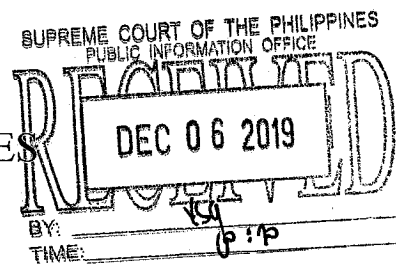




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **13 November 2019** which reads as follows:*

A.C. No. 9599 – ATTY. ANDRES C. GARALZA, JR. v. ATTY. LORENDIA ESTRELLA-AMION

This resolves the Complaint¹ filed by Atty. Andres C. Garalza, Jr. (Atty. Garalza), a retired Regional Trial Court Judge of Cebu City, seeking the disbarment of Atty. Lorenda Estrella-Amion (Atty. Estrella-Amion) for alleged violation of Canons 7 and 8, and Rule 11.3, Canon 11 of the Code of Professional Responsibility, paragraph 17 of the Canons of Professional Ethics, and the Lawyer's Oath.

Factual Antecedents

The facts of the case as summarized by the Investigating Commissioner of the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline are as follows:

1. Complainant is a member of the Integrated Bar of the Philippines – Cebu City Chapter and a retired Regional Trial Court Judge [of] Cebu-City.
2. On January 5, 2012, respondent wrote him a Demand Letter to Remove Fence, addressing him as “Mr. Andres C. Garalza, Jr.” Complainant alleged that respondent is practicing law in Cebu City and knows that complainant is a humble retired RTC Judge in Cebu City. Moreover, complainant alleged that such act was purposely done by respondent to cause embarrassment and ridicule to him and that respondent could simply have addressed him as “Atty.”
3. On January 30, 2012, respondent filed a Complaint for Ejectment against Antonietta G. Montemayor, docketed as Civil Case No. 56952 before MTCC Branch 06, Cebu City. Complainant alleged that respondent purposely included in the said Complaint for Ejectment Andresito C. Garalza and him as party-defendants. Complainant further alleged that the primary objective of respondent is to cause public embarrassment and ridicule to him and Andresito C. [Garalza] who is just the attorney-in-fact of Antonietta G. Montemayor.
4. Complainant alleged that respondent in the said Complaint for Ejectment made serious errors in pleading preparation, such that paragraph 12 was duplicated, and paragraphs 13 and 15 were omitted.
5. Complainant alleged that respondent, in the initial hearing of the Complaint for Ejectment manifested on record that “[x x x]That is the new law which Atty. Garalza, sadly, does not know yet.”

¹ Rollo, pp. 1-6.

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6. On May 7, 2012, the Municipal Trial Court in Cities, Branch 6, Cebu City, issued an order dropping complainant's name in the Complaint for Ejectment.

7. Complainant alleged that respondent acted without due respect and courtesy, committed acts tantamount to gross misconduct and malpractice, and as such violated x x x Canons 7, 8 and 11 (Rule 11.03) of the Code of Professional Responsibility; paragraph 17 of the Canons of Professional Ethics; and the Lawyer's Oath. Complainant alleged that the above-cited violations are grounds for suspension and disbarment.

x x x x

In complainant's letter dated October 1, 2012 to the Office of the Bar Confidant, he submitted respondent's Motion for Resetting dated September 5, 2012 where respondent wrote "8:30 o'clock in the afternoon" as additional evidence to show recklessness and incompetence in the discharge of her duties, responsibilities and obligations as a lawyer that make her unfit to exercise the privilege to practice law.

x x x x

III. RESPONDENT'S POSITION/DEFENSE

1. Respondent denied that at the outset she knows complainant and asserts that she is practicing law not only in Cebu City but most of the time assigned to the northern and southern town[s] of Cebu, and that complainant a retired judge who then assumed the title of "attorney" is beyond her knowledge. Respondent noted that complainant himself admitted on record that she does not know that he was an RTC Judge in Cebu, thus, there is no reason for complainant to believe that the respondent wants to embarrass and ridicule him if he was innocently addressed as "Mr." in the Demand Letter to Remove Fence.

Respondent further argued that if complainant is so particular about his title of "Atty." why is it that he intentionally addressed respondent as "Ms." in his letter dated January 20, 2012.

Respondent claimed that in 2010, when she joined the Old Philippines Railway Residents' Association, Inc. (OPRRA Inc.) as legal consultant, she was tasked by the Province of Cebu to remove the informal settlers and structures within OPRRA Village. When the names of the defendants in the Ejectment cases were given for the [preparation of] the Demand Letter to Remove Fence, the name of the complainant was written only as "Andres C. Garalza, Jr." Unaware that complainant was a retired judge/lawyer, respondent innocently and in good faith affixed the title of "Mr." in the same letter.

Likewise, respondent claimed that it is never her character or trait to offend the sensibilities of other people, much less to embarrass or ridicule them. In fact, she was awarded as Outstanding Public Attorney in 1997 by the Foundation for Judicial Excellence and Outstanding Alumna in the College of Law in the University of San Carlos in 2005.

Later, after a careful research of the profession of the defendants in the Ejectment Complaint, the appropriate title of "Atty." before the name of the complainant was accordingly affixed thereto.

Moreover, with the honest mistake she committed, respondent offered her sincere apology.

2. Respondent claimed that the inclusion of Andresito C. Garalza and complainant in the Ejectment Case is not to cause public harassment and ridicule to them but was based on the initial information which the officials of OPRRA Inc. had gathered and furnished her.

3. Respondent claimed that simple inadvertence in the numbering of paragraphs of her pleading was already duly corrected in her subsequent pleading.

4. Respondent claimed that her manifestation that: "That is the new law which Atty. Garalza, sadly, does not know yet[,] is an innocent manifestation and is not a scandalous, offensive or a menacing language or behavior before the Court.² (Citations omitted)

x x x x

During the pendency of the complaint with the IBP, complainant filed a *Formal Motion to Withdraw Complaint*³ wherein he manifested that considering the recent demise of his spouse and his ripe old age, he has come to the realization that he wants to live his remaining days with a clear conscience, and to cleanse himself of all personal animosity, remorse, revenge and vengeance, and instead imbibe the feeling of love, hope, forgiveness, and tolerance that will serve to clear his path while passing through. He, thus, prayed that this complaint be withdrawn.

In an Order⁴ dated March 27, 2017, the Investigating Commissioner merely noted the complainant's *Formal Motion to Withdraw Complaint* and directed the parties to file their respective Position Papers. Moreover, the Investigating Commissioner treated the *Formal Motion to Withdraw Complaint* as tantamount to a Motion to Dismiss which is a prohibited pleading under the Rules of Procedure of the Commission.⁵ Thus, the Investigating Commissioner proceeded to resolve the merits of the Complaint.

Report and Recommendation of the Investigating Commissioner

The Investigating Commissioner noted that the respondent, in addressing complainant as "Mr.," "did not have the intent or purpose to cause embarrassment and ridicule to complainant."⁶ Neither did respondent commit gross misconduct and malpractice in violation of the Lawyer's Oath when she impleaded Andresito C. Garalza and complainant in the ejectment complaint. According to the Investigating Commissioner, complainant impleaded them based only on the information given her by the officials of OPRRA Inc. Anent the clerical errors committed by the respondent in her pleadings, such as her error in the numbering of the paragraphs, and referring to the time 8:30 in the "afternoon" instead of in the

² *Id.* at 146-150.

³ *Id.* at 137-138.

⁴ *Id.* at 139.

⁵ *Id.* at 151.

⁶ *Id.* at 152.

“morning” as “honest and simple inadvertence”⁷ undeserving of any penalty. The Investigating Commissioner also found no error in respondent’s manifestation during the initial hearing in the ejection complaint that Atty. Garalza was not yet aware of the new law.

In fine, the Investigating Commissioner recommended that the complaint be dismissed for lack of sufficient basis. However, before closing, the Investigating Commissioner –

[A]cknowledges that the service that complainant rendered with the judiciary and the position as a retired RTC judge is a great accomplishment and accolade which truly deserves to be honored and respected by anyone, especially members of the Bar. However, summing all the foregoing facts and circumstances indicating that respondent’s acts were not tainted by malice or intent, the undersigned Commissioner finds that the same does not merit any disciplinary action, [more so], disbarment.⁸

Recommendation of the IBP-Board of Governors (BOG)

In a Resolution⁹ dated October 27, 2017, the IBP-BOG adopted and approved the Report and Recommendation of the Investigating Commissioner to dismiss the complaint.

Our Ruling

The Investigating Commissioner correctly proceeded to resolve the complaint on its merits despite the motion for withdrawal filed by the complainant. It is settled that “[a] case of suspension or disbarment may proceed regardless of interest or lack of interest of the complainant. x x x This rule is premised on the nature of disciplinary proceedings. A proceeding for suspension or disbarment is not a civil action where the complainant is a plaintiff and the respondent lawyer is a defendant. Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare. They are undertaken for the purpose of preserving courts of justice from the official ministrations of persons unfit to practice in them. The attorney is called to answer to the court for his conduct as an officer of the court. The complainant or the person who called the attention of the court to the attorney’s alleged misconduct is in no sense a party, and has generally no interest in the outcome except as all good citizens may have in the proper administration of justice.”¹⁰

In disciplinary proceedings against lawyers, public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed to practice law. Hence, in the

⁷ *Id.* at 153.

⁸ *Id.* at 155.

⁹ *Id.* at 143-144.

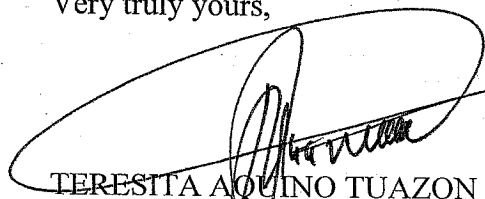
¹⁰ *Bautista v. Bernabe*, 517 Phil. 236, 241 (2006).

exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney.¹¹ In this case, complainant has not shown substantial evidence supporting his allegations. Also, the record is bereft of any evidence to conclusively show that respondent's acts were tainted with malice or ill intent as to merit any disciplinary action, more so disbarment.

Considering that the findings of fact and recommendation of the Investigating Commissioner, as approved by the IBP-BOG, are supported by the evidence on record and by applicable laws, the Court **ADOPTS** and **ACCEPTS** these findings and recommendation to dismiss this case against respondent Atty. Lorenda Estrella-Amion for lack of merit, there being no clear showing that respondent committed an act which amounted to a violation of the Lawyer's Oath and/or the Code of Professional Responsibility.

SO ORDERED. (*Inting, J., on official leave.*) //

Very truly yours,



TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *(w/h)* 12/2
03 DEC 2019

¹¹ *Ylaga v. Atty. Gacott*, 702 Phil. 390, 407 (2013).

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