



Republic of the Philippines
 Supreme Court
 Manila
 EN BANC

MILAGROS MELAD-ONG,
 Complainant,

- versus -

ATTY. PLACIDO M. SABBAN,
 Respondent.

X-----*Placido M. Sabban*-----X

DECISION

PER CURIAM:

The administrative case stemmed from a complaint filed by Milagros Melad-Ong (complainant) against Atty. Placido M. Sabban (respondent) for committing unlawful and illicit acts by taking interest in a property subject of a litigation, acting as counsel for opposing parties, and executing falsities in the compromise agreement to the prejudice of the complainant and her co-heirs in violation of the Lawyer's Oath and Code of Professional Responsibility (CPR).

* Took no part.

SUPREME COURT OF THE PHILS.
 OFFICE OF THE CHIEF JUSTICE
 ALEXANDER G. GESMUNDO
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 TIME: 3:10

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
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 BY: *[Signature]*
 TIME: *[Signature]*
 A.C. No. 10511

Present:
 GESMUNDO, C.J.,
 PERLAS-BERNABE,
 LEONEN,
 CAGUIOA,
 HERNANDO,*
 CARANDANG,
 LAZARO-JAVIER,
 INTING,
 ZALAMEDA,
 LOPEZ, M.,
 GAERLAN,
 ROSARIO, and
 LOPEZ, J.,
 DIMAAMPAO,
 MARQUEZ, JJ.

Promulgated:
 January 4, 2022

[Signature]



Facts of the Case

The controversy began on November 22, 1984, when complainant's father, Jose Melad (Jose), filed a civil suit¹ against Concepcion Tuyuan (Concepcion) for Reconveyance, Reivindication and Annulment of Instrument with Damages for the illegal transfer of title of a 272,045-square meter property originally owned by Fe Tuyuan, which was now covered by Transfer Certificate of Title (TCT) No. T-52533. In the complaint, Jose alleged that he is the sole legal heir of Fe Tuyuan for being the first cousin by blood of the former, while Concepcion was not related by blood to the deceased.² The case was docketed as Civil Case No. 3413 before the Regional Trial Court of Tuguegarao, Cagayan, Branch 2 (RTC). Jose was represented by Atty. Simeon Agustin (Atty. Agustin), while Concepcion was represented by Atty. Hilarion L. Aquino (Atty. Aquino).³

On May 31, 1985, respondent, on behalf of his clients Rita Maguigad-Baquiran, Teodorico Maguigad, Estelita Maguigad Dalupang, Alberto Maguigad, Rogelio Maguigad, Edna Maguigad Managelot, and Totoy Maguigad (collectively, Maguigads), filed a Complaint in Intervention⁴ on Civil Case No. 3413. The Maguigads alleged that they are the true and rightful sole heirs of Fe Tuyuan to the exclusion of Concepcion and Jose. They averred that the property was the paraphernal property of Pelia Maguigad (Pelia), who was the mother of Fe Tuyuan. They claim that Severino Maguigad, who was their father, Pelia's brother and the deceased's uncle, is entitled to the property by right of succession, thereby making them the rightful heirs of Fe Tuyuan. Respondent was assisted by his father, Atty. Benito Sabban (Atty. Benito), in handling the case.

On January 26, 1995, Jose passed away while the case was still pending. He was substituted by his surviving heirs (Heirs of Jose) as plaintiffs in Civil Case No. 3413, which included herein complainant.

On May 1995, Concepcion executed a Deed of Confirmation of Attorney's Fees⁵ (Deed) in favor of Atty. Benito and transferred to him 10 hectares (100,000 square meters [sq. m]) of the 27 hectares (270,000 sq. m.) land owned by the deceased Fe Tuyuan. The land was received as compensation for the legal services rendered by Atty. Benito during the lifetime of Fe Tuyuan. The deed was made without the knowledge of the court where the case was pending nor the consent of the parties involved in the suit.

By virtue of the abovementioned deed, Atty. Benito, for himself and on behalf of his son, respondent, applied for retention of the 10 hectares of the subject property before the Department of Agrarian Reform (DAR). Likewise, Concepcion filed an application for retention of seven hectares against the

¹ *Rollo*, pp. 56-61.

² *Id.* at 58.

³ *Id.* at 63.

⁴ *Rollo*, pp. 65-69.

⁵ *Id.* at 74.

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subject property before the DAR, despite the fact that there was an ongoing litigation on the said land and a '*lis pendens*' attached to the title. As a consequence of the application for retention, on November 3, 1995, the DAR granted seven hectares (70,000 sq. m.) to Concepcion, five hectares (50,000 sq. m.) to Atty. Benito and 2.0507 hectares (20,507 sq. m.) to respondent, Atty. Benito's son, despite the subject property still being under litigation. The subject land, being under the coverage of Presidential Decree No. (PD) 27,⁶ Concepcion, Atty. Benito, and respondent were ordered to maintain the peaceful possession and cultivation of the tenants in the farm lots and authorized them to withdraw the amortization payments made by the tenants which were considered as lease rentals.⁷

On the other hand, the civil suit continued for years until Atty. Agustin, the counsel for plaintiffs Heirs of Jose, initiated a compromise deal among the parties. However, the deal did not materialize because Atty. Agustin died on December 2007.

Thereafter, the parties resumed the compromise discussions and on February 2008, the respondent drafted a Compromise Agreement⁸ and filed it before the court with the following partition: 80,000 sq. m. located in the southeast portion will be allotted to the plaintiffs Heirs of Jose, 80,000 sq. m. located in the middle south portion will be allotted to the intervenors Maguigads, and the remaining 112,045 sq. m. will be for defendant Concepcion. The Compromise Agreement was granted by RTC Branch 2 of Tuguegarao, Cagayan on April 1, 2008.⁹ Under the Compromise Agreement, a certain Atty. Luis Donato acted as the counsel for the plaintiffs (Heirs of Jose), while respondent acted as the counsel for both the intervenors (Maguigads) and the defendant (Concepcion).

