



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

JONATHAN C. PARUNGAO,  
*Complainant,*

A.C. No. 12071

- *versus* -

ATTY. DEXTER B.  
LACUANAN,  
*Respondent.*

Present:

PERLAS-BERNABE, J.,  
Chairperson,  
REYES, A., JR.,  
HERNANDO,  
INTING, and  
DELOS SANTOS, JJ.

Promulgated:

11 MAR 2020

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DECISION

**HERNANDO, J.:**

The present administrative case arose from a Disbarment Complaint initiated by Jonathan C. Parungao (Jonathan) against respondent Atty. Dexter B. Lacuanan (Lacuanan) before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP), docketed as CBD Case No. 13-4044, for representing conflicting interests.

In his Complaint, Jonathan alleged that he was introduced by his wife, Mary Grace, to Atty. Lacuanan in 2007. Since then, Atty. Lacuanan had served as Jonathan's counsel in several transactions which involved either Jonathan alone or both Jonathan and Mary Grace (Spouses Parungao). In 2008, Jonathan, who was then still engaged in the buy and sell business, consulted Atty.

Lacuanan regarding the collection of payment from a client. Thereafter, he retained Atty. Lacuanan's services and paid his professional fees amounting to ₱3,000.00 for consultation or conference. In 2009, Jonathan had a pending application for dealership with Chevron, and Atty. Lacuanan submitted a proposal for a retainer agreement for the said business with a retainer fee of ₱5,000.00, but such agreement did not push through. In March 2011, the Spouses Parungao availed of Atty. Lacuanan's services for the purchase of a lot from the Metropolitan Banking and Trust Company (Metrobank). The Deed of Absolute Sale for the said lot was executed on May 13, 2011 between Metrobank as vendor and the Spouses Parungao as vendees. Atty. Lacuanan also had to verify with the Regional Trial Court (RTC) of Quezon City, Branch 96 the existence of a purported writ of possession for the same lot. For this engagement, Atty. Lacuanan was paid ₱2,000.00 per appearance. In addition, Atty. Lacuanan, using his letterhead, drafted and signed a demand letter dated November 2, 2011 on behalf of his client, Jonathan, addressed to one Remedios S. Espela (Espela), requiring Espela to pay the ₱35,000.00 estimated cost of the necessary repairs on the defective Toyota Fortuner which Espela sold to Jonathan or otherwise, to give back the entire amount of consideration paid by Jonathan for the said vehicle upon return of its possession to her.

According to Jonathan, more than just a professional relationship, a friendship also developed between him and Atty. Lacuanan. Atty. Lacuanan dined several times with him and his wife in Greenhills, San Juan. Atty. Lacuanan even visited Jonathan's car showroom in Dampa, Libis. Jonathan had confided with Atty. Lacuanan details regarding his personal life, family, and even about his marriage.

Jonathan further narrated that by February 2013, his marriage with Mary Grace was encountering serious problems. Jonathan was suddenly served with a subpoena from the Office of the City Prosecutor of Quezon City requiring him to attend the preliminary investigation hearings scheduled on May 22 and June 6, 2013 of the Criminal Complaint for Concubinage, Physical Injury, and Threat, in relation to Republic Act (R.A.) No. 9262,<sup>1</sup> filed against him by Mary Grace. Jonathan was surprised that Atty. Lacuanan attended the said hearings before the Assistant City Prosecutor as counsel for Mary Grace. Subsequently, in September 2013, Jonathan received Summons dated August 30, 2013 with the attached Petition for Declaration of Nullity of Marriage filed by Mary Grace, through her counsel, Atty. Lacuanan, and docketed as R-QZN-13-02668 before the RTC of Quezon City, Branch 107.

