



Republic of the Philippines
 Supreme Court
 Manila

SECOND DIVISION

**ELPIDIO J. VEGA, Deputy
 Government Corporate Counsel,
 and EFREN B. GONZALES,
 Assistant Government Corporate
 Counsel, OFFICE OF THE
 GOVERNMENT CORPORATE
 COUNSEL,**

Complainants,

- versus -

**ATTY. RUDOLF PHILIP B.
 JURADO, Former Government
 Corporate Counsel, and ATTY.
 GABRIEL GUY P.
 OLANDESCA, Former Chief of
 Staff, OFFICE OF THE
 GOVERNMENT CORPORATE
 COUNSEL,**

Respondents.

A.C. No. 12247

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
 HERNANDO,
 INTING,
 DELOS SANTOS, and
 BALTAZAR-PADILLA,* JJ.

Promulgated:

14 OCT 2020

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DECISION

INTING, J.:

A Verified Disbarment Complaint Affidavit¹ (disbarment complaint) dated June 4, 2018 was filed by Deputy Government Corporate Counsel, Elpidio J. Vega, and Assistant Government Corporate Counsel, Efren B. Gonzales (collectively, complainants), Office of the Government Corporate Counsel (OGCC) against former Government Corporate Counsel, Atty. Rudolf Philip B. Jurado (Atty.

* On leave.

¹ Rollo, pp. 1-13.

Jurado), and former Chief of Staff, Atty. Gabriel Guy P. Olandesca (Atty. Olandesca) (collectively, respondents), of the OGCC for violation of the Canons of the Code of Professional Responsibility (CPR).

The Antecedents

On September 29, 2016, in response to a request for opinion on whether Aurora Pacific Economic Zone and Freeport Authority (APECO) and Cagayan Economic Zone Authority (CEZA) were allowed to issue online gaming licenses and/or accreditations to Business Process Outsourcing (BPO) companies that will operate inside Clark Freeport Zone (CFZ) and with request to review the proposed Memoranda of Agreement (MOA) between Clark Development Corporation (CDC) and APECO, CDC, and CEZA, the OGCC rendered Opinion No. 152,² Series of 2016, viz.:

It cannot be argued that both CEZA and APECO are authorized by their respective charters to issue gaming licenses and accreditations. *However, such gaming license or accreditation is limited only to persons operating and activities within the territorial bounds of CEZA and APECO as provided in their respective charters. For areas outside CEZA and APECO, the authority to issue gaming license and permit is with the Philippine Amusement and Gaming Corporation (PAGCOR).*³ (Italics supplied.)

Opinion No. 152 states that while both CEZA and APECO are authorized to issue gaming licenses and accreditations, such is limited only to persons operating and to activities within the territorial bounds of CEZA and APECO; whereas, Philippine Amusement and Gaming Corporation (PAGCOR) has the authority to issue gaming licenses and permits for areas outside CEZA and APECO.

Opinion No. 152 further states that:

*x x x The MOA need not be reviewed considering that the activities included therein, i.e. regulation/administration of CEZA or APECO licensed or accredited enterprise within CFZ, cannot be done without encroaching the authority of PAGCOR.*⁴ (Italics supplied.)

² *Id.* at 15-20.

³ *Id.* at 18.

⁴ *Id.* at 20.

It thus follows that all gaming activities outside the territorial jurisdictions of these two economic zones are to be regulated by PAGCOR, pursuant to its mandate which is “to centralize and integrate the right and authority to operate and conduct games of chance into one corporate entity to be controlled, administered, and supervised by the Government.”⁵

On July 25, 2017, the OGCC through Atty. Jurado, issued Opinion No. 174,⁶ Series of 2017, extending APECO’s licensing jurisdiction beyond its territory, to wit:

Verily, the extent of APECO’s licensing jurisdiction with respect to an online gaming activity extends beyond its territory but only as far as the PEZA zones. The extension of APECO’s jurisdiction beyond its territory would therefore appear to qualify as an exception to the principle that activities of a locator within an economic zone should be limited within the territory of the latter (subject to the power of control and supervision of PEZA) since its enabling law itself expressly provides. x x x⁷

In *precis*, Opinion No. 174 states that under the current laws (APECO’s expanded authority under its amended charter, among others),⁸ APECO is not allowed to operate outside the Aurora Special Economic Zone except in the Philippine Economic Zone Authority (PEZA) controlled/zone areas so long as APECO has an agreement (*i.e.*, MOA or Memorandum of Undertaking) with PEZA.⁹

On May 28, 2018, during a speech after the signing of Ease of Doing Business and Efficient Government Service Delivery Act of 2018,¹⁰ President Rodrigo R. Duterte publicly announced the dismissal of Atty. Jurado from the OGCC for allegedly overstepping his authority by allowing APECO to issue franchises beyond its jurisdiction.¹¹

⁵ Section 1(a) of Presidential Decree No. 1869, Series of 1983, as amended (PAGCOR Charter).

