

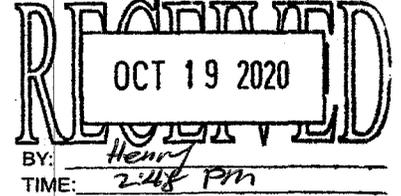


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated March 4, 2020, which reads as follows:

“A.C. No. 11503 (Nelson June A. Cusipag, Complainant, v. Atty. Luis T. Donato, Jr., Respondent). – Through this administrative complaint,¹ Nelson June A. Cusipag (complainant) seeks to hold respondent Atty. Luis T. Donato, Jr. (respondent) administratively liable for conflict of interest when respondent represented Solana Memorial Park (SMP), after having allegedly been consulted by complainant in connection with a pending labor case between the latter and SMP.

Antecedents

Allegedly, in January 2015, complainant and a certain Anastacia Soriano (Soriano) went to respondent’s law office to engage his services in a labor case filed by complainant against SMP.² Respondent interviewed complainant exhaustively on the matter, and in the course of such consultation, complainant even revealed that he filed a disbarment case against Atty. Haxley Galano (Atty. Galano), SMP’s former counsel.³ Since the aforesaid meeting, complainant did not hear from the respondent until he discovered that respondent had been engaged by SMP as its counsel when the said labor case reached the Court of Appeals (CA).⁴

Consequently, complainant filed the present case against the respondent for violation of the rule on conflict of interest, as well as Canon 17 of the Code of Professional Responsibility (CPR).⁵ Complainant attached the affidavits of his driver, one Adrian Acain⁶, Anastacia⁷ and her driver,

¹ *Rollo*, pp. 1-3.

² *Id.* at 1.

³ *Id.* at 1-2.

⁴ *Id.* at 2.

⁵ *Id.* at 2.

⁶ *Id.* at 147.

⁷ *Id.* at 5.

Richard Q. Dayag⁸, to corroborate the allegations in his complaint.

Respondent denied complainant's allegations,⁹ including the alleged consultation by complainant with him in January 2015.¹⁰ According to respondent, complainant's case against him is a sinister move by complainant to harass him and use it as leverage against SMP.¹¹ Complainant's proclivity to file trumped-up charges to suit his whim is further shown by the case he filed against Atty. Galano and *Punong Barangay* Michael Bacud, the *barangay* official who issued a Certificate to File action in favor of SMP.¹²

Respondent further claimed that it was impossible and illogical for complainant to have consulted with him in January 2015, as complainant always been represented by his lawyer, Atty. Malana-Balanon¹³ since he filed the labor case against SMP on 8 October 2014 before the Regional Office of the National Labor Relations (NLRC) in Tuguegarao City.¹⁴ SMP's counsel that time was Atty. Haxley Galano (Atty. Galano).¹⁵ On the other hand, respondent became SMP's counsel only on 15 August 2016, when he agreed to file a motion for extension of time to file a comment on the petition for *certiorari*.¹⁶

Relative to this, respondent asserted that he only communicated to complainant on the following dates:

- 1) On 20 June 2016, when complainant sent him a text message, introducing himself as Mr. Cusipag, and inquiring if respondent was in his office. Respondent called complainant, who said that he merely wanted a lawyer to sign some documents. When respondent informed complainant that he does not sign documents that he did not personally prepare, complainant requested respondent to notarize some documents instead. Respondent told complainant to come to his office but the latter failed to do so;¹⁷
- 2) On 4 July 2016, complainant sent a text message that he would call respondent, but did not;¹⁸

⁸ *Id.* at 148.

⁹ *Id.* at 50.

¹⁰ *Id.*

¹¹ *Id.* at 52.

¹² *Id.*

¹³ *Id.* at 51.

¹⁴ *Id.* at 44.

¹⁵ *Id.* at 44.

¹⁶ *Id.* at 48.

¹⁷ *Id.* at 46-47.

¹⁸ *Id.* at 47.

