



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECEIVED
 AUG 07 2017
 BY: LAH
 TIME: 3:31

JOY T. SAMONTE,
 Complainant,

A.C. No. 11668

- versus -

Present:

ATTY. VIVENCIO V. JUMAMIL,
 Respondent.

SERENO, C.J.,* Chairperson,
 LEONARDO-DE CASTRO,**
 DEL CASTILLO,***
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

Promulgated:

JUL 17 2017

x-----x

RESOLUTION

PERLAS-BERNABE, J.:

For the Court's resolution is a Complaint¹ dated March 15, 2013, filed before the Integrated Bar of the Philippines (IBP), by complainant Joy T. Samonte (complainant) against respondent Atty. Vivencio V. Jumamil (respondent), praying that the latter be disbarred for acts unbecoming of a lawyer and betrayal of trust.

The Facts

Complainant alleged that sometime in October 2012, she received summons from the National Labor Relations Commission (NLRC), Regional Arbitration Branch XI, Davao City, relative to an illegal dismissal

* On leave.
 ** Designated Acting Chairperson per Special Order No. 2464 dated July 17, 2017.
 *** On official leave.
¹ *Rollo*, pp. 2-5.

2

case, *i.e.*, NLRC Case RAB-XI-10-00586-12, filed by four (4) persons claiming to be workers in her small banana plantation.² Consequently, complainant engaged the services of respondent to prepare her position paper, and paid him the amount of ₱8,000.00³ as attorney's fees.⁴ Despite constantly reminding respondent of the deadline for the submission of her position paper, complainant discovered that he still failed to file the same.⁵ As such, on January 25, 2013, the Labor Arbiter rendered a Decision⁶ based on the evidence on record, whereby complainant was held liable to the workers in the total amount of ₱633,143.68.⁷ When complainant confronted respondent about the said ruling, the latter casually told her to just sell her farm to pay the farm workers.⁸ Because of respondent's neglect, complainant claimed that she was left defenseless and without any remedy to protect her interests against the execution of the foregoing judgment;⁹ hence, she filed the instant complaint.

In an Order¹⁰ dated March 26, 2013, the IBP Commission on Bar Discipline (IBP-CBD) directed respondent to submit his Answer to the complaint.

In his Answer¹¹ dated April 19, 2013, respondent admitted that he indeed failed to file a position paper on behalf of complainant. However, he maintained that said omission was due to complainant's failure to adduce credible witnesses to testify in her favor. In this relation, respondent averred that complainant instructed her to prepare an Affidavit¹² for one Romeo P. Baol (Romeo), who was intended to be her witness; nevertheless, respondent was instructed that the contents of Romeo's affidavit were not to be interpreted in the Visayan dialect so that the latter would not know what he would be testifying on. Respondent added that complainant's uncle, Nicasio Ticong, who was also an intended witness, refused to execute an affidavit and testify to her lies. Thus, it was complainant who was deceitful in her conduct and that the complaint against him should be dismissed for lack of merit.¹³

The IBP's Report and Recommendation

In its Report and Recommendation¹⁴ dated March 14, 2014, the IBP-CBD found respondent administratively liable and, accordingly,

² Id. at 2 and 8.

³ See Receipt by way of a letter dated December 20, 2012; *id.* at 6.

⁴ Id. at 3.

⁵ See *id.* at 3-4.

⁶ Id. at 8-12. Penned by Executive Labor Arbiter Elbert C. Restauero.

⁷ Id. at 12.

⁸ Id. at 48.

⁹ Id. at 4.

¹⁰ Id. at 13.

¹¹ Id. at 14-16.

¹² See *id.* at 17.

¹³ Id. at 15-16.

¹⁴ Id. at 71-76.

recommended that he be suspended from the practice of law for a period of one (1) year. Essentially, the IBP-CBD found respondent guilty of violating Rule 10.01, Canon 10, and Rule 18.03, Canon 18 of the Code of Professional Responsibility (CPR), as well as the 2004 Rules on Notarial Practice.¹⁵

In a Resolution¹⁶ dated December 13, 2014, the IBP Board of Governors adopted and approved the aforesaid Report and Recommendation, finding the same to be fully supported by the evidence on record and the applicable laws and rules.

The Issue Before the Court

The sole issue in this case is whether or not respondent should be held administratively liable.

The Court's Ruling

The Court concurs with and affirms the findings of the IBP, with modification, however, as to the penalty in order to account for his breach of the rules on notarial practice.

The relationship between a lawyer and his client is one imbued with utmost trust and confidence. In this regard, clients are led to expect that lawyers would be ever-mindful of their cause, and accordingly, exercise the required degree of diligence in handling their affairs. Accordingly, lawyers are required to maintain, at all times, a high standard of legal proficiency, and to devote their full attention, skill, and competence to their cases, regardless of their importance, and whether they accept them for a fee or for free.¹⁷ To this end, lawyers are enjoined to employ only fair and honest means to attain lawful objectives.¹⁸ These principles are embodied in Rule 10.01 of Canon 10 and Rule 18.03 of Canon 18 of the CPR, which respectively read as follows:

CANON 10 – A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 – A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice.

¹⁵ A.M. No. 02-8-13-SC (August 1, 2004).

¹⁶ See Notice of Resolution in Resolution No. XXI-2014-898 issued by National Secretary Nasser A. Marohomsalic; *id.* at 70, including dorsal portion.

¹⁷ *Dagala v. Quesada, Jr.*, 722 Phil. 447, 456 (2013).

¹⁸ *Pitcher v. Gagate*, 719 Phil. 82, 91 (2013).

2

CANON 18 – A LAWYER SHALL SERVE HIS CLIENT WITH COMPETENCE AND DILIGENCE.

Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

In this case, it is undisputed that a lawyer-client relationship was forged between complainant and respondent when the latter agreed to file a position paper on her behalf before the NLRC and, in connection therewith, received the amount of ₱8,000.00 from complainant as payment for his services. Case law instructs that a lawyer-client relationship commences when a lawyer signifies his agreement to handle a client's case and accepts money representing legal fees from the latter,¹⁹ as in this case. From then on, as the CPR provides, a lawyer is duty-bound to “serve his client with competence and diligence,” and in such regard, “not neglect a legal matter entrusted to him.”

However, it is fairly apparent that respondent breached this duty when he admittedly failed to file the necessary position paper before the NLRC, which had, in fact, resulted into an adverse ruling against his client, *i.e.*, herein complainant. To be sure, it is of no moment that complainant purportedly failed to produce any credible witnesses in support of her position paper; clearly, this is not a valid justification for respondent to completely abandon his client's cause. By voluntarily taking up complainant's case, respondent gave his unqualified commitment to advance and defend the latter's interest therein. Verily, he owes fidelity to such cause and must be mindful of the trust and confidence reposed in him.²⁰ In *Abay v. Montesino*,²¹ it was explained that regardless of a lawyer's personal view, the latter must still present every remedy or defense within the authority of the law to support his client's cause:

Once a lawyer agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care, and devotion. Otherwise stated, he owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. **This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense.** If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with it the correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and

¹⁹ See *Egger v. Duran*, A.C. No. 11323, September 14, 2016.

²⁰ *Villaflores v. Limos*, 563 Phil. 453, 460 (2007).

²¹ 462 Phil. 496 (2003).

helps maintain the respect of the community to the legal profession.²²
(Emphasis and underscoring supplied)

In light of the foregoing, the Court therefore agrees with the IBP that respondent should be held administratively liable for violation of Rule 18.03, Canon 18 of the CPR.

Likewise, the IBP correctly found that respondent violated Rule 10.01, Canon 10 of the CPR. Records show that he indeed indulged in deliberate falsehood when he admittedly prepared²³ and notarized²⁴ the affidavit of complainant's intended witness, Romeo, despite his belief that Romeo was a perjured witness. In *Spouses Umaguig v. De Vera*,²⁵ the Court highlighted the oath undertaken by every lawyer to not only obey the laws of the land, but also to refrain from doing any falsehood, viz.:

The Lawyer's Oath enjoins every lawyer not only to obey the laws of the land but also **to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients.** Every lawyer is a servant of the law, and has to observe and maintain the rule of law as well as be an exemplar worthy of emulation by others. It is by no means a coincidence, therefore, that the core values of honesty, integrity, and trustworthiness are emphatically reiterated by the Code of Professional Responsibility. In this light, **Rule 10.01, Canon 10 of the Code of Professional Responsibility provides that "[a] lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice."**²⁶ (Emphases supplied)

Notably, the notarization of a perjured affidavit also constituted a violation of the 2004 Rules on Notarial Practice. Section 4 (a), Rule IV thereof pertinently provides:

SEC. 4. Refusal to Notarize. – A notary public shall not perform any notarial act described in these Rules for any person requesting such an act even if he tenders the appropriate fee specified by these Rules if:

- (a) **the notary knows or has good reason to believe that the notarial act or transaction is unlawful or immoral[.]**
(Emphasis supplied)

On this score, it is well to stress that "notarization is not an empty, meaningless routinary act. It is invested with substantive public interest. It must be underscored that the notarization by a notary public converts a

²² Id. at 505-506, citing *Ong v. Grijaldo*, 450 Phil. 1, 12 (2003).

²³ In his Answer, respondent admitted that he "adamantly complied" with the instruction of complainant to prepare Romeo's affidavit. (See *rollo*, p. 14.)

²⁴ See Romeo's Affidavit; id. at 17.

²⁵ 753 Phil. 11 (2015).

²⁶ Id. at 19.

private document into a public document, making that document admissible in evidence without further proof of authenticity thereof. A notarial document is, by law, entitled to full faith and credit upon its face. For this reason, a notary public must observe with utmost care the basic requirements in the performance of their duties; otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.”²⁷

Having established respondent’s administrative liability, the Court now determines the proper penalty.

The appropriate penalty to be meted against an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts. In *Del Mundo v. Capistrano*,²⁸ the Court suspended the lawyer for a period of one (1) year for his failure to perform his undertaking under his retainership agreement with his client. Similarly, in *Conlu v. Aredonia, Jr.*,²⁹ the same penalty was imposed on a lawyer for his inexcusable negligence in failing to file the required pleading to the prejudice of his client. Hence, consistent with existing jurisprudence, the Court adopts the penalty recommended by the IBP and accordingly suspends respondent from the practice of law for a period of one (1) year. Moreover, as in the case of *Dela Cruz v. Zabala*,³⁰ where the notary public therein notarized an irregular document, the Court hereby revokes respondent’s notarial commission and further disqualifies him from being commissioned as a notary public for a period of two (2) years.

WHEREFORE, respondent Atty. Vivencio V. Jumamil is found **GUILY** of violating Rule 10.01, Canon 10 and Rule 18.03, Canon 18 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** for a period of one (1) year, effective upon his receipt of this Resolution. Moreover, in view of his violation of the 2004 Rules on Notarial Practice, his notarial commission, if still existing, is hereby **REVOKED**, and he is **DISQUALIFIED** from being commissioned as a notary public for a period of two (2) years. Finally, he is **STERNLY WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

Let a copy of this Decision be furnished the Office of the Bar Confidant to be appended to respondent’s personal record as a member of the Bar. Likewise, let copies of the same be served on the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

²⁷ *Dela Cruz v. Zabala*, 485 Phil. 83 (2004).

²⁸ See 685 Phil. 687 (2012).

²⁹ See 673 Phil. 1 (2011).

³⁰ *Supra* note 27.

✓

SO ORDERED.

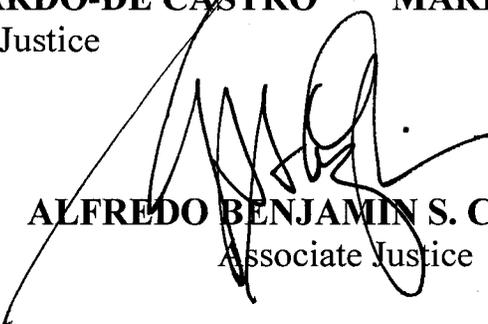

ESTELA M. FERLAS-BERNABE
Associate Justice

WE CONCUR:

On leave
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

On official leave
MARIANO C. DEL CASTILLO
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice