



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated February 10, 2021 which reads as follows:*

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**“A.C. No. 12947 [Formerly CBD Case No. 14-4451] (Philippine School of Business Administration, Inc. – Quezon City, Complainant, v. Atty. Benjamin P. Paulino, Respondent).** – This is a Complaint<sup>1</sup> for disbarment filed by the Philippine School of Business Administration, Inc. – Quezon City, represented by Juan D. Lim (complainant) against Atty. Benjamin P. Paulino (respondent) charging the latter with open defiance of the authority of the Court and grave misconduct and for violations of Canons 1 and 11 of the Code of Professional Responsibility.

**Antecedents**

Philippine School of Business Administration, Inc. – Quezon City (the “Corporation”) is a corporation organized and existing for the primary purpose of organizing, conducting and carrying on the operation of colleges and/or educational institutions giving elementary, secondary and collegiate, post graduate, as well as vocational courses. It owns the Philippine School of Business Administration, Quezon City campus situated at 1029 Aurora Blvd (the “School”). Respondent is its stockholder, owning 3,000/598,003 shares or 0.5% of its subscribed capital. He was both the President of the Corporation and the school until he lost his seat in the Board of Directors as a result of the elections during the 16 June 2013 Stockholders’ meeting. It appears that the said meeting was initiated by Mr. Juan D. Lim (now deceased) who at the time was the Chairman of the Board. He also purports to represent the Corporation in this present disbarment case against the respondent.

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<sup>1</sup> Rollo, pp. 01-06.

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Complainant alleged that respondent forcibly took possession of the campus and operations of the school and excluded the Board of Directors therefrom. Respondent also filed a complaint for the “Declaration of nullity of the stockholders meeting and election of directors and officers and damages” with a prayer for temporary restraining order (TRO) and/or preliminary injunction with the Regional Trial Court of Quezon City, Branch 93.<sup>2</sup> The TRO sought to prevent the Board of Directors from acting as such and from implementing any of its resolutions but this was denied by the trial court in its Order dated 27 June 2013.<sup>3</sup> A series of filings for the issuance of temporary restraining order and/or preliminary injunction were made by the Respondent, but these were all denied by the trial court.<sup>4</sup>

In October 2014, complainant held its annual stockholders meeting where respondent was not voted again in to the Board.<sup>5</sup> But despite this, complainant claims that respondent continued to misrepresent as the President of both the corporation and the campus when he caused the publication of a notice on 24 October 2014 in the Philippine Daily Inquirer, warning the public about the disclaimers made by a certain Mr. Juan D. Lim pending intra-corporate disputes with the trial court.<sup>6</sup> According to complainant, respondent’s actuations demonstrate gross misconduct subject to disciplinary action and possibly disbarment from the practice of law.<sup>7</sup>

For his part, respondent claimed that the 2013 annual stockholders’ meeting initiated by Mr. Juan D. Lim was illegal since the corporation’s by-laws indicate that the stockholders’ meeting should be held annually on the last Saturday of October.<sup>8</sup> Likewise, the meeting was held without complying with the two (2) weeks’ notice requirement by the bylaws.<sup>9</sup> Respondent demanded Mr. Lim to cease and desist from continuing with the annual meeting of the stockholders, but to no avail. Mr. Lim and his group even declared some of the positions, including respondent’s, vacant. Inasmuch as the complainant questions respondent’s actuations, the legality of the election of the directors and officers of Mr. Lim’s group is not settled either due to the pendency of the intra-corporate disputes.

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<sup>2</sup> *Id* at p. 2

<sup>3</sup> *Id* at pp. 20-24

<sup>4</sup> *Id.* at pp. 25-26, Order dated 25 October 2013; *Id* at 27-28, Order dated 25 October 2013.

<sup>5</sup> *Id.* at 03.

<sup>6</sup> *Id.* at 39.

<sup>7</sup> *Id.* at 04.

<sup>8</sup> *Id.* at 64.

<sup>9</sup> *Id.*

### **Recommendation of the IBP Commissioner**

In his Report and Recommendation<sup>10</sup> dated 27 March 2018, the Investigating Commissioner recommended the dismissal of the administrative charges against respondent for lack of jurisdiction. The issues raised in the Complaint are intra-corporate in nature and are still pending before the Regional Trial Court. Also, the complainant failed to prove that the charges against respondent are inextricably linked with the intra-corporate issues pending before the Regional Trial Court. Thus, a dismissal is appropriate for lack of jurisdiction and for insufficiency of evidence.

### **Recommendation of the IBP Board of Governors**

On 07 September 2019, the IBP Board of Governors resolved to approve and adopt with modification the Report and Recommendation of the Investigating Commissioner and dismiss the case for lack of merit.<sup>11</sup>

### **Ruling of the Court**

The Court finds nothing persuasive that would let us deviate from the findings and recommendations of the IBP in dismissing the case.

