Republic of the Philippines
Supreme Court
Manila

SEP 2 6 2016

THIRD DIVISION

TEODORO B. CRUZ, JR., Complainant, -versus- **ATTYS. JOHN G. REYES, ROQUE BELLO and CARMENCITA A. ROUS-GONZAGA,** Respondents.	**A.C. No. 9090** **Present:** VELASCO, JR., *J.*, *Chairperson*, PERALTA, PEREZ, REYES, and JARDELEZA, *JJ.* Promulgated: August 31, 2016

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RESOLUTION

PEREZ, *J.*:

This is a Motion for Reconsideration[1] of the Resolution[2] of the Court dated 22 August 2012 finding respondent Atty. John G. Reyes guilty of "negligence of contumacious proportions" and suspending him from the practice of law for a period of one (1) year.

The Facts

The present case arose out of a petition for disbarment filed by Atty. Teodoro B. Cruz, Jr. (complainant) charging respondent Atty. John G. Reyes (respondent) with intentional misrepresentation, knowingly handling a case

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1 *Rollo*, pp. 284-288.
2 Id. at 282-283.

involving conflict of interest, falsification, knowingly alleging untruths in pleadings and unethical conduct, based on the following incidents:

The First Incident

(Intentional Misrepresentation and Knowingly Handling a Case Involving Conflict of Interest)

Complainant alleged that respondent entered his appearance as counsel for Mayor Rosito Velarde (Mayor Velarde) of Tinambac, Camarines Sur, in an election protest case that was on appeal before the Commission on Elections (COMELEC). The case, entitled "Racquel 'BIBI' Reyes de Guzman, Protestant, versus Mayor Rosito Velarde, Protestee," originated from the Regional Trial Court (RTC) of Calabanga, Branch 63, Camarines Sur. According to the petition for disbarment, "an incident occurred" in the course of the trial which forced Mayor Velarde to bring an incident up to the COMELEC on *certiorari*.[3]

While the case was being tried at the RTC level, protestant Raquel Reyes De Guzman (De Guzman) was represented by the Sales Law Office of Naga City, although Atty. Roque Bello (Atty. Bello), who indicated in the pleadings that his address is in Cainta, Rizal, was the chief counsel. Mayor Velarde, on the other hand, was represented by Atty. Gualberto Manlagnit (Atty. Manlagnit) from Naga City. Atty. Manlagnit prepared the pleadings in connection with the appeal to the COMELEC but, according to complainant, unknown to Atty. Manlagnit, another pleading was filed before the COMELEC, which pleading was apparently prepared in Cainta, Rizal but was signed by respondent whose given address is in Quezon City.[4]

Complainant explained that De Guzman used to be allied with former Speaker Arnulfo Fuentebella (Speaker Fuentebella) under the Nationalist People's Coalition (NPC) party, whereas Mayor Velarde was a member of the Laban ng Demokratikong Pilipino (LDP) party, led by Camarines Sur Governor Luis R. Villafuerte (Gov. Villafuerte). The Fuentebellas and the Villafuertes are known to be politically at odds with each other. However, De Guzman subsequently changed her political allegiance and became affiliated with the Villafuertes by transferring to the LDP party. Mayor Velarde, on the other hand, became an ally of the Fuentebellas under the NPC.[5]

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3 Id. at 3.
4 Id. at 3-4.
5 Id. at 4.

According to complainant, Atty. Bello agreed to represent De Guzman in the election protest case because she was a political ally of Speaker Fuentebella. Complainant emphasized that Atty. Bello has always represented the political interests of the Fuentebellas. There is, therefore, no doubt that Atty. Bello is the lawyer of the Fuentebellas.[6] As a result, with the sudden shifting of the political loyalty of De Guzman and Mayor Velarde, Atty. Bello suddenly stopped appearing for De Guzman in the protest case without formally withdrawing as her counsel.[7] Mayor Velarde now had to be defended by Atty. Bello because he is already an ally of the Fuentebellas. However, Atty. Bello cannot actively defend Mayor Velarde because he appeared for De Guzman before the RTC.[8] Thus, complainant concluded, Atty. Bello found the expedient of passing the case to his clandestine partner, respondent Atty. Reyes, making the latter guilty of representing conflicting interests,[9] in violation of Rule 15.03 of the Code of Professional Responsibility.