On the same date, Concepcion executed two Deeds of Absolute Sale, first, on the sale of 20,000 sq. m. of the subject property in favor of respondent and second, on the sale of 50,000 sq. m. of the subject property in favor of respondent, his mother and siblings. The sale consisted of the 7 hectares of the subject property retained by Concepcion in 1995 as granted by the DAR. By virtue of the deeds of sale, TCT Nos. T-165677 (20,000 sq. m.), T-165678 (45,687 sq. m.) and T-165679 (4,135 sq. m.) were issued in favor of respondent, his mother and siblings.

In 2009, the plaintiffs Heirs of Jose filed an application for retention of the portion awarded to them by virtue of the Compromise Agreement before the DAR. However, their application was not immediately acted upon and they re-submitted their application in 2011. Thereafter, the DAR informed the plaintiffs Heirs of Jose that the portion of the property awarded to them has already been awarded to various tenants in 1995. When they got hold of the

⁶ Decreeing the Emancipation of Tenants from the Bondage of the Soil, transferring to them the Ownership of the Land they till and Providing the Instruments and Mechanism Therefor.

⁷ *Rollo*, pp. 71-73, 80-82.

⁸ *Id.* at 86-90.

⁹ *Id.* at 93-96.

documents pertaining to the inappropriate retentions to their property, they discovered the illegal retentions made by Concepcion, Atty. Benito and respondent in 1995.

Complainant reached out to respondent to seek his help with respect to the tenants in their awarded portion of the property since the respondent and his father were recognized by the tenants as the landowners. However, respondent did not reply to her despite her numerous emails. Hence, complainant was again constrained to file a case against the illegal tenants before the DAR in order to get back their share of the subject property.

In an Order¹⁰ dated February 14, 2011, the DAR granted the application for retention filed by the plaintiffs Heirs of Jose and ordered the retention area of not more than five hectares in the subject property. The DAR also authorized the cancellation of the emancipation patents issued to the tenants who were awarded the lots in 1995, when Concepcion transferred it to them *via* the Operation Land Transfer through Direct Payment Scheme program under PD 27. DAR ruled that the tenants lost their right over the properties when the Compromise Agreement was judicially approved and the farm lots were no longer covered by the provisions of PD 27.¹¹

Sometime in 2012, respondent negotiated a sale and was able to sell about 130,000 sq. m. of the subject land in favor of Camella Homes. Respondent sold about 74,000 sq. m. under his name while Concepcion sold 36,184 sq. m. and two of the farmer-beneficiaries sold 10,000 sq. m. each of the land they acquired through the Operation Land Transfer under PD 27.¹²

On March 19, 2013, the intervenors Maguigads filed a Motion for Execution¹³ of the April 1, 2008 Order granting the Compromise Agreement. They averred that up to that date, they have not received the portion of the lot allocated to them. Likewise, they filed a Manifestation¹⁴ informing the lower court that they have rescinded the legal services of respondent in Civil Case No. 3413 and they are now represented by Evangelista and Maguigad Law Office.

On August 8, 2013, the RTC issued an Order granting the Motion for Execution of the intervenors Maguigads.¹⁵ On August 31, 2013, respondent, on behalf of Concepcion, filed a Motion for Reconsideration¹⁶ of the said Order and prayed for the stay of execution, which was denied by the RTC. On August 27, 2014, a Writ of Execution¹⁷ was issued and a survey was made over the subject land. Under the Survey Verification Report,¹⁸ it was found

¹⁰ Id. at 269-275.
¹¹ Id. at 140-142.
¹² Id. at 8-9.
¹³ Id. at 99-101.
¹⁴ Id. at 97-98.
¹⁵ Id. at 148.
¹⁶ Id. at 148-152.
¹⁷ Id. at 300-301.
¹⁸ Id. at 302-303.

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that the area occupied and developed by Camella Homes encroached upon the area being claimed by the intervenors and plaintiffs, approximately 44,619 sq. m. and 14,417 sq. m., respectively.

Despite obtaining a positive ruling from the DAR and the RTC, the plaintiffs Heirs of Jose and intervenors Maguigads still failed to get the whole portion of their share in the subject property.

Proceedings before the Integrated Bar of the Philippines

On July 17, 2014, complainant filed this disbarment case against respondent before the Office of the Bar Confidant (OBC) alleging that respondent committed unlawful conduct, together with his father, in acquiring a portion of the subject property being litigated in Civil Case No. 3413, which case they were handling. In her complaint, she alleges that respondent allowed his father, Atty. Benito, to apply for retention of a portion of the subject property and eventually became a beneficiary of such retention, as awarded by the DAR. Likewise, they deceived the DAR by making it believe that the subject property was free from any liens or encumbrances and hid the fact that the property was under litigation. Further, respondent disregarded the conflict-of-interest rule when he acted as counsels for both the intervenors Maguigads and defendant Concepcion in the Compromise Agreement and later on, he became the counsel of Concepcion and filed a Motion for Reconsideration in the Order dated August 8, 2013 of the RTC granting the Motion for Execution filed by the intervenors, who were his initial clients. Respondent also failed to disclose to the parties and to the RTC Branch 2 of Tuguegarao that he, Atty. Benito and Concepcion applied for retention of the subject property before the DAR in 1995. Lastly, he enticed the parties to enter into a Compromise Agreement despite knowing that the subject property has already been retained and allocated to several people making the division of the property unfair and disadvantageous on the part of the Heirs of Jose and the Maguigads.¹⁹

In a Resolution dated February 23, 2015, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation or decision. In an Order dated August 18, 2015, the IBP directed the respondent to submit his Answer to the Complaint within 10 days from receipt of the order.

On October 12, 2015, the respondent, thru his counsel, filed his Answer.²⁰ Respondent admits that he filed the Complaint in Intervention on behalf of the Maguigads, however he claims that it was not him, but his father, who handled the case until Atty. Benito's death in 2006. It was only then that he resumed his appearance in Civil Case No. 3413. In 2007, Atty. Agustin,

¹⁹ Id. at 4-10.

²⁰ Id. at 168-172.

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counsel of the complainant and Heirs of Jose, approached respondent and requested that he arrange a conference with Concepcion for early settlement of the case. However, Atty. Agustin died thus, there was no settlement reached. Respondent avers that the Compromise Agreement was approved with the consent of all parties and that the Heirs of Jose were assisted by their counsel, a certain Atty. Luis Donato, in signing and approving the same. Lastly, he argues that the portion designated to the Heirs of Jose in the Compromise Agreement is the same portion of the land awarded to them by the DAR in a Resolution dated July 14, 2011 when the Heirs of Jose applied for retention. Respondent did not answer the other allegations in the Complaint.

A Notice of Mandatory Conference/Hearing²¹ dated October 15, 2015 was issued by the IBP setting the hearing on December 3, 2015 to discuss the admissions, stipulation of facts and definition of issues and directing the parties to submit their mandatory conference briefs 10 days prior to the hearing. Respondent filed his mandatory conference brief on October 28, 2015.²² Respondent reiterated the arguments raised in his Answer. On the other hand, complainant filed her mandatory conference brief²³ on November 26, 2015. Aside from the averments raised in her complaint, she alleges that respondent committed delay of justice, deceit, dishonesty, forgery, falsification of public document and malicious intent for personal gain.

In an Order dated December 3, 2015, the IBP conducted the mandatory conference and directed the IBP-Cagayan Chapter to assist in the conduct of deposition by oral interrogatories of the witnesses to be presented by the respondent. He will be presenting Atty. Luis Donato and Concepcion Tuyuan as his witnesses, who are both living in Cagayan.

On January 25, 2016, the IBP-Cagayan Chapter President Caesar Segundo R. Catral (Atty. Catral) facilitated the conduct of deposition by written interrogatories of the respondent's witness, Atty. Luis Donato. The complainant's representatives manifested that they will hire a counsel for the next hearing to conduct their cross-interrogatories. On February 26, 2016, Atty. Jovencio Evangelista (Atty. Evangelista) appeared for the complainant. He conducted the cross-examination of the deponent witness. On March 1, 2016, the respondent manifested that he will be dispensing with the testimony of his witness Concepcion.

In an Order dated April 8, 2016, Investigating Commissioner Eduardo R. Robles (Commissioner Robles) conducted a clarificatory hearing and directed the parties to submit their verified position papers, the agreement being that the complainant has to show that respondent is responsible for an alleged loss of a property that was awarded to the complainant under the Compromise Agreement and that the respondent has the burden to show that

²¹ Id. at 181

²² Id. at 177-180.

²³ Id. at 183-187.

the property subject of the Compromise Agreement meant for the complainant is intact and that the complainant has not suffered loss or prejudice in the implementation of the said Compromise Agreement.²⁴

The parties submitted their respective position papers. Complainant reiterated the arguments she raised in her complaint and conference brief. On the other hand, respondent limited his discussion on the issue agreed upon during the April 8, 2016 clarificatory hearing. He argued in his position paper that the complainant did not suffer any loss of the property awarded to them under the compromise agreement and it was the complainant's fault that they failed to enjoy their share in the property.

Report and Recommendation of the Integrated Bar of the Philippines

After hearing and investigation, IBP Commission on Bar Discipline (IBP-CBD) issued a Report and Recommendation²⁵ dated December 12, 2016 penned by Investigating Commissioner Robles recommending the suspension of respondent, to wit:

UPON THE FOREGOING, it is recommended that Respondent Atty. Placido M. Sabban be suspended from the legal profession for one (1) year. There is no doubt at all that he breached Rule 1.01 of Canon 1, and Canons 3 and 10 of the Code of Professional Responsibility, showed ignorance of Article 1491 of the Civil Code of the Philippines, and defied conflict-of-interest rules.

RESPECTFULLY SUBMITTED.²⁶

In a Resolution dated June 17, 2017, the IBP-Board of Governors (IBP-BOG) adopted the findings of fact and recommendation of the Investigating Commissioner imposing the penalty of one year suspension from the practice of law against the respondent. Aggrieved, respondent filed a Motion for Reconsideration.²⁷

Upon reconsideration, the IBP-BOG reversed its earlier Resolution and issued an Extended Resolution dated October 4, 2018 granting the respondent's motion for reconsideration and dismissing the case against him, the dispositive portion thereof reads:

Wherefore, it is resolved that the respondent's motion for reconsideration is hereby granted and the Notice of Resolution of the Board of Governors dated June 17, 2017, in Resolution No. XXII-2017-1214, with an attached Report and Recommendation dated December 12, 2016, by

²⁴ Id. at 246.

²⁵ Id. at 896-900.

²⁶ Id. at 899-900.

²⁷ Id. at 883.

Commissioner Eduardo R. Robles be set aside and the case against respondent Atty. Placido Sabban be DISMISSED.²⁸

The IBP-BOG ruled that according to the Order dated April 8, 2016 of Commissioner Robles, the basic issue agreed upon was the complainant has to show that respondent is responsible for the alleged loss of a property that was awarded to the Heirs of Jose by virtue of the Compromise Agreement. Upon review of the records, the IBP-BOG found that the complainant failed to prove respondent's fault and participation in the loss of the property and thereby dismissed the complaint against respondent.

Issue

The main issue in the complaint is whether respondent should be held administratively liable based on the allegations in the Complaint.

Ruling of the Court

The Court reverses the findings of the IBP-BOG and finds respondent administratively liable for violating Canons 1, 15 and 17, and Rules 1.01, 10.01 and 15.03 of the CPR and Article 1491 of the Civil Code.

Before proceeding to the substantive issues raised in the complaint, the Court must discuss the procedural issue raised by the complainant. The IBP-BOG limited its resolution on the issue of whether the complainant was able to prove that respondent is responsible for the loss of the property awarded to them in the Compromise Agreement. The IBP-BOG finds basis in the Order dated April 8, 2016 of Investigating Commissioner Robles, which the Court quotes:

After lengthy discussions, it was decided that the parties themselves will submit within a period of thirty (30) days from today their respective verified position papers, etc. The agreement being that: on the part of the complainant she has to show that the respondent is responsible for an alleged loss of a property that was awarded to the complainant under a compromise agreement. On the part of the respondent, it is his burden to show that the property subject of the compromise agreement meant for the complainant is intact and that the complainant has not suffered loss or prejudice in the implementation of the said compromise agreement.²⁹

²⁸ Id. at 893.

²⁹ Id. at 246.

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However, this Court rules that the IBP-BOG erred in disregarding the other substantive issues raised in the complaint and pleadings submitted by the complainant.

Disbarment proceedings are *sui generis*. The procedural requirements observed in ordinary civil proceedings do not strictly apply in disbarment cases.³⁰ Disciplinary proceedings are matters of public interest and the only basis for judgment is the proof or failure of proof of the charges. *In Re Almacen*,³¹ the Court held:

Neither purely civil nor purely criminal, this proceeding is not — and does not involve — a trial of an action or a suit, but is rather an investigation by the Court into the conduct of its officers. x x x 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. Hence, in the 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 in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of 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.³² (Citations omitted)

Thus, unlike in civil proceedings, issues in disbarment cases are not limited by the issues agreed or stipulated by the parties or ordered by the trial court. Further, a disbarment case is not instituted for the restitution of the complainant but rather for the determination of the fitness of the lawyer to remain as an officer of the Court. Hence, limiting the issue to respondent's participation in the loss of the property of the complainant is not proper in a disciplinary proceeding.

It is worthy to note that complainant has raised repeatedly in her complaint, mandatory conference brief, and position paper the unlawful and reprehensible acts committed by respondent in violation of his oath as a lawyer and of the ethical conduct mandated by the legal profession. Hence, the Court shall discuss each of the acts complained of by the complainant in her pleadings against respondent.

**Violation of Rule 15.03, Canon 15
and Canon 17 in relation to Rule 1.01,
Canon 1 of the CPR**

³⁰ *Mejares v. Atty. Romana*, 469 Phil. 619, 632 (2004).

³¹ 142 Phil. 353 (1970).

³² *Id.*

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Complainant raised the several instances that respondent committed violations of the conflict-of-interest rule, to wit:

- a. Respondent acted as the counsel of the intervenors Maguigads and of Concepcion (Defendant) in the Compromise Agreement;
- b. Respondent was initially the counsel of the Maguigads and filed the complaint in intervention against Concepcion but later on, he acted as counsel of Concepcion and filed a motion for reconsideration to order granting the motion for execution filed by the Maguigads;
- c. Respondent notarized the motion for intervention filed by his father, Atty. Benito, in Civil Case No. 3413 on August 22, 1997.

Complainant's allegations are well-taken. Respondent's acts of representing opposing clients violated Rule 15.03 of Canon 15 and Canon 17 in relation to Rule 1.01 of Canon 1 of the CPR, which provide:

Canon 15 – A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

Rule 15.03 – A lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts.

Canon 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

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

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

As culled from the records, respondent was the counsel of the Maguigads when they filed the complaint in intervention in Civil Case No. 3413. There was no record that respondent withdrew as counsel or terminated his services with the Maguigads. It was only on March 19, 2013 that the Maguigads manifested before the RTC that they were terminating the services of respondent. It was admitted by respondent in his answer that he filed the complaint in Intervention of the Maguigads but he argues that it was not him who was handling the case, but his father, Atty. Benito. Respondent's defense fails to convince this Court.

A lawyer owes fidelity to his client's cause upon acceptance of the case. A relationship imbued with trust and confidence, clients are led to expect that lawyers would be ever-mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs, especially in representing them in a case before the court. Until there is termination of services by the client or a withdrawal approved by the court, the lawyer remains counsel of record who is expected by his client as well as by the court

to do what the interests of his client require. The attorney-client relationship does not terminate formally until there is a withdrawal of record. Case law provides:

The rule in this jurisdiction is that a client has the absolute right to terminate the attorney-client relation at any time with or without cause. The right of an attorney to withdraw or terminate the relation other than for sufficient cause is, however, considerably restricted. Among the fundamental rules of ethics is the principle that an attorney who undertakes to conduct an action impliedly stipulates to carry it to its conclusion. He is not at liberty to abandon it without reasonable cause. A lawyer's right to withdraw from a case before its final adjudication arises only from the client's written consent or from a good cause.³³

In this case, there was no termination of services made by the Maguigads until they filed their Manifestation dated March 19, 2013 informing the RTC that they were severing the services of respondent. Thus, respondent remained to be their counsel of record until his services were severed by the client. Likewise, there is nothing in the records that shows that respondent applied to withdraw as counsel of the Maguigads.

