



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

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

“**A.C. No. 13434 [Formerly CBD Case No.-18-5688] (Maribel T. Pajarillo, Rowena G. Taway, Edward G. Socito, Vicente G. Socito, Elmer G. Socito, Gil G. Taway II, Erika Louise S. Gianan and Georgina Ann Leslie S. Gianan v. Atty. Jesus C. Labriaga, Jr. and Atty. Christopher M. Mortel).**— For this Court’s adjudication is the Joint Complaint-Affidavit¹ for disbarment filed by complainants Maribel T. Pajarillo (Maribel), Rowena G. Taway, Edward G. Socito, Vicente G. Socito, Elmer G. Socito, Gil G. Taway II, Erika Louise S. Gianan and Georgina Ann Leslie S. Gianan against respondents Atty. Jesus C. Labriaga, Jr. (Atty. Labriaga) and Atty. Christopher M. Mortel (Atty. Mortel) for violation of Rules 1.01, 1.02 and 1.03, Canon 1 of the Code of Professional Responsibility (CPR).

The prevenient facts follow.

Complainants asseverated that their aunt, Greta B. Gianan (Greta), passed away on September 30, 2016,² leaving no compulsory heirs. Thereafter, Greta’s siblings, Jimmy Gianan (Jimmy), Humphrey Gianan (Humphrey), Liz Gianan-Umali (Liz), and Maureen Gianan-Labriaga (Maureen), executed a Deed of Extrajudicial Settlement (Deed) of Greta’s Estate with Special Power of Attorney.³ This was notarized in Manila by Atty. Mortel, the son-in-law of Maureen and her spouse, Atty. Labriaga.

The Deed adjudicated nine parcels of land to Maureen and one piece of realty to Jimmy, Liz, and Humphrey. On July 21, 2017, the affidavit of publication was issued stating that the same was published for three consecutive weeks in the newspaper, Catanduanes Tribune.⁴

¹ *Rollo* (Vol. 1), pp. 1-16.

² *Id.* at 19.

³ *Id.* at 21.

⁴ *Id.* at 22.

Claiming that they were precluded from the Deed, complainants filed the aforesaid Joint Complaint-Affidavit against respondents before the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD), Pasig City. They avowed that since their parents, the other siblings of Greta, predeceased her, they have the right to inherit by representation. As it happened, Maureen, Jimmy, Liz, and Humphrey misrepresented that they were the only heirs of Greta in the Deed, in violation of the Court's pronouncements in *Vda. Del Prado v. People*⁵ which ruled that the deed of succession, having been transformed into a public document upon acknowledgment before a notary public, should only contain truthful statements.

Given that respondents both knew that such material statement is false, Atty. Labriaga should not have participated in and consented to the execution of the disputed Deed while Atty. Mortel should not have notarized the same. Instructive in this regard, is the case of *Dumali v. Torres*,⁶ where it was found that the respondent lawyer, although cognizant that his wife had other siblings, took part in his wife's and sister-in-law's concealment of such fact in the Deed which stated that they were the sole heirs of their parents. Relevantly, in this case, Atty. Labriaga and Atty. Mortel, the husband and son-in-law of Maureen, respectively, suppressed this essential fact when they allowed the exclusion of complainants from the Deed. Clearly, they blatantly abetted in the commission of perjury and falsification. As officers of the court, they had the legal obligation to prevent Maureen and her siblings from acquiring the subject realty solely for themselves.

Moreover, Atty. Labriaga assisted Jimmy, Maureen, and Liz in instituting complaints for robbery and qualified trespass to dwelling⁷ against Gil G. Taway I (Gil I) as well as Violation of Anti-Fencing Law⁸ against Maribel, with the Office of the Provincial Prosecutor of Catanduanes. As legal heirs of Greta and thus, co-owners of the real estate in question, Maribel and Gil I could not be charged with the aforesaid crimes precisely because they also owned the same.⁹ This being so, respondents should have dissuaded Maureen, Jimmy, and Liz from filing the aforesaid baseless criminal cases.

As expected, both Atty. Labriaga and Atty. Mortel prayed that the case for disbarment be dismissed with prejudice for lack of merit.

⁵ 685 Phil. 149 (2012) [Per J. Reyes, Second Division].

⁶ 471 Phil. 1 (2004).

⁷ *Rollo*, pp. 57-61.

⁸ *Id.* at 65-66.

⁹ See *Id.* at 83, 88 and 121.

Atty. Labriaga avouched¹⁰ that he had no participation in the execution of the Deed. He disassociated himself from the settlement of the estate to avert any suspicion that he had any pecuniary interest thereto.

He explicated that it was Jimmy, the eldest of Greta's living siblings, and a former Auditor of the Commission on Audit, who decided primarily what to do with Greta's properties so that her GSIS¹¹ Restructured Real Estate Loan over their ancestral house, which as of March 2017, was already more than PHP 5,000,000.00,¹² could be settled and freed from foreclosure. In actual fact, Jimmy and his siblings were the ones who agreed to extrajudicially settle the estate of Greta so as to avoid the payment of penalties and surcharges that may be imposed for the late payment of estate tax, as well as to reimburse him of the money he obtained from his retirement benefits which he used to defray the medical expenses of Greta.

Anent the criminal cases lodged against Maribel and Gil I, Atty. Labriaga denied any involvement therein. He merely accompanied his sickly wife, Maureen, to the Provincial Prosecutor's Office.

He postulated that the *Dumali* case cited by the complainants is inapplicable since it involves different factual milieu. So, too, is the case of *Vda. del Prado v. People* where the original certificate of title was cancelled and new titles were issued by the Register of Deeds using the falsified deed of succession. Since there was no cancellation of title on any of Greta's properties, the *Dumali* case cannot be applied herein.

For his part, Atty. Mortel asserted¹³ that in the last week of December 2016, Jimmy, Maureen, Humphrey, and Liz told him that the medical and funeral expenses of Greta in the amount of more than PHP 1.5 Million Pesos, were paid by Atty. Labriaga out of his retirement benefits. Moreover, the estate of Greta did not have any cash to cover its tax liabilities. To expedite the process, they agreed to extrajudicially settle among themselves Greta's estate and to entrust to Maureen the subject properties as well as to authorize her to sell a parcel of realty thereof to finance the expenses. In the end, whatever would be left of the estate, after deducting all the advances and expenditures from the proceeds of sale, would be distributed to all the heirs of Greta including the complainants. As they had insufficient funds to pay the notarial fee, they requested him to notarize the Deed, to which, he acceded.

¹⁰ *Id.* at 187-195.

¹¹ Government Service Insurance System.

¹² See *Rollo*, p.142.

¹³ *Rollo*, pp. 171-180.

Thereafter, he had no more knowledge of what transpired due to his busy schedule. It was only sometime in May 2017 when he learned that the complainants changed their minds and demanded to have their respective shares of the assets left by Greta immediately *sans* settling the subject advances as well as the taxes thereof.

Furthermore, Atty. Mortel maintained that the purported acts which complainants attributed to him and to Atty. Labriaga as violations of Rules 1.0 1.02, and 1.03, amounted to perjury and falsification, which, however, have already been dismissed¹⁴ by the Office of the City Prosecutor of Manila.

Contrary to complainants' claim, the case of *Dumali* is not factually similar to the case at bench; hence, it is inapplicable. Besides, all the properties of Greta remained intact.

In due course, Commissioner Rogelio D. Torres, Jr. in his Report and Recommendation¹⁵ recommended for the dismissal of the administrative case declaring—

In the instant case, there is no evidence, much less any allegation, on the specific act/s of respondents Atty. Labriaga and Atty. Mortel constituting the supposed unlawful, immoral or deceitful conduct in violation of the CPR, other than mere general and vague assertions of 'participation in, giving consent to, or failing to advise against the execution of the purported Deed of Extrajudicial Settlement'. In fact, not being compulsory heirs of Greta and having absolutely no right over her estate, respondents Atty. Labriaga and Atty. Mortel cannot be parties to the settlement of her intestate estate, and thus their participation or consent to the same is not necessary, since they are not heirs of Greta.

Neither is there sufficient basis to conclude that respondent Atty. Mortel's act of notarizing the purported Deed of Extrajudicial Settlement amounted to unlawful, immoral or deceitful conduct. In the first place, it has not been established that the purported Deed of Extrajudicial settlement of Estate is contrary to law, such determination being outside of the scope of the functions of the instant Commission. xxx

Here the mere act of notarizing the Deed of Extrajudicial Settlement does not indicate a violation of respondent Atty. Mortel's duties as Notary Public, much less a lawyer. Again, the complainants could not even produce a copy of the purported Deed of Extrajudicial Settlement to support their claims against the respondents.

Thus, complainants' claim of respondents' participation in, giving consent to or failing to advise against the execution of the purported Deed of Extrajudicial Settlement rest only on bare allegations and assumptions drawn from familial relations, without more. Otherwise stated, no evidence was presented to clearly and convincingly establish that respondents Atty.

¹⁴ *Id.* at 182-185.

¹⁵ *Id.* at 303-311.

presented to clearly and convincingly establish that respondents Atty. Labriaga and Atty. Mortel engaged in any unlawful, dishonest or deceitful conduct, or counseled and assisted any activity in defiance of law in violation of the CPR.¹⁶

All the same, in its Resolution¹⁷ dated October 24, 2021, the Integrated Bar of the Philippines Board of Governors (IBP-BOG) overturned the Investigating Commissioner's findings, thus—

RESOLUTION NO. CBD-XXV-2021-10-25

RESOLVED to REVERSE, as it is hereby **REVERSED**, the Report and Recommendation of the Investigating Commission in the instant case, and to recommend instead the imposition, upon – 1) Respondent Atty. Jesus Labriaga, of **SUSPENSION from the practice of law for a period of Two (2) years**; and 2) upon Respondent Atty. Christopher M. Mortel, of the penalties of – **i. SUSPENSION from the practice of law for a period of Two (2) Years**, **ii. IMMEDIATE REVOCATION** of his Notarial Commission if subsisting, and **iii. DISQUALIFICATION from being commissioned as Notary Public for a period of Two (2) Years**.

RESOLVED FURTHER, to direct the CBD to prepare an **EXTENDED RESOLUTION** explaining the recommendation of the Board of Board of Governors in this case, which shall be appended in this resolution.¹⁸

After a perspicacious review of the facts obtaining in this case, the Court holds that the recommendation of the IBP-BOG is more in consonance with the evidence on record and the applicable laws and rules on bar discipline albeit with a modification on the penalty imposed.

First off, in administrative proceedings, such as disbarment, the quantum of proof necessary for a finding of guilt is substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Complainants have the burden of proving by substantial evidence the allegations in their complaints. The basic rule is that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.¹⁹

To iterate, the complainants assert that respondents participated in, consented to, or failed to advise Greta's siblings against the execution of the Deed which excluded them therefrom and effectively deprived them of their shares in the inheritance. Said respondents did not even deter Jimmy and his siblings from filing groundless suits against them. Quite palpably, the

¹⁶ *Id.* at 308-310.

¹⁷ See *Id.* at 312.

¹⁸ *Id.* at 312.

¹⁹ See *Aguirre v. Reyes*, A.C. No. 4355, January 8, 2020 [Per J. Lazaro-Javier, First Division].

respondents breached Rules 1.01, 1.02, and 1.03, Canon I of the Code of Professional Responsibility (CPR) which read:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

RULE 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

RULE 1.02 A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

RULE 1.03 A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay man's cause.

The Court is convinced that complainants substantially established respondents' administrative liability but only with respect to the contravention of Rules 1.01 and 1.02.

The Court expounds on this disquisition.

The respondents never negated that the Deed was executed only among Jimmy, Maureen, Humphrey and Liz. Patently, this cold hard fact pulled the rug from under respondents' feet.

As can be gleaned from his Answer,²⁰ Atty. Labriaga was very much aware that the Deed with SPA executed by his wife and her siblings, did not include the complainants whom he knew were also entitled to inherit from Greta. In any case, his purported non-participation and non-intervention,²¹ instead of aiding his cause, bolstered the case against him as the same is a clear contravention of the foregoing rules. As a lawyer, he knew fully well that what his wife and her siblings would do was irregular and against the laws on succession²² and settlement of estate.²³ He should have guided and informed them of the legal consequences of their actions as mandated by the said laws.

As for Atty. Mortel, he was remiss in his duties as a lawyer and as a notary public. Records evince that he himself divulged that after he was apprised by Jimmy, Maureen, Humphrey and Liz of the circumstances surrounding the execution of the deed in question, they asked him to notarize the same due to lack of funds to pay the notarial fees.²⁴ Still and all, he assented to their request to notarize it even if he knew fully well that to do so would be

²⁰ *Rollo*, pp. 187-196.

²¹ *Id.* at 193.

²² See Articles 972, 1003 and 1005 of the Civil Code of the Philippines.

²³ See Section 1, Rule 74 of the Rules of Court, as amended.

²⁴ *Rollo*, p. 173.

in violation Sections 3(c) and 4(a), Rule IV of the 2004 Rules on Notarial Practice. The extended Resolution²⁵ of the IBP-BOG cannot be any clearer—

Rule IV Section 3 of the 2004 Rules on Notarial Practice prohibits a notary public from performing a notarial act if he is a ‘relative by affinity xxx of the principal within the fourth degree.’ Atty. Mortel is the son-in-law of Maureen G. Labriaga, a principal to the EJS, and thus a relative within the second degree of affinity to Maureen. The other principals to the EJS, the three other Gianan siblings, are also relatives within the third civil degree of affinity to Atty. Mortel. Furthermore, *Rule IV, Section 4 (a)* of the same 2004 Rules on Notarial Practice also enjoin a notary public from performing a notarial act if *‘the notary knows or has good reason to believe that the notarial act or transaction is unlawful or immoral.’* Pursuant to the above discussion showing the inherent defects and irregularity of the subject EJS, Atty. Mortel should have taken pause in notarizing an instrument which he knows would amount to excluding Complainants in the EJS of the Estate of Greta of Greta Gianan.²⁶

Indeed, there is nary a doubt that Atty. Mortel is guilty of improper conduct. In the realm of legal ethics, a breach of the 2004 Rules on Notarial Practice would also constitute a violation of the Code of Professional Responsibility considering that erring lawyers who are found to be negligent in their functions as notaries public are considered to have violated their oath as lawyer as well. They do not only fail to fulfill their solemn oath of upholding and obeying the law and its legal processes, but they also commit an act of falsehood and engage in an unlawful, dishonest, and deceitful conduct.²⁷

At this juncture, the Court quotes with approbation the well-reasoned discourse of the IBP-BOG, *viz.*:

Additionally, the following circumstances, judiciously considered, seemingly debunk the defenses raised by Respondents and the conclusions on non-culpability declared by the Investigating Commissioner:

1. Contrary to Respondent Labriaga’s assertion that he did not participate in the execution of the EJS in order to avoid being suspected of having pecuniary motive, the fact that the scheme as presented by Respondents ensures that Atty. Labriaga would be reimbursed for advances he made for the hospitalization expenses of Greta already illustrate the former’s pecuniary interest in the execution of the EJS. Moreso, that it was his wife who was given authority to sell the property constituting Greta’s estate as well as hold interest over 9 of the 10 parcels of land.

²⁵ *Id.* at 312-324. The extended Resolution dated November 10, 2021 was penned by Deputy Director Kristinne Chrystelles Biales.

²⁶ *Id.* at 323-324.

²⁷ See *Re: Ely F. Azarraga*, A.C. No. 12798, February 3, 2021 [Per J. Delos Santos, Third Division].

This finding does not in any way declare that Respondent Labriaga is not entitled to reimbursements for the amount he advanced for Greta's hospitalization, it only means that Atty. Labriaga cannot rightfully claim that he had no 'pecuniary' interest that was protected with the execution of the EJS.

2. As a matter of law and per the provisions of the Civil Code on succession, Respondents Labriaga and Mortel are heirs/beneficiaries to any inheritance that would be received by Maureen Gianan-Labriaga. Although inherited property is considered paraphernal in nature, thus exclusive and separate, the fruits of such inheritance are conjugal in nature and thus whatever Maureen inherits, Respondent Labriaga potentially enjoys the benefits of the fruits thereof. Respondent Mortel on the other hand being the spouse of Maureen Labriaga's daughter can likewise potentially benefit from any inheritance that may be received by his mother-in-law.

It is the relationships to the principals who executed the EJS and the potential material benefits that should have prompted Respondents, among other reasons, to ensure that herein Complainants were not excluded from the EJS.

3. The defense raised by Respondents that Complainants were not deprived of any inheritance since no property of Greta had yet been transferred is not a valid excuse for not including herein Complainants in the EJS since the exclusion of the latter can already be considered a violation of requirements in the execution of an EJS pursuant to the direct provisions of Section 1, Rule 74 of the Rules of Court. Moreover, if no property had yet been transferred or disposed of, this presupposes that all charges and expenses (i.e. reimbursement and payment of estate taxes etc.) in relation to the execution of the EJS had already been met or at least could have been met by the Gianan siblings on their own. Hence, there was really no need to have excluded herein Complainants in the execution of the EJS.

Under the foregoing circumstances, the Board agrees with complainants that the principles and ratio laid down in the case of *Dumali v. Torres* are applicable in the case at bar. Common to *Dumali* and this case are allegations in relation to the wrongful execution of an Extrajudicial Settlement of Estate which resulted in the exclusion of some heirs and the failure of a lawyer to advise accordingly, xxx

This Board can concede that there may be some factual variance in *Dumali* with the case at bar. These factual variances however only touch on the gravity of the violations committed by the lawyer in *Dumali* and does not rise to the level that negates administrative liability as argued by Respondents. More importantly, what cannot be disputed is that the legal and ethical obligations under the Lawyer's Oath and the Code of Professional Responsibility (CPR) imposed on the lawyer in *Dumali* can by parity of reasoning be directly imposed on herein Respondents. xxx

Therefore, and in no uncertain terms, the acts of Respondents in consenting to and failing to advice and counsel the Gianan siblings against the execution of a clearly defective EJS which further resulted in the exclusion of Complainants as compulsory heirs are deemed a violation of the

Lawyer's Oath and Rule 1.01 and 1.02 of Canon I of the Code of Professional Responsibility.²⁸

In light of the foregoing, respondents' liability is duly ascertained. They seemingly forgot the pledge they took when they recited the Lawyer's Oath which requires every lawyer to "support the Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein" and to "do no falsehood, nor consent to the doing of any in court."²⁹ Upon this point, it bears stressing that all lawyers are expected to respect and abide by the laws and the legal processes. To say that lawyers must at all times uphold and respect the law is to state the obvious, but such statement can never be overemphasized. Considering that, of all classes and professions, lawyers are most sacredly bound to uphold the law, it is imperative that they live by the law.³⁰

Anent, however, the charge of violation of Rule 1.03 for the supposed act of respondents in filing baseless complaints against Gil I and Maribel, suffice it to say that complainants were unable to prove it by substantial evidence.

The next query then leaps to the eye — what penalty should be imposed upon the respondents?

Primal is the rule that a member of the Bar may be penalized, even disbarred or suspended from his office as an attorney, for violation of the Lawyer's Oath and/or breach of the ethics of the legal profession as embodied in the CPR. For the practice of law is a profession, a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character. The appropriate penalty for an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.³¹

In the case at bench, the IBP-BOG declared that the acts committed by the respondents "do not rise to the level of the violation committed by the lawyer in *Dumali*, which called for the imposition of the penalty of disbarment"³² and recommended that a two-year suspension from the practice of law be imposed. While the Court finds that suspension is the proper penalty, the same must be reduced in fealty to prevailing jurisprudence.

²⁸ *Rollo*, pp. 319-323.

²⁹ See Lawyer's Oath.

³⁰ See *Jimeno v. Atty. Jimeno*, 834 Phil. 711, 718-719 (2018) [Per J. Perlas-Bernabe, Second Division].

³¹ See *Portuguese, Jr. v. Centro*, A.C. No. 12875, January 26, 2021 [Per J. Hernando, *En Banc*] at 5. [Per J. Inting, Second Division] at 6. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³² *Rollo*, p. 323.

In the case of *Jimeno. v. Atty. Jimeno*,³³ respondent lawyer who, despite being aware that something was amiss with the documents of sale, allowed herself to become a party to the subject deed which contained falsehood and/or inaccuracies, was meted the penalty of six months suspension from the practice of law. Similarly, in *Jimenez v. Francisco*, a lawyer was suspended from the practice of law for six (6) months for permitting untruthful statements to be embodied in public documents. Likewise, in *Bongalonta v. Castillo*,³⁴ the same penalty was imposed on a lawyer who committed falsehood in violation of the Lawyer's Oath and of the CPR.³⁵

From the foregoing, the Court deems the imposition of six months suspension from the practice of law upon Atty. Labriaga, sufficient.

As for Atty. Mortel, who notarized the disputatious Deed instead of instructing his uncles-in-law and aunts-in-law of the legal effects of its execution, the following penalties in obeisance to prevailing jurisprudence, should be meted upon him: (1) revocation of notarial commission; (2) disqualification from being commissioned as notary public for a period of two years; and (3) suspension from the practice of law which, under the attendant circumstance, should be for a period of six months.³⁶

WHEREFORE, the Court ordains as follows:

1. Respondent Atty. Jesus C. Labriaga, Jr. is hereby **GUILTY** of violating the Lawyer's Oath, Rules 1.01 and 1.02, Canon 1 of the Code of Professional Responsibility. He is **SUSPENDED** from the practice of law for a period of six (6) months, effective upon his receipt of this Resolution with a stern **WARNING** that a repetition of the same or similar wrongdoing will be dealt with more severely; and
2. Respondent Atty. Christopher M. Mortel is **GUILTY** of violation of Sections 3(c) and 4 (a), Rule IV of the 2004 Rules on Notarial Practice; the Lawyer's Oath; and Rules 1.01 and 1.02, Canon I of the Code of Professional Responsibility. He is **SUSPENDED** from the practice of law for **six (6) months** and his Notarial Commission is **REVOKED** if currently valid, with **PROHIBITION** from being commissioned as a notary public for

³³ 834 Phil. 711, 723 (2018) [Per J. Perlas-Bernabe, Second Division].

³⁴ 310 Phil. 326 (1995) [Per J. Melo, Third Division].

³⁵ 749 Phil. 551, 575 (2014) [J. Mendoza, Second Division].

³⁶ See *Ladrera v. Osorio*, A.C. No. 10315, January 22, 2020 [Per J. Lazaro-Javier, First Division]; see also *Spouses Aldea v. Bagay*, A.C. No. 12733, October 14, 2020 [Per J. Zalameda, Third Division].

two (2) years, effective immediately. He is **WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more sternly.

Respondents are **DIRECTED** to immediately file their respective manifestations to the Court that their suspension has started, copy furnished all courts and quasi-judicial bodies where they have entered their appearance as counsel **within five (5) days from receipt** of this Resolution. Respondents shall also serve copies of their manifestation on all adverse parties in all the cases in which they entered their formal appearance.

Finally, let copies of this Resolution be furnished to the Office of the Bar Confidant to be appended to respondents' respective personal records as attorneys; the Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED."

By authority of the Court:

Misla D. B.
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Division Clerk of Court 08-23-23

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