



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

EDUARDO R. ALICIAS, JR.,  
Complainant,

A.C. No. 7478

Present:

CARPIO, J., Chairperson,  
PERALTA,  
MENDOZA,  
LEONEN, and  
JARDELEZA, JJ.

- versus -

ATTYS. MYRNA V. MACATANGAY,  
KARIN LITZ P. ZERNA,  
ARIEL G. RONQUILLO, and  
CESAR D. BUENAFLOR,  
Respondents.

Promulgated:

11 JAN 2017

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DECISION

CARPIO, J.:

The Case

Before the Court is a disbarment complaint filed by Eduardo R. Alicias, Jr. (Alicias) against Atty. Myrna V. Macatangay (Macatangay), Atty. Karin Litz P. Zerna (Zerna), Atty. Ariel G. Ronquillo (Ronquillo), and Atty. Cesar D. Buenaflor (Buenaflor) for violation of the Lawyer's Oath or Code of Professional Responsibility, gross neglect of duty, and gross ignorance of the law.

The Facts

The present administrative case stemmed from an initial complaint filed by Alicias, an Associate Professor in the College of Education of the University of the Philippines against Dean Leticia P. Ho (Ho) of the same

College for two counts of violation of Republic Act No. 6713.<sup>1</sup> The Civil Service Commission (CSC), through its Office of Legal Affairs (CSC-OLA), then headed by Director IV Florencio P. Gabriel, Jr., referred Alicias' complaint against Ho to its Regional Office in the National Capital Region (CSC-NCR). In its 26 June 2002 Resolution, the CSC-NCR found that the complaint was insufficient to support a *prima facie* case against Ho. Alicias' complaint against Ho was dismissed.

On 12 July 2002, Alicias filed a petition for review<sup>2</sup> with the CSC. The CSC asked the CSC-NCR to comment. Pending the resolution of the petition for review, Macatangay replaced Director Gabriel, Jr. as Officer-in-Charge of the CSC-OLA. In a letter<sup>3</sup> dated 5 May 2003, Alicias followed up his petition for review and notified the CSC of his new residential address in Cainta, Rizal. On 26 April 2004, Alicias wrote a second letter<sup>4</sup> to follow-up his petition for review. On 9 August 2004, the CSC, as a collegial body, deliberated on the draft resolution prepared by the CSC-OLA. The draft resolution, however, was returned for re-writing.

On 30 August 2004, Zerna succeeded Macatangay as Officer-in-Charge of the CSC-OLA. A third follow-up was made by Alicias on 16 September 2004 through a handwritten note.<sup>5</sup> Alicias claimed that he never received any reply from the CSC-OLA. On 28 October 2004, the CSC released a Resolution<sup>6</sup> dismissing Alicias' petition for review for lack of merit.<sup>7</sup> As CSC Commissioner, Buenaflor was one of the signatories of the Resolution.

Alicias did not receive a copy of the Resolution. The records<sup>8</sup> show that it was mistakenly sent to his old address in Quezon City. Unaware that the petition for review was already resolved, Alicias moved for its resolution on 16 February 2006, followed by another letter on 10 April 2006.<sup>9</sup> Ronquillo, who assumed as Director IV of the CSC-OLA, received Alicias' Motion for Resolution. Ronquillo replied that the petition for review was already dismissed on 28 October 2004.

On 26 April 2006, Alicias received through registered mail a copy of the CSC's Resolution. Alicias filed a Motion for Reconsideration which was denied on 1 August 2006.<sup>10</sup> Commissioner Buenaflor was one of the signatories of the Resolution. Alicias did not appeal the CSC's Resolution with the Court of Appeals.

<sup>1</sup> Code of Conduct and Ethical Standards for Public Officials and Employees.

<sup>2</sup> *Rollo*, pp. 16-32.

<sup>3</sup> *Id.* at 34.

<sup>4</sup> *Id.* at 59-61.

<sup>5</sup> *Id.* at 62.

<sup>6</sup> *Id.* at 35-39.

<sup>7</sup> CSC Resolution No. 041187.

<sup>8</sup> *Rollo*, p. 73.

<sup>9</sup> *Id.* at 66.

<sup>10</sup> CSC Resolution No. 061342.

On 11 April 2007, Alicias filed the present administrative complaint before the Court accusing Macatangay, Zerna, Ronquillo, and Buenaflor of violation of the Lawyer's Oath or Code of Professional Responsibility, gross neglect of duty, and gross ignorance of the law. Alicias alleged that respondents, by reason of their respective offices in the CSC, participated directly or indirectly in writing or approving the Resolution. Respondents allegedly (1) did not conduct a careful evaluation of the records; (2) did not hear the arguments of both parties; (3) ignored uncontroverted documentary evidence adduced by him; (4) erroneously applied established jurisprudence; (5) denied him due process of law by not furnishing him a copy of the CSC's Order directing the CSC-NCR to comment and a copy of the CSC-NCR comment; and (6) willfully did not give him a copy of the Resolution of his petition for review.

In their Joint Comment<sup>11</sup> dated 16 August 2007, respondents argued that Alicias was not denied due process because after the denial of his motion for reconsideration, he still had the available remedy of filing a petition for review on certiorari<sup>12</sup> with the Court of Appeals. Respondents contended that no clear and convincing evidence had been offered to show bad faith or ulterior motive on their part.

In a Reply<sup>13</sup> dated 30 August 2007, Alicias claimed that the present administrative complaint is not an alternative remedy to seek judicial relief since it is founded on a different cause of action. Alicias contended that bad faith is not an element to sustain an action for gross ignorance of the law. He argued that the failure to follow prescribed procedure constitutes *malum prohibitum*. Hence, proof of mere violation is sufficient to sustain a conviction without need of proving ill motive.

On 8 October 2007, the Court, through the Second Division, referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

### **The Ruling of the IBP**

In a Report and Recommendation<sup>14</sup> dated 20 October 2010, IBP Commissioner Maria Editha A. Go-Binas (Commissioner Go-Binas) recommended that the administrative complaint against Macatangay, Zerna, Ronquillo, and Buenaflor be dismissed for lack of merit.<sup>15</sup> Commissioner Go-Binas found that the complaint was baseless and Alicias failed to show sufficient proof in support of his claims.<sup>16</sup>

<sup>11</sup> *Rollo*, pp. 70-81.

<sup>12</sup> Under Rule 43 of the 1997 Rules of Civil Procedure.

<sup>13</sup> *Rollo*, pp. 122-138.

<sup>14</sup> *Id.* at 431-435.

<sup>15</sup> *Id.* at 435.

<sup>16</sup> *Id.* at 434. The Report and Recommendation states: "This Honorable Commission is not persuaded to



In Resolution No. XX-2011-288<sup>17</sup> passed on 10 December 2011, the IBP Board of Governors adopted and approved Commissioner Go-Binas' Report and Recommendation, dismissing the complaint for lack of merit.

In Resolution No. XX-2013-738<sup>18</sup> issued on 21 June 2013, the IBP Board of Governors likewise denied the motion for reconsideration<sup>19</sup> filed by Alicias. The Board found no cogent reason to reverse its initial findings since the matters raised were reiterations of those which had already been taken into consideration.

Hence, Alicias filed this petition.<sup>20</sup>

### **The Ruling of the Court**

The Court disagrees with the Report and Recommendation of the IBP Board of Governors. The IBP has no jurisdiction over the disbarment complaint. The administrative complaint must be filed with the Office of the Ombudsman.

Republic Act No. 6770<sup>21</sup> (R.A. No. 6770), otherwise known as "The Ombudsman Act of 1989," prescribes the jurisdiction of the Office of the Ombudsman. Section 15, paragraph 1 of R.A. No. 6770 provides:

Section 15. *Powers, Functions and Duties.* - The Office of the Ombudsman shall have the following powers, functions and duties:

- (1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases.

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rule in favor of the complainant. We find no cogent reason why the [r]espondents should be disbarred nor be subjected for any admonition or disciplinary action. The filing of this case is definitely baseless, unjustified and malicious and made by the complainant to malign the reputation of the [r]espondents because he never got a favorable decision for the case he filed against Ho."

<sup>17</sup> Id. at 429. The Resolution states: "RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution x x x and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that the case lacks merit, the same is hereby DISMISSED."

<sup>18</sup> Id. at 482. The Resolution states: "RESOLVED to unanimously DENY [c]omplainant's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XX-2011-288 dated December 10, 2011 is hereby AFFIRMED."

<sup>19</sup> Id. at 436-443.

<sup>20</sup> Petition for Review on Certiorari dated 7 November 2013.

<sup>21</sup> An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and for Other Purposes.

