By virtue of their office, lawyers may easily take advantage of the credulity and ignorance of their client and unduly enrich themselves at the expense of their client.¹⁹

¹⁷ See *The Conjugal Partnership of the Sps. Vicente Cadavedo v. Lacaya*, 724 Phil. 300, 320 (2014) [Per J. Brion, Second Division].

¹⁸ See *Gabucan v. Atty. Narido*, A.C. No. 12019, September 3, 2019 [Per J. Carandang, *En Banc*].

¹⁹ See *Peña v. Delos Santos*, 782 Phil. 123, 134 (2016) [Per J. Reyes, Third Division].

The provision prohibits lawyers from acquiring any interest in the property that has been the subject of litigation in which they have taken part by virtue of their profession. A property is in litigation if there is a contest or litigation over it in court or when it is subject of a judicial action.²⁰

The lots acquired by Atty. Ordiz, Jr. formed part of the property subject of litigation. While the lots were taken from the portions pertaining to L&C, Atty. Ordiz, Jr. cannot deny that had the action continued and had he secured a win for his clients, such portion would revert to his clients. In any event, the law did not distinguish; so neither should we.

More, his interest in the lots subject of litigation further became manifest when it was he himself who broached the idea to pay his attorney's fees in kind. In his memorandum to his clients, he reported:

3. After a series of negotiations between the lawyers and representative[s] of the respondent and the undersigned, it was proposed by the respondent that the latter shall:
 - a) Repair the roads, drainage system and cause the restoration of the wear and tear condition of the present state of the subdivision to comply with the standard of HLURB. In that way, we [should] not put to waste the business opportunities that are now trending. It will also put us into better position to amply respond to the calls of time.
 - b) On top of that, respondent is willing to give up 2 lots/titles in favor of petitioners (MTPR & CPR).
 - c) In response, **the undersigned off hand counter-proposed that respondent should shoulder the attorney's fees of the undersigned instead of the petitioners in kind, that is 2 more lots/titles as attorney's fees, making [a] total of 4 lots/titles.**²¹ (Emphasis supplied)

Atty. Ordiz, Jr. even had his interest included in the provisions of the Compromise Agreement itself. On this score, *Melad-Ong v. Sabban*²² is apropos:

In this case, respondent acquired by purchase from Concepcion a portion of the contested property as evidenced by the Deeds of Absolute Sale executed on April 1, 2008, **the same day that the Compromise Agreement was judicially approved.** It can be gleaned from this that

²⁰ Id. at 132.

²¹ *Rollo*, p. 50.

²² A.C. No. 10511, January 4, 2022.

respondent has had interest over the property even while the case was pending and immediately grabbed the opportunity to buy it upon approval of the Compromise Agreement so as to avoid the prohibition under Article 1491. The fact that the property was bought at the same date as the approval of the Compromise Agreement shows the propensity of respondent to circumvent the mandate of the law which is that respondent, as a lawyer, is prohibited from acquiring, either by purchase or assignment, the property and rights of his client that were involved in a litigation in which he took part in. (Emphasis supplied)

Verily, Atty. Ordiz, Jr. violated Article 1491(5) of the Civil Code.

Penalty

The IBP–CBD recommended suspension from the practice of law for two (2) years as the penalty to be imposed on respondent. On the other hand, the IBP–Board of Governors recommended to reduce it to one (1) year suspension. It opined that violations of Article 1491(5) of the Civil Code are ordinarily penalized with suspension from the practice of law for six (6) months. It nonetheless cited the so-called “circumstances of the case” to justify the proposed one (1) year suspension, without mentioning what exactly were these circumstances.

In *Heirs of Carlos v. Atty. Linsangan*,²³ the Court meted the penalty of suspension from the practice of law for six (6) months on Atty. Linsangan for acquiring half of the property awarded to his client. Similarly, in *Gabucan v. Narido, Jr.*²⁴ the Court suspended Atty. Narido, Jr. from the practice of law for six (6) months when it was established that he acquired for himself an interest over complainant’s property, which was the subject of litigation.

In the absence of any attendant circumstance to warrant the imposition here of a higher penalty, we impose suspension from the practice of law for six (6) months on Atty. Ordiz, Jr..

FOR THESE REASONS, Atty. Sinforsoso Ordiz, Jr. is found liable for violation of Article 1491(5) of the Civil Code. He is **SUSPENDED** from the practice of law for **SIX (6) MONTHS** effective from notice of this Resolution, with **STERN WARNING** that a repetition of the same or, the commission of a similar offense shall be dealt with more severely.

²³ 814 Phil. 1–16 (2017) [Per *J. Tijam*, Third Division].

²⁴ A.C. No. 12019 (Resolution), September 3, 2019 [Per *J. Carandang*, *En Banc*].

Atty. Ordiz, Jr. is required to inform the Court under oath the specific date when he received this Resolution for the purpose of computing when he should commence serving the period of suspension.

Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be entered into the records of Atty. Sinforoso Ordiz, Jr.. Copies shall likewise be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

SO ORDERED.” (Kho, Jr., J., on leave)

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{mm} 3/2

02 MAR 2023

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*For this resolution only

**For circularization to all courts

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