



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated June 26, 2023, which reads as follows:

“A.C. No. 8399 (*Maria Loyda Camacho v. Atty. Gregorio Subong, Jr. and Atty. Jason Antonio Amante*); A.C. No. 9042 (*Maria Loyda Camacho v. Attys. Gregorio Subong, Jr. and Jason Antonio Amante*). — The instant administrative case stemmed from two separate complaints¹ for disbarment filed by complainant Maria Loyda Camacho (complainant) against respondents Attorneys Gregorio Subong, Jr. (respondent Subong, Jr.) and Jason Antonio Amante (respondent Amante) for Gross Misconduct and Gross Misconduct arising from falsification of Certificate of Service, respectively.

Antecedents

In the first complaint for Gross Misconduct (A.C. No. 8399), complainant narrated that she filed a complaint against her neighbors for Unjust Vexation and Oral Defamation on 10 April 2006 with the Marikina City Prosecutor’s Office (MCPO). In November 2006, complainant heard word that her complaint had been dismissed. Worried, she went to the office of respondent Amante, the City Prosecutor of Marikina, to inquire if her complaint had indeed been resolved. Complainant alleged that respondent Amante’s secretary, Joan Lozendo (Lozendo), was rude towards her when the latter told her that no resolution had been issued. Feeling offended, complainant admonished Lozendo and walked out, prompting Lozendo to follow and loudly inform her that her complaint had been dismissed. A

¹ *Rollo* (A.C. No. 8399, Vol. 1), pp. 1-7; *rollo* (A.C. No. 9042), pp. 1-9.

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confrontation between the two ensued, and when complainant questioned Lozendo's authority to make such a declaration, the latter allegedly got furious and slapped her.²

Respondent Subong, Jr., a public prosecutor at MCPO, came out of his cubicle after hearing the commotion, and upon verifying the incident, allegedly arranged for complainant's arrest. Senior Police Officer 4 Nenita Abanes accompanied complainant to the police station for inquest.³

After the inquest was conducted, complainant was brought to respondent Subong, Jr. who was then with respondent Amante. Complainant explained that she had no intention to flee. Thereafter, respondent Subong, Jr. allegedly loudly retorted, "*Nakakairita kang babae ka! Putang ina ka!*" Apparently, respondent Amante merely looked on and did not do anything but castigated complainant by saying, "*Kasi ayaw mo pang tumigil.*"⁴

Respondent Subong, Jr. denied the charges against him and prayed for the dismissal of the complaint. He claimed that on the day of the incident, complainant complained to him, talking incessantly, without giving him the opportunity to explain, which he took as a clear display of contempt. He denied having uttered the words, "*Nakakairita kang babae ka! Putang Ina ka.*" And, even if he did, it was only due to the grave provocation, impertinence, and disrespect displayed by complainant.⁵

In his comment,⁶ respondent Amante alleged that his act in trying to pacify respondent Subong, Jr. is neither illegal nor unethical. Rather, it was a logical action to diffuse the situation. He uttered the words, "*Kasi ayaw mo pang tumigil,*" not to blame complainant but to stop her from further aggravating the incident. The same is true with his act of asking assistance from the police to escort complainant away.⁷

The second complaint (A.C. No. 9042), upon the other hand, charged respondents Subong, Jr. and Amante of Gross Misconduct arising from an alleged falsification of respondent Subong, Jr.'s Certificate of Service. Allegedly, respondent Subong, Jr., the prosecutor assigned to Criminal Case No. 2003-2478-D-MK, was not present during the hearing thereof on 28 August 2006 on the premise that he attended the Prosecutors' Convention. However, according to complainant, the said convention was held in Cebu

² Id. (A.C. No. 8399, Vol. 2), unnumbered page, see p. 3, Extended Resolution.

³ Id.

⁴ Id., unnumbered page, see pp. 3-4, Extended Resolution.

⁵ *Rollo*, (A.C. No. 8399, Vol. 2), unnumbered page (see page 2, CBD Report and Recommendation, A.C. No. 8399).

⁶ Id., folder III, Vol. 1, p. 16; See Respondent Amante's comment, A.C. 8399.

⁷ Id.

City on 18-25 August 2006.⁸

Respondent Subong, Jr. was likewise allegedly absent during the hearing for Criminal Case No. 2006-8713-D-MK on 29 August 2006, and for Criminal Case No. 2006-221-D-MK. Despite the said absences in court, respondent Subong, Jr.'s Certificate of Service showed that he rendered full-time service when in fact he was absent on 28-30 August 2006 and did not officially file any leave of absences.⁹

Despite knowledge of said absences, respondent Amante, being the City Prosecutor of Marikina, in conspiracy with respondent Subong, Jr. signed the latter's Certificate of Service which contained false statements.¹⁰

Answering, respondent Subong, Jr. denied the allegations against him. He explained that on 28 August 2006, he, together with respondent Amante had just arrived in Manila from Cebu where he attended the prosecutors' convention which was held from 25-27 August 2006. They were no longer required to report for work anymore because they were still on travel or on "official time/business." He denied however that he absented himself from work on 29 August 2006 but that he did not attend the hearing because he was ill. However, he was present at the office, being the assigned inquest prosecutor. He also denied that he was absent on 30 August 2006 and explained that the Presiding Judge for his court was on leave.¹¹

Respondent Amante, for his part, denied that he committed any breach of his ethical duties and prayed for the dismissal of the case. He argued that even if respondent Subong, Jr. was indeed absent on the days mentioned, this does not necessarily prove that there was conspiracy between him and respondent Subong, Jr. to assert falsehood in the latter's Certificate of Service.¹²

Recommendation of the Integrated Bar of the Philippines (IBP)

In his two separate Report and Recommendation¹³ both dated 26 September 2012, Investigating Commissioner (IC) Oliver A. Cachapero recommended the dismissal of the complaints.

⁸ Id.

⁹ Id.

¹⁰ Id., unnumbered page (see page 2, CBD Report and Recommendation, A.C. No. 9042), A.C. No. 9042.

¹¹ Id.

¹² Id.

¹³ Id., unnumbered pages (see Report and Recommendation for A.C. No. 8399 and A.C. No. 9042); A.C. No. 9042

In recommending the dismissal of the complaint for A.C. No. 8399, the IC found the same to be unmeritorious. The IC held that while respondents' utterances may have been intemperate, abusive, or disrespectful, complainant had given them provocation by making a scene at the prosecutor's office. While the same cannot be made an excuse for such utterance, this could extenuate responsibility on respondent Subong, Jr.'s part. Moreover, respondent Subong, Jr.'s act cannot qualify as gross or simple misconduct as the utterance was not intentional or a deliberate violation of a standard of behavior.

Similarly, the charge against respondent Amante has no leg to stand on as well. It was clear that he did not utter intemperate or disrespectful language and only explained what caused respondent Subong, Jr. in venting his ire on her. The comment of respondent Amante does not heap disrespect, contempt, or abuse of language. Said comment cannot be viewed as breach of his ethical duties as a lawyer.¹⁴

Upon the other hand, in recommending the dismissal of the complaint for A.C. No. 9042, the IC held that the documents presented do not show or assert that respondent Subong, Jr. had committed falsehood in his Certificate of Service and that respondent Amante had conspired with the former. The complaint failed to prove any breach of ethical conduct by respondent Subong, Jr. The same goes to respondent Amante who signed respondent Subong, Jr.'s Certificate of Service. There being no violation in respondent Subong, Jr.'s Certificate of Service, respondent Amante could not have committed any impropriety by signing or attesting to an accurately accomplished Certificate of Service by one of his subordinates.¹⁵

In its Resolution No. XX-2013-523 dated 16 April 2013, the IBP Board of Governors resolved to reverse the Report and Recommendation of the IC in A.C. No. 8399, considering that respondents were disrespectful to women.¹⁶ Another Extended Resolution dated 31 July 2016 was issued by the IBP Board of Governors for A.C. 8399, reprimanding respondents for being disrespectful to women. It held that the IC found respondents' utterances inside the prosecutor's office to be intemperate, abusive, or disrespectful. Thus, respondents are administratively liable for such utterances because such actuations manifest utter disrespect for women.¹⁷

Respondent Amante sought reconsideration,¹⁸ which the IBP Board of

¹⁴ Id., unnumbered pages (see page 3-4, Extended Resolution); A.C. No. 9042.

¹⁵ Id., unnumbered page (see page 3, Report and Recommendation for A.C. No. 9042); A.C. No. 9042.

¹⁶ A.C. No. 8399 Vol II, Folder VI, p. 1. See Notice of Resolution dated 16 April 2013.

¹⁷ Id. at 12-13. See pages 4-5, Extended Resolution.

¹⁸ Id. at 14-20. See Motion for Reconsideration.

Governors denied in its Resolution No. XXII-2017-1304¹⁹ dated 20 April 2017.

The case was thereafter transmitted to this Court for review.

Ruling of the Court

Prefatorily, it is noted that respondents are public prosecutors, and hence, government lawyers. Earlier, a lawyer who holds a government office may not be disciplined as a member of the Bar because the Court was considered bereft of jurisdiction to discipline misconducts committed in the discharge of a lawyer's duties as a government official.²⁰ Recently, this doctrine was abandoned, and the Court clarified that if said misconduct as a government official also constitutes a violation of one's oath as a lawyer and the Code of Professional Responsibility (CPR), then a government lawyer falls within the disciplinary reach of the Court.²¹

On 11 April 2023, the Court promulgated the Code of Professional Responsibility and Accountability (CPRA)²² which expressly repealed the CPR, including jurisprudential principles that are inconsistent therewith. Likewise, it was made to apply to pending cases.²³

Canon VI, Sections 2 and 6 of the CPRA provides the filing of complaint against government lawyers, thus:

SECTION 2. How Instituted. — Proceedings for the disbarment, suspension, or discipline of lawyers may be commenced by the Supreme Court on its own initiative, or upon the filing of a verified complaint by the Board of Governors of the IBP, or by any person, before the Supreme Court or the IBP. However, a verified complaint against a government lawyer which seeks to discipline such lawyer as a member of the Bar shall only be filed in the Supreme Court.

A verified complaint filed with the Supreme Court may be referred to the IBP for investigation, report and recommendation, except when filed

¹⁹ Id., unnumbered pages. See Resolution dated 20 April 2017.

²⁰ See *Spouse Buffe v. Gonzales*, 797 Phil. 143, 151 (2016).

²¹ *Guevarra-Castil v. Trinidad*, A.C. No. 10294, 12 July 2022; see also *Fuji v. Dela Cruz*, 807 Phil. 1, 23-24 (2017).

²² A.M. No. 22-09-01-SC, 11 April 2023.

²³ SECTION 1. Transitory Provision. — The CPRA shall be applied to all pending and future cases, except to the extent that in the opinion of the Supreme Court, its retroactive application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern.

SECTION 2. Repealing Clause. — The Code of Professional Responsibility of 1988, Sections 20 to 37 of Rule 138 and Rule 139-B of the Rules of Court are repealed.

directly by the IBP, in which case, the verified complaint shall be referred to the Office of the Bar Confidant or such fact-finding body as may be designated.

Complaints for disbarment, suspension and discipline filed against incumbent Justices of the Court of Appeals, Sandiganbayan, Court of Tax Appeals and judges of lower courts, or against lawyers in the judicial service, whether they are charged singly or jointly with other respondents, and whether such complaint deals with acts unrelated to the discharge of their official functions, shall be forwarded by the IBP to the Supreme Court for appropriate disposition under Rule 140, as amended.

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SECTION 6. Complaint Against a Government Lawyer. — When a complaint is filed against a government lawyer, the Investigating Commissioner shall determine, within five (5) calendar days from assignment by raffle, whether the concerned agency, the Ombudsman, or the Supreme Court has jurisdiction. If the allegations in the complaint touch upon the lawyer's continuing obligations under the CPRA or if the allegations, assuming them to be true, make the lawyer unfit to practice the profession, then the Investigating Commissioner shall proceed with the case. Otherwise, the Investigating Commissioner shall recommend that the complaint be dismissed.

The complaints for disbarment were initially filed with the Court. On 03 August 2011,²⁴ the Court resolved to refer A.C. No. 9042 to the IBP and consolidate it with A.C. No. 8399, which was earlier referred to the latter a year before, or on 27 January 2010.²⁵

With the enactment of CPRA, the discipline of lawyers lies solely with the Court and referral of the case to the IBP is optional. Considering that the cases were referred to the IBP long before the passage of the CPRA, it is comprehensible why no determination was made, either by the Court or the IBP, of whether the allegations in the complaint touch upon the lawyer's continuing obligations under the CPRA or if the allegations, assuming them to be true, make the lawyer unfit to practice the profession. The Court, nevertheless, can make such a determination now. Indeed, to refer the case to the IBP anew, and direct it to make the determination required under Canon VI, Section 6 of the CPRA, would only unduly prolong the case.

The complaint for disbarment in A.C. No. 8399 alleges that respondents committed grave misconduct under Section 9 of Rule 140 of the Rules of Court, specifically for humiliating and orally defaming her on 17 November 2006. According to complainant, respondents, as members of the Bar and officers of the Court, are obliged to act with civility at all times even

²⁴ Temporary *rollo* (A.C. No. 8399), p. 134.

²⁵ *Id.* at 167.

when confronted with rudeness and insolence.²⁶ On the other hand, the complaint for disbarment in A.C. No. 9042 alleges that respondents committed gross misconduct and gross dishonesty in conspiring and maliciously making false assertions in respondent Subong, Jr.'s Certificate of Service for the month of August 2006.

Assuming these allegations to be true pursuant to the provisions of Canon VI, Section 6 of the CPRA, then respondents' alleged infractions clearly touch upon their continuing obligations under the CPRA or make them unfit to practice the profession. Thus, the present disbarment complaints rightly fall within the disciplinary powers of the Court.

Having settled the issue of jurisdiction, the Court now turns Its attention to the merits of the case.

Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause. It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose that tends to threaten the very existence of the system of administration of justice, and should relate to or be connected with the performance of the official functions and duties of a public officer.²⁷ As distinguished from simple misconduct, the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule must be manifest.²⁸

In A.C. No. 9042, complainant failed to prove any breach of ethical duty by respondent Subong, Jr. Based on evidence, respondents attended the prosecutors' convention in Cebu from 25-27 August 2006. Both respondents were still on official travel a day after, having arrived in Manila on 28 August 2006 between 7:00 to 8:00 a.m. On 29 August 2006, while respondent Subong, Jr. did not attend the court hearing, he was nonetheless in their office being the assigned inquest prosecutor on said date. Respondent Subong, Jr. was also present on 30 August 2006, but the hearing was reset as the presiding judge was on leave. As for respondent Amante, there can likewise be no breach of his ethical duty as he merely signed an otherwise accurate certificate of service of his subordinate, respondent Subong, Jr.²⁹ Clearly, complainant failed to prove that respondents are liable for Gross Misconduct, as the elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule were totally wanting in

²⁶ *Rollo* (A.C. No. 8399, Vol. 1), pp. 2-6; *Rollo* (A.C. No. 9042), pp. 1-9.

²⁷ *Office of the Court Administrator v. Sidro*, A.M. No. P-17-3655, 20 August 2019.

²⁸ *Field Investigation Office of the Office of the Ombudsman v. Castillo*, 794 Phil. 53, 62 (2016).

²⁹ *Rollo* (A.C. No. 9042), unnumbered page; see page 3 of the Report and Recommendation, A.C. No. 9042.

said case.

Neither can they be held liable under the provisions of the CPRA relative to their alleged falsification of respondent Subong, Jr.'s Certificate of Service. Incidentally, separate complaints for misconduct (OMB-C-A-07-0558-L) and Violation of Sec. 3 (e)³⁰ of Republic Act No. 3019³¹ (OMB-C-C-07-0533-L) were filed with the Office of the Ombudsman (OMB) relative to the said infraction. The complaints were dismissed by the OMB in its orders both dated 31 January 2008 for insufficiency of evidence.

In A.C. No. 8399, complainant likewise failed to prove that the same elements of corruption, clear intent to violate the law, or flagrant disregard of an established rule were attendant in the case, to hold respondents liable for Gross Misconduct. As for respondent Subong, Jr., he made the remarks complained of due to complainant's grave provocation, impertinence, and disrespect.³² It was not intentional and was merely a consequence of complainant's unrelenting rude behavior and verbal outbursts.

Notwithstanding, We find respondent Subong, Jr.'s utterances intemperate and improper, contrary to the dignified speech and conduct required of members of the Bar. Canon 2, Section 4 of the CPRA provides:

SECTION 4. Use of Dignified, Gender Fair, and Child- and Culturally-Sensitive Language. — A lawyer shall use only dignified, gender-fair, child- and culturally-sensitive language in all personal and professional dealings.

To this end, a lawyer shall not use language which is abusive, intemperate, offensive or otherwise improper, oral or written, and whether made through traditional or electronic means, including all forms or types of mass or social media.

Thus, We find it proper to admonish respondent Subong, Jr. for uttering emotionally-charged and intemperate language against complainant.

³⁰ SECTION 3. Corrupt practices of public officers. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

³¹ Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: 17 August 1960.

³² Id. (A.C. No. 8399, Vol. 2), unnumbered page (see page 2, CBD Report and Recommendation A.C. No. 8399).

As for respondent Amante, the Court resolves to dismiss the case against him. From the circumstances attendant to the case, it would appear that respondent Amante attempted to pacify respondent Subong, Jr. but complainant would not let up, which led to respondent Subong, Jr.'s utterance of the unsavory remark. There is no showing, however, that respondent Amante's utterance of "*Kasi ayaw mo pang tumigil,*" directed to complainant was in any way intemperate, disrespectful nor abusive, but a mere expression of exasperation. In fact, respondent Amante, to further cool things down and to prevent further heated arguments, requested a police officer, then present in their office, to escort complainant away.³³ Hence, respondent Amante cannot be held administratively liable for his remark.

We note, however, that the alleged infraction committed by respondent Subong, Jr. could also constitute a violation of the *Code of Conduct of Prosecutors* promulgated by the Department of Justice (DOJ). In particular, respondent Subong, Jr.'s use of intemperate and disrespectful language appears to violate Rule 5.1 of said Code, which states that, "[a] prosecutor should, at all times, observe courtesy and proper decorum. He/she should not use abusive, offensive, foul, or otherwise improper language in the conduct of an inquest proceeding, summary or preliminary investigation and should not act in a solicitous or over-friendly manner towards the parties and their counsels."

Under Canon II, Section 28 of the CPRA, "[a]ny violation of the CPRA by lawyers in government service shall be subject to disciplinary action, separate and distinct from liability under pertinent laws or rules."³⁴ Considering this, the Court deems it proper to furnish the DOJ with a copy of the complaint, which is the subject of A.C. No. 8399, and the Court's Resolution for its appropriate action against respondent Subong, Jr., vis-a-vis its own *Code of Conduct of Prosecutors*.

WHEREFORE, the disbarment complaints against respondents Atty. Gregorio Subong, Jr. and Atty. Jason Antonio Amante in A.C. No. 9042 and A.C. No. 8399 are hereby **DISMISSED** for lack of merit.

However, respondent Atty. Gregorio Subong, Jr., is hereby **ADMONISHED** for his use of intemperate or otherwise improper language. He is **STERNLY WARNED** that a repetition of the same or similar act shall be dealt with more severely.

³³ *Rollo* (A.C. No. 8399, Vol. 1) p. 15. See Sworn Affidavit of SPO4 Nenita S. Abanes.


³⁴ SECTION 28. Dignified government service. — Lawyers in government service shall observe the standard of conduct under the CPRA, the Code of Conduct and Ethical Standards for Public Officials and Employees, and other related laws and issuances in the performance of their duties. Any violation of the CPRA by lawyers in government service shall be subject to disciplinary action, separate and distinct from liability under pertinent laws or rules. (6a)

Let a copy of this Resolution be furnished to the Office of the Bar Confidant, to be appended to the personal record of Atty. Gregorio Subong, Jr., and to the Department of Justice, along with the copy of the complaint in A.C. No. 8399, for its appropriate action against said respondent *vis-a-vis* its own *Code of Conduct of Prosecutors*.

SO ORDERED.” *Gesmundo, C.J., on official leave.*

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court

by: 
MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

250-II
OCT 23 2023

Ms. Maria Loyda Camacho
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Philippine Judicial Academy (x)
Supreme Court

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*With copy of the Complaint in A.C. No. 8399.

