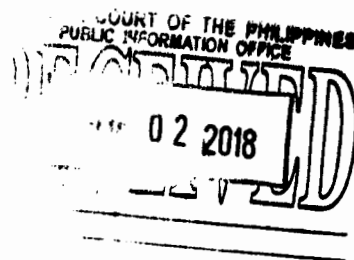




Republic of the Philippines
 Supreme Court
 Manila



FIRST DIVISION

HELEN GRADIOLA,*
Complainant,

A.C. No. 10267

Present:

LEONARDO-DE CASTRO,**
Acting Chairperson,

- versus -

DEL CASTILLO,
 JARDELEZA,
 TIJAM, and
 GESMUNDO, *** JJ.

ATTY. ROMULO A. DELES,
Respondent.

Promulgated:
JUN 18 2018

X-----X

DECISION

DEL CASTILLO, J.:

This is a Complaint¹ for disbarment filed by Helen Gradiola (Helen), charging respondent lawyer Atty. Romulo A. Deles (respondent lawyer) with violating the Code of Professional Responsibility, specifically Rule 9.01 and Rule 9.02 of Canon 9; and Rule 10.01 and Rule 10.02 of Canon 10 thereof.²

* Also spelled as Grandiola in some parts of the records.

** Per Special Order No. 2559 dated May 11, 2018.

*** Per Special Order No. 2560 dated May 11, 2018.

¹ *Rollo*, pp. 2-4.

² CANON 9 – A lawyer shall not, directly or indirectly, assist in the unauthorized practice of law.

Rule 9.01 - A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the bar in good standing.

Rule 9.02 - A lawyer shall not divide or stipulate to divide a fee for legal services with persons not licensed to practice law, except:

a) Where there is a pre-existing agreement with a partner or associate that, upon the latter's death, money shall be paid over a reasonable period of time to his estate or to the persons specified in the agreement; or

b) Where a lawyer undertakes to complete unfinished legal business of a deceased lawyer; or

c) Where a lawyer or law firm includes non-lawyer employees in a retirement plan, even if the plan is based in whole or in part, on a profit-sharing arrangement.

CANON 10 – A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

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.

Helen claimed that respondent lawyer was her counsel in a civil case then pending before the Court of Appeals (CA) docketed as CA-G.R. CV No. 63354.³ Helen asserted that respondent lawyer abetted the unauthorized practice of law when he assigned or delegated his professional duties as her lawyer to “Atty. Ernesto S. Araneta” (“Atty. Araneta”). Helen alleged that instead of attending full time to her case, respondent lawyer allowed “Atty. Araneta” to do the legal research works and the preparation of various pleadings relative to the civil case.

Moreover, Helen averred that she was assured the case was in “good hands” because respondent lawyer and “Atty. Araneta” have a “contact” in the CA in Cebu City. Helen narrated that she was told that the CA in Cebu City had reconsidered its April 28, 2005 Decision, as she was shown a photocopy of a November 13, 2006 Resolution⁴ of the CA in Cebu City which, this time, declared her and her spouse as the owners of the four lots subject-matter of the said CA-G.R. CV No. 63354. Helen added that respondent lawyer nonetheless cautioned that their adversaries in the case had appealed to the Supreme Court, hence they had to prepare their own “position paper”⁵ to support the appeal before this Court. And, that naturally, this would inevitably entail monetary expenses.

“Atty. Araneta” soon billed Helen for these expenses and issued her all the receipts⁶ for these payments. These receipts all bore the signatures “Atty. Ernie/Ernesto Araneta.” From May 2005 until October 26, 2006, Helen paid this “Atty. Araneta” a total of ₱207,500.00. Helen claimed that this “Atty. Araneta” split the attorney’s fees with respondent lawyer.

However, to her chagrin and dismay, Helen discovered that this “Atty. Araneta” had not only been disbarred from the practice of law; but worse, the aforementioned November 13, 2006 CA Resolution was a total fabrication, even as the “position paper” that was supposedly filed with this Court was an utter simulation. With this discovery, Helen went herself to the CA in Cebu City, and there found out, as a matter of fact, that she and her husband had lost their case, as shown in a genuine copy of the February 10, 2006 CA Resolution,⁷ which denied their Motion for Reconsideration, as well as their Supplemental Manifestation in Support of their Motion for Reconsideration in said CA-G.R. CV No. 63354. And, even more distressing, the records likewise revealed that this genuine Resolution had become final and irrevocable, thereby forever foreclosing their right to pursue further reliefs in the case.

