



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 October 2020** which reads as follows:*

“A.C. No. 12674 (*Leonardo G. Puno v. Atty. John Nathaniel I. Marasigan*). – For the Court’s resolution is a Complaint-Affidavit¹ dated March 10, 2014 filed by Leonardo G. Puno (complainant) charging Atty. John Nathaniel I. Marasigan (respondent) with violation of the Rules of Court and the Code of Professional Responsibility (CPR).²

The Antecedents

The case stemmed from several criminal cases filed by complainant against Joel R. Umandap (Umandap) at the Davao City Prosecutors Office. On October 8, 2007, the corresponding Informations were filed at the Municipal Trial Courts in Cities (MTCC), 11th Judicial Region, Branch 4, Davao City docketed as Criminal Case Nos. 129, 148-D-07 to 129, 150-D-07 for violation of Presidential Decree No. (PD) 1829³ and Case No. 129-151-D-07 for Perjury.⁴ Respondent was a counsel of Umandap.⁵

On August 13, 2008, during the second scheduled arraignment of Umandap, respondent manifested in open court that he filed an Urgent Motion for Reinvestigation before the Office of the City Prosecutor (OCP), Davao City on the ground that Umandap was deprived of the opportunity to file his counter-affidavit. The MTCC granted the motion and referred the records of the cases back to OCP, Davao City.⁶ Despite

¹ *Rollo*, pp. 2-4.

² *Id.* at 3

³ *Penalizing Obstruction of Apprehension and Prosecution Of Criminal Offenders*.

⁴ *Rollo*, p. 2.

⁵ *Id.*

⁶ *Id.* at 5; penned by Acting Presiding Judge Carfelita B. Cadiante-Flores.

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the lapse of time from August 13, 2008 to February 10, 2009, respondent did not submit any counter-affidavit. Thus, the OCP, Davao City rendered a Resolution on Reinvestigation⁷ dated February 10, 2009 recommending that Umandap be arraigned and trial proceed on the merits. Acting on the Resolution,⁸ the MTCC issued an Order to arraign Umandap on June 16, 2009 which is for the third time.⁹

Six days before the scheduled arraignment, respondent filed an Omnibus Motion [Motion to Quash and Motion to Refer to Another Investigating Prosecutor]¹⁰ stating, among others, that the complaints should be quashed on the ground that “the facts charged do not constitute an offense for lack of probable cause.”¹¹

The events prompted complainant to file the present complaint alleging as follows:

First, respondent falsely quoted Section 3 (a) of Rule 117 of the Rules of Court by adding the phrase “for lack of probable cause” under paragraph 1.a. of his Omnibus Motion, *viz.*:

1. The criminal complaints should be quashed on the ground that:

a. The facts charged do not constitute an offense *for lack of probable cause.*¹² (Emphasis supplied.)

Second, in order to justify his claim that the facts charged do not constitute an offense, respondent cited a Resolution¹³ dated November 5, 2007 issued by the Ombudsman in OMB-M-C-05-0427-I entitled “*Leonardo G. Puno vs. Glenn A. Olandria, et al.*” and alleged that before the instant criminal cases had been filed against Umandap, complainant had already filed several Ombudsman cases against Engineer Zoilo Gudin (Engr. Gudin) and Glenn Olandria, all public officers of the LGU of Panabo City with the Ombudsman; and that neither one of them was ever indicted for lack of sufficient evidence.¹⁴

Paragraph 4 of the Omnibus Motion¹⁵ reads:

⁷ *Id.* at 6-7.

⁸ *Id.*

⁹ *Id.* at 2.

¹⁰ *Id.* at 8-10.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.* at 11-13.

