



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CORNELIO V. YAGONG,
Complainant,

A.C. No. 10333

Present:

- versus

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JJ.

**CITY PROSECUTOR NEOPITO
ED G. MAGNO and ASSISTANT
CITY PROSECUTOR DON S.
GARCIA,**

Promulgated:

Respondents.

06 NOV 2017

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DECISION

PERALTA, J.:

The present case is an administrative complaint filed by Cornelio V. Yagong against City Prosecutor Neopito Ed G. Magno and Assistant City Prosecutor Don S. Garcia for alleged violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR).

The relevant facts of the case are as follows:

David Flores charged complainant Cornelio V. Yagong and his neighbor, Jimmy Coronel, with violation of Presidential Decree (PD) 1612¹ and theft, respectively, before the City Prosecution Office of Island Garden City of Samal, Davao del Norte. Yagong claimed that when he filed his Counter-Affidavit on January 2, 2012, respondents City Prosecutor Neopito Ed G. Magno and Assistant City Prosecutor Don S. Garcia had already come out with their Resolution indicting them of said criminal cases. He

¹ Entitled Anti-Fencing Law of 1979.

contended that Magno and Garcia were bias and partial, and into the scheme of money-making for a favorable resolution. Thus, he filed the present administrative complaint.

On the other hand, Magno and Garcia insisted that in resolving cases filed before their office, they are only guided by the concepts of prevailing laws and jurisprudence in conducting Preliminary Investigations. They filed the proper Information against Yagong in the performance of their official functions. As a matter of procedure, the complaint against Yagong and Coronel was raffled among the associate prosecutors for Preliminary Investigation. The case was then assigned to Garcia for evaluation as to the existence of probable cause to warrant indictment. After a thorough examination of all the evidence adduced by the parties, Garcia found the existence of probable cause. In his capacity as the Approving Authority, Magno authorized the consequent filing of the Criminal Information for Violation of the Anti-Fencing Law against Yagong.

On January 30, 2016, the Commission on Bar Discipline of the Integrated Bar of the Philippines (*IBP*) recommended the dismissal of the administrative complaint against Magno and Garcia, to wit:²

WHEREFORE, the instant complaint filed against respondents – City Prosecutor Neopito Ed G. Magno and Associate City Prosecutor Don S. Garcia is hereby **DISMISSED**.

RESPECTFULLY SUBMITTED.

On September 24, 2016, the IBP Board of Governors passed Resolution No. XXII-2016-542,³ which adopted the foregoing recommendation, hence:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner dismissing the complaint.

The Court's Ruling

The Court finds no compelling reason to deviate from the findings and recommendation of the IBP that the instant administrative complaint must be dismissed.

² Report and Recommendation submitted by Commissioner Gilbert L. Macatangay, dated January 30, 2016; *rollo*, pp. 265-267.

³ *Rollo*, p. 263.



Disbarment is the most severe form of disciplinary sanction and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons, and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar. As a rule, an attorney enjoys the legal presumption that he is innocent of the charges proffered against him until the contrary is proved, and that, as an officer of the court, he has performed his duties in accordance with his oath. In disbarment proceedings, the burden of proof is upon the complainant and the Court will exercise its disciplinary power only if the former establishes its case by clear, convincing, and satisfactory evidence. Considering the serious consequence of disbarment, this Court has consistently held that only a clear preponderant evidence would warrant the imposition of such a harsh penalty. It means that the record must disclose as free from doubt a case that compels the exercise by the court of its disciplinary powers. The dubious character of the act done, as well as the motivation thereof, must be clearly demonstrated.⁴

Here, Yagong miserably failed to discharge said burden.

Indubitably, Magno and Garcia were only performing their official duties of ascertaining whether or not probable cause exists in the case before them, and filing the necessary Information if probable cause is found present. A preliminary investigation is merely inquisitorial. It is often the only means of discovering the persons who may be reasonably charged with a crime, to enable the prosecutor to prepare his Complaint or Information. It is not a trial of the case on the merits and has no objective except that of determining whether a crime has been committed and whether there is probable cause to believe that the respondent is guilty thereof. In the conduct of preliminary investigation, the prosecutor does not decide whether there is evidence beyond reasonable doubt of the guilt of respondent. A prosecutor merely determines the existence of probable cause, and to file the corresponding information if he finds it to be so. In the exercise of their powers and in the discharge of their functions and responsibilities, prosecutors enjoy the presumption of regularity. This presumption of regularity includes the public officer's official actuations in all the phases of his work.⁵

The Court reiterates that protection is afforded to members of the Bar who are at times maliciously charged. Yagong's failure to discharge its burden of showing that the acts of the respondent lawyers truly violated the CPR and the Lawyer's Oath warrants the dismissal of the instant administrative complaint.

⁴ *Munar, et al. v. Atty. Bautista*, A.C. No. 7424, February 8, 2017.

⁵ *Chavez v. OMB*, 543 Phil. 600, 616 (2007).



WHEREFORE, IN VIEW OF THE FOREGOING, the Court **DISMISSES** the instant Complaint against City Prosecutor Neopito Ed G. Magno and Assistant City Prosecutor Don S. Garcia for utter lack of merit.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

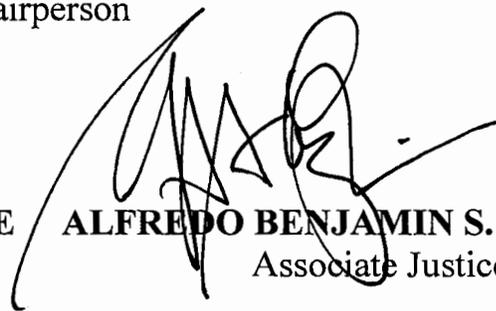
WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ESTELA M. PERLAS-BERNABE
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



ANDRES B. REYES JR.
Associate Justice