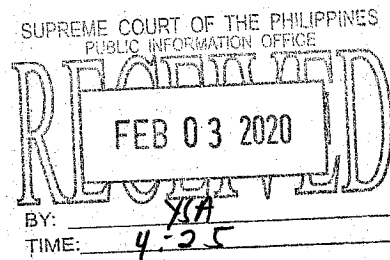




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 20, 2020** which reads as follows:*

“A.C. No. 9635 [Formerly CBD Case No. 13-3837] (*Edgar C. Tago v. Atty. Lysel B. Castor-Tan*). - For resolution is a Complaint¹ dated July 24, 2012 filed by complainant Edgar C. Tago against Atty. Lysel B. Castor-Tan seeking her disbarment for allegedly engaging in unlawful, dishonest, and deceitful conduct in preparing and signing a demand letter containing lies merely to destroy his good reputation.

The Report and Recommendation² dated January 12, 2016 of Commissioner Roland B. Beltran, Commission of Bar, Discipline (CBD), Integrated Bar of the Philippines (IBP), follows:

REPORT AND RECOMMENDATION

I. The Case and Facts -

This is a complaint filed by Edgar C. Tago against Atty. Lysel B. Castor-Tan for disbarment, violation of the Code of Conduct and acts [c]ontrary to law.

In his complaint dated July 24, 2012, complainant Edgar C. Tago faults x x x respondent Atty. Tan for signing a demand letter stating therein, among others, that he was at the cockpit in the afternoon of June 25, 2012 (Monday) when in truth and in fact he was not; and the use of office supplies of the Department of Education for private purposes. Complainant Tago thus accuses respondent Atty. Tan of peddling lies with malicious intent to destroy his good reputation (par. 4, complaint; Annex “D”).

In her comment dated 17 December 2012, respondent Atty. Tan vehemently denies the accusation against her; that she was

- over – six (6) pages ...

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¹ Rollo, pp. 1-3.

² Id. at 463-467.

hired as legal counsel by Isabela City Water District (ISAWAD) with whom x x x complainant Tago has an ongoing issue regarding the water meter installed in his house; that respondent Atty. Tan acted in accordance with attorney-client relationship in assisting ISAWAD draft the letter of June 25, 2012; that as lawyer of ISAWAD, respondent Atty. Tan signed in her capacity as counsel for said entity a letter dated 18 July 2012, which state[s], among others, that on June 25, 2012, Santiago Palacay of ISAWAD found complainant Tago in a cockpit in Barangay Isabela City, Basilan Province, wherein Palacay attempted to serve a letter dated June 25, 2012 (Annex "3") but complainant Tago refused to receive the letter instead scolded and humiliated Santiago Palacay in public view with the words "wala kay utok? gamita and imong utak. Use your common sense, dili ko ordinaryo nga tawo." On June 26, 2012, Santiago Palacay recorded into the police blotter the incident that transpired the prior day where he was scolded and humiliated by x x x complainant Edgar C. Tago (Annex "5").

Complainant Tago denies being in the cockpit on June 25, 2012; that at around 4:10 p[.]m., of even date, he was having a halo-halo in one of the stores owned by Eddie Guarin at Rizal Avenue, Isabela City, Basilan Province; and that there was no "tarian" held on such date exhibiting the revocation of certification, dated 7 September 2012, issued by Barangay Chairperson Jaymalyne A. Abdullah (Annex "8"). The revocation was a result of a prior certification, dated 6 September 2012, that a "tarian" was held in Aguada Barangay on June 25, 2012 (Annex "6"). The investigating commissioner likewise notes the other affidavits presented by the complainant in support of his alibi [t]hat he was not at the cockpit on June 25, 2012.

The mandatory conference was called on November 14, 2013 but the complainant filed a motion to reset. In order not to delay, the proceedings, the mandatory conference was terminated and the parties were directed to file their respective position paper[s] in accordance with the rules of this commission.

Hence, this report and recommendation.

II. The issues –

Whether or not respondent Atty. Lycel Castor-Tan violated her lawyer's oath and the Code of Professional Responsibility?

III. Report and Recommendation –

The complaint is without merit.

The respondent[,] Atty. Lycel Castor-Tan[,] acted in good faith when she assisted ISAWAD, her client, in drafting and thereafter affixing her signature on the letter of June 25, 2012 (Annex "D"). The information acquired by the lawyer from the

client in the course of attorney-client relationship is privileged and the presumption of good faith applies to the attorney who relied thereon unless proof to the contrary is adduced. In this case, there is none.

The complainant[,] Edgar C. Tago[,] failed to adduce proof that respondent Atty. Tan was motivated with malice and bad faith when she assisted her client in drafting and thereafter affixing her signature on the letter dated June 25, 2012 (Annex "D") which is a common standard and tradition in the practice of law. The action taken by Atty. Tan cannot be considered as engaging "in unlawful, dishonest, immoral and deceitful conduct" (Rule 1.01, Canon 1 of the Code of Professional Responsibility).

"Indeed, the writing of demand letters is a standard practice and tradition in this jurisdiction. It is usually done by a lawyer pursuant to the principal-agent relationship that he has with his client, the principal." (see *Pena vs. Aparicio*, A.C. No. 7298, June 25, 2007.)

It is well settled that in disbarment proceedings, the burden of proof rests upon the complainant, and for the court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof. Considering the serious consequence of the disbarment or suspension of a member of the Bar, this Court has consistently held that clear preponderant evidence is necessary to justify the imposition of the administrative penalty. (*Martin vs. Felix Jr.*, 163 SCRA 111, 130 [1988])

Truly, the act complained of must be proven by clear and preponderant evidence, the corrupt character of the act done must be clearly demonstrated. This is so because the burden of proof rests upon the complainant and the charge against the lawyer must be established by convincing proof (*Go vs. Candoy*, A.C. No. 736, Oct. 23, 1967, 21 SCRA 439; *Toquib vs. Tomol, Jr.*, A.C. No. 554, March 25, 1970, 32 SCRA 156; in re[:] *Atty. Felizardo M. de Guzman*, A.C. No. 838, Jan. 21[,] 1974, 55 SCRA 139).

On the other hand, the law and jurisprudence provide certain presumptions in favor of Atty. Tan 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." (*In Re: De Guzman*, 154 Phil. 127 [1974]; *De Guzman v. Tadeo*, 68 Phil. 554 [1939]; *In Re: Tiongko*, 43 Phil. 191 [1922]; *Acosta v. Serrano*[,] 166 Phil. 257 [1977].)

In *Arboleda vs. Gatchalian* (58 SCRA 64), the Supreme Court held:

"The Court has held that in disbarment proceedings, the burden of proof rests upon the complainant and the charge against the lawyer must

be established by convincing proof (Go vs. Candoy, A.C. No. 736, Oct. 23, 1967, 21 SCRA 439; Toquib vs. Tomol, Jr., A.C. No. 554, March 25, 1970, 32 SCRA 156; [I]n re[:] Atty. Felizardo M. de Guzman, A.C. No. 838, Jan. 21[,] 1974, 55 SCRA 139). The record must disclose as free from doubt a case which compels the exercise by this Court of its disciplinary powers. The corrupt character of the act done must be clearly demonstrated. Moreover[,] considering the serious consequences x x x of the disbarment or suspension of a member of the Bar, We have consistently held that clearly preponderant evidence is necessary to justify the imposition of either penalty (De Guzman vs. Tadeo, 68 Phil. 554; Lim vs. Antonio, A.C. No. 848, Sept. 30, 1971, 41 SCRA 44). This Court likewise held that where there is no proof that respondent lawyer was guilty of any unethical conduct, harassment and malpractice, the disbarment case against him should be dismissed (Ricafort vs. Baltazar, A.C. No. 661, June 26, 1967, 20 SCRA 418; Delos Santos vs. Bolanos[,] A.C. No. 483, July 21, 1967, 20 SCRA 763)".

Lawyers who are merely representing the cause of their clients are oftentimes at the receiving end unfairly confronted with administrative complaint by disgruntled litigants, such as the case at bar.

It has been said that the profession of an attorney is acquired after long and laborious study. It is a lifetime profession. By years of patience, zeal and ability, the attorney may be able to amass considerable means to support himself and his family, besides the honor and prestige that accompany his office and profession. To deprive him of such honored station in life which would result in irreparable injury must require proof of the highest degree, which We find nowhere here. While courts will not hesitate to mete out proper disciplinary punishment upon lawyers who fail to live up to their sworn duties[,] they will, on the other hand, protect them from the unjust accusations of dissatisfied litigants. The success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored. Private persons, and particularly disgruntled opponents, may not, therefore, be permitted to use the courts as vehicles through which to vent their rancor on members of the Bar. (Santos vs. Dichoso, Adm. Case No. 1825; 84 SCRA 622)

As to the other issue belatedly raised in the Complainant's Position Paper, not alleged in the verified complaint, on cases handled by respondent lawyer regarding the presumptive death of certain persons, the same shall not be acted upon for want of

joinder of issues which violated the right of respondent Atty. Tan to notice and the opportunity to respond in accordance with due process of law.

WHEREFORE, it is hereby recommended that the complaint against Atty. Lycl B. Castor-Tan x x x be dismissed for lack of merit.

RESPECTFULLY SUBMITTED.

Pasig City, January 12, 2016.³

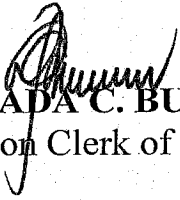
In Resolution No. XXII-2016-258⁴ dated April 29, 2016, the Board of Governors of the IBP adopted and approved the Report and Recommendation of the Investigating Commissioner dismissing the complaint against Atty. Lycl Castor-Tan.

Complainant filed a motion for reconsideration, which was denied by the IBP Board of Governors in Resolution No. XXII-2017-887,⁵ dated March 1, 2017, there being no reason and/or argument adduced to reverse the previous findings and decision of the IBP Board of Governors. The IBP-CBD, subsequently, transmitted the records of the case to this Court for our consideration.

Finding the recommendation of the IBP to be fully supported by the evidence on record and applicable laws, the Court **RESOLVES** to **DISMISS** the case against respondent Atty. Lycl Castor-Tan.

SO ORDERED.”

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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- over -

³ *Id.*

⁴ *Id.* at 461-462.

⁵ *Id.* at 459-460.

RESOLUTION

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A.C. No. 9635
January 20, 2020

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Complainant
Brgy. La Piedad Street, Isabela City
7300 Basilan Province

Atty. Lysel Castor-Tan
Respondent
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7300 Basilan Province

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