



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

**BUKIDNON COOPERATIVE
 BANK, REPRESENTED BY
 GENERAL MANAGER
 WILHELMIA P. FERRER,**
 Complainant,

A.C. No. 12734

Present:

PERALTA, *CJ.*, Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

- versus -

Promulgated:

**ATTY. JOSE VICENTE M.
 ARNADO,**
 Respondent.

JUL 28 2020

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D E C I S I O N

LOPEZ, J.:

Every member of the bar must be on his guard, lest through oversight or inadvertence, the way he conducts his case or the evidence he presents could conceivably result in a failure of justice.¹ Here, we determine the administrative liability of a lawyer who submitted documentary evidence for pre-marking which turned out to be altered.

ANTECEDENTS

On November 15, 2013, Bukidnon Cooperative Bank (Bukidnon Cooperative) engaged the services of Asiatique International Travel & Tours Services Co., Ltd. to reserve hotel accommodations and to purchase airplane tickets bound for Singapore from November 27 to 30, 2013 for its board of directors and employees. Noel Encabo (Mr. Encabo), the owner of Asiatique International, received ₱244,640.00 from Bukidnon Cooperative as advance

¹ *Berenguer v. Carranza*, 136 Phil. 75, 81 (1969).

payment.² However, a day before the departure, Mr. Encabo advised Bukidnon Cooperative to postpone its travel abroad because the accommodations were not yet confirmed.³ Accordingly, Bukidnon Cooperative cancelled the trip and asked for a refund but Mr. Encabo did not heed the demand.

Aggrieved, Bukidnon Cooperative filed an action for sum of money against Mr. Encabo before the Municipal Trial Court in Cities docketed as Civil Case No. 2241. On the other hand, Mr. Encabo, through his counsel Atty. Jose Vicente Arnado (Atty. Arnado), blamed Bukidnon Cooperative for cancelling the trip after the airplane tickets were already issued. He explained that the tickets were non-refundable and any reimbursement was contingent on the airline company's approval. Moreover, any refund was processed using the VIA Philippines system which could take some time.

At the pre-trial conference, Atty. Arnado asked another lawyer to appear on his behalf and to pre-mark four electronic tickets which Cebu Pacific Airline issued on November 18, 2013 for a flight on November 27, 2013.⁴ The four tickets bore the "VIA" logo but two of them have no booking reference number. The tickets were then marked as Exhibits 8, 9, 10 and 11.⁵ Bukidnon Cooperative learned that Mr. Encabo's Pre-Trial Brief⁶ did not mention any electronic tickets as documentary evidence. Thus, Bukidnon Cooperative moved for the issuance of a subpoena against VIA Philippines to verify the genuineness of the tickets. During trial, VIA Philippines' representative testified that the four electronic tickets marked as Exhibits 8, 9, 10 and 11 were altered. The two tickets without booking reference were not genuine while the tickets with reference number correspond to different flight schedule, airline company and set of passengers. As supporting evidence, VIA Philippines submitted the correct electronic printouts of tickets.⁷

With these, Bukidnon Cooperative filed a disbarment complaint against Atty. Arnado before the Integrated Bar of the Philippines (IBP).⁸ Bukidnon Cooperative alleged that Atty. Arnado failed to examine the authenticity of the evidence before presenting them in court and tolerated the commission of fraud in pre-marking altered documents. In his answer, Atty. Arnado claimed good faith because there was no indication that the electronic tickets were not genuine and he has no expertise to determine their authenticity. Further, Atty. Arnado presented Mr. Encabo's judicial affidavit clarifying that he did not participate in the printing of the tickets.⁹

² *Rollo*, p. 16.

³ *Id.* at 20.

⁴ *Id.* at 168-171.

⁵ *Id.* at 43.

⁶ *Id.* at 28-31.

⁷ *Id.* at 71-73. The ticket was issued by Tigerair Philippines with a scheduled flight on May 31, 2013.

⁸ *Id.* at 2-4.

⁹ *Id.* at 181-182.

Later, Bukidnon Cooperative withdrew the administrative case against Atty. Arnado.¹⁰ On November 10, 2017, the IBP Commission on Bar Discipline recommended the dismissal of the complaint and held that Atty. Arnado has no knowledge on the alteration of evidence.¹¹ The IBP Board of Governors affirmed the Commission's findings and recommendation.¹²

RULING

The issue in disciplinary proceedings against lawyers is their fitness to continue in the practice of law aimed at protecting the court and the public against reprehensible practices. As such, the dismissal of the administrative case cannot depend on the unilateral decision of the complainant who is considered merely as a witness especially if the records could establish the liability of the erring lawyer.¹³ Hence, Bukidnon Cooperative's desistance will not result in the automatic dismissal of the disbarment complaint. Section 5, Rule 139-B of the Rules of Court is explicit that "[n]o investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same."¹⁴

Notably, the lawyer's oath mandates members of the bar to "*do no falsehood, nor consent to the doing of any court.*" Also, Canon 10 of the Code of Professional Responsibility provides that "[a] lawyer owes candor, fairness and good faith to the Court." Specifically, Rule 10.01 states 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 an artifice." Here, Atty. Arnado did not measure up to the exacting standards of candor and honesty towards the court.