Based on the foregoing allegations, Jonathan prayed for the disbarment of Atty. Lacuanan for representing conflicting interests in violation of Canons 15.03 and 17 of the Code of Professional Responsibility (CPR), the Lawyer's Oath, and Section 20 of Rule 138 of the Rules of Court. He maintained that there was no severance of the attorney-client relationship between him and Atty. Lacuanan and it had continued from the time they met in 2007 until the

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<sup>1</sup> Otherwise known as "Anti-Violence Against Women and Their Children Act of 2004."

filing of the criminal complaint against Jonathan before the Quezon City Prosecutor's Office. Jonathan argued in the alternative that even if there was already a termination of the attorney-client relationship between him and Atty. Lacuanan, the latter still committed the violations he was being charged with in the Disbarment Complaint as the lawyer's duty to protect his client's confidences extended beyond the expiration of the professional employment. Jonathan asserted that during the time they got together, whether for professional consultations or personal visits, he had confided to Atty. Lacuanan personal matters which the latter could use against him in Mary Grace's criminal complaint and civil case. He had not given Atty. Lacuanan any written consent to represent Mary Grace as counsel in the criminal and civil proceedings against him.

Among the documentary evidence Jonathan submitted in support of his Disbarment Complaint were a copy of the Deed of Absolute Sale dated May 13, 2011 between Metrobank and the Spouse Parungao and the demand letter dated November 2, 2011 to Espela printed on Atty. Lacuanan's letterhead and signed by Atty. Lacuanan to prove that said lawyer had previously rendered legal services to Jonathan and his wife Mary Grace; and an Affidavit dated March 21, 2014 executed by Leonora C. Parungao, Jonathan's mother, to corroborate Jonathan's assertion that Atty. Lacuanan never asked for Jonathan's consent to represent Mary Grace as counsel in the criminal complaint and civil case when they all met at the Quezon City Prosecutor's Office.

Atty. Lacuanan, for his part, admitted that he had been friends with Mary Grace since 2006 and that Mary Grace introduced him to Jonathan in 2007. He denied, though, that he and Jonathan were close friends and that the latter confided or divulged to him anything about his personal life and marital affairs.

Atty. Lacuanan further contended that there was no standing attorney-client relationship between him and Jonathan. He only rendered intermittent professional services to the Spouses Parungao from 2008 to 2011, all relating to Jonathan's businesses. He pointed out that Jonathan himself could particularly identify and prove only a couple of such transactions, the last one being way back in 2011. Even then, they had only met face-to-face around six times, since they communicated mostly through cellphone or through Mary Grace. He maintained that there was no conflict of interest under the purview of Rule 15.03 of the CPR because Jonathan was no longer his client at the time he agreed to be Mary Grace's counsel in the criminal and civil proceedings against Jonathan; and more importantly, he did not acquire any information, confidential or otherwise, which would be valuable or material in the pending legal proceedings between the Spouses Parungao. The information as regards Jonathan's standing, income, capacity to pay, assets and liabilities, and businesses – which Jonathan claimed to be valuable in the petition for declaration of nullity of marriage filed by Mary Grace – were not confidential as these were all known to Mary Grace as Jonathan's wife. In addition, Atty. Lacuanan argued that a lawyer is forbidden from representing a subsequent

client only when the subject matter of the present controversy is related, directly or indirectly, to the subject matter of the previous litigation in which he appeared for a former client. The demand letter he prepared for Jonathan and the verification he made to check the legal intricacies of the sale of the lot from Metrobank to the Spouses Parungao are totally alien, unrelated, and immaterial to Mary Grace's criminal complaint and civil case against Jonathan.

In addition, Atty. Lacuanan avowed that he was not initially involved in Mary Grace's filing of the criminal complaint for concubinage, physical injury, and threat against Jonathan at the Quezon City Prosecutor's Office on April 19, 2013 since he was out of the country from March 29 to April 29, 2013. Mary Grace only secured his professional services thereafter. He also recounted that at one instance, he met Jonathan at the Quezon City Prosecutor's Office as regards Mary Grace's criminal complaint and he took the opportunity to fully disclose to Jonathan about his possible legal representation for Mary Grace in the said criminal proceedings as well as in the civil case for declaration of nullity of marriage which was then yet to be filed. Jonathan did not object and only requested that Atty. Lacuanan convince Mary Grace not to pursue the criminal complaint. It was only after making the full disclosure to Jonathan that Atty. Lacuanan accepted the engagement with Mary Grace for the criminal and civil proceedings against Jonathan.

Atty. Lacuanan submitted Mary Grace's Affidavit dated January 9, 2014 to establish the circumstances of his professional engagements with her for the criminal complaint and civil case against Jonathan.

### **Report and Recommendation of the Integrated Bar of the Philippines**

In his Report and Recommendation<sup>2</sup> dated May 19, 2014, Investigating Commissioner Honesto A. Villamor generally adopted Atty. Lacuanan's allegations and arguments and ruled that no conflict of interest existed in the present case. Thus, he recommended that Jonathan's charges against Atty. Lacuanan be dismissed.

However, the IBP Board of Governors passed Resolution No. XXI-2015-319<sup>3</sup> on April 19, 2015, which reads:

*RESOLVED to REVERSE, as it is hereby REVERSED and SET ASIDE, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", finding Respondent guilty of conflict of interest. Respondent being the counsel to spouses Jonathan and Mary Grace Parungao in certain criminal and civil cases and is thus proscribed from appearing as counsel for the wife, Mary Grace, or for the husband Complainant herein, as the case may be, in cases where both parties are contending protagonists. Hence, Atty. Dexter B.*

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<sup>2</sup> Rollo, pp. 140-144.

<sup>3</sup> Id. at 139.



*Lacuanan is hereby **SUSPENDED** from the practice of law for one (1) month.*

In its Extended Resolution<sup>4</sup> dated August 11, 2016, the IBP Board of Governors held that Atty. Lacuanan was administratively liable on the basis of the following: (a) the rule prohibiting the representation of conflicting interest covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used; (b) Atty. Lacuanan's acceptance of the engagement with Mary Grace invited suspicion of unfaithfulness and double dealing which led to the filing of the instant Disbarment Complaint; (c) Atty. Lacuanan's actions in representing Mary Grace in the civil and criminal cases filed against Jonathan, a former client, even if these cases were totally unrelated to Atty. Lacuanan's previous engagement with the Spouses Parungao, were improper and constituted serious misconduct; (d) The termination of the attorney-client relationship provides no justification for a lawyer to represent an interest adverse to or in conflict with a former client because the client's confidence reposed on his attorney could not be divested by the mere expediency of terminating the professional engagement; and (e) Atty. Lacuanan likewise violated the duty imposed upon him as an attorney under Section 20(e), Rule 138 of the Rules of Court to maintain inviolate the confidence and, at every peril to himself, to preserve the secrets of his client.

The IBP Board of Governors, in Resolution No. XXII-2017-1307<sup>5</sup> dated April 20, 2017, denied Atty. Lacuanan's Motion for Reconsideration.

### **Our Ruling**

The Court resolves not to adopt the findings of the IBP Board of Governors. We hold that Atty. Lacuanan is not guilty of representing conflicting interests and absolves him of all administrative charges.

At the outset, the Court notes that based on evidence on record, when Atty. Lacuanan agreed in 2013 to represent Mary Grace as her legal counsel in the criminal and civil proceedings that the latter instituted against her husband and herein complainant, Jonathan, there was no longer an existing attorney-client relationship between Atty. Lacuanan and Jonathan. As Atty. Lacuanan avers, his engagements with Jonathan were intermittent and limited. In particular, these involved facilitating the sale of a lot by Metrobank to the Spouses Parungao and verifying the legal implications thereof; plus drafting a demand-letter to Espela concerning a defective vehicle sold to Jonathan, both of which took place in 2011. There was no standing retainer agreement between Atty. Lacuanan and Jonathan. The Court shall keep these factual considerations in mind in resolving Jonathan's Disbarment Complaint.

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<sup>4</sup> Id. at 145-152, penned by Atty. Leo B. Malagar, Assistant Director for Bar Discipline.

<sup>5</sup> Id. at 162.

The prohibition against a lawyer representing conflicting interests is rooted in his duty to protect the interest and confidence of his clients.

A member of the bar vows in the Lawyer's Oath to conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his client. To ensure the fidelity of a lawyer to his clients, Canon 15.03 of the CPR prescribes that "[a] lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts[;]" while Canon 17 of the same Code mandates that "[a] lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed in him." Section 20(e) of Rule 138 of the Rules of Court likewise enjoins a lawyer "[t]o maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client x x x."

A lawyer's duty to protect the interest and confidence of his client, together with the corollary obligation not to represent interest in conflict or inconsistent with the same, extends even beyond the end of his professional engagement with said client.

The termination of attorney-client relation provides no justification for a lawyer to represent an interest adverse to or in conflict with that of the former client. The client's confidence once reposed should not be divested by mere expiration of professional employment. Even after the severance of the relation, a lawyer should not do anything which will injuriously affect his former client in any matter in which he previously represented him nor should he disclose or use any of the client's confidences acquired in the previous relation.<sup>6</sup>

In addition, "[t]he protection given to the client is perpetual and does not cease with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client."<sup>7</sup>

In *Quiambao v. Bamba*<sup>8</sup> (*Quiambao Case*), the Court had the occasion to lay down the tests by which it can be determined whether or not a conflict of interests exists:

Rule 15.03, Canon 5 of the Code of Professional Responsibility provides: "A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts." This prohibition is founded on principles of public policy and good taste. In the course of a lawyer-client relationship, the lawyer learns all the facts connected with the client's case, including the weak and strong points of the case. The nature of that relationship is, therefore, one of trust and confidence of the highest degree. It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to

<sup>6</sup> *Heirs of Falame v. Baguio*, 571 Phil. 428, 441-442 (2008).

<sup>7</sup> *Id.* at 442.

<sup>8</sup> 505 Phil. 126 (2005).

their lawyers, which is of paramount importance in the administration of justice.

In broad terms, lawyers are deemed to represent conflicting interests when, in behalf of one client, it is their duty to contend for that which duty to another client requires them to oppose. Developments in jurisprudence have particularized various tests to determine whether a lawyer's conduct lies within this proscription. 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 interests 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.**<sup>9</sup> (Emphasis supplied.)

Of the three tests identified above, the third test – with references to “new relation,” “former client,” and “previous employment” – specifically applies to a situation wherein the professional engagement with the former client was already terminated when the lawyer entered into a new engagement with the present client. It bears to stress that this test explicitly requires the lawyer's use against his former client of “confidential information acquired through their connection or previous employment.”

The Court further categorically declared in *Palm v. Iledan, Jr.*<sup>10</sup> that “[a] lawyer's immutable duty to a former client does not cover transactions that occurred beyond the lawyer's employment with the client. The intent of the law is to impose upon the lawyer the duty to protect the client's interests only on matters that he previously handled for the former client and not for matters that arose after the lawyer-client relationship has terminated.”

Hence, for there to be conflicting interests when a former client is involved, the following circumstances must concur: (a) the lawyer is called upon in his present engagement to make use against a former client confidential information which was acquired through their connection or previous employment, and (b) the present engagement involves transactions that occurred during the lawyer's employment with the former client and matters that the lawyer previously handled for the said client.

In contrast, when the opposing parties are both the lawyer's present clients, the prohibition on conflicting interests is necessarily stricter and its extent broader, as reflected in the following pronouncements of the Court in the *Quiambao Case*:

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<sup>9</sup> Id. at 133-134.

<sup>10</sup> 617 Phil. 212, 221 (2009).

The proscription against representation of conflicting interests applies to a situation where the **opposing parties are present clients in the same action or in an unrelated action**. It is of no moment that the lawyer would not be called upon to contend for one client that which the lawyer has to oppose for the other client, or that there would be no occasion to use the confidential information acquired from one to the disadvantage of the other as the two actions are wholly unrelated. **It is enough that the opposing parties in one case, one of whom would lose the suit, are present clients and the nature or conditions of the lawyer's respective retainers with each of them would affect the performance of the duty of undivided fidelity to both clients.**<sup>11</sup> (Emphasis supplied.)

Under Canon 21 of the CPR, “[a] lawyer shall preserve **the confidences and secrets** of his client even after the attorney-client relation is terminated.” It is settled that the mere relation of attorney and client does not raise a presumption of confidentiality. Proof must be presented that the client intended the communication to be confidential.<sup>12</sup>

In the case at bar, Jonathan failed to establish that Atty. Lacuanan has confidential information which the latter acquired through their connection or previous employment and which can be used against him in the pending civil and criminal proceedings instituted by Mary Grace. Jonathan generally avers that in the course of their professional and personal relations, he had shared with Atty. Lacuanan confidential information as regards his marital and family life as well as his businesses and properties. However, these are merely his bare allegations, unsubstantiated by any piece of evidence, and disputed by Atty. Lacuanan.

