



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 13, 2020 which reads as follows:

“A.C. No. 11934 [Formerly CBD Case No. 12-3434] – Manuel B. Trovela v. Atty. Roger S. Diaz

The present case stemmed from a Complaint¹ for violation of the Code of Professional Responsibility filed by Manuel B. Trovela (Trovela) against Atty. Roger S. Diaz (Atty. Diaz).

Factual Antecedents

Atty. Diaz averred that he is the legal counsel for Citystate Savings Bank, Inc. (Citystate Bank) in an unlawful detainer case against a certain Eufemia de Guzman (De Guzman) filed before the Metropolitan Trial Court (MeTC) of Parañaque City, Branch 78.²

On July 28, 2011, the said court referred the unlawful detainer case to the Philippine Mediation Center (PMC), Parañaque Unit for mandatory mediation conference. Later on, De Guzman and John Karlo Fernandez (Fernandez), a representative for Citystate Bank, appeared before the PMC. They then selected Trovela as their mediator and agreed that the date of their first conference would be on September 1, 2011.³

Atty. Diaz and De Guzman appeared before the PMC at around 1:00 p.m. of September 1, 2011, but the mediation conference had to be reset to September 7, 2011 at 2:00 p.m. since Trovela was not around at that time.

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¹ Rollo, pp. 2-11. The said complaint was docketed as CBD Case No. 12-3434.

² Id. at 136. The unlawful detainer case was docketed as Civil Case No. 2011-40.

³ Id. at 172.

On September 7, 2011, Fernandez and De Guzman appeared before the PMC for their mediation conference. Fernandez then manifested to terminate the mediation conference and that the case be returned to the court for further proceedings since Citystate Bank discovered that De Guzman sold the property, which was the subject of the unlawful detainer case, to a third party. However, Trovela decided to reset the mediation conference to another date, September 22, 2011 at 2:00 p.m., in order to give the parties one more chance to settle amicably. Trovela also refused to acknowledge the authority of Fernandez as the representative of Citystate Bank,⁴ and suggested that an officer of the said Bank must be present on the next hearing.⁵

Atty. Diaz thereafter called Trovela at his office in PMC and asked him why the mediation conference was still reset despite Citystate Bank's manifestation to terminate the mediation proceedings. Trovela then hung up the phone on Atty. Diaz without explaining why he wanted to reset the case and why he did not recognize Fernandez's authority to represent the said Bank. Atty. Diaz called again, but Trovela refused to answer his call since he was then mediating another case.⁶

Alleging unprofessionalism and rude behavior when Trovela hung up the phone, among others, on September 8, 2011, Atty. Diaz and his paralegal, Fernandez, filed a letter-complaint⁷ addressed to the Philippine Judicial Academy (PhilJA) against Trovela. The complaint was thereafter referred to the PhilJA's Alternative Dispute Resolution (ADR) Grievance Committee for investigation.

Eventually, the ADR Grievance Committee of the PhilJA issued a Report dated June 13, 2012. While the said Committee agreed that Trovela's act of resetting the case to another date will not delay the case and even gave the parties a chance at settlement, and that it was proper for him to refuse the authority of Fernandez since he was not a ranking corporate officer, the Committee, however, found the manner in which Trovela had exercised his authority and rights as a mediator wanting in decorum. As such, the ADR Grievance Committee recommended that Trovela be admonished for failing to exercise utmost degree of professionalism in the way he dealt with Atty. Diaz and Fernandez.⁸

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⁴ Id. at 122.

⁵ Id. at 173.

⁶ Id. at 122, 173.

⁷ Id. at 12-13.

⁸ Id. at 122-124.

Earlier, or on April 26, 2012, Trovela filed a Complaint against Atty. Diaz for violation of the Code of Professional Responsibility and the Lawyer's Oath. Trovela alleged that the letter-complaint which Atty. Diaz filed against him was malicious and in bad faith. Trovela further alleged that Atty. Diaz committed annoying, vexing and misleading acts, which defeated the ends of justice, when he called him unprofessional, rude and a barefaced liar.

Atty. Diaz countered that the Complaint filed by Trovela was retaliatory in nature. Atty. Diaz prayed that said Complaint be dismissed.⁹

On June 16, 2014, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) recommended the dismissal of the Complaint against Atty. Diaz. The said Commission held that Atty. Diaz was within his rights to complain against the alleged unprofessional conduct of Trovela, and added that Trovela failed to adduce proof to substantiate his allegations, thus:

WHEREFORE, it is recommended that the complaint against Atty. Roger S. Diaz be dismissed for lack of merit.

RESPECTFULLY SUBMITTED.¹⁰

On June 5, 2015, the IBP Board of Governors passed Resolution No. XXI-2015-381,¹¹ which adopted the aforementioned recommendation, viz.:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A" finding the recommendation to be fully supported by the evidence on record and applicable laws and the case against Respondent unmeritorious. Thus, the case is hereby DISMISSED.

Trovela then filed a Motion for Reconsideration.¹² On April 19, 2017, the IBP Board of Governors issued Resolution No. XXII-2017-963,¹³ which states:

RESOLVED to DENY the Motion for Reconsideration there being no new reason and/or new argument adduced to reverse the previous findings and decision of the Board of Governors.

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⁹ Id. at 38-39.

¹⁰ Report and Recommendation submitted by Commissioner Roland B. Beltran; id. at 174-176.

¹¹ Id. at 171.

¹² Id. at 177-190.

¹³ Id. at 194.

The issue for resolution is whether or not Atty. Diaz should be disciplined based on the allegations of Trovela's Complaint.

The Court's Ruling

The Court affirms the findings and recommendation of the IBP that the Complaint against Atty. Diaz must be dismissed.

At the outset, in administrative proceedings, the burden of proof rests upon the complainant. For the court to exercise its disciplinary powers, the case against a respondent must be established by convincing and satisfactory proof.¹⁴

Trovela insists that Atty. Diaz violated Rule 10.01, Canon 10, Canon 11 and Canon 12 of the Code of Professional Responsibility when Atty. Diaz filed a letter-complaint against him before the PHILJA for unprofessional conduct and rude behavior. Rule 10.01, Canon 10 of the Code of Professional Responsibility states:

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.

Canon 11 and Canon 12 of the Code of Professional Responsibility provide:

CANON 11 – A lawyer shall observe and maintain the respect due the courts and to judicial officers and should insist on similar conduct by others.

CANON 12 – A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

A judicious review of the records reveals that the IBP did not err when it ruled that Trovela failed to present proof to substantiate his claim that Atty. Diaz violated the Code of Professional Responsibility and the Lawyer's Oath when he filed the letter-complaint against him. In fact, the letter-complaint was found to be meritorious and not frivolous. The ADR Grievance Committee of the PhilJA had established the fact that Trovela did hung up the phone on Atty. Diaz while they were still talking, without explaining why he wanted to reset the case and as to why he refused to acknowledge the paralegal's

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¹⁴ *BSA Tower Condominium Corp. v. Reyes II*, A.C. No. 11944, June 20, 2018.

authority. The said ADR Grievance Committee, thus, found that — “*the manner in which Trovela had exercised his authority and rights as a mediator wanting in decorum; while his intentions were good, the way he communicated should have been given much thought and importance; Trovela surely could have taken the time to explain to the complainants why he could not accept Fernandez’s authority and why he needed or wanted to reset the case; he could have been more courteous; he could have explained to Atty. Diaz that he was currently in the midst of mediating a case and that he would call him back rather than just hanging the phone on him; and, that the rules expect not only competence, but also professional conduct from a mediator.*”¹⁵

The Court stresses that an attorney enjoys the legal presumption that he is innocent of the 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 to his oath. Burden of proof, on the other hand, is defined in Section 1, Rule 131 of the Rules of Court as the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.¹⁶

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence, which is that amount of evidence that a reasonable mind might accept as adequate to support a conclusion. Further, the complainant has the burden of proving by substantial evidence the allegations in his complaint. The basic rule is that mere allegation is not evidence and is not equivalent to proof. Likewise, charges based on mere suspicion and speculation cannot be given credence. Besides, the evidentiary threshold of substantial evidence — as opposed to preponderance of evidence — is more in the keeping with the primordial purpose of and essential considerations attending this type of case. The Court must emphasize that disciplinary proceedings against lawyers are *sui generis*. Neither purely civil nor purely criminal, they do not involve a trial of an action or a suit, but is rather an investigation by the Court into the conduct of one of its officers. Not being intended to inflict punishment, it is in no sense a criminal prosecution. Accordingly, it also involves neither a plaintiff nor a prosecutor. It may be initiated by the Court *motu proprio*. 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 the privileges as such. Thus, in the

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¹⁵ *Rollo*, pp. 122-123.

¹⁶ *Aba. v De Guzman*, 678 Phil. 588, 601 (2011).

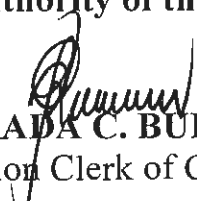
exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of those members 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.¹⁷

In this case, Trovela failed to discharge his burden of proof. Aside from bare allegations, no substantial evidence was presented by Trovela to clearly and convincingly establish that Atty. Diaz committed misconduct and should be disciplined when he filed a letter-complaint against him before the PhilJA. We must reiterate that mere allegation is not evidence and is not equivalent to proof. Accordingly, the Court finds that Atty. Diaz's act of filing the complaint against Trovela for unprofessional conduct does not equate to a violation of the Code of Professional Responsibility provisions nor the Lawyer's Oath. Thus, the Complaint against Atty. Diaz was correctly dismissed by the IBP.

WHEREFORE, the Court **DISMISSES** the Complaint against Atty. Roger S. Diaz for lack of merit.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *10/16*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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¹⁷ *BSA Tower Condominium Corp. v. Reyes II*, supra note 14.