- 3) On 5 July 2016, complainant sent a text message inquiring if respondent was at his office. When respondent called complainant, the latter said that he just wanted an opinion on a case he filed;¹⁹ and
- 4) On 2 August 2016, complainant went to his office requesting that he draft a demand letter in Anastacia's behalf, but he did not accede to such request. Instead, complainant had an affidavit notarized by Atty. Michael Tamayao (Atty. Tamayao), respondent's partner in his law office.²⁰

Finally, respondent denied that it was complainant who told him about about the disbarment case of the latter against Atty. Galano, as the truth is that he acquired such information from Atty. Galano himself, who was his law school classmate, and a co-teacher in Cagayan State University- College of Law.²¹

Report and Recommendation of the Commission on Bar Discipline

The Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD), through its Report and Recommendation dated 28 May 2018, recommended the dismissal of the administrative case against respondent.²² It found that complainant was not able to substantiate the allegations of his complaint and deemed the veracity of his allegations doubtful. He also doubted the veracity of complainant's allegations, noting the disbarment case filed by complainant against SMP's former counsel, as well as complainant's willingness to settle the present case depending on respondent's offer. It further explained that complainant's willingness to settle brings suspicion to the latter's motives in filing the administrative case against the respondent.²³ The Board of Governors issued a Resolution dated 06 December 2018, recommending the dismissal of the instant case, to wit:

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

Hence, the case was transmitted to this Court for review.

Issue

The only issue in this case is whether or not Atty. Donato, Jr. should

¹⁹ *Id.* at 47-48.

²⁰ *Id.* at 48.

²¹ *Id.* at 51.

²² Copy attached to the rollo; penned by IBP-CBD Commissioner Abelardo P. De Jesus.

²³ *Id.*

be administratively disciplined based on the allegations in the complaint and evidence on record.

Ruling of the Court

We are in full accord with the findings of the IBP-CBD.

The prohibition to represent conflicting interests stems from the lawyer's ethical duty to faithfully represent his client's cause. The CPR provides:

CANON 15 - A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENTS.

Xxxx

Rule 15.03. - A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

xxxx

CANON 17 - A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT AND HE SHALL BE MINDFUL OF THE TRUST AND CONFIDENCE REPOSED IN HIM.

An attorney owes his client undivided allegiance. Because of the highly fiduciary nature of their relationship, sound public policy dictates that he be prohibited from representing conflicting interests or discharging inconsistent duties.²⁴ Conflict of interest exists when a lawyer represents inconsistent interests of two or more opposing parties.²⁵ 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.²⁶

Evidently, the proscription against representing conflicting interests presupposes a lawyer-client relationship.²⁷ In this case, however, this Court agrees that the complainant was not able to establish the existence of a professional relationship between him and respondent that would lead respondent to violate the rule on representation of conflicting interests.

At the outset, complainant's allegations do not sufficiently detail his alleged meeting with respondent. His unsubstantiated narration of the

²⁴ *Legaspi v. Fajardo*, A.C. No. 9422, 19 November 2018.

²⁵ *Luyim v. Espina*, A.C. No. 12332, 18 March 2019.

²⁶ *Nuique v. Sedillo*, 715 Phil. 304-317 (2013); A.C. No. 9906, 29 July 2013.

²⁷ *Jimenez v. Francisco*, 749 Phil. 551-575 (2014); A.C. No. 10548, 10 December 2014.

purported January 2015 meeting pales in comparison with respondent's detailed account of his encounters with complainant. There is nothing in the records to show that respondent met with complainant, or that he agreed to advise him on the labor case or any other case he filed against SMP. Indeed, complainant only made general statements that respondent interviewed him, but did not specify what matters were discussed in such meeting.²⁸ Complainant even failed to impress upon the Court how respondent employed the confidential information he supposedly obtained from him to help SMP's cause in the labor case pending before the CA.

Likewise, this Court does not buy complainant's allegation of a consultation with respondent regarding the labor case when he was already actually being represented by Atty. Malana-Balanon at that time. Notably, complainant even admitted in his Reply that his consultation with respondent "[did] not involve the labor case as [he was] already ably represented by Atty. Lea Balanon..." but with other cases involving SMP's purported failure to remit its SSS and PAG-IBIG contributions, and its failure to provide complainant with record of withholding his income tax liability.²⁹ Verily, such statement negates or refutes his allegation in the complaint that he went to respondent's law office in January 2015 to engage the latter's services for his labor case against SMP. Moreover, the change in his allegations with regard to the subject of the consultation between him and respondent, to this Court's mind, is but a mere afterthought. It is a last-ditch effort by complainant to give semblance of merit to his case by creating an appearance of ill will on the part of respondent.

All the foregoing duly considered, this Court cannot hold respondent administratively liable and impose upon him disciplinary sanction based only on speculations and the unsubstantiated allegations of complainant. His bare and unsubstantiated allegations do not constitute substantial evidence and have no probative value.³⁰

While this Court is firm in punishing lawyers who fail to live up to their sworn duties, We will, on the other hand, protect them from accusations that have failed the crucible of proof.³¹ To be sure, it is well-settled that in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence, and respondent is not obliged to prove his or her exception or defense.³² It is also well-settled that an attorney enjoys the legal presumption that he or she is innocent of the charges proffered against him or her until the contrary is proved, and that, as an officer of this Court, he or she has performed his or her duties in

²⁸ See *Mercado v. Vitriolo*, A.C. No. 5108, 26 May 2005.

²⁹ *Rollo*, p. 142.

³⁰ See *LNS International Manpower Services v. Padua, Jr.*, 628 Phil. 551-575 (2010); G.R. No. 179792, 05 March 2010, 614 SCRA 322.

³¹ *Goopio v. Maglalang*, A.C. No. 10555, 31 July 2018.

³² *Alag v. Senupe, Jr.*, A.C. No. 12115, 15 October 2018.

March 4, 2020

accordance with his or her oath.³³ Complainant miserably failed to discharge his burden in this case.

WHEREFORE, the Notice of Resolution pertaining to CBD Case No. 18-5525 (ADM Case No. 11503) entitled, Nelson June A. Cusipag v. Atty. Luis T. Donato, Jr., dated 06 December 2018, of the Board of Governors of the Integrated Bar of the Philippines is **NOTED**. This Court resolves to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendations of the Investigating Commissioner in the attached Report and Recommendation dated 28 May 2018, which the Integrated Bar of the Philippines Board of Governors likewise adopted and approved. The Complaint against Atty. Luis T. Donato, Jr. is hereby **DISMISSED**.

Accordingly, the case is considered **CLOSED** and **TERMINATED**.

SO ORDERED.”

Very truly yours,

Mis-DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
10/13/2020

Mr. Nelson June A. Cusipag
 Complainant
 Cagelco Village, Phase 1
 Pallua Sur, 3500 Tuguegarao City

Atty. Luis T. Donato, Jr.
 Respondent
 Donato & Tamayo
 No. 22, Lecaros St. cor. Del Rosario Street
 Centro 05, Tuguegarao City
 3500 Cagayan

Atty. Rosita M. Requillas-Nacional
 Deputy Clerk of Court & Bar Confidant
 OFFICE OF THE BAR CONFIDANT
 Supreme Court, Manila

Atty. Randall C. Tabayoyong
 Director for Bar Discipline
 INTEGRATED BAR OF THE PHILIPPINES
 Dona Julia Vargas Avenue
 Ortigas Center, 1600 Pasig City

JUDICIAL & BAR COUNCIL
 Supreme Court, Manila

PUBLIC INFORMATION OFFICE
 Supreme Court, Manila
 [For uploading pursuant to A.M. 12-7-1-SC]

LIBRARY SERVICES
 Supreme Court, Manila

A.C. No. 11503

(202)
 URES

/s/

³³ *Id.*