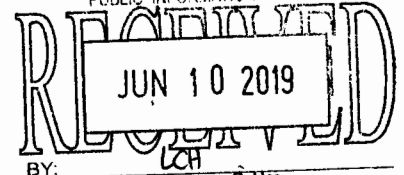




Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE



BY: LCH
 TIME: 2:47

DENNIS M. MAGUSARA,
Petitioner,

A.C. No. 11131

- versus -

Present:
BERSAMIN, CJ.,
Chairperson,
DEL CASTILLO,
JARDELEZA,
GESMUNDO, and
CARANDANG, JJ.

ATTY. LOUIE A. RASTICA,
Respondent.

Promulgated:

MAR 13 2019

X ----- X

DECISION

JARDELEZA, J.:

This is a disbarment complaint¹ filed by Dennis M. Magusara (complainant) on March 1, 2011 before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP-CBD) charging Atty. Louie A. Rastica (respondent) of violating Section 20(d), Rule 138 of the Rules of Court.²

The Facts

On November 14, 2007, Yap-Siton Law Office filed a formal complaint before the Commission on Elections (COMELEC) on behalf of its client Ramie P. Fabillar (Ramie), charging complainant of committing an election offense punishable under Section 261, paragraph (e) of the Omnibus Election Code.³ Attached to the formal complaint are Ramie's Complaint-Affidavit,⁴ his medical certificate,⁵ a police blotter,⁶ and Wilson Fabillar's (Wilson) affidavit.⁷ Ramie's complaint-affidavit and Wilson's affidavit were

¹ *Rollo*, pp. 3-6.

² This disbarment complaint shall be hereinafter referred to as the present complaint.

³ *Rollo*, p. 48.

⁴ *Id.* at 49-50.

⁵ *Id.* at 52.

⁶ *Id.* at 51.

⁷ *Id.* at 53-54.

subscribed and sworn to before respondent. On February 10, 2008, Ramie filed an Affidavit of Desistance⁸ before the COMELEC, claiming that he was surprised to find that there was a complaint for election offense against complainant supposedly filed by him. He narrated that he thought that what he signed was a complaint for grave coercion against complainant. Since the contents of the complaint-affidavit prepared by respondent were not translated to him in the local dialect, he did not understand its meaning when he signed the same. According to complainant, this alleged act of respondent violated Section 20(d),⁹ Rule 138 of the Rules of Court.

To support the present complaint, complainant attached several documents which appear to be pleadings and supporting documents he submitted before the IBP Negros Oriental Chapter in relation to a 2008 disbarment complaint he filed against respondent. Among these documents are: (1) two affidavits¹⁰ executed by Wilson dated December 7, 2007 and August 5, 2008, respectively, showing different signatures appearing above his name; (2) a manifestation¹¹ dated February 21, 2011 where complainant reiterated his allegations in the 2008 disbarment complaint and accused IBP Negros Oriental Chapter of causing delay in the proceedings for releasing the resolution only after two years and six months from the filing of the complaint; and (3) two documents¹² allegedly notarized by respondent despite the expiration of his notarial commission.

In his answer,¹³ respondent maintains that the allegations are baseless and the present complaint should be dismissed outright for lack of a certification of non-forum shopping. He claims that the present complaint was instituted by complainant as revenge for having been defeated by respondent's mother in the election for barangay chairperson. Respondent pointed out that the facts stated in the complaint-affidavit are similar to those which are declared in the police and barangay blotters attached therein, and to the complaint-affidavit¹⁴ filed before the Provincial Prosecutor's Office charging complainant of grave coercion. Aside from these, the facts and circumstances attested to by Ramie in his complaint-affidavit for the election offense were corroborated by Wilson's affidavit, which was subscribed and sworn to before Prosecutor Violeta Baldado. Moreover, Ramie graduated from high school and worked in Metro Manila. His education and work experience show that he is capable of managing his affairs; thus, he cannot

⁸ *Id.* at 7.

⁹ Sec. 20. *Duties of attorneys.* - It is the duty of an attorney:

x x x x

(d) To employ, for the purpose of maintaining the causes confided to him, such means only as are consistent with truth and honor, and never seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law[.]

¹⁰ *Rollo*, pp. 12-13, 14-15.

¹¹ *Id.* at 24-26.

¹² The first document is a compromise agreement between the Municipal Treasurer of Bindoy, Negros Oriental and Felix Villanueva, Jr. (*Id.* at 16-17). The second document is a verification executed by Kristie Marie E. Fernández (*Id.* at 18).

¹³ *Id.* at 29-40.

¹⁴ *Id.* at 42-43.

disavow knowledge and understanding of the contents of his complaint-affidavit in the election offense. Lastly, the divergence in the affidavits of desistance Ramie executed shows the influence and deceitful intentions of complainant. In the affidavit of desistance dated February 4, 2008 Ramie filed in the grave coercion case, he said that he was “doubtful of [his] actuations that [he was] also a pardedicto and that being neighbor and friend, [he] absolutely withdraw the case.”¹⁵ On the other hand, in the affidavit of desistance dated February 10, 2008 Ramie filed before the COMELEC, the reason he gave for desisting was “I was only made to sign the Complaint-Affidavit and the same was not translated to me, and the person who prepared the [same] is the son of Brgy. Chairman Lorna Rastica, Atty. Louie Rastica and the same was not translated x x x in local dialect so as I can understand.”¹⁶ As clarification, he presented an affidavit executed by Ramie on August 5, 2008 where the latter stated that he fully understood the contents of the complaint-affidavit for the election offense.¹⁷

On June 22, 2011, complainant filed his preliminary conference brief, where aside from violation of Section 20(d), Rule 138 of the Rules of Court, he included as issue the alleged notarization of respondent without authority.¹⁸

On September 9, 2011, complainant filed before the IBP-CBD a verified complaint “in compliance” with the order of the Investigation Commissioner during the August 19, 2011 hearing. In this verified complaint, complainant accused respondent of violating notarial laws and rules. Notably, the description of the two documents allegedly notarized without authority is similar to the two documents presented in the 2008 disbarment complaint filed before the IBP Negros Oriental Chapter.¹⁹

During the scheduled clarificatory hearing, only respondent appeared.²⁰ Both parties failed to submit position papers.

In his Report and Recommendation dated November 14, 2012, Investigating Commissioner Oliver A. Cachapero (Commissioner Cachapero) recommended the dismissal of the complaint against respondent for lack of merit. He noted that Ramie graduated from high school, where the English language is the medium of instruction. As such, he “must have been equipped with the basic learning of the said language and must have fair understanding of the same whether written or spoken.”²¹ It is, thus, incredible that he was aware of the contents of the complaint-affidavit in the grave coercion case he executed and filed which is written in the English language, yet not have any knowledge of the contents of a similar complaint

¹⁵ Sic. *Id.* at 73.

¹⁶ Sic. *Id.* at 7.

¹⁷ *Id.* at 74-75.

¹⁸ *Id.* at 82.

¹⁹ *Id.* at 96.

²⁰ *Id.* at 103-104.

²¹ *Id.* at 112.

for election offense he filed against complainant. Further, Ramie in his affidavit²² dated August 5, 2008 has already clarified that he understood the contents of the complaint-affidavit for election offense. There is, thus, no sufficient evidence showing respondent's supposed breach of his ethical duties.²³ No discussion was made regarding the alleged notarization of documents without authority.

The IBP Board of Governors adopted and approved the recommendation to dismiss the complaint in Resolution No. XX-2013-250.²⁴ Complainant, however, filed a motion for reconsideration, alleging that the IBP Board of Governors erred in not taking into consideration the fact that respondent engaged in notarial practice without authority.²⁵

On May 3, 2014, the IBP Board of Governors issued Resolution No. XXI-2014-245²⁶ where it resolved to grant complainant's motion for reconsideration. The Board of Governors found that respondent notarized two documents prior to the approval of his notarial commission. Accordingly, it disqualified respondent from being commissioned as a notary public for a period of two years and ordered the revocation of his notarial commission, if existing.

Respondent filed a motion for reconsideration.²⁷ He claims that he was not given the chance to be heard and defend himself because: (1) the issue on the notarization of documents without authority was not part of the original complaint; and (2) no investigation was ever held to give him an opportunity to verify the authenticity of the alleged documents notarized without authority.²⁸

The Court's Ruling

We do not agree with the IBP Board of Governors.

At the outset, we note, through complainant's own submissions, that he filed two complaints against respondent. The first is the 2008 disbarment complaint for violation of the rules on notarial practice filed before the IBP Negros Oriental Chapter. The second is the present complaint for violation of Section 20(d), Rule 138 of the Rules of Court filed before the IBP-CBD.

We agree with Commissioner Cachapero's finding that there was no substantial evidence to prove that respondent violated Section 20(d), Rule 138 of the Rules of Court. Respondent's narration of facts and the documentary evidence he presented, especially the affidavit of Ramie

²² *Id.* at 74-75.

²³ *Id.* at 112-113.

²⁴ *Id.* at 108.

²⁵ *Id.* at 114-115.

²⁶ *Id.* at 131-132.

²⁷ *Id.* at 150-153.

²⁸ *Id.*

clarifying that he understood the contents of the subject complaint-affidavit, substantiated his claim of innocence.

We also agree with the Commissioner Cachapero in excluding the allegation that respondent engaged in notarial practice despite the expiration of his notarial commission in his resolution of the complaint. A review of complainant's pleadings shows that this issue, along with the documents submitted to support the charge (specifically the compromise agreement between the Municipal Treasurer of Bindoy, Negros Oriental and Felix Villanueva, Jr. and the verification executed by Kristie Marie E. Fernandez),²⁹ were already subject of an earlier investigation by the IBP Negros Oriental Chapter. The records also show that the IBP-CBD did not order the consolidation of these two complaints. From these, it is apparent that the inclusion of the additional issue (*i.e.*, notarizing documents without authority) in resolving this complaint would result in a situation where two separate complaints are filed against respondent by the same complainant concerning the same offense based on the same set of facts.

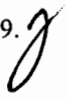
There is forum shopping when two or more actions or proceedings involving the same parties for the same cause of action, either simultaneously or successively, on the supposition that one or the other court would make a favorable disposition.³⁰ To include this additional ground in the present complaint would constitute forum shopping as the same is similar to complainant's cause of action in the 2008 disbarment complaint he filed against respondent. Therefore, we find that the IBP Board of Governors erred when it took into consideration the additional ground, which, to repeat, is identical to the charge in an earlier disbarment complaint.

In essence, we find that respondent was able to refute complainant's claim that he violated Section 20(d), Rule 138 of the Rules of Court. The additional charge of violating notarial rules, on the other hand, is already subject of an earlier disbarment proceeding. Consequently, there is no basis to impose disciplinary action against respondent at this time. The proceedings in the 2008 disbarment complaint filed before the IBP Negros Oriental Chapter against respondent should be allowed to run its course to determine the latter's culpability as to the charge that he notarized documents without authority. This will also prevent the situation of two or more courts or agencies rendering conflicting resolutions or decisions upon the same issue³¹ and ensure that the proceedings for the disbarment and discipline of attorneys are followed. The procedures outlined by Rule 139-B of the Rules of Court are meant to ensure that the innocents are spared from wrongful condemnation and that only the guilty are meted their just due. Obviously, these requirements cannot be taken lightly.³²

²⁹ See footnotes 12 and 19.

³⁰ *De la Cruz v. Joaquin*, G.R. No. 162788, July 28, 2005, 464 SCRA 576, 587.

³¹ *Pena v. Aparicio*, A.C. No. 7298, June 25, 2007, 525 SCRA 444, 454.

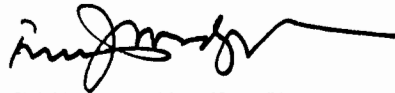
³² *Cottam v. Laysa*, A.C. No. 4834, February 29, 2000, 326 SCRA 614, 619. 

The Court will exercise its disciplinary power only after observing due process and upon showing of lawyer's administrative guilt by clear, convincing, and satisfactory evidence. This norm is aimed at preserving the integrity and reputation of the Law Profession, and at shielding lawyers, in general, due to their being officers themselves of the Court.³³ Further, filing multiple petitions or complaints constitutes abuse of court processes, which tends to degrade the administration of justice, wreaks havoc upon orderly judicial procedure, and adds to the congestion of the heavily burdened dockets of the courts.³⁴

The public must be reminded that lawyers are professionals bound to observe and follow the strictest ethical canons. Subjecting them to frivolous, unfounded, and vexatious charges of misconduct and misbehavior will cause not only disservice to the ideals of justice, but a disregard of the Constitution and the laws to which all lawyers vow their enduring fealty.³⁵

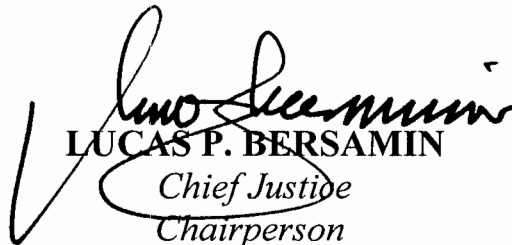
WHEREFORE, Resolution No. XXI-2014-245 dated May 3, 2014 of the Integrated Bar of the Philippines Board of Governors is **SET ASIDE**. The complaint filed against Atty. Louie A. Rastica is hereby **DISMISSED** for lack of merit.

SO ORDERED.



FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:



LUCAS P. BERSAMIN
Chief Justice
Chairperson



MARIANO C. DEL CASTILLO
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



ROSMARI D. CARANDANG
Associate Justice

³³ *Domingo v. Rubio*, A.C. No. 7927, October 19, 2016, 806 SCRA 411, 422.

³⁴ *Pena v. Aparicio*, A.C. No. 7298, June 25, 2007, 525 SCRA 444, 454.

³⁵ *Domingo v. Rubio*, *supra*.