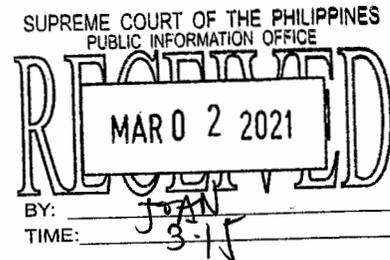


**REVISED**



Republic of the Philippines  
Supreme Court  
Manila



EN BANC

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court en banc issued a Resolution dated **JULY 28, 2020**, which reads as follows:*

**“A.C. No. 11601 – (Atty. Julieta A. Omaña, complainant v. Atty. Dwight M. Galarrita respondent).** – The instant administrative case arose from a Complaint for Disbarment<sup>1</sup> filed by Atty. Julieta A. Omaña (complainant) against Atty. Dwight M. Galarrita (respondent), charging him of malicious and gross violation of the Confidentiality Rule in Disbarment Proceedings as provided under Section 18,<sup>2</sup> Rule 139-B of the Rules of Court.<sup>3</sup>

Complainant in the present case is a member of the Bar with Roll No. 33694. She is a private practicing lawyer and her law office is located in Gumaca, Quezon.<sup>4</sup>

A complaint for disbarment was filed against herein complainant by Rodolfo Espinosa (Espinosa) and Maximo Glindo (Glindo).<sup>5</sup> Their counsel was herein respondent, Atty. Dwight M. Galarrita, Roll No. 42425 and with a law office located in Makati City. In the said disbarment complaint, it was alleged that complainant committed a violation of Rule 1.01 of Canon 1 of the Code of Professional Responsibility for notarizing an illegal document. The illegal document pertains to the “*Kasunduan ng Paghihiwalay*” (*Kasunduan*)<sup>6</sup> of Espinosa and his wife, Elena Marantal, which was said to be prepared and notarized by complainant. In her defense, complainant denied that she prepared the illegal document.<sup>7</sup> She admitted that the spouses Espinosa went to her to have the *Kasunduan* to be notarized. After realizing that the document is illegal, she declines to notarize it and instead

<sup>1</sup> Rollo, pp. 2-7.

<sup>2</sup> Section 18. *Confidentiality*. – Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases.

<sup>3</sup> Rollo, p. 7.

<sup>4</sup> Id. at 2.

<sup>5</sup> Id. at 627.

<sup>6</sup> Id. at 628-629.

<sup>7</sup> Id. at 629-630.

advise the couple to proceed to the barangay. However, unbeknownst to her and while she was out of the office, the spouses returned the next day to her office and her part-time office staff, Arlene Dela Peña, notarized the *Kasunduan* charging them ₱300.00.<sup>8</sup>

On February 6, 2007, Integrated Bar of the Philippines (IBP) Commissioner, Atty. Salvador B. Hababag recommended to the Board of Governors of the IBP that herein complainant be suspended for one year from the active practice of law and two years as notary public.<sup>9</sup> On September 19, 2007, through Resolution No. XVIII-2007-86, the recommendation was adopted and approved by the Board of Governors of the IBP.<sup>10</sup> A motion for reconsideration was filed by complainant but the same was denied.<sup>11</sup> Thus, the Resolution was thereafter referred to the Supreme Court. On October 12, 2011, the Supreme Court suspended complainant from the practice of law for one year and revoked her notarial commission if still existing and suspended her as a notary public for two years.<sup>12</sup> Complainant filed for a motion for reconsideration but the same was denied with finality through a Resolution<sup>13</sup> dated December 7, 2011.

Thus, complainant's suspension became final and executory on December 7, 2011. However, prior to the said date, herein respondent was already disseminating the information of the said suspension violating the confidentiality rule of disbarment proceedings provided under the Rules of Court. In her complaint, complainant enumerated the instances wherein respondent allegedly disclosed the said suspension and/or her pending case for disbarment:

1. On October 19, 2011, 10:00 a.m., respondent caused the airing and broadcasting of the said suspension via DZMM Silveradio and DZMM Channel 3 reported by Radio Patrol Alex Calda and at 12:00 noon by Julius Babao;
2. On October 19, 2011, a flash news was seen by complainant printed on the television screen on DZMM Channel stating "Abugado Sinuspende ng Supreme Court";
3. On October 26, 2011, during the hearing of the case "*Maximo Glindo and Monchito Origines v. Hon. Elizabeth SJ Mata, et. al.*" before Branch 61 of the Regional Trial Court of Gumaca, Quezon,

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<sup>8</sup> Id. at 17.

<sup>9</sup> Id. at 18.

<sup>10</sup> Id. at 14-15.

<sup>11</sup> Id. at 4.

<sup>12</sup> Id. at 633.

<sup>13</sup> Id. at 189.