¹⁴ *Id.*

¹⁵ *Id.*

4. The actual facts flowing from these Ombudsman cases are exactly [the] same actual facts in these instant criminal cases. The only exception is that in the former the accused is merely the witness for these public officers as against the private complainant while in the latter he is now the accused, singling him out for revenge as the *public officer were never indicted at all for lack of sufficient evidence.*¹⁶ (Emphasis supplied)

Complainant maintained that respondent twisted the text of the subject Resolution¹⁷ when he stated that no public officer was ever indicted on the criminal complaint considering that Engr. Gudín was criminally charged with violation of Section 7 (d) of Republic Act No. (RA) 6713.¹⁸

Third, in a Motion for Reconsideration¹⁹ dated August 23, 2011 filed at the OCP, Davao City, respondent again twisted the text of the Ombudsman Resolution²⁰ in this wise:

5. The actual facts flowing from these Ombudsman cases are exactly same actual facts in these instant criminal cases. The only exception in that in the former the accused is merely the witness for these public officers as against the private complainant while in the latter he is now the accused, singling him out for revenge *as public officer were never [indicted] at all for lack of sufficient evidence.*²¹

x x x x.

7. Needies[s] to state, the same findings of facts were adopted *in toto* by the Honorable Ombudsman in the above-mentioned administrative cases against the said public officers. *Only Mr. Gudín got a mere slapped (sic) on the wrist, while Mr. Olandria was exonerated.*²² (Emphasis supplied)

In his Answer,²³ respondent denied the charges against him. He asserted that he did not deliberately misrepresent the text of the subject Ombudsman Resolution²⁴ before the OCP and the MTCC.²⁵

¹⁶ *Id.* at 10.

¹⁷ *Id.* at 11-13.

¹⁸ *Id.* at 3.

¹⁹ *Id.* at 14-16.

²⁰ *Id.* at 11-13.

²¹ *Id.* at 10.

²² *Id.* at 15.

²³ *Id.* at 21-39.

²⁴ *Id.* at 11-13.

²⁵ *Id.* at 244.

Report and Recommendation of the IBP

The Integrated Bar of the Philippines (IBP) Investigating Commissioner recommended that respondent be meted out the penalty of suspension for three (3) months from the practice of law for violation of Rule 10.02 and Rule 10.03, Canon 10 of the CPR.²⁶ The IBP Investigating Commissioner pointed out that respondent cannot easily declare that he did not deliberately or knowingly intend to twist, misrepresent, or misquote the text of the Ombudsman Resolution²⁷ considering that the improper citation was done in two separate pleadings.²⁸

Nonetheless, the IBP Investigating Commissioner found that respondent did not violate Section 3 (c), Rule 112 of the Rules of Court when he failed to submit Umandap's counter-affidavit before the OCP, Davao City considering that the MTCC, in a Resolution²⁹ dated September 15, 2009, appreciated respondent's reason for not filing it.³⁰

On February 22, 2018, the IBP Board of Governors issued a Resolution³¹ adopting the IBP Investigating Commissioner's Report and Recommendation, to wit:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner to impose upon the Respondent the penalty of SUSPENSION from the practice of law for three (3) months.³² (Emphasis omitted).

Respondent moved for reconsideration,³³ but the IBP Board of Governors denied it in a Resolution³⁴ dated December 6, 2018.

Issue Before the Court

Whether respondent is administratively liable for violation of Rules 10.02 and 10.03, Canon 10 of the CPR.

²⁶ *Id.* at 246.

²⁷ *Id.* at 11-13.

²⁸ *Id.*

²⁹ *Id.* at 64-65.

³⁰ *Id.* at 245.

³¹ *Id.* at 242.

³² *Id.*

³³ *Id.* at 248-253.

³⁴ *Id.* at 271.

Our Ruling

The Court adopts the findings and recommendation of the IBP Board of Governors.

As correctly found by the IBP Board of Governors, respondent knowingly misrepresented the text of the Ombudsman's Resolution³⁵ dated November 5, 2007 in OMB-M-C-05-0427-I on two occasions: first, when he stated under paragraph 4 of his Omnibus Motion³⁶ that no public officer was indicted in the criminal complaint, when in truth, Engr. Gudín was criminally charged with violation of Section 7 (d) of RA 6713; and second, when he reiterated the same misrepresentation in his Motion for Reconsideration dated August 23, 2011.

The dispositive portion of the Ombudsman Resolution³⁷ dated November 5, 2007 reads:

WHEREFORE, premises considered, this Office finds and so holds that there exists probable cause to warrant the indictment of respondent ZOILO C. GUDIN, JR. for violation of Section 7 (d) of RA 6713. Let the enclosed Information be filed in Court. x x x x.³⁸

In insisting that neither one of the public officers charged in the Ombudsman cases was indicted for lack of sufficient evidence, respondent knowingly misquoted and misrepresented the contents of a resolution or authority.

Worse, respondent in his Motion for Reconsideration³⁹ added that Engr. Gudín got a mere slap on the wrist as penalty. However, in an Order⁴⁰ dated April 21, 2009, the Ombudsman meted out Engr. Gudín a penalty of a fine equivalent to his six months salary, to wit:⁴¹

WHEREFORE, premises considered respondent Gudín's Motion seeking a reversal of the assailed Decision finding him guilty of violating Section 4(c) of Republic Act No. 6713 is hereby DENIED. Nonetheless, the imposition of the penalty of a fine equivalent to one (1) year salary of respondent Gudín is hereby MODIFIED to a fine equivalent to six (6) months salary in

³⁵ *Id.* at 11-13.

³⁶ *Id.* at 8-10.

³⁷ *Id.* at 11-13.

³⁸ *Id.* at 12-13.

³⁹ *Id.* at 14-16.

⁴⁰ *Id.* at 17-19.

⁴¹ *Id.* at 18.

accordance with Section 56 (e) of the Uniform Rules on Administrative Cases in the Civil Service. x x x x.⁴²

Evidently, the penalty imposed is not a mere slap on the wrist of Engr. Gudin.

Respondent's actuation is indubitably a violation of Canon 10 of the CPR which mandates every lawyer to observe candor, fairness, and good faith to the Court. In particular, respondent violated Rule 10.02 and Rule 10.03 of the CPR which provide as follows:

Rule 10.02 - A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which has not been proved.

Rule 10.03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

Section 20 (d), Rule 138 of the Rules of Court directs that a lawyer must employ such means only as are consistent with truth and honor, and never seek to mislead the judge or any judicial officer by any artifice or false statement of fact or law. Undoubtedly, respondent did not employ means which are consistent with truth and honor when he misquoted Section 3 (a) of Rule 117 of the Rules of Court and twisted the text of the Ombudsman Resolution before the OCP, Davao City and the MTCC.

As jurisprudence elucidates, lawyers have an obligation to the court as well as to the opposing party to make only truthful statements in their pleadings.⁴³ The burden cast on the judiciary would be intolerable if it could not take at face value what is asserted by counsel. The time that will have to be devoted just to the task of verification of allegations submitted could easily be imagined.⁴⁴

WHEREFORE, respondent Atty. John Nathaniel I. Marasigan is found **GUILTY** of violating Section 20 (d), Rule 138 of the Rules of Court and Rule 10.02 and Rule 10.03, Canon 10 of the Code of Professional Responsibility and is hereby **SUSPENDED** for **THREE (3) MONTHS** from the practice of law, effective upon the receipt of this Resolution. He is **WARNED** that a repetition of the same or a similar act will be dealt with more severely.

⁴² *Id.*

⁴³ *Atty. Asa v. Atty. Castillo*, 532 Phil. 9, 23(2006).

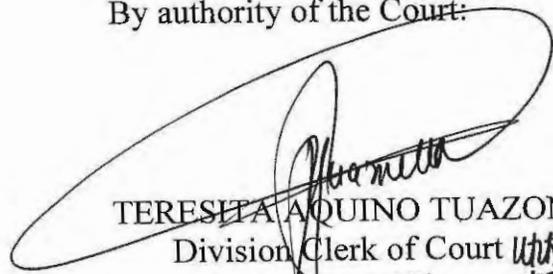
⁴⁴ *Id.*

Atty. John Nathaniel I. Marasigan is **DIRECTED** to report the date of his receipt of this Resolution within (5) days from notice, to enable this Court to determine when his suspension shall take effect.

Let a copy of this Resolution be furnished the Office of the Bar Confidant to be appended to the personal record of Atty. John Nathaniel I. Marasigan as a member of the Bar; the Integrated Bar of the Philippines, for distribution to all its chapters; and the Office of the Court Administrator, for circulation to all courts in the country for their information and guidance.

SO ORDERED.” (BALTAZAR-PADILLA, J., on leave.)

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court *Utis*
27 NOV 2020 *11/27*

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*Note: For Circularization to all Courts.
Please notify the Court of any change in your address.
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