Jurisprudence dictates that "in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence." Accordingly, complainant must show in a satisfactory manner the facts upon which their claims are based; otherwise, respondent is not obliged to prove his exception or defense. This is because an attorney enjoys the legal presumption that he is innocent of the charges proffered against him until the contrary is proved, and that, as an officer of the Court, he has performed his duties in accordance with his oath.<sup>12</sup> Not only does the burden of proof that the respondent committed the act complained of rests on complainant, but the burden is not satisfied when complainant relies on mere assumptions and suspicions as evidence.<sup>13</sup>

Complainant failed to discharge with the requisite burden of proof that respondent is guilty of open defiance of the authority of the Court, gross misconduct and in violating Canons 1 and 11 of the Code of Professional Responsibility which state:

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<sup>10</sup> Unnumbered after p. 73; Jose Villanueva Cabrera.

<sup>11</sup> Unnumbered after p. 73.

<sup>12</sup> *Alag v. Senupe, Jr.*, A.C. No. 12115, 15 October 2018 [Per J. Perlas-Bernabe].

<sup>13</sup> *Guanzon v. Dojillo*, A.C. No. 9850, 06 August 2018 [Per J. Peralta].

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

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

As correctly pointed out by the IBP, the issues in this case are obviously intra-corporate and relate to the validity of the appointment of the officers and the election of the directors of the Corporation.<sup>14</sup> It is true that respondent sought provisional reliefs for temporary restraining order and these were all denied by the trial court, but their denial do not legitimize the status of the complainant and those whose election and appointment was disputed by the respondent. A denial of a TRO is not a judgment on the merits of the case.

Gross misconduct is defined as any inexcusable, shameful, flagrant, or unlawful misconduct on the part of the person concerned in the administration of justice which is prejudicial to the rights of the parties or to the right determination of a cause. It is a conduct that is generally motivated by a premeditated, obstinate, or intentional purpose.<sup>15</sup>

Very little can be deduced from the records without Us dwelling on the pendency of the intra-corporate disputes before the trial court. Other than the fact that respondent represented himself as the president of the Corporation in a notice published in the *Philippine Daily Inquirer*,<sup>16</sup> this can hardly be considered as gross misconduct. As sufficiently explained by respondent, inasmuch as the complainant claims to have authority to represent the corporation, he too made such notice under the assumption that he is still the president of the corporation and the school, pending resolution of the intra-corporate disputes before the trial court.<sup>17</sup> As to who between them have a better right, We cannot make that determination. A case for disbarment or suspension is 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.<sup>18</sup> Thus, We leave that determination with the trial court where the intra-corporate disputes are currently pending.

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<sup>14</sup> Unnumbered after p. 73.

<sup>15</sup> *Sebastian v. Bajar*, A.C. No. 3731, 07 September 2007, 559 Phil. 211 (2007) [Per J. Carpio].

<sup>16</sup> *Supra* at note 06.

<sup>17</sup> *Id.* at 16.

<sup>18</sup> *Alpajora v. Calayan*, A.C. No. 8208, 10 January 2018 [Per J. Gesmundo].

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Clearly, there is no evidence that respondent violated any specific order, directive or judgment that would make him liable for gross misconduct or subject him to disbarment. Verily, a dismissal of the complaint is in order.


The object of a disbarment proceeding is not so much to punish the individual attorney himself, as to safeguard the administration of justice by protecting the court and the public from the misconduct of officers of the court, and to remove from the profession of law persons whose disregard for their oath of office have proved them unfit to continue discharging the trust reposed in them as members of the bar. Consequently, the power to disbar attorneys ought always to be exercised with great caution, and only in clear cases of misconduct which seriously affects the standing and character of the lawyer as an officer of the court and member of the bar.<sup>19</sup> Thus, while the Court will not hesitate to mete out proper disciplinary punishment upon lawyers who are shown to have failed to live up to their sworn duties, it will also not hesitate to extend its protective arm to them when the accusation against them is not indubitably proven,<sup>20</sup> as in this case.

**WHEREFORE**, premises considered, the disbarment complaint against respondent, Atty. Benjamin P. Paulino, is hereby **DISMISSED** for lack of merit.

The Notice of Resolution dated September 7, 2019 of the Integrated Bar of the Philippines' Board of Governors, transmitted by letter dated October 8, 2020 of Director Randall C. Tabayoyong, Integrated Bar of the Philippines' Commission on Bar Discipline, together with the records and compact disc containing the PDF file of the case, is **NOTED**.

**SO ORDERED."**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
2021

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
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<sup>19</sup> *Duque Jr. v. Brillantes, Jr.*, A.C. No. 9912, 21 September 2016 [Per J. Peralta].

<sup>20</sup> *Supra* at note 13.

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