⁶ *Rollo*, pp. 21-36.

⁷ *Id.* at 34.

⁸ Republic Act No. (RA) 9490, as amended by RA 10083. Entitled “Aurora Pacific Economic Zone and Freeport Act of 2010,” approved on April 22, 2010.

⁹ *Rollo*, pp. 25-30.

¹⁰ RA 11032.

¹¹ *Rollo*, pp. 382-385.

Hence, the disbarment complaint filed by complainants.

Complainants allegations are as follows:

First, Atty. Jurado, through Opinion No. 174, unduly extended the authority of APECO to license online gaming activities beyond its territory. While Republic Act No. (RA) 9490, as amended, authorizes APECO to enter into mutual cooperation agreement with PEZA for the utilization of PEZA's resources, facilities, and assets—it does not, however, state that APECO's authority to license gaming activities also extends to PEZA's resources, facilities, and assets.¹²

Second, (1) PEZA is separate and independent from APECO, thus, the latter cannot expand its powers and functions beyond the Aurora Special Economic Zone;¹³ (2) PEZA, pursuant to Section 51 of RA 7916¹⁴ recognizes PAGCOR as the licensing authority of gaming activities in PEZA territories;¹⁵ (3) Executive Order No. (EO) 13,¹⁶ Series of 2017, expressly states that the jurisdiction of gaming regulators is limited within the extent of their respective territorial jurisdiction;¹⁷(4) in a Legal Opinion dated August 22, 2017,¹⁸ the Office of the Solicitor General (OSG) opined that APECO is not authorized to operate online gaming activities outside its territorial jurisdiction which is confined only within the Aurora Special Economic Zone and that the Mutual Cooperation Agreement between APECO and PEZA wherein the latter authorized APECO to operate online gaming activities within PEZA jurisdiction is violative of RA 9490, as amended.¹⁹

¹² *Rollo*, p. 4.

¹³ *Id.* at 5.

¹⁴ Section 51 of RA 7916 provides:

SECTION 51. *Ipsa-Facto Clause.* — All privileges, benefits, advantages or exemptions granted to special economic zones under Republic Act. No. 7227, shall *ipso-facto* be accorded to special economic zones already created or to be created under this Act. The free port status shall not be vested upon new special economic zones.

¹⁵ *Rollo*, p. 4.

¹⁶ Entitled "Strengthening the Fight Against Illegal Gambling and Clarifying the Jurisdiction and Authority of Concerned Agencies in the Regulation and Licensing of Gambling and Online Gaming Facilities, and For Other Purposes," approved on February 2, 2017.

¹⁷ *Rollo*, pp. 5-6.

¹⁸ *Id.* at 66-83.

¹⁹ *Id.* at 7.

Third, Atty. Jurado had always been averse to PAGCOR.²⁰ Even before assuming his duty as the Government Corporate Counsel, Atty. Jurado was the counsel of the Volunteers Against Crime and Corruption (VACC) who filed a petition for *certiorari* and prohibition against PAGCOR before the Court of Appeals on February 8, 2017.²¹ Hence, Opinion No. 174 is tainted with Atty. Jurado's own personal bias against PAGCOR.²² Atty. Olandesca is implicated in the administrative complaint as he is Atty. Jurado's Chief of Staff.

In their Comment,²³ respondents stressed that complainants did not disclose all the circumstances material to the controversy: (1) both complainants were discovered by the Commission on Audit (COA) to have been receiving a monthly allowance of ₱15,000.00 or ₱180,000.00 per year, from PAGCOR;²⁴ (2) Opinion No. 152 which was issued in PAGCOR's favor, were executed by the complainants, both of whom have been receiving monthly allowances from PAGCOR;²⁵ (3) that respondents did not receive a single centavo from any government-owned and -controlled corporation (GOCC) such as, but not limited to, PAGCOR and APECO;²⁶ (4) it was the Congress, acting on the proposal of Senator Miguel Zubiri, which expanded APECO's authority and allowed it to operate within the PEZA zones through an amendment of APECO's charter;²⁷ (5) there was no inconsistency between Opinion No. 152 and Opinion No. 174 because the former pertains to APECO's particular authority to operate specifically within the CFZ, while the latter pertains to APECO's generic authority to operate outside the Aurora Special Economic Zone which includes PEZA zone;²⁸ and (6) the OSG does not have any legal authority to render legal opinions on inquiries posed by GOCCs, unless there exists a prior presidential approval, as such authority resides only with the OGCC.²⁹ Respondents, thus, maintained that complainants have no cause of action against them.

²⁰ *Id.* at 6.

²¹ *Id.*

²² *Id.* at 6-7.

²³ *Id.* at 86-123.

²⁴ *Id.* at 87.

²⁵ *Id.*

²⁶ *Id.* at 88.

²⁷ *Id.*

²⁸ *Id.* at 88-89.

²⁹ *Id.* at 89.

The Issue

Whether the complaint presents a sufficient basis to disbar respondents.

The Court's Ruling

Settled is the rule that in disbarment proceedings, the complainant must satisfactorily establish the allegations of his complaint through substantial evidence.³⁰ Thus, to compel the exercise by the Court of its disciplinary powers, the records of the case must disclose the dubious character of the act done, and the motivation thereof must be clearly demonstrated.³¹

Complainants maintain that respondents used their positions to further their own personal grudge against PAGCOR in issuing Opinion No. 174, in violation of Rule 1.02, Canon 1, Canon 5, Rule 15.01, Rule 15.03, Canon 15, and Canon 17 of the CPR.³² Further, in showing that the OGCC may be influenced by interest other than the Government's own, respondents violated Rule 18.03, Canon 18 of the CPR.³³

The contention is without merit.

To begin with, mistakes committed by a public official are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith.³⁴ It is axiomatic that a public official enjoys the presumption of regularity in the discharge of his official duties and functions.³⁵

Here, the fact that Atty. Jurado previously acted as VACC's counsel in its complaint against PAGCOR prior to becoming the

³⁰ *Ick v. Atty. Amazona*, A.C. No. 12375, February 26, 2020.

³¹ *Munar, et al. v. Atty. Bautista, et al.*, 805 Phil. 384, 398-399 (2017), citing *Arnav v. Atty. Montevilla*, 581 Phil. 1, 7 (2008).

³² *Rollo*, pp. 7-9.

³³ *Id.* at 10.

³⁴ *Soriano v. Ombudsman Marcelo, et al.*, 578 Phil. 79, 90 (2008).

³⁵ *Yap v. Lagtapon*, 803 Phil. 652, 662 (2017), citing *Gatmaitan v. Gonzales*, 525 Phil. 658, 671 (2006).

chairperson of OGCC does not derail the presumption that Opinion No. 174 was properly issued. Hence, Opinion No. 174 is deemed regularly and validly issued.

The allegation that respondents unduly preferred APECO over PAGCOR and utilized their public positions to advance their personal interests in issuing Opinion No. 174 is nothing, but bare allegations unsupported by evidence.³⁶

The rule is that a lawyer is not answerable for every error or honest mistakes committed, and will be protected as long as he acts honestly and in good faith to the best of his skill and knowledge.³⁷ Here, other than being Atty. Jurado's Chief of Staff, Atty. Olandesca was only tasked to review and proofread Opinion No. 174, nowhere did complainants point out any overt act that would warrant the imposition of any liability against him.

Verily, the disbarment complaint against Atty. Olandesca has no basis and should be dismissed for lack of merit.

The Court notes that government lawyers who, in the course of performance of their respective mandates render legal opinions, in the absence of a patent violation of a law, morals, public policy or good customs, should not, as they could not, be held liable for their opinions.³⁸ In *Zulueta v. Nicolas*,³⁹ the Court held that it is highly dangerous to set a judicial precedent by making responsible for damages the provincial prosecutor of Rizal for refusing to lodge a complaint if his refusal is rational and made in good faith, considering that he was merely rendering an opinion in the exercise of his sound discretion that there was no ground for filing a grievance. To set this precedent against prosecutors would put them in a situation where, in the fulfillment of their obligation in the exercise of sound discretion, they were always

³⁶ *Rollo*, p. 9.

³⁷ See *In re Filart*, 40 Phil. 205, 207 (1919); see also *Adarne v. Atty. Aldaba*, 173 Phil. 142, 147 (1978).

³⁸ *Orocio v. Commission on Audit*, 287 Phil. 1045, 1065-1066 (1992).

³⁹ 102 Phil. 944 (1958).

threatened with a lawsuit if their opinions were contrary to that of complainants like a sword of Damocles hanging over their heads.⁴⁰

In their Comment, Atty. Jurado insists that Section 12(f) in relation to Section 12(g)⁴¹ of RA 9490, as amended, expanded the scope of APECO's authority by allowing it to extend its operations within the PEZA controlled areas so long as APECO has an agreement with PEZA.⁴²

Atty. Jurado's interpretation of RA 9490 clearly contravenes another statute and oversteps the bounds of Apeco's jurisdiction. Nowhere in Section 12(f), as amended, does it state that this authority of APECO can be extended in PEZA location. Section 12(f) merely provides that APECO can operate on its own, either directly or through a subsidiary entity, or concession or license to others, tourism-related activities, including games, amusements and nature parks, recreational and sports facilities such as casinos, online game facilities, golf courses and other priorities and standard.

As elucidated by former Chief Justice Reynato S. Puno in *Mariano, Jr. v. Comelec*,⁴³ the importance of drawing with precise strokes the territorial boundaries of a local unit of government cannot be overemphasized, to wit:

x x x The boundaries must be clear for they define the limits of the territorial jurisdiction of a local government unit. It can legitimately exercise powers of government only within the limits of its territorial jurisdiction. Beyond these limits, its acts are ultra vires. *Needless to state, any uncertainty in the boundaries of local government units will sow costly conflicts in the exercise of*

⁴⁰ *Id.* at 947.

⁴¹ Section 12(f) and (g) of RA 9490 provides:

SECTION 12. *Powers and Functions of the Aurora Economic Zone and Freeport Authority (APECO).* — The APECO shall have the following powers and functions:

x x x x

(f) To operate on its own, either directly or through a subsidiary entity, or concession or license to others, tourism-related activities, including games, amusements and nature parks, recreational and sports facilities such as casinos, online game facilities, golf courses and others under priorities and standards set by the APECO;

(g) To authorize the APECO to enter into mutual cooperation agreement with the PEZA for the utilization of the PEZA's resources, facilities and assets;

x x x x.

⁴² *Rollo*, p. 92.

⁴³ 312 Phil. 259 (1995).

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*governmental powers which ultimately will prejudice the people's welfare. This is the evil sought to be avoided by the Local Government Code in requiring that the land area of a local government unit must be spelled out in metes and bounds, with technical descriptions. (Emphasis omitted; talics supplied.)*⁴⁴

It is inconceivable to adopt the opinion issued by Atty. Jurado that the metes and bounds of the Aurora Special Economic Zone is not determinative of APECO's limits of jurisdictional operation.

While the Court is not disposed to impose upon Atty. Jurado what may be considered in a lawyer's career as the extreme penalty of disbarment absent a clear *indicia* of bad faith or malice, Atty. Jurado is, however, not free from any liability.

In *Berenguer v. Carranza*,⁴⁵ even if there is no intent to deceive on the part of the lawyer, he should not be allowed to free himself from a charge thereafter instituted against him by the mere plea that his conduct was not willful.⁴⁶ In this case, Atty. Jurado completely disregarded Opinion No. 152, EO 13, and RA 7916 when he issued Opinion No. 174. As a result, no less than the President of the Philippines criticized Atty. Jurado and publicly called him a "fool" for allowing APECO to grant franchises to areas outside Aurora Province.⁴⁷

It is evident that Atty. Jurado fell short of what is expected of him as a lawyer in issuing Opinion No. 174 in disregard of an existing law and jurisprudence, albeit without bad faith.

The Court notes that Atty. Jurado, as then Government Corporate Counsel, should not only avoid all impropriety, but also should avoid the appearance of impropriety in line with the principle that a public office is a public trust.⁴⁸ Verily, any act that falls short of the exacting standards for public office shall not be countenanced.

⁴⁴ *Id.* at 265-266.

⁴⁵ 136 Phil. 75 (1969).

⁴⁶ *Id.* at 81.

⁴⁷ *Rollo*, p. 382.

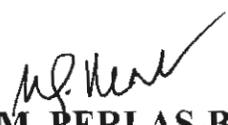
⁴⁸ Section 1, Article XI, CONSTITUTION.

WHEREFORE, respondent Atty. Rudolf Philip B. Jurado is hereby **REPRIMANDED** and **STERNLY WARNED** that a repetition of an offense of this character would be much more severely dealt with. The disbarment complaint against respondent Atty. Gabriel Guy P. Olandesca is **DISMISSED** for lack of merit.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

(On leave)
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice