



Republic of the Philippines
Supreme Court
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated April 19, 2023 which reads as follows:

“A.C. No. 9647 [Formerly CBD Case No. 14-4163] (Engr. Resnol C. Torres and Prof. Joseph M. Sanguila, Jr. v. Atty. Omar M. Mayo).—This administrative case for disbarment arose from a verified Complaint¹ dated August 17, 2012 filed by Resnol C. Torres (Torres) and Joseph M. Sanguila, Jr. (Sanguila) against Atty. Omar M. Mayo (Mayo) before the Integrated Bar of the Philippines (IBP). Torres and Sanguila charged Mayo with deceit, dishonesty, malpractice and gross misconduct in violation of the Lawyer’s Oath; Section 27, Rule 138 of the Rules of Court; Rules 1.01 and 20.03, Canon 1 of the Code of Professional Responsibility (CPR) and paragraphs 11 and 38 of the Canons of Professional Ethics (CPE) for: (1) soliciting or accepting directly or indirectly a gift, professional or legal fee from Cotabato Electric Cooperative, Inc. (COTELCO) in the amount of PHP 1,500,000.00; (2) bribing or persuading a judge or court to render favorable decisions in a series of cases between COTELCO and Maguindanao Electric Cooperative, Inc.-Main (MAGELCO-Main) and MAGELCO-Pigcawayan, Alamada, Libungan, Midsayap, Aleosan and Pikit (MAGELCO-PALMA); and (3) handling the cases of COTELCO even if he is not COTELCO’s legal counsel.

The Factual Antecedents

Torres and Sanguila are both residents of Lanao del Norte. Torres is the former General Manager of Lanao del Norte Electronic Cooperative (LANECO). He was removed from office by a Partial Decision² of the National Electrification Administration (NEA) dated August 26, 2011 in a case entitled *The Board of Directors of LANECO, represented by its President Reinario B. Bihag v. Engr. Resnol Torres*, docketed as NEA Adm. Case No. 01-03-11. The Partial Decision found Torres guilty of grave misconduct and gross neglect of duty.³

¹ *Rollo*, Vol. 1, pp. 1-9.

² *Id.* at 149-167.

³ *Id.*

Sanguila is a former member of the Board of Directors of LANECO. He was likewise ordered removed from office by a Decision of the NEA Board of Administrators dated November 6, 2013.⁴

Mayo is the former Acting Department Manager for Legal Services of NEA. At present, he is the Department Manager of EDUS⁵ of NEA and the Chairman of the Administrative Committee-B of the NEA, which investigates and recommends cases involving the General Manager and Board of Directors of different rural electric cooperatives to the NEA Board of Administrators.⁶

MAGELCO is an electric cooperative under Presidential Decree No. (PD) 269,⁷ otherwise known as the National Electrification Administration Decree, duly granted by the NEA a certificate of franchise to distribute electricity in the Province of Maguindanao (known as MAGELCO-Main) and six municipalities in the Province of Cotabato, namely, Pigcawayan, Alamada, Libungan, Midsayap, Aleosan and Pikit (collectively known as MAGELCO-PALMA).⁸

Likewise, COTELCO is an electric cooperative under PD 269 which was duly granted by the NEA a certificate of franchise to distribute electricity over the areas of the Province of Cotabato, excluding the six municipalities covered by MAGELCO-PALMA.⁹

In 2000, COTELCO filed an amendment and expansion of its franchise to cover the MAGELCO-PALMA area, docketed as National Electrification Commission (NEC) Case No. 2000-03. MAGELCO opposed the application for expansion.¹⁰

On September 18, 2003, the NEC approved COTELCO's application for expansion. MAGELCO questioned the NEC Decision before the Court of Appeals (CA), docketed as CA-G.R. SP-No. 84996.¹¹

The CA, in a Decision¹² dated January 29, 2008, affirmed with modification the NEC Decision, sustaining "NEC's grant of COTELCO's

⁴ *Rollo*, Vol. II, p. 609.

⁵ *Id.* at 610.

⁶ *Id.*

⁷ Entitled "CREATING THE 'NATIONAL ELECTRIFICATION ADMINISTRATION' AS A CORPORATION, PRESCRIBING ITS POWERS AND ACTIVITIES, APPROPRIATING THE NECESSARY FUNDS THEREFOR AND DECLARING A NATIONAL POLICY OBJECTIVE FOR THE TOTAL ELECTRIFICATION OF THE PHILIPPINES ON AN AREA COVERAGE SERVICES BASIS, THE ORGANIZATION, PROMOTION AND DEVELOPMENT OF ELECTRIC COOPERATIVES TO ATTAIN THE SAID OBJECTIVE, PRESCRIBING TERMS AND CONDITIONS FOR THEIR OPERATIONS, THE REPEAL OF REPUBLIC ACT NO. 6038, AND FOR OTHER PURPOSES." Approved: August 6, 1973

⁸ *Rollo*, Vol. II, p. 610.

⁹ *Id.* at 610-611

¹⁰ *Id.* at 611.

¹¹ *Id.*

¹² *Id.* at 407-422.

application but [finding] void NEC's requirement for COTELCO to pay just compensation to MAGELCO for the assets attached to the [six] municipalities for lack of sufficient basis."¹³

From then on up to the present, a series of incidents, agreements, and administrative and/or court litigations ensued between COTELCO and MAGELCO-Main and MAGELCO-PALMA, respectively, before the Regional Trial Court, the CA, this Court, and the NEA. In all aforesaid cases, Mayo represented NEA as its legal counsel.¹⁴

In January 2012, an Anonymous Letter-Complaint¹⁵ dated December 30, 2011 was addressed and furnished to the heads of the following offices: Office of the President; Supreme Court including the Office of the Court Administrator; Department of Justice; Office of the Ombudsman in Quezon City and Mindanao; and Integrated Bar of the Philippines, Pasig and Cotabato Chapters. The Anonymous Letter-Complaint was allegedly written by an employee of COTELCO alleging that the amount of PHP 1,500,000.00 was paid by COTELCO to Mayo as bribe money to obtain a favorable decision for COTELCO in the case before the CA.

On August 2, 2012, Torres and Sanguila filed a Complaint¹⁶ before the Office of the Ombudsman against Mayo and several others alleging that the respondents acted in conspiracy and committed acts in violation of Republic Act No. (RA) 3019¹⁷ and RA 6713,¹⁸ and committed the crime of syndicated estafa.¹⁹ The case was docketed as OMB Case No. C-A-12-0368.

On August 17, 2012, Torres and Sanguila likewise filed this verified Complaint²⁰ with the Integrated Bar of the Philippines, averring that the allegations in the Anonymous Letter-Complaint were true. They alleged that Mayo did receive an amount of PHP 1,500,000.00 from COTELCO as evidenced from liquidation reports, bank deposit slips, and check vouchers.²¹ Torres and Sanguila ultimately alleged that:

Respondent ATTY. OMAR MAYO is the current OIC-Department Manager of the NEA's Legal Services Department, a full time lawyer of the government. He is not authorized to solicit and accept any kind of remunerations from COTELCO, an electric cooperative, which is under the supervision of NEA.

¹³ Id. at 420.

¹⁴ Id. at 611.

¹⁵ *Rollo*, Vol. I, pp. 10-13.

¹⁶ Id. at 75-92.

¹⁷ Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: August 17, 1960.

¹⁸ Entitled "AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES." Approved: February 20, 1989.

¹⁹ *Rollo*, Vol. I, p. 90.

²⁰ Id. at 1-9.

²¹ Id. at 5.

The respondent is also neither an officer nor an employee of COTELCO to warrant his receipt of money from COTELCO treated as Cash Advances.²²

Thus, the charge of deceit, dishonesty, malpractice and gross misconduct against Mayo.

On the other hand, Mayo's Comment²³ dated April 5, 2013 denied the allegations against him. His defenses and arguments can be summarized as follows:

1. The present case is a collateral attack on the Decision of the Court of Appeals, which is presently pending with the Supreme Court;
2. The Complainants are not proper parties to the case, as the allegations in the Complaint present no personal interest in the pending court cases, and have no personal knowledge of the facts stated therein;
3. The Complainants' allegations on the alleged solicitation of funds on the part of the respondent has no factual basis in the light of the admissions of the (former) General Manager of COTELCO, as well as that of the lawyer engaged by the said electric cooperative;
4. As borne out by the documents attached, the Complainants failed to substantiate by competent evidence, their allegations of illegal solicitation.

As above intimated and if only to underscore the evil motive of the Complainants in filing the instant case, respondent further manifests that the present disbarment case against him, is founded on identical set of facts in the administrative case filed before the Office of the Ombudsman.²⁴

Mayo further alleged that both the disbarment complaint and the administrative case before the Office of the Ombudsman filed by Torres traced its origins to the August 26, 2011 Partial Decision²⁵ of the NEA which found Torres guilty of grave misconduct and gross neglect of duty, and removed him as the General Manager of LANECO. Mayo averred that since the case was investigated by the NEA Administrative Committee Team-B, which Mayo is the Chairman of, Torres filed the two aforementioned cases against him.²⁶

Finally, Mayo contended that it was surprising that Torres and Sanguila only filed the aforementioned administrative case before the Office of the Ombudsman after almost four years from the time the alleged acts or violations transpired, and only after the NEA's Partial Decision dismissing Torres had been promulgated. Mayo alleged that the filing of the complaint

²² Id. at 7.

²³ Id. at 60-74.

²⁴ Id. at 61-62.

²⁵ Id. at 149-167.

²⁶ Id. at 62-70.

before the Office of the Ombudsman and the disbarment complaint before the IBP is highly suspicious.²⁷

**The Report and
Recommendation of the IBP
Commission on Bar Discipline**

In a Report and Recommendation²⁸ dated March 17, 2015, the Investigating Commissioner recommended that the complaint for disbarment against Mayo be dismissed, but with a stern warning that Mayo “should be more circumspect and must insulate himself above-suspicion.”²⁹ The Report and Recommendation reads in part:

In this case, while complainants have established that the amount of Php 1,500,000.00 was deposited to respondent’s account and the latter in fact admitted having received the same, there was however no clear and availing evidence to prove that indeed the said amount was utilized and/or made to lobby to get a favorable decision before the Court of Appeals in favor of COTELCO or NEA for that matter. A scrutiny of the records at bar reveal the insufficiency of evidence and/or circumstances which may directly prove that herein respondent or thru his intermediary offered the above-cited amount to the Court of Appeals officials or members of the judiciary in exchange of judgment in favor of NEA and/or COTELCO.

x x x x

The allegation that the amount of Php 1.5 Million was used as a lobby money by respondent for the Court of Appeals in exchange of a favorable decision must be convincingly shown. A mere conjecture or conclusion of fact may not be acceptable at this point. The said allegation is tantamount to bribery which would warrant a criminal indictment not only of the herein respondent counsel but likewise of the members of the judiciary who may be involved therein. In the instant case, complainants were not able to present credible proof of the said acts. Neither was there sufficient evidence to show that respondent acted contrary to the pertinent canons and rules mandated by the Code of Professional Responsibility and Canons of Professional Ethics x x x.

x x x x

To reiterate, a disbarment proceeding is akin to an administrative proceeding. The quantum of evidence required is clearly preponderant evidence x x x. Hence, in absence of any evidence preponderant to prove that indeed herein respondent committed acts constituting grounds for disbarment, this Commission cannot resolve the case in favor of the complainant.

The undersigned however hereby raises the matter on the propriety of the act of respondent counsel in making an “advance” payment of the legal fees of Atty. Pangcog as counsel of COTELCO and/or in disallowing himself to

²⁷ Id.

²⁸ *Rollo*, Vol. II, pp. 609-620. Penned by Commissioner Suzette A. Mamon.

²⁹ Id. at 620.

accommodate and/or facilitate the transaction between COTELCO and its counsel. Such an act surely raises ethical and conflicts of interests issues if not thoroughly explained and clarified by the respondent. While respondent represents NEA, x x x he should be more circumspect and must insulate himself from the said situations or circumstances so that his actions will be beyond suspicion or malice.

x x x x

WHEREFORE, PREMISES CONSIDERED, it is recommended that herein complaint for disbarment against respondent ATTY. OMAR M. MAYO, be dismissed, however with a STERN WARNING that he should be more circumspect and must insulate himself above-suspicion in dealing and handling cases for his client vis-à-vis that of the other and/or opposing parties.³⁰

In a Resolution³¹ passed on April 18, 2015, the IBP Board of Governors resolved to reverse and set aside the Report and Recommendation of the Investigating Commissioner, to wit:

RESOLVED to REVERSE as it is hereby REVERSED and SET ASIDE, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, x x x, considering Respondent guilty of soliciting, accepting cash advances, professional or legal fees as evidenced by the transfer of P1.5 Million Pesos to the Union Bank Joint Account of Respondent and his wife from Cotelco PNB Check No. 055771. Respondent Mayo as National Electrification Administration Department Manager for Legal Services is prohibited to solicit and accept any kind of remuneration from any electric cooperative which is under the supervision of NEA. Hence, Atty. Omar M. Mayo is hereby SUSPENDED from the practice of law for one (1) year.³²

In an Extended Resolution³³ dated May 22, 2017, the IBP Board of Governors reiterated their finding that Mayo is guilty of soliciting or accepting cash advances, professional or legal fees as evidenced by cash transfers and is administratively liable.

In another Notice of Resolution,³⁴ the IBP Board of Governors took notice of a Resolution dated November 7, 2018 which denied Mayo's Motion for Reconsideration³⁵ dated September 29, 2017, "there being no new reason or argument adduced to justify the reversal of the previous decision of the Board of Governors."³⁶

³⁰ Id. at 617-620.

³¹ Id. at 607. Signed by National Secretary Nasser A. Marohomsalic.

³² Id.

³³ Id. at 621-629.

³⁴ Id. at 658.

³⁵ Id. at 630-633.

³⁶ Id. at 658.

Issue

Should Mayo be held administratively liable for soliciting or accepting cash advances, and professional or legal fees?

Our Ruling

Lawyers are expected at all times to live up to the ethical standards of the legal profession as embodied in the CPR. When a lawyer acts irresponsibly and improperly in the conduct of his or her profession, the proper evidentiary threshold to hold him or her liable is **substantial evidence**, defined as “that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.”³⁷

Disbarment is the most severe form of disciplinary sanction and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons, and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar. As a rule, an attorney enjoys the legal presumption that he is innocent of the charges proffered against him until the contrary is proved, and that, as an officer of the court, he has performed his duties in accordance with his oath. In disbarment proceedings, the burden of proof is upon the complainant and the Court will exercise its disciplinary power only if the former establishes its case by clear, convincing and satisfactory evidence x x x.³⁸

In the case at bar, Mayo is charged with violations of the following:

First, the Lawyer’s Oath, which enumerates the duties of a lawyer as soon as he or she is accepted to the practice, to wit:

I, ... do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same. I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well as to the courts as to my clients; and I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion. So help me God.

Second, Sec. 27, Rule 138 of the Rules of Court which states:

SEC. 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.* – A member of the bar may be disbarred or suspended from his [or her] office as attorney by the Supreme Court for any deceit, malpractice, or

³⁷ *Domingo v. Sacdalan*, 850 Phil. 553, 560 (2019), citing *Peña v. Paterno*, 710 Phil. 582, 593 (2013).

³⁸ *Yagong v. Magno*, 820 Phil. 291, 294 (2017).



other gross misconduct in such office, grossly immoral conduct, or by reason of his [or her] conviction of a crime involving moral turpitude, or for any violation of the oath which he [or she] is required to take before admission to the practice, or for willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

Third and fourth, Canon 1, Rule 1.01 and Rule 20.03 of the CPR, to wit:

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

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

x x x x

Rule 20.03 – A lawyer shall not, without the full knowledge and consent of the client, accept any fee, reward, costs, commission, interest, rebate or forwarding allowance or other compensation whatsoever related to his professional employment from anyone other than a client.

Finally, pars. 11 and 38 of the CPE which state:

11. Dealing with trust property.

The lawyer should refrain from any action whereby for his [or her] personal benefit or gain he [or she] abuses or takes advantage of the confidence reposed in him [or her] by his [or her] client.

Money of the client or collected for the client or other trust property coming into the possession of the lawyer should be reported and accounted for promptly and should not under any circumstances be commingled with his [or her] own or be used by him [or her].

x x x x

38. Compensation, commissions and rebates.

A lawyer should accept no compensation, commission, rebates or other advantages from others without the knowledge and consent of his [or her] client after full disclosure.

A perusal of the records of the case, placed side by side with the above-mentioned charges against Mayo, leads this Court to conclude that the records do not disclose a doubtless case to warrant the imposition of the penalty of disbarment. Torres and Sanguila, as the complainants, failed to prove and demonstrate the dubious character of Mayo's acts as well as his motivations thereof.

In his Position Paper³⁹ and as affirmed by the Investigating Commissioner's Report and Recommendation, Mayo freely admitted that he did indeed receive the large sum of money from COTELCO as it was deposited in his and his wife's joint account to be used as payment of initial fees for COTELCO's lawyer, Atty. Alberto L. Pangcog (Pangcog); that Mayo was asked to "advance" the amount in favor of Pangcog due to the delay of the release of the money because of a lower court's freeze order; that eventually, the money was handed over to Pangcog; and finally, that he did not benefit personally from the receipt of the PHP 1,500,000.00.⁴⁰

As noted by the Investigating Commissioner, documentary evidence such as bank records and affidavits also show that Mayo withdrew the money even before COTELCO transferred the fund in his favor, and that Mayo was cleared from all liabilities as shown by COTELCO's Certification dated December 17, 2012.⁴¹

The Court agrees with the report of the Investigating Commissioner that:

[W]hile complainants have established that the amount of Php 1,500,000.00 was deposited to respondent's account and the latter in fact admitted having received the same, **there was however no clear and availing evidence to prove that indeed the said amount was utilized and/or made to lobby to get a favorable decision before the Court of Appeals in favor of COTELCO or NEA for that matter.** x x x⁴² (Emphasis supplied)

Complainants failed to show that Mayo received the amount of PHP 1,500,000.00 as lobby money in exchange for a favorable decision. Neither was there sufficient evidence to show that he acted deceitfully and dishonestly, and committed malpractice and gross misconduct.

However, the Court agrees with the Resolutions of the IBP Board of Governors that Mayo wrongfully received the amount of money from COTELCO. It is a known fact that COTELCO is an electric cooperative under the supervision of the NEA, of which Mayo is an employee and worked as the former Acting Department Manager for Legal Services. The Court agrees with the IBP Board of Governors that by Mayo's acceptance of cash advances from COTELCO, which is not his employer, Mayo had engaged in the private practice of the legal profession in violation of RA 6713⁴³ otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

³⁹ *Rollo*, Vol. II, pp. 347-363.

⁴⁰ *Id.* at 353-360.

⁴¹ *Id.* at 618.

⁴² *Id.* at 617.

⁴³ *Supra* note 18.

In relation to the disbarment case at bar, the Court agrees with the IBP Board of Governors that there is substantial evidence to show that Mayo violated Rule 20.03 of the CPR, as well as pars. 11 and 38 of the CPE. The three provisions warn a lawyer, in the practice of his or her profession, from accepting any fee and the like from anyone **other than a client** or **without the knowledge and consent of his or her client** after full disclosure;⁴⁴ and enjoin a lawyer from taking any action for his or her personal benefit or gain whereby he or she abuses or takes advantage of the confidence reposed in him **by his or her client**.⁴⁵

As stated above, Mayo's client is NEA, not COTELCO. The act of receiving the amount of PHP 1,500,000.00 from COTELCO is in clear violation of the above-mentioned provisions. The rules, as the IBP Board of Governors explained, were designed "to secure the lawyer's wholehearted fidelity to the client's cause and to prevent that situation in which the receipt by respondent of a benefit from another in connection with the client's cause may intervene with the full discharge of his [or her] duty to his [or her] client."⁴⁶

Hence, for the latter three charges against Mayo of violations against Rule 20.03 of the CPR, and pars. 11 and 38 of the CPE, Mayo is administratively liable.

WHEREFORE, Atty. Omar M. Mayo is **SUSPENDED** from the practice of law for one (1) year effective upon receipt of this Resolution for violating the Code of Professional Responsibility, with a **STERN WARNING** that a commission of the same or similar act will be dealt with more severely.

Atty. Omar M. Mayo is **DIRECTED** to file a Manifestation before this Court stating the date of receipt of this Resolution which will serve as the starting point of the suspension from the practice of law.

Let copies of this Resolution be furnished to the Office of the Bar Confidant, to be appended to the personal record of Atty. Omar M. Mayo as an attorney; to the Integrated Bar of the Philippines for circulation to its branches; and to the Office of the Court Administrator for dissemination to all courts throughout the country for their guidance and information.

The respondent's: (1) Manifestation stating that the instant case is based on the same factual milieu as the administrative case, as evidenced by the Joint Resolution dated June 2, 2014 of the Office of the Ombudsman, which has been reversed and set aside by the Court of Appeals in CA-G.R. SP No.

⁴⁴ Rule 20.03 of the Code of Professional Responsibility and Paragraph 38 of the Canons of Professional Ethics.


⁴⁵ Paragraph 11 of the Canons of Professional Ethics.

⁴⁶ *Rollo*, Vol. II, p. 628.

137859; and (2) Supplemental Manifestation stating that the complainants' appeal to this Court, docketed as G.R. No. 229161, was denied in the Resolution dated February 12, 2020 and that he was informed of the issuance of an entry of judgment of said resolution, are both **NOTED**.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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