The Second Incident

(Falsification, Knowingly Alleging Untruths in Pleadings and Unethical Conduct)

On or before 15 December 2003, former Speaker Fuentebella filed his Certificate of Candidacy (COC) for Congressman of the 3rd District of Camarines Sur. Complainant also filed a COC for the same position. Subsequently, a certain Ebeta P. Cruz (Ebeta) and a certain Marita Montefalcon Cruz-Gulles (Marita) likewise filed their respective COCs for the aforementioned position. The former is an indigent laundry woman from San Jose, Camarines Sur, while the latter was a former casual laborer of the municipal government of Tigaon, Camarines Sur.[10] Clearly, both Ebeta and Marita had no real intention of running for the position for which they filed their COC, but were merely instigated to do so in order to confuse the electorate of the district, to the disadvantage of complainant. Consequently, complainant filed a petition to declare Ebeta and Marita as nuisance candidates.[11]

In connection with the petition to declare Ebeta and Marita as nuisance candidates, complainant filed a Memorandum with the COMELEC

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6 Id.
7 Id. at 5.
8 Id. at 6.
9 Id. at 8.
10 Id. at 9.
11 Id. at 10.

through the Office of the Camarines Sur Provincial Election Supervisor (PES). Pertinent portions of the Memorandum were quoted by the complainant in his petition for disbarment,[12] to wit:

1. Complainant received a copy of the Verified Answer of Marita signed by respondent as counsel, whose given address is in Quezon City;

2. From the Answer, it was made to appear that Marita caused the preparation thereof, read the allegations therein contained, and understood them. It was also made to appear that Marita signed the verification;

3. During the hearing at the PES in San Jose, Pili, Camarines Sur, on 23 January 2004, respondent appeared and:

a.) on record, admitted that the signature appearing on the Verified Answer is his;

b.) officially manifested that he was hired by Marita as her counsel to prepare the Verified Answer;

c.) officially confirmed that the allegations in the Verified Answer were supplied by Marita; and

d.) said that Marita was in his office in Quezon City when she "signed" the Verified Answer.

4. Marita arrived at the hearing to file a formal withdrawal of her COC. She was immediately put on the witness stand wherein she testified that:

a.) she did not know respondent;

b.) she never solicited his legal services, particularly, to file the Verified Answer;

c.) she never supplied the allegations contained in the Answer;

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12 Id. at 10-11.

d.) the signature appearing in the Answer is not her signature; and

e.) she could not have signed the verification in the Answer in Quezon City on 15 January 2004 because she was in Bicol on that date.[13]

The petition for disbarment also alleged that respondent admitted to Attys. Adan Marcelo Botor and Atty. Manlagnit – complainant's counsels in the petition for disqualification before the PES-COMELEC – that Atty. Bello merely gave the Verified Answer to him already signed and notarized.[14]

For his part, respondent narrated the following version of the events:

Anent the first incident, respondent alleged that he first met Atty. Bello sometime in May, 2003 when the latter was introduced to him by a friend. A few months after their meeting, Atty. Bello called him up to ask if he could handle a case to be filed with the COMELEC since Atty. Bello had so many cases to handle. The case would be to secure a Temporary Restraining Order (TRO) with application for a Writ of Preliminary Injunction from the COMELEC.[15]

According to respondent, he informed Atty. Bello that he has never before handled an election case, much less one with an application for a TRO with Preliminary Injunction. Atty. Bello assured him that things would be difficult at first, but he would assist respondent and things will turn out easier. Due to the assurance given and his desire for a more comprehensive experience in law practice, respondent agreed to accept the case. Since he made it clear from the start that he has no knowledge or experience in election cases, he was never part of the preparations in connection with the case. Atty. Bello simply called him up for a meeting when the pleading was ready so that he could sign the same. They agreed to meet somewhere in Timog, Quezon City and after he read the pleading and sensing that there was no problem, he signed the same inside Atty. Bello's car. Thereafter, he attended the initial hearing of the case, during which, the parties were required to submit their respective Memoranda.[16]

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13 Id. at 14 and 17-19.
14 Id. at 20.
15 Id. at 60.
16 Id. at 60-61.

Respondent claimed that up to that point, there were no indications about the true nature of the case. However, when he was preparing the required Memorandum, he found telltale signs. After his two appearances before the COMELEC and the submission of the Memorandum, respondent declared that he never knew what happened to the case as he formally withdrew therefrom immediately upon knowing the circumstances of the case. He maintained that he cannot be held guilty of representing conflicting interests because he never handled any previous case involving either of the parties in the COMELEC case. Moreover, he was not properly apprised of the facts and circumstances relative to the case that would render him capable of intelligently deciding whether or not to accept the case. He likewise did not receive a single centavo as attorney's, acceptance or appearance fees in connection with the case. He agreed to handle the same simply to accommodate Atty. Bello and to improve his skills as a lawyer and never for monetary considerations.[17]

With respect to the second incident, respondent related that he was at home in Pangasinan on 17 January 2004 when he received a call from Atty. Bello asking him to attend a hearing in Camarines Sur. He declined the request three times due to his tight schedule. Atty. Bello pleaded, saying that even on Saturdays, hearings could be scheduled. Thus, even if he did not want to attend the hearing due to its distance and because of his full calendar, he could not refuse because he really did not schedule appointments and/or hearings on Saturdays. All that was told him regarding the case was that a congressional candidate was being disqualified and a lawyer is needed to defend him and his candidacy. Respondent alleged that according to Atty. Bello, the candidate was qualified and financially capable of funding his campaign. Nevertheless, he clarified from Atty. Bello if the candidate is not a nuisance candidate and Atty. Bello allegedly replied: "Qualified na qualified naman talaga eh." Respondent added that it was not disclosed to him that the disqualification case involved a candidate for the third congressional district of Camarines Sur. He was simply informed that the scheduled hearing of the disqualification case would be on 23 January 2004 in Naga City.[18]

Since respondent was in Pangasinan and due to the fact that the deadline for the filing of the necessary pleading was nearing, Atty. Bello advised respondent that he would just prepare the Answer and sign for respondent's name in the pleading. Respondent maintained that he would not

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17 Id. at 62.
18 Id. at 63.

have agreed to Atty. Bello's proposal, had it not been for the pressed urgency, trusting that he would not get into any trouble.[19]

While waiting for the scheduled date of the hearing to arrive, he wondered why he has not been furnished a copy of the pleading or given additional instructions relative to the case. Atty. Bello, in the meantime, has ceased to communicate with him and suddenly became inaccessible. He thus toyed with the impression that he was being left out of the case for reasons he could not then understand.[20]

According to respondent, he was able to get a copy of the Answer only when he was already in Naga City and it was only then and there, while reading it, that he realized that the case was, in reality, about a nuisance candidate and that the client he was to appear for was, indeed, a nuisance candidate. What was even more surprising to him was that the copy of the Answer that was given to him was unsigned: neither by him nor by his supposed client. It was likewise not notarized. Finding the indefensibility of his client and in order not to make matters worse, he opted to appear and just submit the case for resolution. To prove this point, respondent alleged that all he had with him for the hearing were only the unsigned and unnotarized Answer, the petition to declare Ebeta and Marita as nuisance candidates, his case calendar and nothing else. He had not in his person any evidence whatsoever in support of the defense of his client. Respondent added that even at this point, he had no knowledge that his supposed client "had already jumped ship." More importantly, he did not know that her signature on the Answer was forged, precisely because the copy of the Answer that was given to him was unsigned.[21]

Before the start of the hearing, respondent started looking for his client but she could not be found. He, nevertheless, proceeded to the hearing for it was immaterial to him whether she was present or not as he had already planned to simply submit the case for resolution. Unfortunately, respondent claimed, the proceedings before the PES started as a casual conversation with the lawyers for herein complainant and went on to a full trial, "wittingly or unwittingly."[22]

Respondent admitted that, during the hearing, he acknowledged that the signature appearing on the Answer was his. He alleged that despite his personal aversion and objection to certain allegations in the Answer, he

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19 Id.
20 Id. at 64.
21 Id. at 65.
22 Id. at 66.

could not anymore deny the signature above his printed name, even if it was only signed for and in his behalf, because he had previously agreed, although unwillingly, that his name be signed in the pleading. It, therefore, came as a surprise to him that of all the questions that can be asked of him during the trial, he was questioned about his signature. Belatedly he realized that he should have objected to the line of questioning as he was being presented as an unwilling witness for therein petitioner. However, without sufficient exposure in the legal practice and wanting of the traits of a scheming lawyer, he failed to seasonably object to the line of questioning.[23]

Nevertheless, respondent vehemently denied complainant's allegation that he admitted having seen Marita sign the document in his presence. According to him, he vividly recalls his response to the then query whether or not Marita signed the document in his presence as: "I suppose that is her signature." Likewise, when queried further on the ideal that the pleading should be signed by Marita in his presence as her counsel, he allegedly responded: "While it is the ideal, sometimes we lawyers, like you and I, sign documents even if the client is not around due to our busy schedules." He pointed out to the two lawyers of herein complainant that whether Marita signed the Answer in his presence or not is inconsequential since he was not the notary public who notarized the Answer. He argued that his signature pertains to the allegations in the Answer, while the signature of his client forms part of the verification and certification and that it is the duty of the notary public to see to it that the person signing the pleading as a party is really the person referred to in the verification/certification.[24]

Finally, respondent declared that except for the modest appearance cum transportation fees that he received, there was no monetary consideration for handling the petition to declare Ebeta and Marita as nuisance candidates. He explained that when the case was offered to him, it was in haste and under a tenor of urgency that the only impression he got was that the client was well-to-do and could wage a decent campaign and was really a qualified candidate. He repeated the words of Atty. Bello: "qualified na qualifed sya." He emphasized that all he wanted was to expand his experience and practice as a lawyer.[25]

In his report and recommendation dated 17 April 2007, Investigating Commissioner Edmund T. Espina found respondent guilty of the charges against him and recommended that he be meted the penalty of suspension for one (1) month. The report, in part, reads:

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23 Id.
24 Id. at 67.
25 Id. at 68.

> It taxes the undersigned Commissioner's imagination, however, that respondent disclaims any knowledge in the above incidents and that he was just a "willing victim" of the rather scheming tactics of a fellow lawyer, who, surprisingly he did not even thought (sic) of running after and holding liable, even after all these charges filed against him. Be that as it may, it cannot be denied that respondent himself had knowledge of and allowed himself to be used by whoever should be properly held liable for these fraud and misrepresentation.
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> As regards the second incident, respondent argues that he could not be held guilty of forgery, misrepresentation, and other related offenses. x x x If at all, respondent was forced to unwittingly represent an 'unwilling' client, all in the name of accommodation. Undersigned Commissioner disagrees.
>
> Respondent violated Rule 15.03 of Canon 15 of the Code of Professional Responsibility. Respondent should have evaluated the situation first before agreeing to be counsel for an unknown client. x x x
>
> Undersigned Commissioner finds sufficient legal basis for disciplinary action against respondent for the various misrepresentations and later, admissions before the COMELEC when confronted with his "supposed client", claiming that it was Atty. Roque [sic] who merely gave him instructions and whose requests he merely accommodated. x x x
>
> His shortcomings when he accepted to be a counsel for an unknown client in the COMELEC protest (first incident) is in itself, already deplorable but to repeat the same infraction in the petition for disqualification (in the second incident) constitutes negligence of contumacious proportions. It is even worse that respondent has attempted to mitigate his liability by professing ignorance or innocence of the whole thing, a matter that, too, is inexcusable. Clearly, it is a lame excuse that respondent did offer. By his own confession, he was woefully negligent.[26]

On 19 September 2007, Resolution No. XVIII-2007-99 was passed by the Board of Governors of the Integrated Bar of the Philippines (IBP) resolving to adopt and approve the above report and recommendation of the Investigating Commissioner. It thereafter forwarded the report to the Supreme Court as required under Section 12(b), Rule 139-B of the Rules of Court.[27]

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[26] Id. at 223-225.

[27] SEC. 12. *Review and decision by the Board of Governors.* –

x x x x

> (b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.

On 22 August 2012, the Court issued the questioned Resolution adopting the above-quoted findings of the IBP Investigating Commissioner. The Court, however, increased the period of suspension from the recommended one (1) month to one (1) year. The same Resolution also resolved to:

x x x x

> 2. **IMPLEAD** Attys. Roque Bello and Carmencita A. Rous-Gonzaga in this administrative proceedings; and
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> 3. **REMAND** the whole records of this case to the Integrated Bar of the Philippines for further investigation, report and recommendation with respect to the charges against ATTY. ROQUE BELLO and ATTY. CARMENCITA A. ROUS-GONZAGA.

Respondent is now before us seeking a reconsideration of the aforementioned Resolution insofar as the penalty imposed against him is concerned.

Respondent points out that from the very start, he had been very candid as to the factual backdrop of the present case. He never denied that he should have evaluated the situation first before agreeing to be a counsel for an unknown client. He does not refute, nor does he argue against, the finding of the Commission on Bar Discipline that he was remiss in his duties as a lawyer when he accommodated the requests of a fellow lawyer to represent an unknown client. However, respondent argues, such negligence is not the negligence "of contumacious proportions" warranting the imposition of the penalty of suspension. Likewise, such negligence is not tantamount to having knowledge of the alleged fraud and misrepresentation, for the simple reason that he did not know the details of the election case until its hearing on 23 January 2004 in Naga City. He maintains that if such fraud and misrepresentation really exists, his "only fault was that he allowed himself to be duped to unwittingly represent an 'unwilling' client, all in the name of accommodation."

Our Ruling

We find respondent's motion for reconsideration partially meritorious.

Considering the serious consequences of the disbarment or the suspension of a member of the Bar, clear preponderant evidence is necessary

to justify the imposition of the said administrative penalties[28] and the burden of proof rests upon the complaint.[29] "Preponderance of the evidence means that the evidence adduced by one side is, as a whole, superior to or has a greater weight than that of the other. It means evidence which is more convincing to the court as worthy of belief compared to the presented contrary evidence."[30] In the case at bar, complainant failed to present clear and preponderant evidence in support of his claim that respondent "knowingly" handled a case involving conflict of interest, "knowingly" alleged untruths in pleadings, and that he "intentionally" committed misrepresentation and falsification.

In connection with the first incident, complainant alleged that respondent perpetrated acts constituting intentional misrepresentation and knowingly handling a case involving conflict of interest when he appeared as counsel for Mayor Velarde in the COMELEC case. Rule 15.03 of Canon 15 of the Code of Professional Responsibility provides that "[a] lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts." Jurisprudence has provided three tests in determining whether a violation of this rule is present in a given case, to wit:

> One test is whether a lawyer is duty-bound to fight for an issue or claim in behalf of one client and, at the same time, to oppose that claim for the other client. Thus, if a lawyer's argument for one client has to be opposed by that same lawyer in arguing for the other client, there is a violation of the rule.
>
> Another test of inconsistency of interest is whether the acceptance of a new relation would prevent the full discharge of the lawyer's duty of undivided fidelity and loyalty to the client or invite suspicion of unfaithfulness or double-dealing in the performance of that duty. Still another test is whether the lawyer would be called upon in the new relation to use against a former client any confidential information acquired through their connection or previous employment.[31] (Emphasis omitted)

Based on the foregoing criteria, there must be a previous lawyer-client relationship in order for the liability to attach. Clearly, respondent cannot be held liable under any of the three aforementioned tests because he was never

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28 *Lim-Santiago v. Atty. Sagucio*, 520 Phil. 538, 548 (2006) citing *Berbano v. Barcelona*, 457 Phil. 331, 341 (2003).

29 *Rudecon Management Corp. v. Camacho*, 480 Phil. 652, 660 (2004) citing *Office of the Court Administrator v. Sarcido*, 449 Phil. 619 (2003).

30 *Ylaya v. Gacott*, 702 Phil. 390, 407-408 (2013).

31 *Aniñon v. Sabitsana, Jr.*, 685 Phil. 322, 327 (2012) citing *Quiambao v. Bamba*, 505 Phil. 126, 134 (2005).

a counsel for either party in the COMELEC case prior to the filing of the said action. Complainant, however, would have us believe that respondent is the "furtive" or "clandestine" partner of Atty. Bello so as to justify his accusation that respondent is guilty of representing conflicting interests. Complainant, however, failed to present sufficient evidence in support of his allegation. The mere fact that respondent agreed to handle a case for Atty. Bello does not – *alone* – prove that they are indeed partners. This Court is inclined to give more weight and credence to the explanation proffered by respondent: that is, he accepted the case without being fully aware of the real facts and circumstances surrounding it. His narration is straightforward enough to be worthy of belief, especially considering that he withdrew from the case after he realized its true nature, as evidenced by the "Withdrawal as Counsel"[32] he filed before the COMELEC.

With respect to the charge of intentional misrepresentation, complainant failed to specify which act of respondent constituted the alleged offense. If the alleged misrepresentation pertains to the act of respondent of signing the pleading prepared by Atty. Bello, we do not agree with complainant and the same cannot be considered as misrepresentation since respondent specified in his Comment that he read the pleading before he affixed his signature thereto. He was, therefore, aware of the statements contained in the pleading and his act of signing the same signifies that he agreed to the allegations therein contained. On the other hand, if the misrepresentation alleged by complainant refers to the allegations in the pleading filed by respondent before the COMELEC, again, it cannot be said that there was "intentional" misrepresentation on the part of respondent since, as admitted by respondent and as complainant himself asserted, the allegations therein contained were supplied by Atty. Bello, which allegations, at that time the pleading was signed, respondent did not know were inaccurate. As pointed out above, as soon as the true nature of the situation revealed itself, respondent withdrew from the case.

Regarding the second incident, complainant claimed that, in connection with the petition to declare Marita as a nuisance candidate, respondent committed falsification and knowingly alleged untruths, not only in Marita's Verified Answer to the disqualification case against her, but during the hearing of the case, as well. As with the first incident, respondent maintained that he accepted the case without being fully aware of the circumstances relative thereto, this time because of the insistence and urgency with which Atty. Bello made the request.

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32 *Rollo*, p. 72.

We earlier noted respondent's candor in explaining his cause. His candidness about the events leading to this administrative complaint against him is demonstrated by the following declarations he made: (1) having agreed to have his name signed in the pleading on his behalf, he cannot now deny the signature above his printed name;[33] (2) he believed the assurances of his fellow lawyers (counsels for herein complainant) that whatever may have been said in confidence between them will not be revealed to anybody for whatever reason;[34] and (3) he failed to seasonably object to the line of questioning relative to his signature on Marita's Answer, thereby incriminating himself and making him an unwilling witness for the opposing party, because of his insufficient experience in the legal practice and as a result of his lack of the traits of a scheming lawyer.[35] These straightforward statements, coupled with the legal presumption that he is innocent of the charges against him until the contrary is proven,[36] keep us from treating respondent's proffered explanation as an indication of mendacity.[37] This Court is, therefore, compelled to give him the benefit of the doubt and apply in his favor the presumption that he acted in good faith, especially considering the failure of complainant to present clear and convincing evidence in support of his allegations.

Thus, with respect to the charge that respondent "knowingly" alleged untruths in the supposed Verified Answer of Marita, he admitted that Marita's Answer was prepared by Atty. Bello, whom respondent likewise authorized to sign his name on the pleading on his behalf. This statement was corroborated by complainant himself when he alleged in his petition for disbarment that "Atty. John Reyes admitted to the two counsels of then candidate Teodoro Cruz, Jr. x x x that the Answer was merely passed to him by Atty. Bello already signed and notarized." Consequently, respondent cannot be held liable for "knowingly" alleging untruths for the simple reason that the allegations in the Answer were not supplied by him.