The 1987 Constitution clothes the Office of the Ombudsman with the administrative disciplinary authority to investigate and prosecute any act or omission of any government official when such act or omission appears to be illegal, unjust, improper, or inefficient.<sup>22</sup> The Office of the Ombudsman is the government agency responsible for enforcing administrative, civil, and criminal liability of government officials “in every case where the evidence warrants in order to **promote efficient service by the Government to the people.**”<sup>23</sup> In *Samson v. Restrivera*,<sup>24</sup> the Court ruled that the jurisdiction of the Ombudsman encompasses all kinds of malfeasance, misfeasance, and non-feasance committed by any public officer or employee during his or her tenure. Consequently, acts or omissions of public officials relating to the performance of their functions as government officials are within the administrative disciplinary jurisdiction of the Office of the Ombudsman.<sup>25</sup>

In *Spouses Buffe v. Secretary Gonzales*,<sup>26</sup> the Court held that the IBP has no jurisdiction over government lawyers who are charged with administrative offenses involving their **official duties.**<sup>27</sup> In the present case, the allegations in Alicias’ complaint against Atty. Macatangay, Atty. Zerna, Atty. Ronquillo, and Atty. Buenaflor, which include their (1) failure to evaluate CSC records; (2) failure to evaluate documentary evidence presented to the CSC; and (3) non-service of CSC Orders and Resolutions, all relate to their misconduct in the discharge of their official duties as government lawyers working in the CSC. Hence, the IBP has no jurisdiction over Alicias’ complaint. These are acts or omissions connected with their duties as government lawyers exercising official functions in the CSC and within the administrative disciplinary jurisdiction of their superior<sup>28</sup> or the Office of the Ombudsman.<sup>29</sup>

<sup>22</sup> CONSTITUTION, Art. XI, Sec. 13, par. (1).

<sup>23</sup> Sec. 13, R.A. No. 6770.

<sup>24</sup> 662 Phil. 45 (2011).

<sup>25</sup> Id.

<sup>26</sup> A.C. No. 8168, 12 October 2016.

<sup>27</sup> Id.

<sup>28</sup> Executive Order No. 292, or “Administrative Code of 1987,” Book V, Title I, Chapter 7, Section 47: *Disciplinary Jurisdiction*. - (1) The Commission shall decide upon appeal all administrative disciplinary cases involving the imposition of a penalty of suspension for more than thirty days, or fine in an amount exceeding thirty days’ salary, demotion in rank or salary or transfer, removal or dismissal from office. A complaint may be filed directly with the Commission by a private citizen against a government official or employee in which case it may hear and decide the case or it may deputize any department or agency or official or group of officials to conduct the investigation. The results of the investigation shall be submitted to the Commission with recommendation as to the penalty to be imposed or other action to be taken.

(2) The Secretaries and heads of agencies and instrumentalities, provinces, cities and municipalities shall have jurisdiction to investigate and decide matters involving disciplinary action against officers and employees under their jurisdiction. Their decisions shall be final in case the penalty imposed is suspension for not more than thirty days or fine in an amount not exceeding thirty days’ salary. In case the decision rendered by a bureau or office head is appealable to the Commission, the same may be initially appealed to the department and finally to the Commission and pending appeal, the same shall be executory except when the penalty is removal, in which case the same shall be executory only after confirmation by the Secretary concerned.

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<sup>29</sup> R.A. No. 6770, Section 21: *Officials Subject to Disciplinary Authority; Exceptions*. - The Office of the

**WHEREFORE**, the administrative complaint against Atty. Myrna V. Macatangay, Atty. Karin Litz P. Zerna, Atty. Ariel G. Ronquillo, and Atty. Cesar D. Buenaflor is **DISMISSED** for lack of jurisdiction on the part of the Integrated Bar of the Philippines.

Let a copy of this Decision be furnished the Office of the Ombudsman for whatever appropriate action the Ombudsman may wish to take with respect to the possible administrative and criminal liability of respondents Atty. Myrna V. Macatangay, Atty. Karin Litz P. Zerna, Atty. Ariel G. Ronquillo, and Atty. Cesar D. Buenaflor.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

**WE CONCUR:**



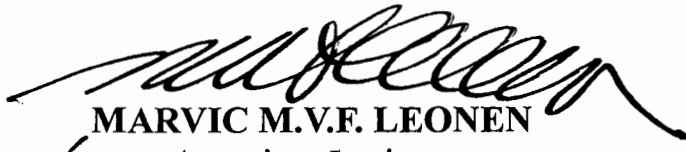
**DIOSDADO M. PERALTA**  
Associate Justice

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Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary.



**JOSE CATRAL MENDOZA**  
Associate Justice



**MARVIC M.V.F. LEONEN**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice