



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated March 6, 2023, which reads as follows:*

**“A.C. No. 13171 (Winston N. Kayanan, Complainant, vs. Atty. Joel M. Clamor, Respondent).** – The Court resolves the Verified Administrative Complaint<sup>1</sup> in which complainant Winston N. Kayanan (Kayanan) prayed, among others, for the disbarment of respondent Atty. Joel M. Clamor (Atty. Clamor) for the alleged unlawful dismissal of two complaints that he filed with the Housing and Land Use Regulatory Board (HLURB), now the Human Settlements Adjudication Commission (HSAC).

*The Antecedents*

Atty. Clamor is an Adjudicator of the HSAC – National Capital Region Field Office where HSAC Case Nos. HOA-201119-00101, entitled “*Carmel III HOA rep. by Winston Kayanan vs. Margarita Ramos,*” and HOA-210205-00137, entitled “*Carmel III HOA rep. by Winston Kayanan vs. Robert Blanch,*” were filed. Meanwhile, Kayanan is the President of Carmel III Homeowners Association, Inc., which is the complainant in both cases.<sup>2</sup>

In this disbarment complaint, Kayanan argues that Atty. Clamor unlawfully dismissed the cases in the Orders dated December 3, 2020 and March 8, 2021 in HSAC Case Nos. HOA-201119-00101 and HOA-210205-00137, respectively.<sup>3</sup> He insists that the dismissal was in violation of the Constitution, the 2019 HLURB Revised Rules of Procedure, Article 205<sup>4</sup> of the Revised Penal Code, and Section 3 (e) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act.<sup>5</sup>

For his part, Atty. Clamor vehemently denies the accusations against

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<sup>1</sup> *Rollo*, pp. 2-12.

<sup>2</sup> *Id.* at 49.

<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> ART. 205. *Judgment Rendered Through Negligence.* – Any judge who, by reason of inexcusable negligence or ignorance, shall render a manifestly unjust judgment in any case submitted to him for decision shall be punished by *arresto mayor* and temporary special disqualification.

<sup>5</sup> *Rollo*, p. 11.

him. He explains that the subject HSAC cases were dismissed *without prejudice* due to Kayanan's failure to comply with Section 16 (g) (3), Rule 5 of the 2019 HLURB Revised Rules of Procedure regarding the requirement to attach grievance certificates to the complaints upon the filing thereof.<sup>6</sup>

In his Reply,<sup>7</sup> Kayanan asserts that Atty. Clamor committed negligence, gross ignorance of the law, and incompetence, in dismissing the subject HSAC cases without first conducting an extensive examination of the complaints.

#### *The Issue*

Whether Atty. Clamor should be held administratively liable for dismissing the subject HSAC cases without prejudice.

#### *The Court's Ruling*

The Court *dismisses* the present disbarment complaint for lack of jurisdiction.

In *Guevarra-Castil v. Trinidad (Guevarra-Castil)*,<sup>8</sup> the Court ruled that a disbarment complaint that does *not* seek to discipline a government lawyer in his or her capacity as a member of the Bar shall be dismissed for lack of jurisdiction and referred to the Ombudsman or concerned government agency for appropriate action.

Here, a plain reading of the disbarment complaint shows that the charges against Atty. Clamor *solely* pertain to his official functions as an Adjudicator of the HSAC. In fact, the disbarment complaint does not even mention the Code of Professional Responsibility, the Lawyer's Oath, or Atty. Clamor's fitness to remain as a member of the Bar. Thus, following the guidelines set forth in *Guevarra-Castil*, the Court is constrained to dismiss the disbarment complaint for lack of jurisdiction.

It is also important to point out that the disbarment complaint is grounded on Atty. Clamor's supposedly unlawful dismissal of the subject HSAC cases without prejudice. The Court stresses that an administrative complaint is *not* the proper remedy for every irregular or erroneous ruling made by a judicial or quasi-judicial officer. Indeed, "[i]t is only where the error is so gross, deliberate and malicious, or incurred with evident bad faith that administrative sanctions may be imposed x xx."<sup>9</sup>

**WHEREFORE,** the Court **DISMISSES** the administrative

<sup>6</sup> Id. at 50-51.

<sup>7</sup> Id. at 66-75.

<sup>8</sup> A.C. No. 10294, July 12, 2022.

<sup>9</sup> *Omar v. Bien*, A.M. No. RTJ-22-021, August 31, 2022, citing *Mendoza v. Afable*, 441 Phil. 649 (2002).

complaint against Atty. Joel M. Clamor for lack of jurisdiction. The case is hereby referred to the Human Settlements Adjudication Commission for appropriate action.

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
*rjabb*

Mr. Winston N. Kayanan  
Complainant  
No. 30 Socorro Street, Carmel 3 Subdivision  
Tandang Sora, 1116 Quezon City

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Respondent  
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