



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MA. VICTORIA D. DURLAO,
Petitioner,

**A.C. No. 13473 [Formerly CBD
Case No. 18-5769]**

Present:

- versus -

LEONEN, *S.A.J.*, Chairperson
LAZARO-JAVIER,
LOPEZ, M.,
LOPEZ, J.,* and
KHO, JR.,* *JJ.*

ATTY. YOLANDO F. LIM,
Respondent.

Promulgated:

OCT 05 2022

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RESOLUTION

M. LOPEZ, J.:

This administrative case once again gives life to the figurative meaning of the old adage that a fish is caught by its mouth.

ANTECEDENTS

Ma. Victoria D. Dumlaio (Victoria), Roberto Dakudao, Sr., Ellen Dakudao, Roberto Dakudao, Jr., Ma. Asuncion Katrina Dakudao, Ma. Luz Tan, Samuel Dumlaio, and Ricardo Dakudao (Dumlaio, et al.) are the owners of a parcel of land situated at the corner of Governor Forbes (now Lacson Avenue) and Piy Margal Streets, Sampaloc, Manila. In 2004, Dumlaio, et al.

* On official business.

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entered into a Joint Venture Agreement with Burgundy Asset Development Corporation (Burgundy Asset), through its president Rogelio Serafica (Serafica). The agreement involved the development of the parcel of land into a residential and commercial condominium. Burgundy Asset committed to complete the project on or before November 11, 2009.¹ However, Burgundy Asset failed to finish the project. Dumlao, et al. repeatedly demanded from Burgundy Asset the performance of its obligation but to no avail. In 2010, Burgundy Asset engaged the services of Atty. Yolando F. Lim (Atty. Lim) to handle the legal concerns involving the condominium project.²

On November 6, 2012, Dumlao, et al. demanded from Burgundy Asset to submit their concern to arbitration.³ In response, Atty. Lim recommended to hold off the arbitration and to exhaust all avenues of amicable settlement.⁴ On February 6, 2013, Burgundy Asset authorized Atty. Lim to negotiate with Dumlao, et al. or their lawyer Atty. George Cabebe (Atty. Cabebe).⁵ Atty. Lim then met with Dumlao, et al. where they verbally agreed to give Burgundy Asset sufficient time to complete the project and pay its obligations. On June 7, 2013, Dumlao, et al. and Burgundy Asset, through Serafica, entered into a compromise agreement. Dumlao, et al. gave Burgundy Asset until July 30, 2015 to finish the project. Burgundy Asset promised to pay liquidated damages to Dumlao, et al. on or before September 1, 2013. Lastly, the parties stipulated that Dumlao, et al. shall be entitled to the possession of the real property in case of material breach on the part of Burgundy Asset. Moreover, Dumlao, et al. may file appropriate civil action against Burgundy Asset without arbitration.⁶

From July to December 2013, Dumlao, et al. sent billing letters to Burgundy Asset pursuant to their compromise agreement.⁷ In the Billing Letter dated November 4, 2013, Dumlao, et al. quoted Article III(2) of the compromise agreement regarding the commitment of Burgundy Asset to pay liquidated damages,⁸ thus:

4 November 2013

BURGUNDY ASSET DEVELOPMENT CORP.
Burgundy Corporate Tower
252 Sen. Gil Puyat Avenue
Makati City

ATTN: MR. ROGELIO T. SERAFICA
President

RE: LIQUIDATED DAMAGES

¹ *Rollo* (Volume I), pp. 2 and 24–32.

² *Rollo* (Volume II), p. 42.

³ *Rollo* (Volume I), pp. 51–52.

⁴ *Rollo* (Volume III), pp. 53–54 and 71–72.

⁵ *Id.* at 75.

⁶ *Rollo* (Volume I), pp. 56–65.

⁷ *Rollo* (Volume III), pp. 89–94.

⁸ *Id.* at 93.

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Gentlemen:

We would like to remind you of Art. III, Par. 2 of the Compromise Agreement that we have executed which we are reproducing for your reference, to wit:

“2. The DEVELOPER shall continue to pay the LANDOWNER, the amount of [P]300,000.00 every month up to July 2015, plus legal rate of interest if not paid. However, if the DEVELOPER pays the damages on time, i.e. before the 30th day of each and every month, until the project is delivered, there shall be a prompt payment discount in an amount equivalent to thirty percent (30%) of the sum due, or the sum payable of only [P]210,000.00.”

Our records show that you have not paid the amount of liquidated damages for the month of October 2013, which is supposed to be paid on or before October 2013, thus, the 30% discount mentioned in the aforementioned agreement is forfeited.

Accordingly, we are billing you the amount of [P]300,000.00, which is the liquidated damages payable for the month of October 2013.

Very truly yours,

ROBERTO L. DAKUDAO, SR., et al.,
(Signed)
BY: MA. VICTORIA D. DUMLAO

cc: Atty. Yolando F. Lim⁹ (Emphasis supplied)

On November 20, 2013, Atty. Lim apologized to Dumlao, et al. for the delay and disclosed a possible source of funds to cover Burgundy Asset's financial obligation,¹⁰ to wit:

November 20, 2013

ROBERTO L. DAKUDAO, SR., ET AL.
Dakudao Compound, Km 6 Lanang
Davao City

Thru: MA. VICTORIA D. DUMLAO

RE: Reply to 4 November 2013 Letter

Sir/Madam,

We are sorry about the delay. We will make up [for] the delay as soon as the funds will be [*sic*] released to Burgundy on or before December. We know that we have been promising a lot of times but

⁹ *Id.* at 93.

¹⁰ *Id.* at 95.

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hopefully, this time it could [*sic*] no longer a promise but already a reality.

We will inform you on or before December 20, 2013 about the status of the funds we are anticipating to arrive to pay off the obligation. Again, please bear with us.

Thank you very much.

Truly yours,
(Signed)
YOLANDO F. LIM
*For the firm*¹¹

In February 2014, Atty. Lim requested for an extension of time to pay the damages and to complete the project until May 2014. Yet, Burgundy Asset failed to perform its obligation¹² and could no longer be contacted.¹³ In 2017, Dumlao, et al. filed against Burgundy Asset a complaint for specific performance, sum of money, and damages with prayer for injunctive relief before the Regional Trial Court, Branch 49, Manila (RTC) docketed as Civil Case No. 17-138020.¹⁴ Burgundy Asset moved to dismiss the case on the ground of lack of jurisdiction for non-referral of the case to arbitration.¹⁵ On November 17, 2017, the RTC dismissed the complaint for prematurity and lack of cause of action.¹⁶

Meantime, Victoria filed a disbarment complaint against Atty. Lim before the Integrated Bar of the Philippines (IBP).¹⁷ Victoria alleged that Atty. Lim made untruthful statement during the proceedings in Civil Case No. 17-138020 when he denied knowledge of the Compromise Agreement dated June 7, 2013 between Dumlao, et al. and Burgundy Asset.¹⁸ The misrepresentation misled the RTC and gave Burgundy Asset more time to evade its obligations.¹⁹ On the other hand, Atty. Lim contended that the disbarment case is a retaliatory action for the dismissal of the complaint before the RTC. Atty. Lim insisted that he was unaware of the compromise agreement because he was not present when Serafica signed the settlement. Atty. Lim also explained that there was a misunderstanding and that he was referring to the oral settlement he negotiated with Dumlao, et al. when he testified in open court.²⁰ Atty. Lim came to know of the existence of the Compromise Agreement dated June 7, 2013 only in 2017 when he received Dumlao, et al.'s complaint in Civil Case No. 17-138020. Atty. Lim did not deceive the RTC since he merely relayed

¹¹ *Id.*

¹² *Id.* at 96–97.

¹³ *Rollo* (Volume I), p. 5.

¹⁴ *Id.* at 69–95.

¹⁵ *Id.* at 96–107.

¹⁶ *Id.* at 222–227.

¹⁷ *Id.* at 1–23. Docketed as CBD Case No. 18-5769.

¹⁸ *Rollo* (Volume III), pp. 11–23.

¹⁹ *Id.* at 24–28.

²⁰ *Rollo* (Volume I), pp. 10–15.

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Burgundy Asset's reason for the delay and plea for extension of time to comply with its obligation.²¹

On March 3, 2020, the IBP Commission on Bar Discipline found Atty. Lim guilty of violation of the Lawyer's Oath and Canons 1 and 10 of the Code of Professional Responsibility for making untruthful testimony in court proceedings. The Commission held that Atty. Lim cannot feign ignorance of the compromise agreement after he responded to Dumlao, et al.'s billing letter. Atty. Lim's theory that he was absent when Serafica signed the settlement is incompatible with the normal course of affairs where the corporate counsel assists the company president when signing official documents. The Commission recommended the penalty of two months suspension from the practice of law.²² On February 25, 2022, the IBP Board of Governors affirmed the Commission's recommendation.²³

RULING

The Court adopts the IBP's findings with modification as to the penalty.

It is imperative that all lawyers live by the law. Any lawyer who engages in deceitful conduct deserves administrative sanctions.²⁴ Specifically, the Lawyer's Oath mandates every member of the legal profession to "*do no falsehood, nor consent to doing of any in court.*" Similarly, the Code of Professional Responsibility expects lawyers to observe candor and practice honesty when they appear and submit pleadings before the courts.²⁵ Apropos are Canons 1 and 10, to wit:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

RULE 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

....

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.

To be "dishonest" means the disposition to lie, cheat, deceive, defraud or betray; be unworthy; lacking in integrity, honesty, probity, integrity in principle, fairness and straight forwardness. A "deceitful" conduct means the

²¹ *Id.* at 18–20.

²² Report and Recommendation of Investigating Commissioner Marissa V. Manalo, pp. 1–10.

²³ Resolution No. CBD-XXV-2022-02-61 dated February 25, 2022 of the IBP Board of Governors.

²⁴ *Rivera v. Atty. Dalangin*, 878 Phil. 29, (2020) [Per J. Lopez, First Division].

²⁵ *Chavez v. Atty. Viola* (Resolution), 273 Phil. 206 (1991) [Per Curiam, Third Division].

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proclivity for fraudulent and deceptive misrepresentation, artifice or device that is used upon another who is ignorant of the true facts, to the prejudice and damage of the party imposed upon.²⁶ Here, Atty. Lim testified that he was unaware of the Compromise Agreement dated June 7, 2013, and that he learned such settlement only in 2017 upon receipt of the complaint in Civil Case No. 17-138020, to wit:

ATTY. LIM: I am referring to a compromise agreement that we have entered into when I went to Davao. We have an agreement and I told them that we will pay according to their demand. So that was an agreement that I am referring to, Your Honor.

COURT: Not this June 7, 2013 Agreement?

ATTY. LIM: No, Your Honor, because I went before that June, Your Honor, in Davao, we have an agreement there that we are going to pay what they demanded.

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COURT: Would you please state for the record this morning based on your best recollection, when was the first time, if any, that you learned about the compromise agreement of 7 June 2013?

ATTY. LIM: Actually, when I received the complaint, Your Honor, we invoked that right.

COURT: Oh! That was the first time you became aware?

ATTY. LIM: Yes, Your Honor, because they brought a letter to me what I am thinking about is the compromise agreement that we entered in Davao.

ATTY. CANTANO: Your Honor, if I may, Your Honor?

COURT: Was it reduced in writing?

ATTY. LIM: It was not reduced in writing, Your Honor, because we agreed there only [sic] Atty. Cabebe told me that we have to comply with my commitment and they agreed that they will not take any action against us, because in the first place, Your Honor, they said that they are going to... they want us to select the arbiter to compose the arbiters who will decide.²⁷ (Emphasis supplied)

However, Dumlao, et al.'s Billing Letter dated November 4, 2013 explicitly quoted Article III(2) of the compromise agreement regarding the commitment of Burgundy Asset to pay liquidated damages to Dumlao, et al. Immediately, Atty. Lim responded to the letter and apologized to Dumlao, et al. for the delay. With these hard facts, Atty. Lim cannot conveniently argue that he was merely referring to an oral settlement. Atty. Lim should have been

²⁶ *Jimenez v. Atty. Francisco*, 749 Phil. 551, 565–566 (2014) [Per J. Mendoza, Second Division].

²⁷ *Rollo* (Volume III), pp. 13–15.

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more circumspect that Dumlao, et al. were invoking the terms and conditions of a written compromise agreement lest they would not be able to reproduce its exact provisions. Atty. Lim's claim that there was a misunderstanding, which he only realized later when he learned about the new Compromise Agreement, is likewise specious. As discussed earlier, Dumlao, et al. had been sending billing letters to Burgundy Asset and Atty. Lim from July to December 2013 informing them the amount of liquidated damages. Hence, it is quite difficult to believe that Atty. Lim failed to notice that Dumlao, et al.'s billing letters were under an unfamiliar agreement despite receipt of several billing letters with essentially similar forms and contents. More telling is that Atty. Lim apologized for the delay and acknowledged Burgundy Asset's obligation in his Letter dated November 20, 2013. This suggests that Atty. Lim fully understood the import and consequences of the compromise agreement, which is far from a simple misunderstanding or miscommunication. Also, the billing letters and the response negate Atty. Lim's allegation that he learned the existence of the compromise agreement only in 2017 or upon receipt of the complaint in Civil Case No. 17-138020. The lapse of almost three years does not justify innocence and good faith on the part of a corporate counsel who handles the legal documents of his client. Taken together, Atty. Lim exhibited dishonesty in feigning ignorance of the Compromise Agreement dated June 7, 2013. Atty. Lim stood by his false statement not only in the related civil case but also throughout this administrative proceeding until he was caught in that sticky web of mendacity of his own making.

In *Maligaya v. Atty. Doronilla, Jr.*,²⁸ the respondent faced two months of suspension from the practice of law for untruthfully stating to the court that complainant had agreed to withdraw his lawsuits. It was held that an effort to compromise does not justify the sacrifice of truthfulness in court. In *Bantolo v. Atty. Castillon, Jr.*,²⁹ the Court suspended the respondent for a period of one month from the practice of law after he defied a court order and issued misleading statements as to the pendency of a related case. The penalty meted will provide the respondent with enough time to purge himself of his misconduct and give him the opportunity to retrace his steps back to the virtuous path of the legal profession. Upon a second look at the circumstances of the case vis-à-vis the commensurate penalty imposed in parallel cases, this Court holds that a one-month suspension is sufficient, considering that this is Atty. Lim's first offense.³⁰

The Court reiterates that members of the bar are held to strict accountability insofar as candor and honesty towards the court is concerned. Lawyers should act and comport themselves with honesty and integrity in a manner beyond reproach, in order to promote the public's faith in the legal profession.³¹ Membership in the legal profession is bestowed upon

²⁸ 533 Phil. 303 (2006) [Per J. Corona, Second Division].

²⁹ 514 Phil. 628 (2005) [Per J. Tinga, Second Division].

³⁰ *Batac, Jr. v. Atty. Cruz, Jr.*, 563 Phil. 449 (2007) [Per J. Carpio-Morales, Special Third Division].

³¹ *Rivera v. Atty. Corral*, 433 Phil. 331, 342 (2002) [Per J. Ynares-Santiago, First Division].

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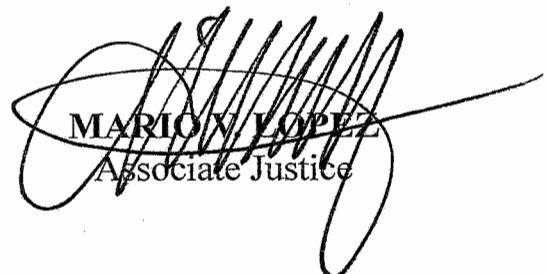
individuals who are not only learned in law, but also known to possess good moral character.

ACCORDINGLY, the Court **AFFIRMS** the Resolution dated February 25, 2022 of the Integrated Bar of the Philippines Board of Governors with **MODIFICATION** in that respondent Atty. Yolando F. Lim is **SUSPENDED** for one month from the practice of law effective upon receipt of this Resolution, with a stern warning that a repetition of the same or similar acts will be dealt with more severely. The respondent is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Resolution be furnished to the Office of the Bar Confidant to be appended to respondent's record as member of the Bar; the Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for circulation to all courts of the country.

After completing his one (1) month suspension, Atty. Yolando F. Lim shall file with the Office of the Bar Confidant a Sworn Statement pursuant to Section 45 of the Code of Professional Responsibility and Accountability.

SO ORDERED.

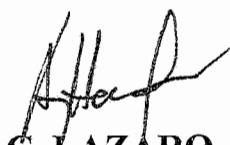


MARIO N. LOPEZ
Associate Justice

WE CONCUR:



MARVIC M.V. F. LEONEN
Senior Associate Justice
Chairperson



AMY C. LAZARO-JAVIER
Associate Justice

On official business
JHOSEP Y. LOPEZ
Associate Justice

On official business
ANTONIO T. KHO, JR.