Relevant herein is the ruling of the Court in *BSA Tower Condominium v. Reyes II*,<sup>13</sup> placing the burden of proof on the complainant to prove with substantial evidence the allegations in his administrative complaint against a lawyer, thus:

The Court has consistently held that **an attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved**, and that as an officer of the court, he is presumed to have performed his duties in accordance with his oath. Burden of proof, on the other hand, is defined in Section 1 of Rule 131 as the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, which is that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Further, **the complainant has the burden of proving by substantial evidence the allegations in his complaint. The basic rule is that mere allegation is not evidence and is not equivalent to proof.**

<sup>11</sup> *Quiambao v. Bamba*, supra note 8 at 134-135.

<sup>12</sup> *Palm v. Iledan, Jr.*, supra note 10 at 219-220.

<sup>13</sup> A.C. No. 11944, June 20, 2018.



Likewise, charges based on mere suspicion and speculation cannot be given credence. x x x (Emphasis supplied.)

It was also completely unnecessary, and not to mention highly improbable, for Atty. Lacuanan to have acquired knowledge of all of Jonathan's assets and businesses in order to carry out or accomplish their previous engagements. To recall, Jonathan employed the services of Atty. Lacuanan for two specific matters, *i.e.*, to facilitate the sale of a lot from Metrobank to the Spouses Parungao and draft a demand-letter concerning a defective vehicle sold to Jonathan. These are apparently simple undertakings which Atty. Lacuanan could get done even with limited information.

Moreover, there is merit to Atty. Lacuanan's argument that the allegations of concubinage, grounds for both the criminal and civil proceedings against Jonathan, are based on public records, particularly, the final and executory Decision dated September 27, 2002 of the Court of Appeals in C.A. G.R. No. 70503, which recalled and set aside the Decision dated May 28, 1999 of the RTC of Valenzuela, Branch 75, declaring null and void Jonathan's previous marriage to one Annaliza Javellana-Parungao (Annaliza). The said Decision of the appellate court effectively upheld the validity of Jonathan's previous marriage to Annaliza. Documents which are public records could not be considered confidential.<sup>14</sup>


Finally, Mary Grace has employed the services of Atty. Lacuanan as counsel for two legal proceedings against Jonathan, *viz.*, (a) the criminal complaint for concubinage, physical injury, and threat, in relation to R.A. No. 9262; and (b) the petition for declaration of nullity of marriage. The significant events which led to the institution of said proceedings only took place from late 2012 onwards. It is being alleged in both proceedings that Jonathan separated from Mary Grace and left the family dwelling in November 2012; that Mary Grace discovered in February 2013 that Jonathan was already cohabiting with another woman; and that when Mary Grace chanced upon Jonathan and his other woman on April 17, 2013, an altercation ensued between them, with Jonathan ultimately inflicting physical injury on Mary Grace. The pending criminal and civil proceedings against Jonathan in which Atty. Lacuanan now acts as counsel for Mary Grace evidently involve matters that are totally distinct and unrelated to Atty. Lacuanan's previous two engagements with Jonathan, which only pertained to the acquisition of a lot and a defective vehicle in 2011. Absent any showing that said lot and vehicle still formed part of the current marital assets of the Spouses Parungao, they have no material significance in the pending proceedings between the spouses.

**WHEREFORE**, the instant Disbarment Complaint of Jonathan C. Parungao against Atty. Dexter B. Lacuanan is hereby **DISMISSED** for lack of merit.

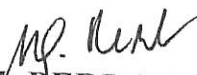
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<sup>14</sup> *Palm v. Iledan, Jr.*, *supra* note 10 at 219.

**SO ORDERED.**


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**ESTELA M. BERLAS-BERNABE**  
Senior Associate Justice  
Chairperson

  
**ANDRES B. REYES, JR.**  
Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice