



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames

Please take notice that the Court, Third Division, issued a Resolution dated **February 15, 2023**, which reads as follows:

“A.C. No. 11712 [formerly CBD Case No. 18-5844] (*Melamy S. Asperin, et al. vs. Atty. Kathy Blanche Borja-Jamila*). - For resolution is the *Verified Disbarment Complaint/Letter-Affidavit*¹ dated May 25, 2017, filed by Melamy S. Asperin, Ronaldo Revesencio, and Romy Esmerio (complainants) against Atty. Kathy Blanche Borja-Jamila (respondent) for violation of the Civil Service Law, Republic Act (R.A.) No. 6713,² and the Code of Professional Responsibility.

The Antecedents

Complainants alleged in their *Verified Disbarment Complaint/Letter-Affidavit* that on July 12, 2013, respondent was appointed as the City Legal Officer of the Local Government Unit of Tagbilaran City, Province of Bohol. On June 19, 2016, respondent signed and filed a civil case for Repurchase and/or Specific Performance before the Regional Trial Court (RTC) of Tagbilaran City, Bohol. Complainants argued that respondent’s private professional engagements interfered with her public duties. They claimed that respondent violated her oath as a lawyer, and the Code of Professional Responsibility when she engaged in the practice of law while still holding a public office.³

In her *Comment and Vehement Opposition to Verified Disbarment Complaint/Letter-Affidavit*,⁴ respondent asserted that Mayor John Geesnell L. Yap II authorized her to practice her profession. This was evidenced by a Certification issued by the Human Resource Management Office of the City Government of Tagbilaran.⁵ Moreover, respondent insisted that she did not use government time and resources when she drafted and signed the pleadings relative to the civil case that she filed on behalf of her clients. She explained

¹ Rollo, pp. 1-9.

² CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES. Approved on February 20, 1989.

³ Id. at 1-2.

⁴ Id. at 68-75.

⁵ Id. at 76.

that she signed the pleadings on weekends, and she attended the lone hearing during her leave of absence.

The Court referred this case to the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline for investigation, report and recommendation.⁶

The Report and Recommendation of the IBP - Commission on Bar Discipline⁷

The IBP-Commission on Bar Discipline recommended that the complaint against respondent be dismissed, to wit:

WHEREFORE, premises considered, this Office hereby recommends the **DISMISSAL** of the instant complaint for lack of merit.

RESPECTFULLY SUBMITTED.⁸

The Investigating Commissioner found that complainants failed to establish that there was a conflict of interest when respondent represented her clients in a civil case filed against individuals who are residents of Tagbilaran City. On the other hand, respondent was able to prove that she was authorized to practice law while being the City Legal Officer of Tagbilaran City, and that she did not use government time and resources when she practiced her profession.

The Resolution of the IBP Board of Governors⁹

On September 11, 2021, the IBP-Board of Governors passed a resolution, as follows:

RESOLUTION NO. CBD-XXV-2021-09-25
CBD Case No. 18-5844
Adm. Case No. 11712
Melamy S. Asperin, et al., vs.
Atty. Kathy Blanche Borja-Jamila

*RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the instant case, to DISMISS the complaint against the Respondent for lack of merit.*¹⁰

⁶ Id. at 105-106.

⁷ Id. at 170-174.

⁸ Id. at 174. Signed by Commissioner Christian E. Chan.

⁹ Id. at 167-169. Signed by Assistant National Secretary Jose Angel B. Guidote, Jr.

¹⁰ Id. at 167.

The Court’s Ruling

After a careful review of the case, we adopt and approve the factual findings of the IBP, dismissing the complaint against respondent for lack of merit.

In disbarment proceedings, the quantum of proof is substantial evidence and the burden of proof is on the complainant to establish the allegations in his complaint.¹¹ Here, the complainants miserably failed to present substantial evidence to support their accusations against respondent that she should be disbarred for unauthorized practice of profession while being the City Legal Officer of Tagbilaran City, Bohol.

R.A. No. 6713, otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees” provides:

Section 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x x

(b) Outside employment and other activities related thereto. - Public officials and employees during their incumbency shall not:

x x x x

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; or

x x x x

Moreover, Section 18, Rule XIII of the Revised Omnibus Rules on Appointments and other Personnel Actions states that:

Unless otherwise provided by law, no officer or employee shall engage directly or indirectly in any private business or profession without written permission from the head of agency. Provided that this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the government. Provided further, that if the employee is granted permission to engage in outside activities, the time devoted outside of office hours should be fixed by the head of the agency so that it will not impair in any way the efficiency of the officer or employee nor pose a conflict or tend to conflict with the official functions.

¹¹ See *BSA Tower Condominium Corporation v. Atty. Reyes*, 833 Phil. 588, 594-595 (2018).

In this case, respondent was able to show that she was indeed authorized to practice law while serving as the City Legal Officer of Tagbilaran City. She attached to her pleadings a Certification issued by the Human Resource Management Office of the Tagbilaran City Government stating that she is allowed to practice her profession by the head of the agency that appointed her. Likewise, she pointed out that the pleadings are dated on weekends and that the lone hearing that she attended was on the day she sought for leave from work. Thus, the Court agrees with the findings of the IBP Commission on Bar Discipline that respondent did not use government time and resources when she appeared in court as counsel for one of the parties in a civil case before the RTC.

In administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not obliged to prove their exception or defense.¹² In this case, complainants failed to prove their allegations by substantial evidence, and therefore, the administrative case against respondent must be dismissed.

WHEREFORE, the Court resolves to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendation of the Integrated Bar of the Philippines-Commission on Bar Discipline. The instant administrative case against respondent Atty. Kathy Blanche Borja-Jamila is hereby **DISMISSED** for lack of merit.

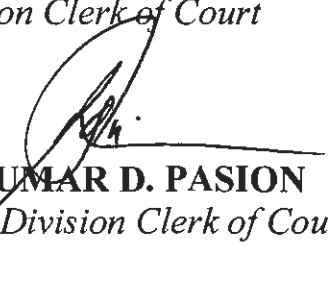
Accordingly, the case is considered **CLOSED** and **TERMINATED**.

SO ORDERED."

By authority of the Court:

MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

By:


RUMAR D. PASION
Deputy Division Clerk of Court 01-13-23

Melamy S. Asperin, Ronaldo Revesencio &
Romy Esmerio
Complainants
20/F, Security Bank Centre
6776 Ayala Avenue, 1226 Makati City

¹² Re: Letter of Lucena Ofendo Reyes Alleging Illicit Activities of a certain Atty. Cajayon involving cases in the Court of Appeals, Cagayan De Oro City, 810 Phil. 369, 347 (2017).

Atty. Kathy Blanche Borja-Jamila
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Officer-in-Charge
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