Foremost, it was clearly established that the electronic tickets pre-marked as exhibits were altered. The representative of VIA Philippines attested to this fact and Mr. Encabo failed to substantiate that any error occurred in the system. Atty. Arnado cannot hide on the simple excuse that he has no expertise to determine the authenticity of these documents especially that the introduction of such evidence can potentially mislead the trial court. Also, Atty. Arnado cannot rely solely on his client's narrations without inquiry when the circumstances call him to be more meticulous. Indeed, lawyers must diligently familiarize themselves as to the nature of the cases they would represent. This flows from the duty to advise clients of their "*candid and honest opinion on the merits and probable results*" of the litigation¹⁵ and to

¹⁰ *Id.* at 96, 99-100, 125. The bank resolved to withdraw the following cases: (1) Criminal Case No. 2500-14b2503-14 against Mr. Encabo and Atty. Arnado; (2) Civil Case no. 2241 against the travel agency and Mr. Encabo; and (3) CBD Case No. 15-4733 against Atty. Arnado.

¹¹ *Id.* at 187-191; penned by Commissioner Oliver A. Cachapero.

¹² *Id.* at 185.

¹³ See *Rangwani v. Atty. Diño*, 486 Phil. 8, 18 (2004).

¹⁴ *Ylaya v. Atty. Gacott*, 702 Phil. 390, 419 (2013).

¹⁵ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 15, Rule 15.05.



ensure that their representation will remain within the bounds of law.¹⁶ Yet, Atty. Arnado failed to examine the electronic tickets and notice that some of them have no booking reference number. It is of no moment that Mr. Encabo printed the tickets and handed them for pre-marking. The fact remains that Atty. Arnado did not observe greater care to prevent the Court from being misled.¹⁷ His indifference further negates any claim of good faith.

In several instances, we penalized lawyers for dishonesty. In *Porac Trucking, Inc. v. Court of Appeals (15th Div.)*¹⁸ and *Ordonio v. Atty. Eduarte*,¹⁹ the erring lawyers were held guilty of committing falsehood and were suspended from the practice of law for a period of six months. In *Benguet Electric Cooperative v. Flores*²⁰ and *Perea v. Atty. Almadro*,²¹ a similar malfeasance was dealt with more severely and the respondents were suspended for one year. In this case, however, it was not established that Atty. Arnado had prior knowledge of the alteration and that he willfully submitted for pre-marking the false evidence. Quite the contrary, the judicial affidavit of Mr. Encabo clarified that Atty. Arnado had no hand in the preparation and printing of the documents. Yet, his carelessness does not free him from liability. In *Berenguer v. Carranza*,²² we reprimanded a lawyer whose inattention led to the introduction of a false affidavit, *viz.*:

Even if there be no intent to deceive, therefore, a lawyer whose conduct, as in this case, betrays inattention or carelessness should not be allowed to free himself from a charge thereafter instituted against him by the mere plea that his conduct was not willful and that he has not consented to the doing of the falsity.

A lawyer's oath is one impressed with the utmost seriousness; it must not be taken lightly. Every lawyer must do his best to live up to it. There would be a failure of justice if courts cannot rely on the submission as well as the representations made by lawyers, insofar as the presentation of evidence, whether oral or documentary, is concerned. **If, as unfortunately happened in this case, even without any intent on the part of a member of the bar to mislead the court, such deplorable event did occur, he must not be allowed to escape the responsibility that justly attaches to a conduct far from impeccable.**²³ (Emphases supplied.)

Time and time again, lawyers have been admonished to remember that they are officers of the court, and that while they owe their clients the duty of complete fidelity and the utmost diligence, they are likewise held to strict accountability insofar as candor and honesty towards the court is concerned.

¹⁶ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 19.

¹⁷ See *supra* note 1.

¹⁸ 279 Phil. 736 (1991).

¹⁹ 283 Phil. 1064 (1992).

²⁰ 350 Phil. 889 (1998).

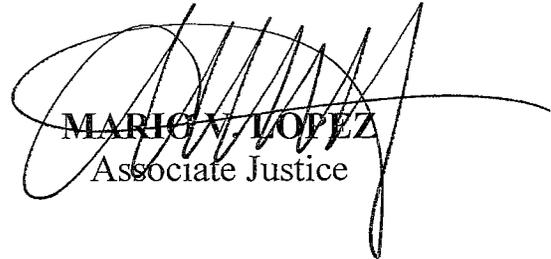
²¹ 447 Phil. 434 (2003).

²² 136 Phil. 75 (1969).

²³ *Supra* note 1.

FOR THESE REASONS, Atty. Jose Vicente M. Arnado is **REPRIMANDED** and **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

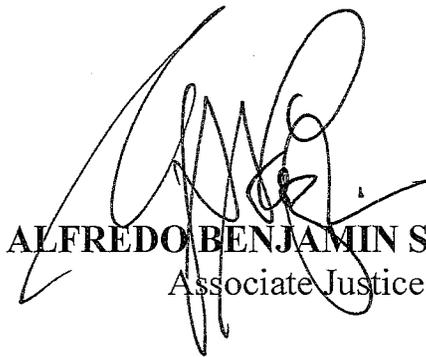


MARION LOPEZ
Associate Justice

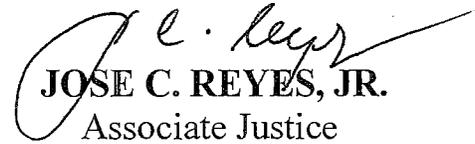
WE CONCUR:



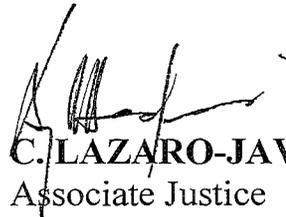
DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice