



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 4, 2021, which reads as follows:

“A.C. No. 12095 (*Atty. Ferdinand S. Topacio, Complainant, v. Atty. Santiago T. Gabionza, Jr., Respondent.*); and A.C. No. 12096 (*Atty. Santiago T. Gabionza, Jr., Complainant, v. Atty. Ferdinand S. Topacio, Respondent.*). – Before the Court are two consolidated administrative complaints filed by complainant-respondent Atty. Ferdinand S. Topacio (Atty. Topacio) and respondent-complainant Atty. Santiago T. Gabionza, Jr. (Atty. Gabionza) charging each other with violations of the Code of Professional Responsibility (CPR), Canons of Professional Ethics (CPE) and/or the Lawyer’s Oath of Office, and the Rules of Court (Rules).

Antecedents

The administrative complaints arose from the case entitled, “In the Matter of the Petition to have Steel Corporation of the Philippines Placed under Corporate Rehabilitation with Prayer for the Approval of the Proposed Rehabilitation Plan” (Petition), docketed as SP. Proc. No. 06-7993 filed by Equitable PCI Bank (EPCIB) (now BDO Unibank, Inc.),¹ one of the creditors of Steel Corporation of the Philippines (SCP). Pursuant to the said Petition, Branch 2, Regional Trial Court (RTC) of Batangas City, as the rehabilitation court, appointed Atty. Gabionza as SCP’s rehabilitation receiver on 12 September 2006.²

CBD Case No. 10-2630

On 26 February 2010, the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline (CBD) received the Complaint-Affidavit³

¹ *Rollo* of A.C. No. 12096, p. 236.

² *Id.* at 620, 635, 642.

³ *Id.* at 2-18.

filed by Atty. Topacio against Atty. Gabionza for the latter's acts as a court-appointed rehabilitation receiver. Atty. Topacio averred that Atty. Gabionza performed his duties as rehabilitation receiver in an irresponsible, improper, and unethical manner. Instead of rehabilitating SCP, Atty. Gabionza used his powers and position to advance his personal interests to the detriment of SCP.

Atty. Gabionza allegedly breached the following canons of the CPR:

a) Rule 20.01, Canon 20, when, for unsubstantiated reasons, he asked a monthly compensation of Php300,000.00 and hired his law firm as his legal counsel;

b) Rule 18.01, Canon 18, as he did not have the requisite qualifications of a rehabilitation receiver;

c) Rule 15.03, Canon 15, when he acted as legal counsel for EPCIB in a case. This posed a conflict of interest since EPCIB was one of SCP's creditors;

d) Rules 1.01 and 1.02, Canon 1, as he instigated certain banks to violate the Law on Secrecy of Bank Deposits and the General Banking Act. His letters requesting for the disclosure of SCP's bank accounts were sent to banks without prior permission from the rehabilitation court and SCP. He likewise violated the Interim Rules of Procedure on Corporate Rehabilitation, as he called a creditor's meeting after, not before, his evaluation on the rehabilitation plan was submitted and approved by the court; and

e) Rules 10.01 and 10.03, Canon 10, when he vacated/abandoned his position as rehabilitation receiver in defiance of a court Order⁴ dated 02 May 2008 and when he did not comply with the Order⁵ dated 15 February 2007.⁶

Canon Nos. 6⁷ and 37⁸ of the CPE, and such other laws and rules relevant thereto were likewise violated by Atty. Gabionza. Thus, Atty. Topacio prayed that the latter be disciplined and the monies unlawfully and unjustly paid to him and his law firm be returned.⁹

For his part, Atty. Gabionza denied the allegations in the Complaint and alleged that the same should be dismissed because the Complaint failed to

⁴ *Id.* at 85-86, 640; In the said Order, the rehabilitation court agreed to discharge Atty. Gabionza as rehabilitation receiver provided that he would not abandon his post until his replacement has assumed office.

⁵ *Id.* at 29-31, 640; In the said Order, the rehabilitation court directed Atty. Gabionza to stop engaging the services of his law firm.

⁶ *Id.* at 636-637, 639-640.

⁷ 6. Adverse influence and conflicting interests.

⁸ 37. Confidence of a client.

⁹ *Rollo* of A.C. No. 12095, p. 632.

state a cause of action and the filing of the complaint constituted forum shopping. As a rehabilitation receiver, he is immune from suit considering that his acts or omissions were made pursuant to and in the course of performing his duties and responsibilities as rehabilitation receiver. The acts he performed in the exercise of his functions were done in good faith.¹⁰

CBD Case No. 10-2723

On 16 July 2010, Atty. Gabionza filed a Complaint¹¹ against Atty. Topacio for violating the following rules of the CPR:

a) Rule 12.02, Canon 12, as Atty. Topacio filed multiple suits, thus, violating the rule on forum shopping;

b) Rules 10.03, Canon 10; and 12.04, Canon 12, as Atty. Topacio's act of filing suits showed his ill-motive to derail the rehabilitation proceedings and that he misused legal processes to unduly delay justice;

c) Rule 1.03, Canon 1, as the complaint was filed to harass him (Atty. Gabionza) in order to prevent him from performing his duties and responsibilities as rehabilitation receiver.

d) Rules 10.01, Canon 10 and Rule 19.01, Canon 19 of the CPR, as Atty. Topacio promoted and tolerated falsehood as well as used unfair and dishonest means to obtain the objectives of his client.¹²

Finally, Atty. Gabionza alleged that Atty. Topacio violated the rule on confidentiality of administrative proceedings against lawyers prescribed in Section 18, Rule 139-B of the Rules. Apparently, Atty. Topacio attached copies of the administrative complaint against Atty. Gabionza to SCP's Manifestation¹³ dated 02 March 2010 filed before Branch 4, RTC of Batangas City, and distributed to the parties in the rehabilitation proceedings.¹⁴ Quoted below are relevant portions of the subject Manifestation:

2. By way of compliance with the rule on disclosure relating to forum-shopping, we wish to state that the undersigned counsel, in his own behalf and capacity, has filed an administrative complaint dealing with some of the issues raised before this Honorable Court and the Court of Appeals relating to Receiver's capacity to act as such, against said Receiver with the Integrated Bar of the Philippines on February

¹⁰ *Id.* at 645.

¹¹ *Rollo* of A.C. No. 12096, pp. 2-25.

¹² *Rollo* of A.C. No. 12095, pp. 642-643.

¹³ *Id.* at 271-275.

¹⁴ *Id.* at 643.

26, 2010, a copy of which is attached herewith as Annex 'A'.¹⁵

In response, Atty. Topacio countered that forum shopping applies only to judicial cases and not to disbarment proceedings. He did not violate the rule of confidentiality as the administrative complaint against Atty. Gabionza was not attached to the manifestation he filed. Atty. Topacio stressed that since Atty. Gabionza was one of the recipients of the said Manifestation, he knew that the administrative complaint was not attached therein.¹⁶

Recommendation of the IBP

In his Report and Recommendation¹⁷ (Report) dated 06 May 2013, the Investigating Commissioner recommended the suspension of both Atty. Gabionza and Atty. Topacio from the practice of law for a period of six (6) months, as Atty. Gabionza violated Rules 15.03¹⁸ and 10.01¹⁹ of the CPR while Atty. Topacio violated Section 18,²⁰ Rule 139-B of the Rules.

On 10 August 2014, the IBP Board of Governors (IBP Board) passed Resolution No. XXI-2014-481²¹ modifying the Report by imposing a more severe penalty on Atty. Topacio, *i.e.*, suspension from the practice of law for a total of two (2) years – a one (1)-year suspension for violating the rule on confidentiality of CBD proceedings; and another one (1)-year suspension for deliberately attaching the administrative complaint he filed against Atty. Gabionza to his Manifestation which act amounted to gross misconduct.²²

Aggrieved, both parties filed their separate motions for reconsideration.

In Resolution No. XXII-2017-1281²³ dated 20 April 2017 and Extended Resolution²⁴ dated 08 May 2017, the IBP Board resolved to grant the motion for reconsideration filed by Atty. Gabionza and, accordingly, dismissed the case filed against him. The IBP Board found that Atty. Gabionza did not violate Rules 15.03 and 10.01 of the CPR.

The IBP Board likewise modified the recommended penalty imposed upon Atty. Topacio from suspension from the practice of law to reprimand,

¹⁵ *Id.* at 271-272.

¹⁶ *Id.* at 641-642.

¹⁷ *Id.* at 631-658; signed by Commissioner Romualdo A. Din, Jr.

¹⁸ RULE 15.03 A lawyer, shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

¹⁹ 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.

²⁰ Section 18. Confidentiality. — Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases.

²¹ *Rollo* of A.C. No. 12095, pp. 629-630; signed by Nasser A. Marohomsalic, National Secretary.

²² *Id.* at 630.

²³ *Id.* at 618-619; signed by Patricia-Ann T. Prodigalidad, National Secretary.

²⁴ *Id.* at 620-628; signed by Leo B. Malagar, Assistant Director for Bar Discipline.

considering his humble apology for his error in judgment and his undertaking to be more circumspect in dealing with matters concerning confidentiality of administrative proceedings.²⁵

Ruling of the Court

The Court finds it fitting to sustain the IBP's findings and recommendation on: (a) the dismissal of the Complaint filed against Atty. Gabionza, as it was not shown that he violated Rules 15.03 and 10.01 of the CPR; and (b) the modification of its initial recommendation of suspension from the practice of law to reprimand since the attendant facts of the case show that Atty. Topacio violated the Rules when he disclosed the pending administrative complaint against Atty. Gabionza.

A.C. No. 12095

Under Rule 15.03, Canon 15 of the CPR, a lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste.²⁶ There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In short, if he argues for one client, this argument will be opposed by him when he argues for the other client.²⁷

In his Report, the Investigating Commissioner found that a conflict of interest existed because Philippine Bank of Communications (PBCom), one of SCP's creditors, is a client of Atty. Gabionza's law firm.²⁸ In order to determine whether a conflict of interests indeed exists, it is necessary to first ascertain whether a lawyer-client relationship exists between PBCom and Atty. Gabionza on one hand, and SCP and Atty. Gabionza on the other.²⁹

In the instant case, no lawyer-client relationship exists between Atty. Gabionza and SCP or between Atty. Gabionza and any of SCP's creditors, including PBCom. Atty. Gabionza, as a rehabilitation receiver, is an officer of the court who is primarily tasked to study the best way to rehabilitate the debtor and to ensure that the value of the debtor's property is reasonably maintained pending the determination of whether or not the debtor should be

²⁵ *Id.* at 627-628.

²⁶ *Orola v. Ramos*, 717 Phil. 536 (2013) [Per J. Perlas-Bernabe].

²⁷ *Paces Industrial Corp. v. Salandanan*, 814 Phil. 93 (2017) [Per J. Peralta].

²⁸ *Rollo* of A.C. No. 12095, p. 653.

²⁹ *See Villamor v. Jumao-as*, A.C. No. 8111, 09 December 2020 [Per J. Hernando].

rehabilitated, as well as implement the rehabilitation plan after its approval.³⁰ As a rehabilitation receiver Atty. Gabionza was neither the counsel for SCP nor its creditors. Thus, he could not be deemed guilty of representing conflicting interests.

In addition, there cannot be a conflict of interest because Atty. Gabionza's engagement by PBCom was terminated in 2005, or a year before his appointment as rehabilitation receiver. Further, it was not shown that he was consulted by PBCom with respect to any matter pertaining to SCP. He was therefore never placed in a situation where he was required to perform an act which would have injuriously affected PBCom considering that SCP was never his client.³¹

Atty. Gabionza is likewise not guilty of violating Rule 10.01, Canon 10 of the CPR. Although the Order dated 15 February 2007 directed Atty. Gabionza to terminate the services of his law firm as counsel, it did not prohibit him from engaging the services of lawyers to appear for him or collaborate with him, provided that such engagement shall be for his own account.³² Hence, Atty. Gabionza can engage the services of any lawyer, even his own law firm, which he did, provided he does so for his own account.

A.C. No. 12096

Section 18, Rule 139-B of the Rules provides that proceedings against attorneys shall be private and confidential. As explained in *Saludo, Jr. v. Court of Appeals*³³ (*Saludo*), the purpose of the rule is not only to enable this Court to make its investigations free from any extraneous influence or interference, but also to protect the personal and professional reputation of attorneys and judges from the baseless charges of disgruntled, vindictive, and irresponsible clients and litigants.

Here, the IBP Board found that “[Atty.] Topacio admitted that he disclosed the pendency of the administrative [C]omplaint against Atty. Gabionza in his Manifestation.” By disclosing information regarding the pending administrative complaint against Atty. Gabionza, there is no question that Atty. Topacio failed to observe the rule on confidentiality, as mandated by Section 18, Rule 139-B of the Rules.³⁴

As correctly observed by the IBP, the original recommended sanction of penalty of suspension from the practice of law for a total period of two (2) years is too harsh a penalty and not commensurate with the transgression

³⁰ Section 14, Rule 4 of the Interim Rules of Procedure on Corporate Rehabilitation, A.M. No. 00-8-10-SC.

³¹ *Rollo* of A.C. No. 12095, p. 624.

³² *Id.* at 625.

³³ 522 Phil. 556 (2006) [Per J. Ynares-Santiago].

³⁴ *Rollo* of A.C. No. 12095, p. 627.

committed.³⁵ In view of Atty. Topacio's abject apology for his error in judgment in filing the subject Manifestation, as he believed, although under a mistaken assumption, that it was his "duty to inform the Court [of the administrative complaint in order] to avoid sanctions that might be imposed [upon] him should he fail to do so under the Rule on Forum Shopping" as well as his undertaking to be more circumspect in dealing with matters concerning confidentiality of administrative proceedings,³⁶ We find the recommended penalty of reprimand sufficient.

WHEREFORE, the Complaint against respondent-complainant Atty. Santiago T. Gabionza, Jr. is hereby **DISMISSED** for lack of merit.

Complainant-respondent Atty. Ferdinand S. Topacio is **REPRIMANDED** for violating Section 18, Rule 139-B of the Rules of Court on the rule on confidentiality of disciplinary cases. Further, Atty. Topacio is **STERNLY WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED."

By authority of the Court:

MisDCCBatt
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court
SCR
4/7/22

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³⁵ *Id.* at 628.

³⁶ *Id.* at 627-628.