- respondent uttered and addressed complainant as “Unprofessional” and other unsavory remarks;
4. On August 12, 2011, 9:00 a.m., during the hearing of the Municipal Trial Court (MTC) Civil Case No. 1125 entitled “*Christ the Living Rock Church, Inc. v. Southern Quezon Bible Christian Communities, represented by Maximo Glindo*” before MTC Judge Elizabeth San Juan Mata of Calauag, Quezon, in the presence of her representatives, Erwin Aquino and Benjamin Bunjak, Jr., the parties to the case, and other court personnel and staff, while complainant was absent, herein respondent spoke of, “off the record”, complainant’s suspension and which may be the reason of complainant’s absence at the said trial. The presiding judge inquired if respondent has proof of the said suspension and he got a paper from his file and handed it over to the presiding judge, uttered again that such is “off the record” and confidential in which the presiding judge receiving the paper agreed. After reading, the presiding judge then turned to complainant’s representative, Aquino and Bunjak, and asked them if they knew about the said suspension, and they answered that they are not aware of it; and
  5. In the afternoon of September 26, 2011, during the hearing of the case of “*People of the Philippines v. Maximo Glindo and Mochito Orignes*” for Illegal Cutting of Coconut Trees before Judge Elizabeth M. San Juan-Mata, MTC Judge of Gumaca, Quezon, respondent objected to the presentation of witness by complainant and at the same time objected to complainant’s appearance and under the premise that it is “off the record” inquired from the court and stated that complainant was suspended in the practice of law for one year and two years as Notary Public based on the copy of the resolution of the IBP Board of Governors which his client has.<sup>14</sup>

Hence, complainant filed the instant disbarment complaint against herein respondent before the IBP.

Respondent, on the other hand, refutes the allegations of complainant. In his position paper<sup>15</sup> filed before the IBP, respondent denies any participation in the airing, broadcasting and press release of complainant’s suspension. He claims that complainant is a public servant and as such, it is upon her that the news of her suspension was released.<sup>16</sup> Further, respondent said that in the court hearings mentioned by complainant, it was complainant who made it public when he inquired about the status of her case off the

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<sup>14</sup> Id. at 2-5.

<sup>15</sup> Id. at 620-625.

<sup>16</sup> Id. at 622.

record. Respondent also blames the court stenographer who was assigned during the September 26, 2011 hearing and should be sanctioned administratively as he already said that his statements be off the record yet she continued to transcribed the verbal exchanges that went on. That being said, respondent claims that the transcript of stenographic notes (TSN) dated September 26, 2011 was fabricated.<sup>17</sup>

In the Notice of Resolution<sup>18</sup> dated February 21, 2015, the Board of Governors of the IBP resolved to adopt the findings of fact and recommendation of Investigating Commissioner Joel L. Bodegon to suspend herein respondent for violation of Section 18, Rule 139-B of the Rules of Court and Canon 8 of the Code of Professional Responsibility. However, the Board modified the recommended penalty of one year suspension to two years suspension from the practice of law.<sup>19</sup>

Respondent thereafter filed a Motion for Reconsideration<sup>20</sup> to the Board. He prayed that his penalty be reconsidered and reduced to six months suspension from the practice of law, as two years is too severe of a penalty. On May 28, 2016, the Board resolved respondent's motion denying the same on the ground that there is no new reason and/or new argument adduced to warrant the reversal of the previous findings and decision.<sup>21</sup>

Hence, the present Petition for Review<sup>22</sup> filed by respondent seeking for the reversal of the assailed resolutions of the IBP Board of Governors.

The sole issue to be resolved is whether or not respondent is guilty of violation of Section 18, Rule 139-B of the Rules of Court and Canon 8 of the Code of Professional Responsibility.

After review of the allegations and documents presented by both parties, We agree with the findings of the IBP Board of Governors that herein petitioner is guilty of violating Section 18, Rule 139-B of the Rules of Court and Canon 8 of the Code of Professional Responsibility.

As a general rule, disbarment proceedings are confidential in nature until their final resolution and the final decision of this Court.<sup>23</sup> Section 18, Rule 139 of the Rules of Court states that proceedings against attorneys shall

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<sup>17</sup> Id.

<sup>18</sup> Id. at 669-670.

<sup>19</sup> Id. at 669.

<sup>20</sup> Id. at 655-659.

<sup>21</sup> Id. at 667-668.

<sup>22</sup> Id. at 680-684.

<sup>23</sup> *Fortun v. Quinsayas, et al.* 703 Phil. 578, 596 (2013).

be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases. The Court explained the purpose of the rule, as follows:

The purpose of the rule is not only to enable this Court to make its investigations free from any extraneous influence or interference, but also to protect the personal and professional reputation of attorneys and judges from the baseless charges of disgruntled, vindictive, and irresponsible clients and litigants; it is also to deter the press from publishing administrative cases or portions thereto without authority. We have ruled that malicious and unauthorized publication or verbatim reproduction of administrative complaints against lawyers in newspapers by editors and/or reporters may be actionable. Such premature publication constitutes a contempt of court, punishable by either a fine or imprisonment or both at the discretion of the Court.<sup>24</sup>

It is notable that in the case at bar, respondent disclosed the suspension of herein complainant prior to the date when it became final and executory. Respondent could not argue that the resolution from the IBP is final just because the complainant failed to show any pleading questioning the same. As an experienced lawyer, he should have known the disbarment process and when a case becomes final. In *Relativo v. De Leon*,<sup>25</sup> the Court ruled that the premature disclosure by publication of the filing and pendency of disbarment proceedings is a violation of the confidentiality rule.<sup>26</sup>

Also, upon a reading of what transpired during the September 26, 2011 hearing, it should be noted that the court already informed herein respondent twice that as long as there is no order or circular from the Supreme Court informing them of the status of the disbarment case of complainant, they cannot prevent her from appearing.<sup>27</sup> The trial court through the presiding judge even informed the respondent of how the proceeding for disbarment goes. Yet, respondent insists that herein complainant produce before said trial court her comment or opposition to the IBP resolution of her suspension, thereby, prolonging the discussion of the said issue even when the trial court already gave its position. This eventually resulted for the trial court, warning the respondent that he may be opening himself to an administrative case even if his query is off the record considering that many litigants were present, to which respondent clearly replied that he accepts the consequences.<sup>28</sup> This action of respondent clearly showed his intent to humiliate and tarnish the reputation of complainant as a lawyer by letting others know of the complainant's pending disbarment case, fully disregarding the rule on confidentiality. His acts not only showed disrespect towards his fellow counsel but also to the court at that time.

<sup>24</sup> *Saludo, Jr. v. Court of Appeals*, 522 Phil. 556, 561 (2006).

<sup>25</sup> 703 Phil. 578 (2013).

<sup>26</sup> *Rollo*, p. 107.

<sup>27</sup> *Id.* at 84-89, TSN dated September 26, 2011, pp. 7-13.

<sup>28</sup> *Id.* at 92-94, *id.* at 15-17.

Respondent even accused the stenographer of fabricating the TSN of September 26, 2011 hearing. He insinuates that the stenographer's continued act of transcribing, even though he already said it to be off the record, is irregular.

We are not convinced.

Basic is the rule that public officer or employees are presumed to have regularly performed their duties. In this case, respondent failed to show any evidence that would render the act of the stenographer be irregular. His claim that the TSN was fabricated is unsupported. Respondent also does not have any proof of the motive of the stenographer to concoct a TSN against him. As such, the presumption of regularity prevails.

Based on the foregoing, respondent's actions were in clear disregard of a lawyer's professional responsibility to accord due respect towards his fellow lawyer, and to the officers of the court as well. Respondent's deliberate disclosure of the disbarment case of complainant does not only show disregard to the confidentiality rule, but also a clear intent to malign complainant's reputation and somehow discredit her as a lawyer to the public. "Case law instructs that [l]awyers should treat their opposing counsels and other lawyers with courtesy, dignity[,] and civility. A great part of their comfort, as well as of their success at the bar, depends upon their relations with their professional brethren. Since they deal constantly with each other, they must treat one another with trust and respect. Any undue ill feeling between clients should not influence counsels in their conduct and demeanor toward each other. Mutual bickering, unjustified recriminations[,] and offensive behavior among lawyers not only detract from the dignity of the legal profession, but also constitute highly unprofessional conduct subject to disciplinary action."<sup>29</sup>

However, We find that the two year suspension recommended by the IBP is too harsh of a penalty to be imposed to herein respondent. It is well-settled that "[t]he appropriate penalty to be imposed on an errant attorney involves the exercise of sound judicial discretion based on the facts of the case."<sup>30</sup> We note that the penalty imposed to complainant which was disclosed by herein respondent prior to the finality of the disbarment proceeding against her, turned out to be the penalty adopted by this Court. In effect, the disclosure of respondent did not add any damage to complainant though the intent to do the same was present. Disbarment and suspension of an attorney are the most severe forms of disciplinary action;

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<sup>29</sup> *Atty. Roque, Jr. v. Atty. Balbin*, A.C. No. 7088, December 04, 2018. (Citation omitted)

<sup>30</sup> *Judge Macias v. Atty. Selda*, 484 Phil. 10, 14 (2004).

thus, they should be imposed with great caution.<sup>31</sup> While the Court will not hesitate to remove an erring lawyer from the Bar, where the evidence calls for it, the Court will also not disbar him where a lesser penalty will suffice to accomplish the desired end.<sup>32</sup> Thus, We find that the penalty of a fine would suffice following the ruling in the case of *Fortun v. Quinsayas*<sup>33</sup> wherein respondent in the said case was also found guilty of violating the rule on confidentiality of disbarment proceedings.

**WHEREFORE**, premises considered, the Court finds Atty. Dwight M. Galarrita to have violated the rule on confidentiality of disbarment proceedings as stated in Section 18, Rule 139-B of the Rules of Court. He is hereby sentenced to pay a **FINE** of **₱50,000.00\*** with a **WARNING** that a similar offense by him will be dealt with more severely.” Leonen, J., on leave. (4)

By authority of the Court:

  
**EDGAR O. ARICHETA**  
Clerk of Court

<sup>31</sup> *Núñez v. Atty. Astorga*, 492 Phil. 450, 457 (2005).

<sup>32</sup> *Lim v. Atty. Mejica*, 794 Phil. 560, 571 (2016).

<sup>33</sup> *Supra* note 23.

\* Amount revised from ₱50,0000.00 to ₱50,000.00.

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