

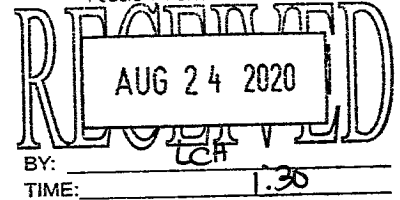


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **March 2, 2020**, which reads as follows:*

“A.C. No. 8733 – (Jo Ann De Lara Lara, complainant v. Atty. Lino C. Sandil, respondent).– The Court **NOTES** the following:

1. Letter dated November 20, 2019 of Atty. Randall C. Tabayoyong, Director for Bar Discipline of the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD), transmitting the documents pertaining to this case; and

2. Notice of Resolution dated October 4, 2018 of the IBP Board of Governors, adopting the findings of fact and recommendation of the Investigating Commissioner imposing upon respondent the penalty of reprimand.

For the consideration of this Court is the Complaint¹ dated August 2, 2010, filed by Jo Ann De Lara Lara (complainant) against Atty. Lino C. Sandil (respondent) for misconduct when he acted as complainant’s counsel in a civil case while holding the position of Secretary of the City Council of Parañaque, and for being negligent in handling the said case.²

The Antecedents

In her Amended Complaint,³ the complainant alleged that she engaged the services of the respondent to handle a case for ejectment for the amount of fifty thousand pesos (₱50,000.00). After the complainant made a partial payment of twenty-three thousand pesos (₱23,000.00), the respondent filed the complaint. The complainant, however, alleged that the respondent failed

¹ *Rollo*, pp. 1-3.

² *Id.* at 1.

³ *Id.* at 38-47.

to file a brief for the preliminary conference scheduled on April 21, 2010. She further claimed that when the case was referred to mediation, the respondent refused to provide her a copy of the ejectment complaint despite her repeated requests. Thereafter, the respondent became agitated and expressed that he would withdraw his appearance and would just return the money paid to him as legal fees. However, the complainant was only given an incomplete copy of the ejectment complaint consisting of two (2) pages.⁴

The complainant asserted that the respondent was negligent in handling the ejectment case. He was also unethical and unprofessional in his dealings. She claimed that the respondent abandoned her and did not furnish her a notice of withdrawal, thus, depriving her of the opportunity to engage with a new counsel. The respondent withdrew from the ejectment case and failed to return the partial payment to the complainant. Furthermore, the complainant argued that the respondent's local government position is in conflict with his private practice. At the time the complainant engaged respondent's services, he was holding the position of Secretary of the City Council of Parañaque.⁵

For his part, the respondent denied neglecting the complainant's case. He averred that the complainant engaged his services to handle the ejectment of three (3) families residing in an apartment owned by Araceli H. De Lara for the agreed amount of fifty thousand pesos (₱50,000.00), fifty percent (50%) of which is to be paid upon said engagement, and the balance upon rendition of the judgment. After receiving twenty-three thousand pesos (₱23,000.00) from the complainant, he prepared and sent demand letters to the occupants of the property, prepared special powers of attorney, instructed complainant's representatives to institute barangay conciliation proceedings, prepared and filed the complaint and pre-trial brief, attended initial hearings and mediation proceedings, and held several conferences and meetings with the complainant prior to and after the filing of the case.⁶

According to the respondent, the complainant continuously badgered him to ask the City Building Official to issue a Certificate of Condemnation for their building, which he refused to do so because it was not part of his duty as counsel, and that he did not want to pressure or exert undue influence on his co-worker in the city government. Furthermore, he stressed that he timely filed a preliminary conference brief for the ejectment case on May 17, 2010. He denied that he refused to give the complainant copies of the complaint, stating that there was no reason for him to do so. Finally, he explained that he withdrew from the case because the complainant was arrogant and disrespectful.⁷

⁴ Id. at 98-99.

⁵ Id. at 103-105.

⁶ Id. at 243.

⁷ Id. at 243-245.

The Report and Recommendation of the IBP

On July 9, 2018, Investigating Commissioner Rico A. Limpingo of the IBP-CBD issued a Report and Recommendation.⁸ He found no convincing evidence of any act or omission on the respondent's part that constitutes professional misconduct insofar as the handling and management of the ejectment case is concerned. He did not give credence to the allegation that the complainant's case was neglected by the respondent's failure to file a preliminary conference brief, noting that a copy thereof was submitted with a receiving stamp on the first page showing that it was filed three (3) days before the preliminary conference. Similarly, the Investigating Commissioner was not convinced with the complainant's contention that respondent refused to give her a copy of the ejectment complaint since there was no reason how or why the respondent would benefit from such refusal.⁹

Nevertheless, the Investigating Commissioner found that the respondent is not completely without fault. It was not disputed that the respondent occupied the position of Secretary of the City Council of Parañaque at the time he accepted the complainant's case, in violation of the Civil Service Rules.¹⁰ Since he failed to secure the necessary authorization for engaging in the private practice of law, the Investigating Commissioner recommended that the respondent be reprimanded, to wit:

WHEREFORE, premises considered, it is respectfully recommended that respondent Atty. Lino C. Sandil be reprimanded for his failure to secure the necessary authorization for engaging in the private practice of law during his tenure as secretary of the City Council of Para[ñ]aque.¹¹

The IBP- Board of Governors Resolution

On October 4, 2018, the Board of Governors of the Integrated Bar of the Philippines passed a Resolution¹² adopting the findings of the Investigating Commissioner, thus:

CBD Case No. 16-5028
(Adm. Case No. 8733)
Jo Ann De Lara Lara vs.
Atty. Lino C. Sandil

⁸ Id. at 256-260.

⁹ Id. at 258-259.

¹⁰ Id. at 259-260.

¹¹ Id. at 260.

¹² Id. at 254-255.

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, to impose upon Respondent the penalty of REPRIMAND.

The Court's Ruling

The Court resolves to adopt and approve the findings and recommendation of the Investigating Commissioner as approved by the IBP Board of Governors.

This Court has consistently held that an attorney enjoys the legal presumption 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.¹³ “For the Court to exercise its disciplinary powers, the case against the respondent [lawyer] must be established by clear, convincing and satisfactory proof. Indeed, considering the serious consequences of disbarment or suspension of a member of the Bar, the Court has consistently held that clear preponderant evidence is necessary to justify the imposition of the administrative penalty.”¹⁴ The burden of proof in disbarment and suspension proceedings always rests on the shoulders of the complainant.¹⁵

Jurisprudence dictates that in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not obliged to prove their exception or defense.¹⁶ “A case of suspension or disbarment is *sui generis* and not meant to grant relief to a complainant as in a civil case, but is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts.”¹⁷ Jurisprudence is replete with cases reiterating that in disbarment proceedings, the burden of proof rests upon the complainant.¹⁸ In the case of *Reyes v. Atty. Nieva*,¹⁹ this Court had the occasion to clarify that the proper evidentiary threshold in disbarment cases is substantial evidence.

In this case, the Court finds no convincing evidence of any act or omission on the part of the respondent that constitutes professional misconduct insofar as the handling and management of the ejection case is

¹³ *Aba v. Atty. De Guzman, Jr.*, 678 Phil. 588, 601 (2011).

¹⁴ *Bellosillo v. Board of Governors of the IBP*, 520 Phil. 676, 689 (2006).

¹⁵ *Joven v. Attys. Cruz*, 715 Phil. 531, 538 (2013).

¹⁶ *Re: Letter of Lucena Ofendo Reyes Alleging Illicit activities of a certain Atty. Cajayon involving cases in the Court of Appeals, Cagayan de Oro City*, A.M. No. 1612-03-CA, June 26, 2017, Resolution *En Banc*.

¹⁷ *Cristobal v. Atty. Renta*, 743 Phil. 145, 148 (2014).

¹⁸ *Concepcion v. Atty. Fandiño, Jr.*, 389 Phil. 389, 480 (2000).

¹⁹ 794 Phil. 360, 379 (2016).

concerned. However, as the Investigating Commissioner pointed out, the respondent held the position of Secretary of the City Council of Parañaque at the time he accepted the complainant's case. His failure to secure the necessary authorization for engaging in the private practice of law violated the Code of Professional Responsibility.

A civil service officer or employee whose responsibilities do not require his time to be fully at the disposal of the government can engage in the private practice of law only with the written permission of the head of the department concerned. Section 12, Rule XVIII of the Revised Civil Service Rules provides:

Sec. 12. No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of Department; Provided, That this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government: Provided, further, That if an employee is granted permission to engage in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the other officer or employee: And provided, finally, That no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer or member of the board of directors.

The failure of the respondent to comply with Section 12, Rule XVIII of the Revised Civil Service Rules constitutes a violation of his oath as a lawyer: to obey the laws. Lawyers are servants of the law, *vires legis*, men of the law. Their paramount duty to society is to obey the law and promote respect for it. To underscore the primacy and importance of this duty, it is enshrined as the first canon of the Code of Professional Responsibility.

In acting as counsel for a party without first securing the required written permission, the respondent not only engaged in the unauthorized practice of law but also violated civil service rules which is a breach of Rule 1.01 of the Code of Professional Responsibility:

Rule 1.01 - **A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.** (Emphasis supplied)

For not living up to his oath as well as for not complying with the exacting ethical standards of the legal profession, the respondent failed to comply with Canon 7 of the Code of Professional Responsibility:

CANON 7. A LAWYER SHALL AT ALL TIMES
UPHOLD THE INTEGRITY AND THE DIGNITY OF THE
LEGAL PROFESSION AND SUPPORT THE ACTIVITIES OF
THE INTEGRATED BAR.

Indeed, a lawyer who disobeys the law disrespects it. In so doing, one disregards legal ethics and disgraces the dignity of the legal profession.

Lawyers should always live up to the ethical standards of the legal profession as embodied in the Code. Public confidence in law and in lawyers may be eroded by the irresponsible and improper conduct of a member of the Bar. Thus, every lawyer should act and comport himself or herself in a manner that would promote public confidence in the integrity of the legal profession.²⁰

Under the Uniform Rules on Administrative Cases in the Civil Service, engaging in the private practice of profession, when unauthorized, is classified as a light offense punishable by reprimand.²¹

WHEREFORE, the Court finds Atty. Lino C. Sandil guilty of engaging in the unauthorized private practice of law during his tenure as Secretary of the City Council of Parañaque without the written authority from the head of the department concerned. Accordingly, he is hereby **REPRIMANDED** with a warning that a repetition of the same or similar act in the future shall merit a more severe sanction.

SO ORDERED.”

Very truly yours,

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court JB 3/5/20

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²⁰ *Judge Ariel Florentino R. Dumlao, Jr. v. Atty. Manuel N. Camacho*, A.C. No. 10498, September 4, 2018.

²¹ *Abella v. Atty. Cruzabra*, 606 Phil. 200, 208 (2009).

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