



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **July 10, 2023** which reads as follows:*

“**A.C. No. 13727 (RONALD RODULLO and MARIO ROSANTO, Complainants v. ATTY. CLARIZZA C. GURANGO-MENDOZA, ATTY. FERDINAND M. MINGAO, ATTY. ROY P. INCIONG, and ATTY. MARI ELVIRA B. HERRERA, Respondents).** – Complainants Ronald Rodullo and Mario Rosanto charge¹ Atty. Clarizza C. Gurango-Mendoza, Atty. Ferdinand M. Mingao, and Atty. Roy P. Inciong, in their capacities as Assistant City Prosecutors for Antipolo City, and Atty. Mari Elvira B. Herrera, in her capacity as City Prosecutor for Antipolo City, with violation of Canon 6 of the Code of Professional Responsibility (CPR), grave misconduct, and gross ignorance of the law.

The present administrative case stemmed from the criminal Complaint for falsification of public documents and for use of falsified documents filed by complainants against Atty. Wenceslao L. Narido (Atty. Narido), Edilberto M. Cunanan, Purificacion D.G. Cunanan, and Atty. Rolando L. Bea (Atty. Bea).

Complainants alleged that they were residents of Sitio Balanggiga, Brookside Hills Subdivision, Barangay San Isidro, Cainta, Rizal. They were lessees of the heirs of Norberta C. Cruz (Cruz), the registered owner of the property.² Sometime in 1991, Cruz was granted a free patent for Cadastral Lot No. 12816 of Plan Psu-231773 in Cainta, Rizal. On January 30, 1992, Original Certificate of Title (OCT) No. 1511 was issued to Cruz. For unknown reasons, however, the designation of the lot was changed from Lot No. 12816 to Lot No. 12316. Almost 10 years later, or in 2002, Casimiro C. Alberto, Sr. (Alberto) applied for a patent over the same parcel of land covered by OCT No. 1511. Surprisingly, the Department of Environment and Natural Resources (DENR) granted the application and OCT No. 1752 was issued to Alberto.³

¹ *Rollo*, pp. 2–15.

² *Id.* at 4 and 18–19.

³ *Id.* at 3.

Claiming that Alberto's title cast doubt on Cruz's ownership of the land, Cruz filed a petition for quieting of title against Alberto. During the pendency of the case, Cruz passed away and was substituted by her heirs. Also, on August 2, 2011, Alberto sold the lot covered by OCT No. 1752 to Spouses Edilberto M. Cunanan and Purificacion D.G. Cunanan (Spouses Cunanan). The Deed of Sale was notarized by Atty. Bea. Consequently, Lot No. 1752 was subdivided and Transfer Certificates of Title (TCT) Nos. 669827 and 669828 were issued to Spouses Cunanan. On February 3, 2012, the trial court dismissed the quieting of title case. On appeal, the Court of Appeals affirmed. On July 1, 2015, in G.R. No. 217959, the Court likewise affirmed. The Court's decision became final per Entry of Judgment dated November 24, 2015.⁴

Thereafter, Spouses Cunanan, represented by Atty. Narido, filed a Complaint for forcible entry against complainants and the other lessees of Cruz or her heirs who occupied the subject lot. In their Answer, they (complainants) averred that Alberto had already passed away in 1972. Thus, Alberto could not have validly applied for and granted patent over the subject lot in 2002, nor could he have validly sold the lot to Spouses Cunanan in 2011. The fact of Alberto's death in 1972 led to the conclusion that the patent granted to Alberto was invalid, hence, OCT No. 1752 issued to him was also invalid. Following this, the derivative titles of OCT No. 1752 — TCT Nos. 669827 and 669828 — and the Deed of Sale between Alberto and Spouses Cunanan were likewise invalid or fraudulent. For using these fraudulent documents in the forcible entry case, complainants argued that Spouses Cunanan and Atty. Narido should be held liable for the use of falsified documents. Atty. Bea, who notarized the deed of sale between Alberto and Spouses Cunanan, must also be held liable for falsification of documents.⁵

In the proceedings before the Office of the City Prosecutor for Antipolo City, Atty. Narido and Spouses Cunanan denied the allegations against them. Atty. Narido denied any participation or knowledge in the alleged falsification of the questioned documents. In any event, neither Cruz nor her heirs questioned the presentation of those documents in the quieting of title case. Too, those documents were examined not only by the trial court but also by the Court of Appeals and the Supreme Court. Spouses Cunanan, on the other hand, pointed out that the Court of Appeals held in the quieting of title case that it was Cruz's title — OCT No. 1511 — which was declared invalid.⁶

⁴ *Id.* at 18–19.

⁵ *Id.* at 4 and 19.

⁶ *Id.* at 20.

In his Resolution⁷ dated July 11, 2022, respondent Assistant City Prosecutor (ACP) Ferdinand M. Mingao, as the Investigating Prosecutor, dismissed the Complaint for lack of probable cause. He noted that in the quieting of title case, the Court of Appeals held that the properties covered by OCT No. 1511 in Cruz's name and OCT No. 1752 in Alberto's name pertain to two separate parcels of land. OCT No. 1511 pertained to a land situated in Batong Dalig, Cainta, Rizal, while OCT No. 1752 pertained to a land situated in San Isidro, Cainta, Rizal. Also, the Court of Appeals declared that it was OCT No. 1511 which had dubious validity. In sum, it found Alberto's ownership over the subject property valid. Thus, it cannot be said that the questioned documents presented in the forcible entry case were falsified. As a result, Spouses Cunanan, Atty. Narido, and Atty. Bea cannot be charged with falsification of documents or use of falsified documents.⁸

The Resolution⁹ dated July 11, 2022 was reviewed by respondent ACP Roy P. Inciong (ACP Inciong), and was approved by respondent City Prosecutor Mari Elvira B. Herrera (City Prosecutor Herrera).

Subsequently, complainants' Motion for Reconsideration was denied by respondent ACP Clarizza C. Gurango-Mendoza through a Resolution¹⁰ dated August 26, 2022. This action was endorsed by ACP Inciong and approved by City Prosecutor Herrera.¹¹

Aggrieved, complainants filed the present administrative Complaint against respondents prosecutors for allegedly blatantly ignoring the pieces of evidence on record showing that the free patent, OCT No. 1752, and the Deed of Sale between Alberto and Spouses Cunanan were all falsified documents. They argue that prosecutors violated Canon 1-A, Rule 1.01-A of the CPR which mandates that a lawyer shall not engage in unlawful, dishonest, immoral, or deceitful conduct, and Canon 6 of the same Code which states that the primary duty of a lawyer engaged in public prosecution to see that justice is done.¹²

Our Ruling

In *Guevarra-Castil v. Atty. Trinidad*,¹³ the Court clarified that "x x x the government lawyers concerned committed acts and omissions primarily

⁷ *Id.* at 18–24.

⁸ *Id.* at 22–23.

⁹ *Id.* at 24.

¹⁰ *Id.* at 33.

¹¹ *Id.* at 25–32.

¹² *Id.* at 11–13.

¹³ A.C. No. 10294, July 12, 2022 [Per Curiam, *En Banc*].

involving their official duties. While these respondents are lawyers, their offenses had more to do with their government position, and less with them being lawyers. In other words, they were charged in their capacity as public servants, and not as members of the Bar." On this score, the Court issued the following guidelines to determine whether it has jurisdiction to discipline government lawyers over their alleged violations involving their official duties, viz.:

1. All complaints against and which seek to discipline government lawyers in their respective capacities as members of the Bar must be filed directly before this Court. Conversely, complaints which do not seek to discipline them as members of the Bar shall be dismissed for lack of jurisdiction and referred to the Ombudsman or concerned government agency for appropriate action.

2. In connection with paragraph 1, upon filing, the Court must determine whether the concerned agency, the Ombudsman, or the Court, has jurisdiction over the complaint against the government lawyer. In making such determination, the following must be considered: did the allegations of malfeasance touch upon the errant lawyer's continuing obligations under the CPR and/or the Lawyer's Oath? To put it more simply, the primordial question to be asked in making this determination is this: do the allegations in the complaint, assuming them to be true, make the lawyer unfit to practice the profession?

2a. If the question in paragraph 2 yields a positive answer, the case properly lies before the Court, which shall retain jurisdiction. This is so because again, the power to regulate the practice of law, and discipline members of the bar, belongs to Us. Necessarily, proceedings to be had before this Court should concern these and only these matters. This rule shall hold, even if the complaint also contains allegations of administrative and/or civil service rules infractions. In such situation however; the Court shall limit its ruling only to the matter of the respondent's fitness as a lawyer.

2b. On the other hand, if the question in paragraph 2 yields a negative answer, the Court, for lack of jurisdiction, shall dismiss the case and refer the same to the appropriate government office or the Ombudsman.

3. If multiple complaints have been filed, the process shall be the same.

In the event that paragraph 2b shall apply, and results in a situation where one or more complaint/s have been dismissed and referred to the appropriate government office or the Ombudsman, and one or more complaint/s have been retained by this Court, the cases shall proceed independently from one another.¹⁴

¹⁴ *Id.*

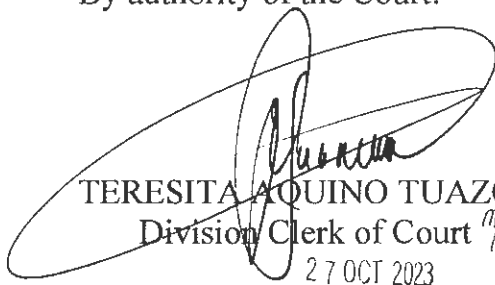
As shown, respondents are charged with violations of the CPR in their official capacities as prosecutors for dismissing on ground of lack of probable cause the criminal Complaint for falsification of documents and use of falsified documents against Spouses Cunanan, Atty. Narido, and Atty. Bea. The cause of action against respondents solely pertains to the performance or discharge of their official duties as investigating prosecutors and city prosecutor. As it was though, the allegations in the Complaint, assuming them to be true, do not make respondents unfit to practice the profession. On this score, the Court's pronouncement in *Yu v. Cabauatan*¹⁵ is apropos. There, the complainant filed a disbarment complaint against Atty. Cabauatan who, as investigating prosecutor, dismissed all criminal complaints initiated by Yu for lack of probable cause. Yu alleged that in doing so, Atty. Cabauatan violated the CPR and must therefore be disbarred. But the Court ruled that the disbarment complaint lacked merit aside from the fact that the charges against Atty. Cabauatan pertained to the performance or her official duties as a prosecutor. Verily, jurisdiction over the disciplinary action belonged to the Office of the Ombudsman and the Department of Justice.

Applying *Guevarra-Castil* and *Yu*, the Complaint against respondents, too, falls within the jurisdiction of the Office of the Ombudsman or the Department of Justice.

FOR THESE REASONS, the Complaint against Assistant City Prosecutor Clarizza C. Gurango-Mendoza, Assistant City Prosecutor Ferdinand M. Mingao, Assistant City Prosecutor Roy P. Inciong, and City Prosecutor Mari Elvira B. Herrera is **DISMISSED** for lack of jurisdiction.

SO ORDERED.”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court ^{mn}_{10/27}
27 OCT 2023

¹⁵ A.C. No. 13490, October 3, 2022 [Notice, Third Division].

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Please notify the Court of any change in your address.

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