³ Entitled *Spouses Antonio and Helen Gradiola, Plaintiffs-Appellants v. Neville Y. Lamis and Lilluza L. Yu and Spouses Rodolfo B. Bausing and Ma. Consolacion Bausing, Defendants-Appellees.*

⁴ *Rollo*, pp. 5-7.

⁵ *Id.* at 8-11. Helen likewise attached the supposed position paper filed with the SC by their opponent in the case; *id.* at 12-15.

⁶ *Id.* at 23, 25, 26-28.

⁷ *Id.* at 16-18.

Whereupon, Helen immediately filed with the City Prosecutor of Bacolod City a criminal complaint⁸ for estafa through falsification of public document against respondent lawyer and “Atty. Ernesto S. Araneta.” The City Prosecutor of Bacolod City found Helen’s criminal complaint well grounded, and instituted a criminal information therefor, now pending before Branch 53 of the Regional Trial Court (RTC) of Bacolod City.⁹

Helen likewise filed an administrative complaint for disbarment against respondent lawyer before the Committee on Bar Discipline of the Integrated Bar of the Philippines (IBP). This is the case at bench.

The IBP issued its Order¹⁰ directing respondent lawyer to submit his Answer. In a Manifestation,¹¹ John P. Deles (John), respondent lawyer’s eldest son, informed the IBP, that about three weeks before receipt of the IBP’s Order, his father suffered a stroke and underwent a brain surgery. John implored the IBP to hold in abeyance this administrative case until his father is finally able to physically and intelligently file an Answer to Helen’s complaint. John claimed that at that time, his father could hardly move and could not talk. He submitted pictures of his father and a medical certificate.

Helen, however, asserted that the proceedings could not be indefinitely suspended considering that respondent lawyer could very well hire his own counsel.¹²

John then filed a Supplemental Manifestation¹³ informing the IBP that his father was “in a vegetative state” and committing to update the IBP of his father’s medical condition.

The Investigating Commissioner, however, denied John’s request and directed respondent lawyer to file his Answer.¹⁴

Atty. Carlito V. Mampang Jr. (Atty. Mampang) tendered the required Answer¹⁵ to the administrative complaint, which was signed by John, and not by

⁸ Id. at 19-22.

⁹ Id. at 82. Docketed as Criminal Case No. 08-31970.

¹⁰ Id. at 56.

¹¹ Id. at 57.

¹² Id. at 65.

¹³ Id. at 72.

¹⁴ Id. at 75.

¹⁵ Id. at 80-86.



respondent lawyer. Atty. Mampang qualified in the Answer that it was his friend John who secured his services pro bono. The counsel averred, that as of the date of filing the Answer, respondent lawyer, dependent on his children's help, could not communicate to explain his side as he remained in a vegetative state, unable to speak, and had lost his motor skills.


Notably, the Answer filed on respondent lawyer's behalf relied chiefly on (a) "Atty. Araneta's" counter-affidavit¹⁶ dated August 21, 2008 which the latter submitted to the City Prosecutor of Bacolod City; and (b) "Atty. Araneta's" letter¹⁷ addressed to Helen's counsel dated June 4, 2008.

The Answer further painted respondent lawyer as a victim too of the chicanery perpetrated by "Atty. Araneta," and that respondent lawyer was not Helen's counsel of record; that although respondent lawyer's name appeared in the fictitious pleadings, the signatures appearing thereon were not by respondent lawyer. To substantiate this claim, Atty. Mampang submitted for comparison machine or xerox copies of respondent lawyer's alleged pleadings¹⁸ in some cases whereon he signed as counsel of record.

Report and Recommendation¹⁹ of the Investigating Commissioner and the Board of Governors

On February 23, 2010, the Investigating Commissioner, Oliver A. Cachapero, recommended respondent lawyer's suspension from the practice of law for one year for violating Rule 9.01 of Canon 9, and Rule 10.1 and Rule 10.2 of Canon 10 of the Code of Professional Responsibility.

Rejecting the defense that respondent lawyer was in no way at all involved in CA-G.R. CV No. 63354, the Investigating Commissioner found that Helen had consistently maintained that she directly employed and dealt solely with respondent lawyer as her counsel; and that, indeed, the pleadings that Helen submitted in evidence before the IBP showed that these were signed and subscribed by respondent lawyer as Helen's counsel.

Furthermore, based on "Atty. Araneta's" counter-affidavit which, among others, mentioned "Carlo Sanchez" as "contact man" in Cebu City, the Investigating Commissioner had reasonable grounds to believe that "Atty. 

¹⁶ Id. at 103-104.

¹⁷ Id. at 105.

¹⁸ Id. at 106-115.

¹⁹ Id. at 131-133.

Araneta” (as well as respondent lawyer) was part of a wide-ranging racket that plagued, and even extended to the CA at Cebu City – a racket which enabled Ernesto (and by extension respondent lawyer) to bilk and milk unsuspecting litigants of huge sums of money in exchange for the “successful” follow-up of cases, which in this case, turned out to be nothing else but a fly-by-night hustle and swindle. The Investigating Commissioner also gave short shrift to respondent lawyer’s claim that Helen in fact knew of “Atty. Araneta’s” scheme, especially of the fact that he had a “contact man” in the CA in Cebu, and pointed to the fact that Helen had never ever mentioned this “Carlo Sanchez” in her complaint. The Investigating Commissioner even doubted the existence of “Carlo Sanchez,” and suggested that “Carlo Sanchez” could be a mere lure or decoy to divert attention away from the committed shenanigans. Thus, the Investigating Commissioner concluded:

With the foregoing disquisition, the performance of a series of odious acts which saw the hapless Complainant being extorted huge amount of money and the participation of Respondent are all too evident. Respondent’s participation and knowledge of the same in every stage can be traced from his willfull introduction of Araneta into the defense panel of Complainant.²⁰

The IBP Board of Governors in Resolution No. XX-2013-511,²¹ adopted and approved the Investigating Commissioner’s findings and recommendation.

The Court’s Ruling

There seems to be truth that “Atty. Ernesto S. Araneta” was not a lawyer at all as Helen was made to believe. His name does not appear in the Law List,²² and there seems to be truth to the information Helen gathered that this “Atty. Ernesto S. Araneta” was disbarred because in A.C. No. 1109 (which this Court promulgated on April 27, 2005), this Court ordered the disbarment of a certain “Atty. Ernesto S. Araneta” due to his conviction of a crime involving moral turpitude.

While “Atty. Araneta” admitted of his involvement in a fraudulent scheme in defrauding litigants that included Helen, we cannot immediately conclude that respondent lawyer himself was likewise part of this racket that duped Helen. It must be stressed that, because of his medical condition, respondent lawyer could not yet explain his side. While indeed, an Answer was filed, it was John who signed the same and not respondent lawyer. As such, we still cannot consider respondent lawyer to have been adequately represented.

²⁰ Id. at 133.

²¹ Id. at 130.

²² <http://sc.judiciary.gov.ph/baradmission/lawlist/index.php>, last visited on June 7, 2018.

A full-dress investigation involving a careful evaluation of evidence from both of the parties is necessary to resolve factual issues. The serious imputations hurled at respondent lawyer warrant an observance of due process, *i.e.*, to accord him the opportunity to explain his side of the story. We explained:

Due process in an administrative context does not require trial-type proceedings similar to those in courts of justice. Where opportunity to be heard either through oral arguments or through pleadings is accorded, there is no denial of due process. x x x The standard of due process that must be met in administrative tribunals allows a certain degree of latitude as long as fairness is not ignored. In other words, it is not legally objectionable for being violative of due process for an administrative agency to resolve a case based solely on position papers, affidavits or documentary evidence submitted by the parties as affidavits of witnesses may take the place of their direct testimony.”²³

We note that Atty. Mampang candidly declared that it was John who consulted him and sought his legal services, and, thus, it cannot be said that respondent lawyer voluntarily and intelligently accepted Atty. Mampang to represent him. Respondent lawyer, with his condition, could not even communicate with Atty. Mampang regarding the case at the time of filing of the Answer, which compelled the counsel to merely rely on the available documents. In effect, Atty. Mampang substituted his judgment for that of respondent lawyer.

Significantly, the Answer contained the following disavowals by Atty. Mampang:

5. That the Respondent as of now may be said to have lost most of his essential human faculties, such as speech, motor, even his bowel movement, and he eat[s] only through the help of his children. Literally, he is in vegetative state, and his life is dependent only on the help, both physical and financial, of his children. He was discharged from the hospital, not because he has recovered but rather because his children do not have money anymore to pay for his hospital bills. As of now, the only “medical development” is that the tube used in feeding him was removed, and he is feeding through the help of his daughter, the younger sister of John P. Deles;
6. That it is on this premise that this counsel has to rely solely on the documents available, such as those annexed in the complaint filed by the complainant, as Respondent cannot convey any idea pertinent to the actual incidents of this case that would explain his side on the allegations contained in the complaint.

x x x x

7. That [neither] this counsel [nor Respondent’s son John Deles] have in [their]

²³ *Samalio v. Court of Appeals*, 494 Phil. 456, 465-466 (2005).



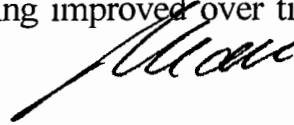
possession, neither [do they have] other relevant documents x x x so that this answer for the Respondent is simply couched on facts, documents and records available, [primarily] the Affidavit-Complaint of Helen Gradiola[. This] counsel cannot in anyway relate, comprehend or decipher [communication] from [Respondent], as he is incapable of uttering, communicating or responding to any question[s] ask[ed] of him;²⁴

With respondent lawyer not yet in a position to factually dispute the accusations and defend himself, and considering that there was no established lawyer-client relationship at all between him and Atty. Mampang, albeit the latter acted for respondent lawyer's best interest, proceeding with the investigation of the administrative case against him would amount to a denial of a fair and reasonable opportunity to be heard.

This Court has consistently held that an attorney enjoys the legal presumption that he is innocent of 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.²⁵ "For the Court to exercise its disciplinary powers, the case against the respondent [lawyer] must be established by clear, convincing and satisfactory proof. Indeed, considering the serious consequences of disbarment or suspension of a member of the Bar, the Court has consistently held that a clear preponderant evidence is necessary to justify the imposition of the administrative penalty."²⁶ "The burden of proof in disbarment and suspension proceedings always rests on the shoulders of the complainant."²⁷

Under the circumstances, both duty and conscience impel us to remand this administrative case for further proceedings. Fairness cannot be ignored.

WHEREFORE, Resolution No. XX-2013-511 of the Integrated Bar of the Philippines adopting and approving the Report and Recommendation of the Investigating Commissioner is hereby **ANNULLED and SET ASIDE**. This case is ordered **REMANDED** to the Commission on Bar Discipline of the Integrated Bar of the Philippines for further investigation, report and recommendation. The Integrated Bar of the Philippines is hereby instructed to: 1) require respondent lawyer's son, John P. Deles, to provide an update on his father's health condition and, on the basis of such update: 2) to hold the case in abeyance if respondent lawyer's stroke aftermath has significantly impaired his cognitive ability and speech that he is not capable of presenting his defense or 3) to direct respondent lawyer to file his Answer and continue with the proceedings if he is found to be medically fit and his condition having improved over time, having regained his cognitive and communication skills.



²⁴ *Rollo*, pp. 81-82.

²⁵ *Aba v. Atty. De Guzman, Jr.*, 678 Phil 588, 601 (2011).


²⁶ *Bellosillo v. Board of Governors of the IBP*, 520 Phil. 676, 689 (2006).

²⁷ *Joven v. Atty. Cruz*, 715 Phil. 531, 538 (2013).

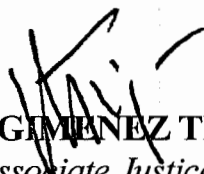
SO ORDERED.

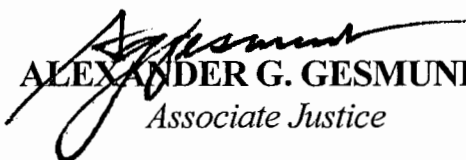

MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice