

## RECENT JURISPRUDENCE ON LEGAL ETHICS\*

### I. DISMISSAL

#### A. *Hipolito v. Alejandro-Abbas*<sup>1</sup>

Narciso L. Hipolito filed an administrative complaint for grave abuse of authority and for conduct unbecoming of a lawyer, in relation to Canon 1, Rule 1.01 of the Code of Professional Responsibility (“CPR”), against respondents, Attorneys Ma. Carmina M. Alejandro-Abbas and Joseph Anthony M. Alejandro, who were also siblings. Respondents moved for the consolidation of the present case with an earlier case on the ground that both were related to the case filed by complainant before the Department of Agrarian Reform Adjudicatory Board (DARAB).

The Investigating Commissioner of the Integrated Bar of the Philippines (“IBP”) found that respondents violated Canon 1, Rule 1.01 of the CPR and recommended the imposition of a penalty of suspension from the practice of law for three months. The Investigating Commissioner observed that the respondents relied on the dismissal of the DARAB cases as their defense and did not categorically deny the acts of violence, threat, intimidation, and defamation. Consequently, they were deemed to have admitted the same. Such high-handed and abusive conduct, according to the Investigating Commissioner, amounts to grave abuse of authority and conduct unbecoming of a lawyer, in violation of his duty to uphold the Constitution, obey the laws of the land, and promote respect for law and of legal processes.

The Supreme Court, through Justice Jose Reyes, Jr., affirmed the Resolution of the IBP Board of Governors, increasing the recommended penalty to six months. It reiterated that lawyers are expected to maintain, at all times, a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform their four-fold duty to society, the legal profession, the courts, and their clients. The High Court found that respondents erred in their conduct, especially in taunting the complainant to file a case against them and threatening the latter that they can defend themselves as they are lawyers. It pronounced that part of respondents’ duties as lawyers is to maintain the dignity owing to the profession. It held

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\* *Cite as Recent Jurisprudence on Legal Ethics*, 93 PHIL. L.J. 1362, [page cited] (2020).

<sup>1</sup> A.C. No. 12485, Dec. 10, 2019.

that when respondents misused their profession to intimidate complainant, they transgressed the mandates of Canon 7, Rule 7.03.

The Supreme Court found the respondents liable for violation of Canon 1, Rule 1.01 and Canon 7, Rule 7.03 of the CPR.

## II. SUSPENSION

### A. *Alcantara v. Salas*<sup>2</sup>

Eduardo L. Alcantara filed an amended sworn letter-complaint for unethical, unprofessional, and corrupt practices against his counsel, respondent Atty. Samuel M. Salas. Alcantara alleged that he hired the services of Atty. Salas in filing a civil action for specific performance with damages. Having lost in the trial court, Atty. Salas appealed to the Court of Appeals. Allegedly, that was the last time Alcantara heard from Atty. Salas. As a defense, Atty. Salas averred that it should have been the duty of the Court of Appeals to send the notices at his then current residential address, as recorded in the two other cases that were consolidated with a third case. Admittedly, he did not notify the Court of Appeals of the change of address in the third case.

The IBP Investigating Commissioner found Atty. Salas to have violated Rule 12.03 of the CPR. The CPR mandates a lawyer to submit a brief or memoranda whenever required by the court. A lawyer must also inform the court where he had appeared of changes in his address in order to maintain the line of communication with the court. The IBP Board of Governors suspended Atty. Salas from the practice of law for two months, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.

The Court affirmed the IBP's ruling with a slight modification as to the penalty to conform with the case of *Abiero v. Juanino*.<sup>3</sup> In addition to the IBP's finding of violation of Rule 12.03 of the CPR, the High Court found other violations, such as Canons 17 and 18, and Rule 18.03 on a lawyer's duty to his/her client. It ordered the suspension of Atty. Salas from the practice of law for six months, with a stern warning that a repetition of the same or similar act will be dealt with more severely.

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<sup>2</sup> A.C. No. 3989, Dec. 10, 2019

<sup>3</sup> A.C. No. 5302, Feb. 18, 2005.

### III. DISBARMENT

#### A. *Salazar v. Quiambao*<sup>4</sup>

Nelita S. Salazar filed a complaint-affidavit against Atty. Felino R. Quiambao before the IBP Commission on Bar Discipline (IBP-CBD) for violation of the Lawyer's Oath and his professional duty as a notary public. The instant complaint for disbarment alleged that Atty. Quiambao committed malicious breach of his professional duty to notarize two contracts of sale within a reasonable period of time, and inexcusable negligence to register the sales over a period of eight years without any justifiable reason.

The IBP-CBD found that Atty. Quiambao indeed received several payments from the complainant for the transfer of the subject properties but the former failed to comply with his terms of legal services engagement, violating his sworn duties as a lawyer. It also found that the complainant sent respondent several demand letters, but these went unheeded. The IBP-CBD found that these acts violated Canons 16, 17, and 18 of the CPR and recommended that the respondent be suspended from the practice of law for three years.

The IBP Board of Governors, in its Resolution, adopted with modification the penalty recommended against respondent of suspension from the practice of law for a period of three years, to return the amount of PHP 170,000 to complainant, and to pay a fine of PHP 10,000 for disobeying the order of the IBP-CBD.

The Court adopted the findings of the IBP-CBD and the recommendations of the IBP Board of Governors. It said that the Lawyer's Oath requires every lawyer to "delay no man for money or malice" and to act "according to the best of [his or her] knowledge and discretion, with all good fidelity as well to the courts as to [his or her] clients." It reiterated that a lawyer is duty-bound to serve his client with competence, and to attend to his client's cause with diligence, care and devotion. The High Court found Atty. Quiambao guilty of violating Canons 16, 17, 18, and Rules 16.01, 16.02, 16.03, and 18.03 of the CPR and the Lawyer's Oath. It suspended Atty. Quiambao from the practice of law for three years, with a stern warning that the repetition of a similar violation will be dealt with even more severely. The respondent was also ordered to return to the complainant the amount of

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<sup>4</sup> A.C. No. 12401, Mar. 12, 2019.

PHP 170,000 with interest. A fine amounting to PHP 10,000 for disobedience of the orders of the IBP-CBD was also imposed.

### ***B. Roa-Buenafe v. Lirazan***<sup>5</sup>

Johaida Garina Roa-Buenafe filed a complaint before the IBP-CBD for the disbarment of Atty. Aaron R. Lirazan due to grave misconduct in allegedly notarizing and falsifying a public document. The respondent denied the allegations against him and claimed that he did not falsify the document.

The IBP-CBD recommended the revocation of respondent's notarial commission and his disqualification from reappointment as notary public for a period of two years. While it categorically ruled that respondent did not falsify the document, the IBP-CBD nevertheless noted the discrepancies and errors in the notarial books of respondent, which violated his responsibilities as a notary public. It opined that as a notary public, the respondent is mandated to maintain his books in proper order. His failure to do so violated his oath, which merits the penalty of disbarment or suspension under Section 27, Rule 138 of the Revised Rules of Court. The IBP Board of Governors, in its Resolution, adopted the findings of fact and recommendation of the IBP-CBD.

The Court adopted the findings of the IBP-CBD, but modified the recommendation of the IBP Board of Governors. It found that the respondent failed to properly discharge his duties as a notary public for failing to record the assailed document in his notarial book and using the same notarial details in notarizing another document. It held that such failure by the respondent is inexcusable and constitutes gross negligence in carefully discharging his duties as a notary public. The Court found Atty. Lirazan guilty of violating Canons 1 and 9 of the CPR, and Section 2, Rule VI of the 2004 Rules on Notarial Practice. Furthermore, it ordered the suspension of Atty. Lirazan from the practice of law for one year. Apart from suspension, his notarial commission was also revoked and he was disqualified from reappointment as a notary public for a period of two years.

### ***C. Ko v. Uy-Lampasa***<sup>6</sup>

Rolando T. Ko filed an administrative complaint against Atty. Alma Uy-Lampasa with the IBP-CBD. The complainant alleged that respondent

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<sup>5</sup> A.C. No. 9361, Mar. 20, 2019.

<sup>6</sup> A.C. No. 11584, Mar. 6, 2019.

violated the CPR. *First*, he claimed that respondent notarized two purported deeds of sale between Jerry Uy and the Sultan siblings over a parcel of land despite knowing that the two deeds of sale were spurious. *Second*, complainant also claimed that respondent, as counsel for Jerry, filed a malicious case of Estafa against his son Jason and the Sultan siblings, grounded on the allegation that the extrajudicial settlement was not published when in fact, it was published as evidenced by an Affidavit of Publication. *Lastly*, complainant averred that respondent also committed perjury and has filed pleadings in court without the necessary Mandatory Continuing Legal Education (“MCLE”) compliance number.

The Investigating Commissioner of the IBP-CBD recommended that respondent shall be suspended as a notary public for a period of six months with a stern warning that a repetition of the same shall be dealt with more severely. The IBP Board of Governors adopted and approved the Report and Recommendation of the Investigating Commissioner. The IBP Board of Governors found that respondent had indeed violated the 2004 Rules on Notarial Practice and Bar Matter No. 850. However, the IBP Board of Governors modified the recommendation of the Investigating Commissioner and imposed on respondent the penalty of immediate revocation of her notarial commission and disqualification for re-appointment as notary public for two years. The IBP Board of Governors also suspended the respondent from the practice of law for a period of six months.

The Court found Atty. Alma Uy-Lampasa guilty of violating the Rules on Notarial Practice and Rule 1.01 and Canon 1 of the CPR. It also suspended Atty. Uy-Lampasa from the practice of law for six months. The Court likewise revoked her notarial commission and prohibited her from being commissioned as a notary public for two years, with a concomitant warning that a repetition of the same or similar offense shall be dealt with more severely.

Contrary to the findings of the IBP, the Supreme Court held that there is no reason for respondent to be held liable and declared delinquent under Bar Matter No. 850.

### **D. *Pabalan v. Salva***<sup>7</sup>

Marilyn Pabalan filed before the IBP-CBD a Complaint for Disbarment against Atty. Eliseo Magno Salva for unprofessional and immoral conduct. Pabalan claimed that she and Atty. Salva were live-in partners for three years. She alleged that: (1) Salva deceived her into taking him in her condo unit and induced her to advance the funding for his proposed law office “with sweet words and promise of marriage”; (2) She and Salva entered into an agreement wherein she would solicit clients for Salva and they would evenly divide the attorney’s fees paid by the clients, not knowing that a partnership between a lawyer and non-lawyer was illegal; (3) Salva is a womanizer, with children from different women and having faked a certificate of non-marriage (“CENOMAR”) in order to enter into a marriage for convenience with a U.S. citizen in 2008; (4) Salva was her counsel in a case before the National Labor Relations Commission and he failed to represent her with zeal, even withdrawing as counsel prior to his substitution; and (5) Salva neglected to return more than PHP 1 million she spent in putting up his law office, including payment of her shares in the solicitation of clients which she endorsed to him per their agreement.

The Investigating Commissioner issued a Report and Recommendation finding Salva guilty of grossly immoral conduct and violating his oath as a lawyer, thereby recommending that he be suspended from the practice of law for six months. In a Resolution, the IBP Board of Governors adopted and approved the Report and Recommendation of the Investigating Commissioner with modification of the penalty, increasing the admonition to one-year suspension from the practice of law.

The Court disagreed with the IBP and dismissed the disbarment complaint in view of the ruling in *Benito v. Salva*,<sup>8</sup> a case where the Supreme Court already found Atty. Salva guilty of violating Rule 9.02 of the CPR. In the present case, the Court held that the allegations raised by Pabalan have been previously ruled upon by the IBP and the Court in *Benito*. Having already imposed a punishment on Salva in the said case involving the same set of facts, the Court is thus constrained to dismiss the instant complaint.

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<sup>7</sup> A.C. No. 12098, Mar. 20, 2019.

<sup>8</sup> A.C. No. 9809, Sept. 11, 2013.

#### IV. ADMINISTRATIVE COMPLAINT AGAINST A MEMBER OF THE BAR

##### A. *Canete v. Puti*<sup>9</sup>

Carmelita Canete filed an administrative complaint against Atty. Artemio Puti with the IBP-CBD. In her complaint, Canete claimed that her husband was a complainant in a criminal case for kidnapping for ransom with double murder filed against Atty. Puti's client. Canete averred that Atty. Puti had, on numerous occasions, appeared in court while he was intoxicated and made discourteous and inappropriate remarks against the public and private prosecutors as well as the judge.

The Investigating Commissioner issued a Report and Recommendation finding Atty. Puti liable for misconduct for violating the Lawyer's Oath and the CPR and recommending his suspension for two years from the practice of law. The IBP Board of Governors adopted and approved the Report and Recommendation of the Investigating Commissioner, with the modification of suspension from the practice of law for six months.

The Court held that while Atty. Puti is guilty of using inappropriate language against the opposing counsels and the judge, such transgression is not of such grievous character as to merit his suspension since his misconduct is considered as simple rather than grave. The Court thus found Atty. Artemio Puti guilty of violating Canons 8 and 11 and Rules 8.01, 11.03, and 11.04 of the CPR. Atty. Puti was reprimanded, with stern warning that a repetition of the same or similar act in the future will be dealt with more severely.

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<sup>9</sup> A.C. No. 10949, Aug. 14, 2019.

## V. NOTARIAL PRACTICE

### A. *Sps. Frias v. Abao*<sup>10</sup>

Spouses Frias filed an administrative case against Atty. Abao for notarizing the Deed of Sale covering the former's property without the requisite authorization as provided by the Notarial Law. Atty. Abao cited old age and sickness as reasons for his not having said authority. The IBP-CBD found Atty. Abao liable for notarizing documents without a notarial commission and for executing an untruthful judicial affidavit. For notarizing a document without commission, the IBP-CBD recommended that Atty. Abao be suspended from the practice of law for six months and that, if she is presently commissioned as notary public, she be disqualified from being commissioned as notary public for a period of two years. Further, for executing an untruthful judicial affidavit and testifying thereon, the IBP-CBD likewise recommended a penalty of suspension from the practice of law for a period of one year.

The Court agreed with the findings of the IBP-CPD but increased the penalty. Under the 2004 Rules on Notarial Practice, a person commissioned as a notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two years, commencing on the first day of January of the year in which the commission is made. Commission either means the grant of authority to perform notarial acts or the written evidence of authority. Without a commission, a lawyer is unauthorized to perform any of the notarial acts. By performing notarial acts without the necessary commission from the court, Atty. Abao violated not only her oath to obey the laws, particularly the Rules on Notarial Practice, but also Canons 1 and 7 of the CPR which proscribes all lawyers from engaging in unlawful, dishonest, immoral or deceitful conduct, and directs them to uphold the integrity and dignity of the legal profession at all times.

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<sup>10</sup> A.C. No. 12467, Apr. 10, 2019.



## VI. GROSS MISCONDUCT

### A. *Martin-Ortega v. Tadena*<sup>11</sup>

Martin-Ortega filed a robbery case and an administrative complaint against Atty. Tadena, the latter for alleged gross misconduct in the representation of her client, the petitioner's husband, in a legal battle between the two. It was alleged that Atty. Tadena hurled expletives against the petitioner's body guard when they were trying to enter the condominium unit. Atty. Tadena denied this and alleged that she did not break into the petitioner's condominium unit because it was owned by the husband, and that she was only upholding his civil and political rights. The IBP Board of Governors approved with modification the Report and Recommendation of the Investigating Commissioner, which suspended Atty. Tadena from the practice of law for a period of three months.

The Court ruled to admonish Atty. Tadena, with a stern warning that a repetition of the same or equivalent acts shall be dealt with more severely in the future. Indeed, while a lawyer owes fidelity to the cause of his client, it should not be at the expense of truth and the administration of justice. Under the CPR, a lawyer has the duty to assist in the speedy and efficient administration of justice, and is enjoined from unduly delaying a case by impeding execution of a judgment or by misusing court processes.

While lawyers owe their entire devotion to the interest of their clients and zeal in the defense of their client's right, they should not forget that they are, first and foremost, officers of the court, bound to exert every effort to assist in the speedy and efficient administration of justice. Their office does not permit violation of the law or any manner of fraud or chicanery. A lawyer's responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions against the other party. Mandated to maintain the dignity of the legal profession, they must conduct themselves honorably and fairly. They advance the honor of their profession and the best interests of their clients when they render service or give advice that meets the strictest principles of moral law.

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<sup>11</sup> A.C. No. 12018, Jan. 29, 2020.

## VII. FIDELITY

### A. *San Gabriel v. Sempio*<sup>12</sup>

San Gabriel filed before the IBP an administrative complaint against Atty. Sempio for allegedly not showing up in the former's case for Declaration of Nullity of Marriage. Atty. Sempio alleged that he needed time for himself after losing in a previous case. The IBP recommended his suspension.

The Court in this case ruled that once a lawyer agrees to handle a case, he is required by the CPR to undertake the task with zeal, care, and utmost devotion. Acceptance of money from a client establishes an attorney-client relationship and gives rise to the duty of fidelity to the client's cause. Every case which a lawyer accepts deserves full attention, diligence, skill, and competence, regardless of its importance. The Court cited *Go v. Buri*, stating that "once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable."<sup>13</sup>

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<sup>12</sup> A.C. No. 12423, March 26, 2019.

<sup>13</sup> A.C. No. 12296, Dec. 4, 2018, *citing* *Dongga-As v. Cruz-Angeles*, A.C. No. 11113, Aug. 9, 2016.

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