Neither can respondent be held guilty of falsification in connection with the forged signature of Marita. "The basic rule is that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence."[38] Complainant merely alleged that Marita's signature in the Answer "was forged either by Attorney Roque Bello or respondent x x x"[39] and that

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33 Id. at 66.
34 Id. at 67.
35 Id. at 66.
36 *Ylaya v. Gacott*, supra note 30 at 408.
37 *Maligaya v. Doronilla, Jr.*, 533 Phil. 303, 310 (2006).
38 *De Jesus v. Guerrero III*, 614 Phil. 520, 614 (2009) citing *Manalabe v. Cabie*, 553 Phil. 544, 551 (2007).
39 *Rollo*, p. 20.

respondent falsified or caused the falsification of the signature because "he is the one who presented the same to the COMELEC, hence, presumed to be the one who falsified the same."[40] Other than this presumption and bare allegation, complainant has not adduced any proof in support thereof. As a result, this Court cannot give any merit to his accusation.

The same is true in connection with complainant's allegation that respondent falsely testified and made misrepresentations during the nuisance candidate case hearing before the PES by manifesting that he is the lawyer of Marita, that the allegations in the Answer were supplied by Marita and that Marita was in his office when she signed the Answer's verification. Apart from his allegations, complainant has not presented any evidence, as for instance, the Transcript of Stenographic Notes (TSN) of the proceedings, to prove that respondent indeed made the statements attributed to him and to enable this Court to properly evaluate the transgressions ascribed to respondent.

It is well to note that respondent vehemently denied having admitted seeing Marita sign the Verification before his presence in his office in Quezon City. He insisted that his response, when queried about Marita's signature, was that: "I suppose that is her signature." This Court finds it unreasonable – illogical, even – that after having admitted the blunders he committed in this case, he would now deny this particular circumstance, unless he was in fact telling the truth. In any case, as explained by respondent, it is of no moment whether or not he saw Marita sign the Verification since he was not the notary public who notarized the Answer. Respondent's signature in the Answer refers to the allegations therein, whereas the signature of Marita forms part of the Verification which states that "she has caused the preparation of the foregoing Answer and has read the contents thereof which are true and correct of her own personal knowledge." Respondent is, therefore, correct when he pointed out that it is the responsibility of the notary public administering the oath to make sure that the signature in the Verification really belongs to the person who executed the same.

It must be emphasized that "the Court exercises its disciplinary power only if the complainant establishes [his] case by clear, convincing, and satisfactory evidence. x x x When the pieces of evidence of the parties are evenly balanced or when doubt exists on the preponderance of evidence, the

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40 Id. at 120.

equipoise rule dictates that the decision be *against* the party carrying the burden of proof."[41]

The foregoing notwithstanding, it cannot be said that respondent has no liability at all under the circumstances. His folly, though, consists in his negligence in accepting the subject cases without first being fully apprised of and evaluating the circumstances surrounding them. We, nevertheless, agree with respondent that such negligence is not of contumacious proportions as to warrant the imposition of the penalty of suspension. This Court finds the penalty of suspension for one (1) year earlier imposed on respondent too harsh and not proportionate to the offense committed. "The power to disbar or suspend must be exercised with great caution. Only in a clear case of misconduct that seriously affects the standing and character of the lawyer as an officer of the Court and member of the bar will disbarment or suspension be imposed as a penalty."[42] The penalty to be meted out on an errant lawyer depends on the exercise of sound judicial discretion taking into consideration the facts surrounding each case.[43]

In this connection, the following circumstances should be taken into consideration in order to mitigate respondent's responsibility: first respondent exhibited enough candor to admit that he was negligent and remiss in his duties as a lawyer when he accommodated the request of another lawyer to handle a case without being first apprised of the details and acquainted with the circumstances relative thereto; and second, since this is his first offense, respondent "is entitled to some measure of forbearance."[44]

IN VIEW OF THE FOREGOING, respondent's Motion for Reconsideration is **PARTIALLY GRANTED**. The Resolution of the Court dated 22 August 2012 is hereby modified in that respondent Atty. John G. Reyes is **REPRIMANDED** for his failure to exercise the necessary prudence required in the practice of the legal profession. He is further **WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

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41 *Ylaya v. Gacott*, supra note 30 at 413.
42 *Ramos v. Ngaseo*, 487 Phil. 40, 49 (2004).
43 *Lim-Santiago v. Sagucio*, supra note 28 at 552.
44 *Maligaya v. Doronilla, Jr.*, supra note 37 at 311.

JOSE PORTUGAL PEREZ
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

DIOSDADO M. PERALTA
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

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WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

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