While remaining to be the counsel of the Maguigads, respondent also acted as counsel of Concepcion in the Compromise Agreement filed before the RTC, thereby acting as representatives of opposing parties. Respondent did not provide any explanation as to why he was acting as counsel for both the Maguigads and Concepcion. Neither did he present a written consent of the parties involved authorizing him to act as counsel for both of them, as required by the law.

Clearly, respondent violated Canon 17 and Canon 15, Rule 15.03 of the CPR for his lack of commitment to the cause of his client, the Maguigads, and for betraying the trust and confidence reposed in him by representing as well the opposing party, Concepcion, without the consent of the former.

Further, complainant was able to prove that respondent acted as counsel for Concepcion when he filed the Motion for Reconsideration of the Order dated August 8, 2013 of the RTC granting the Maguigads' motion for execution of the Compromise Agreement. This is a definite violation of Canon 15, Rule 15.03 of the CPR.

The proscription against representation of conflicting interests applies to situations where opposing parties are represented by the same lawyer in the same, or an unrelated action. It also applies even if a lawyer would not be called upon to contend for one client, or that there would be no occasion to

³³ *Orcino v. Gaspar*, 344 Phil. 792, 797-798 (1997).

use the confidential information acquired from one client to the other's disadvantage. The determining factor is whether acceptance of the new relation will prevent a lawyer from fulfilling his duty of undivided fidelity and loyalty to his client, or invite suspicion of unfaithfulness or double-dealing in the performance of that duty.³⁴

In the case of *Aniñon v. Atty. Sabitsana, Jr.*,³⁵ the Court identified three tests developed by jurisprudence to determine the existence of conflict of interest. *First*, whether a lawyer is duty-bound to fight for an issue, or claim on behalf of one client and, at the same time, to oppose that claim for the other client. *Second*, whether acceptance of a new relation would prevent the full discharge of the lawyer's duty of undivided fidelity and loyalty to the client, or invite suspicion of unfaithfulness or double-dealing in the performance of that duty. *Third*, whether the lawyer would be called upon in the new relation to use against a former client any confidential information acquired through their connection or previous employment³⁶

Based from these tests, there exists a conflict of interest in the representations made by respondent. As the counsel on record of the Maguigads, respondent is duty-bound to advocate for his client's rights and interests in the subject property, and at the same time, oppose that claim for Concepcion when he became the latter's counsel, thereby establishing representation of conflicting interests. Further, respondent's act of representing Concepcion after his services were terminated by the Maguigads likewise violate the conflict-of-interest rules. Respondent has confidential information acquired through his previous employment with the Maguigads with respect to the contested property which he may use in favor of his new client, Concepcion. He cannot simply represent a client especially when that person was the opposing party in the case he previously handled.

The spirit behind this rule is that the client's confidence once given should not be stripped by the mere expiration of the professional employment.³⁷ Even after the severance of the relation, a lawyer should not do anything that will injuriously affect his former client in any matter in which the lawyer previously represented the client.³⁸ Nor should the lawyer disclose or use any of the client's confidences acquired in the previous relation.³⁹

However, on the issue of notarizing the Motion for Intervention filed by his father, the Court cannot fault respondent for the same. At the time of notarization in 1998, the prevailing law governing notarization was the Notarial Law.⁴⁰ Under the said law, there is no disqualification among notaries public in notarizing documents executed by their immediate family or

³⁴ *Pilar v. Atty. Ballicud*, A.C. No. 12792, November 16, 2020.

³⁵ 685 Phil. 322 (2012).

³⁶ *Id.* at 327.

³⁷ *Samson v. Atty. Era*, 714 Phil. 101, 112 (2013).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Sections 231-259, Chapter 11, Revised Administrative Code.

relatives within the fourth civil degree of consanguinity or affinity. Such disqualification was only adopted in the 2004 Rules on Notarial Practice⁴¹ which was promulgated by this Court on July 6, 2004. Hence, respondent was permitted by law to notarize the document at that time.

Violation of Article 1491 of the Civil Code

Further, complainant avers that respondent acquired a portion of the subject land in violation of Article 1491 of the Civil Code, to wit:

Article 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

x x x x

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; **this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.**" (Emphasis supplied)

For lawyers, the prohibition applies to all properties of their clients which were subject of a litigation that they took part in. The prohibition, which rests on considerations of public policy and interests, is intended to curtail any undue influence of the lawyer upon his client on account of his fiduciary and confidential relationship with him.⁴²

In this case, respondent acquired by purchase from Concepcion a portion of the contested property as evidenced by the Deeds of Absolute Sale⁴³ executed on April 1, 2008, the same day that the Compromise Agreement was judicially approved. It can be gleaned from this that respondent has had interest over the property even while the case was pending and immediately grabbed the opportunity to buy it upon approval of the Compromise Agreement so as to avoid the prohibition under Article 1491. The fact that the property was bought at the same date as the approval of the Compromise Agreement shows the propensity of respondent to circumvent the mandate of the law which is that respondent, as a lawyer, is prohibited from acquiring,

⁴¹ A.M. No. 02-08-13-SC.

⁴² *Zalamea v. De Guzman, Jr.*, 798 Phil. 1, 7 (2016).

⁴³ *Rollo*, pp. 124-127.

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either by purchase or assignment, the property and rights of his client that were involved in a litigation in which he took part in.

Further, respondent violated Article 1491 of the Civil Code when he and his father, Atty. Benito, illegally retained about 7 hectares of the land subject of the litigation while the case was still pending. It is evidenced by the Order⁴⁴ of the DAR dated November 3, 1995, granting Atty. Benito's application for retention of the land for himself and for respondent. Likewise, it is bolstered by the Motion for Intervention with Consolidated Petition for Intervention and for Partial Lifting of Lis Pendens⁴⁵ filed by Atty. Benito and notarized by respondent in Civil Case No. 3413 before RTC Branch 2 of Tuguegarao, Cagayan. In the said Motion, Atty. Benito sought to exclude the 10 hectares of the subject property ceded and transferred to him by Concepcion by virtue of the Deed of Confirmation of Attorney's Fees.⁴⁶ These pieces of evidence prove that respondent has known and consented to the acts of his father taking interest in the property in Civil Case No. 3413. Respondent was even granted the retention of two hectares of the subject land in contravention of the prohibition under Article 1491 of the Civil Code.

Public policy prohibits these transactions in view of the fiduciary relationship involved between the lawyer and his client. It is intended to curtail any undue influence of the lawyer upon his client. Greed may get the better of the sentiments of loyalty and disinterestedness. Any violation of this prohibition would constitute malpractice and is a ground for suspension.⁴⁷

All these acts were done with the knowledge and consent of respondent, despite the clear prohibitions embodied in the law. Such reprehensible conduct cannot be countenanced by the Court.

Violation of Rule 10.01 of the CPR

Likewise, we rule that respondent violated Rule 10.01 of the CPR which provides:

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.

Respondent knew that his father, Atty. Benito, applied for illegal retention over the subject land before the DAR. As a matter of fact, Atty. Benito applied not just for himself but also on behalf of his son, respondent. Thus, respondent cannot claim that he has no knowledge of the illegal retentions made by his father and Concepcion on the contested property. As

⁴⁴ Id. at 80-82.

⁴⁵ Id. at 117-121.

⁴⁶ Id. at 74.

⁴⁷ *Beltran v. Fernandez*, 70 Phil. 248, 280 (1940).

counsel of the intervenors Maguigads and as an officer of the Court, respondent had the duty to disclose the fact of illegal retention to his clients and the RTC Branch 2 where the subject property was being litigated upon.

Further, respondent, in drafting the Compromise Agreement which was later on approved by the RTC, failed to inform the parties that they had existing rights over the subject land. Respondent concealed to his clients, the Maguigads, and to the Heirs of Jose that Atty. Benito and Concepcion had been granted retention over a portion of the contested land and that they have transferred some of these lots to the current tenants via the Operation Land Transfer under PD 27. The Compromise Agreement was drafted by respondent and approved by the parties thinking that the subject land was free from any liens, encumbrances or issues. All these facts affect the partition of the property under the Compromise Agreement, which complainant would not have accepted had she known of the illegal retentions made by Atty. Benito, Concepcion and respondent. Thus, respondent's failure to disclose the illegal retentions misled the Maguigads and the Heirs of Jose into approving the Compromise Agreement, which resulted to the latter's damage and prejudice.

Imposable Penalty

Parenthetically, it is this Court that has the constitutionally mandated duty to discipline lawyers.⁴⁸ Under the current rules, the duty to assist fact finding can be delegated to the Integrated Bar of the Philippines.⁴⁹ The findings of the Integrated Bar, however, can only be recommendatory, consistent with the constitutional powers of this court.⁵⁰ Its recommended penalties are also, by its nature, recommendatory.⁵¹ The final decision lies with the Supreme Court as the constitutional institution empowered to promulgate rules concerning the admission to the practice of law, including the discipline and disbarment of erring lawyers.

A member of the Bar may be penalized, even disbarred or suspended from his office as an attorney, for violating the lawyer's oath and/or for breaching the ethics of the legal profession as embodied in the CPR, for the practice of law is a profession, a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character. The appropriate penalty on an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.⁵²

Considering the gravity and multiplicity of the misconducts committed by respondent and in view of the settled penalties in jurisprudence on the

⁴⁸ *Ramirez v. Atty. Buhayang-Margallo*, 752 Phil. 473, 484 (2015).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Constantino v. Aransazo, Jr.*, A.C. No. 9701, February 10, 2021

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matter, the Court deems it proper to suspend him from the practice of law for a period of two years.

In the cases of *Valencia v. Atty. Cabanting*,⁵³ *Bautista v. Atty. Gonzales*,⁵⁴ and *Ordonio v. Atty. Eduarte*,⁵⁵ the Court imposed the penalty of six months suspension to the erring lawyers who all violated the prohibition under Article 1491(5) of the Civil Code for acquiring a property subject of a litigation in a case that they handled or were handling.

Meanwhile, in similar cases where the respondent was found guilty of representing conflicting interests, the Court has imposed the penalty of suspension ranging from one to three years. In *Samson v. Atty. Era*,⁵⁶ the erring lawyer violated Rule 15.03 of Canon 15 and Canon 17 of the CPR by representing the opposing party of his previous client and the Court suspended him for two years. Similarly in the case of *Paces Industrial Corp v. Atty. Salandanan*,⁵⁷ the respondent therein handled cases of Paces Industrial against E.E. Black Ltd. but later on, he was engaged as the counsel of the latter in cases against Paces Industrial. The Court suspended him for three years and found that he has acquired knowledge from his previous employment that could be utilized for his own personal interest or for the advantage of the new client to the detriment of Paces Industrial.⁵⁸

Lastly, in cases where the lawyers committed falsehood in violation of Rule 10.01 of the CPR, the Court has imposed a penalty of six months to two years suspension depending on the circumstances of each case.

In *Heirs of Torrices v. Atty. Galano*,⁵⁹ the lawyer notarized a Deed of Absolute Sale despite the fact that two of the parties in the sale were dead at the time of notarization. The Court found that Atty. Galano notarized the document even without the presence of the executing parties in violation of the CPR and 2004 Rules on Notarial Practice. Atty. Galano was suspended from the practice of law for two years due to his misconduct. In *Petelo v. Atty. Rivera*⁶⁰, the lawyer who committed falsehood and misled the Court by authorizing or delegating to his secretary the signing of the pleadings filed before the courts was imposed the penalty of suspension for one year.

In view of these Court pronouncements and in consideration of the nature of the acts committed by respondent, the penalty of two years suspension is warranted. Lawyers as officers of the Court must always conduct themselves in a proper, honest and decent manner. They must always possess good moral character worthy of the public confidence. They must endeavor to conduct themselves at all times in such a way as to give credit to

⁵³ 273 Phil. 534 (1991).

⁵⁴ 261 Phil. 266 (1990).

⁵⁵ 283 Phil. 1064 (1992).

⁵⁶ 714 Phil. 101, 112 (2013).

⁵⁷ 814 Phil. 93 (2017).

⁵⁸ Id. at 98-102.

⁵⁹ A.C. No. 11870, July 7, 2020.

⁶⁰ A.C. No. 10408, October 16, 2019.

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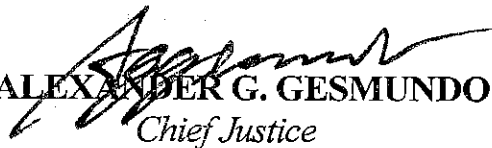
the legal profession and to inspire the confidence, respect and trust of their clients and the community. It is a fair characterization of the lawyer's responsibility in our society that he stands "as a shield" in the defense of rights and to ward off wrong. From the profession charged with these responsibilities there must be expected those qualities of truth speaking, of a high sense of honor, of granite discretion, of the strictest observance of fiduciary responsibility, that have throughout the centuries been compendiously described as "moral character."⁶¹

WHEREFORE, premises considered, the Court finds respondent Atty. Placido M. Sabban **GUILTY** of violating Rule 1.01, Rule 10.01, Rule 15.03, and Canon 17 of the Code of Professional Responsibility, and Article 1491 of the Civil Code of the Philippines and **SUSPENDS** him from the practice of law for two (2) years effective from the date of his receipt of this Decision, with a **STERN WARNING** that his commission of similar offenses will be dealt with more severely.

Let a copy of this Decision be furnished to the Office of the Bar Confidant to be entered into the personal record of respondent Atty. Placido M. Sabban. Copies shall likewise be disseminated to all lower courts by the Office of the Court Administrator, as well as to the Integrated Bar of the Philippines for its guidance.

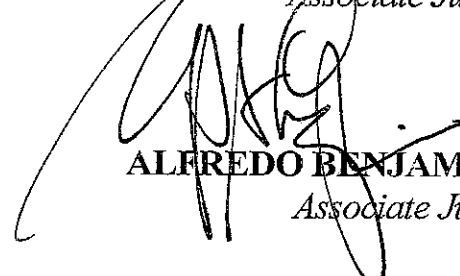
SO ORDERED.

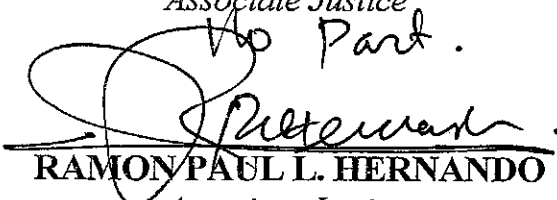
⁶¹ *Collantes v. Renomeron*, 277 Phil. 668, 674 (1991).


ALEXANDER G. GESMUNDO
Chief Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice

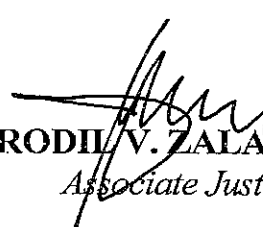

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

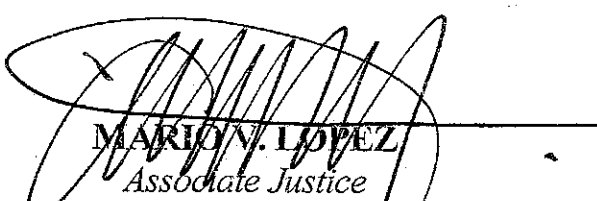
No Part.

RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice

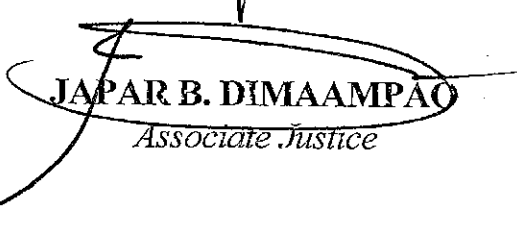

RODIL V. ZALAMEDA
Associate Justice



MARIO V. LOPEZ
Associate Justice
Please see separate opinion


SAMUEL H. GAERLAN
Associate Justice


RICARDO R. ROSARIO
Associate Justice

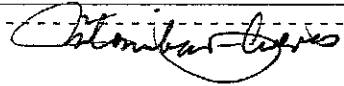

JHOSEP V. LOPEZ
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

A.C. No. 10511 – MILAGROS MELAD-ONG, *complainant*, v. ATTY. PLACIDO M. SABBAN, *respondent*.

Promulgated:
January 4, 2022

x-----
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SEPARATE OPINION

ROSARIO, J.:

I have no qualms about the *ponencia*'s finding that respondent is guilty of misconduct. There is substantial evidence to support this conclusion. I also have no problems concurring in the penalty imposed. Taken together, the penalty of suspension from the practice of law for two years is commensurate.

However, I would like to note some procedural gaps in the investigation and resolution of this case. For future reference, these issues must be addressed to ensure that due process is diligently observed. Otherwise, we risk being a party to a gross violation of this very right we are sworn to protect.

THE ANTECEDENTS

In a complaint¹ filed with the Office of the Bar Confidant on July 17, 2014, Milagros Melad-Ong (complainant) accused Atty. Placido M. Sabban (Atty. Sabban or respondent) of illegally acquiring a portion of a property subject of litigation, of representing conflicting interests, and of deception.

Complainant alleged that she is the daughter of Jose Melad (Jose), who filed with the Regional Trial Court (RTC) of Tuguegarao, Cagayan a civil suit against Concepcion Tuyuan (Concepcion) for the reconveyance of a parcel of land left behind by Fe Tuyuan. Jose claimed to be the sole heir of Fe Tuyuan and thus, he is entitled to the whole property.

Atty. Sabban, together with his father, Atty. Benito Sabban (Atty. Benito), filed a complaint-in-intervention on behalf of their clients, the Maguigads, who also claimed to be the true heirs of Fe Tuyuan.

On January 26, 1995, Jose passed away and was substituted by his heirs, which include herein complainant.

In May 1995, Concepcion executed a "Deed of Confirmation of Attorney's Fees," which ceded ten hectares out of the 27 hectares of land originally owned by Fe Tuyuan. The land was supposedly Atty. Benito

¹ Rollo, unpaginated.

✓

Sabban's compensation for the legal services he rendered for Fe Tuyuan when she was still alive.

Subsequently, Atty. Benito, for himself and on behalf of his son, herein respondent, filed with the Department of Agrarian Reform (DAR) an application for retention of the ten-hectare portion. Complainant alleged that this was furtively done without the knowledge of the court and the other parties to the civil case.

Sometime in 2006, Atty. Benito died. Respondent resumed appearance in the civil case. Around February 2008, respondent convinced the parties to settle the case. He then drafted a compromise agreement, which the RTC approved on April 1, 2008.

However, complainant lamented that due to the actuations of respondent, they never received the portion assigned to them under the compromise agreement. Further, she claimed that they would not have agreed to settle the case had respondent fully disclosed to them the retention he and his father made in 1995.

Complainant additionally accused respondent of representing conflicting interests, which he committed by lawyering for Concepcion and the Maguigads, his original clients. In particular, when the Maguigads obtained a writ of execution of the judicially approved compromise agreement, respondent moved for reconsideration thereof on behalf of Concepcion.

Accordingly, complainant prayed that respondent be disbarred from the practice of law.

We referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

On October 12, 2015, respondent filed his answer² by counsel. While he admitted to filing the complaint-in-intervention of the Maguigads, respondent alleged that it was Atty. Benito who handled the case until the latter's death in 2006. Respondent also averred that the parties freely consented to the compromise agreement. Finally, he contended that the portion assigned to the heirs of Jose is the same portion awarded to them by the DAR when they applied for retention.

The Investigating Commissioner conducted a clarificatory hearing on April 8, 2016. The parties agreed to discuss only one issue in their position papers: whether respondent is responsible for an alleged loss of the property awarded to the heirs of Jose under the compromise agreement.³

² *Id.* at 168-172.

³ *Id.* at 246.

The parties filed their position papers. Complainant reiterated her arguments whereas respondent complied with the directive to discuss the sole issue agreed upon.

In a Report and Recommendation⁴ dated December 12, 2016, the Investigating Commissioner found respondent guilty of misconduct and recommended that he be suspended from the practice of law for one year. Quite notably, the Investigating Commissioner based his findings on the other charges leveled by complainant, contrary to his Order dated April 8, 2016.

In a Resolution⁵ dated June 17, 2017, the IBP Board of Governors (IBP-BOG) approved and adopted the Investigating Commissioner's Report and Recommendation.

Aggrieved, respondent filed a motion for reconsideration,⁶ arguing that the Investigating Commissioner went beyond the matters agreed upon, thereby violating his right to due process.

The IBP-BOG agreed with respondent and proceeded to determine his liability vis-à-vis the stipulated issue. Finding that complainant and her co-heirs received their due share under the compromise agreement, the IBP-BOG ordered the dismissal of the complaint.⁷

I

Atty. Sabban, as the respondent in the present disbarment proceedings, is entitled to due process.⁸ No less than the Constitution vouchsafes this right.⁹ Thus, no deprivation of life, liberty, and property can take place without due process of law.¹⁰

Since lawyers earn a living through the practice of their profession, their license is deemed a property right which may not be arbitrarily taken away without due process of law. In *PSP Development Corp. v. Arma*,¹¹ we said:

Keeping in mind the above-discussed requirement of due process as well as the fact that the power to disbar (including the power to suspend) must be exercised with great caution, we hold that there is no sufficient basis for a disciplinary action against respondent. The Court cannot simply deprive respondent of the right to practice his legal profession without any sufficient factual and legal justifications. After all, **such legal practice**

⁴ *Id.* at 569-573.

⁵ *Id.* at 568.

⁶ *Id.* at 574-606.

⁷ *Id.* at 886-893.

⁸ See *Natanauan v. Tolentino*, A.C. No. 4269, October 11, 2016.

⁹ CONSTITUTION, Article III, Section 1.

¹⁰ *Id.*

¹¹ A.C. No. 12220, November 13, 2018.

involves respondent's rights to work and to make a living, which are his property rights, and "the arbitrary and unwarranted deprivation of which normally constitutes an actionable wrong." (Emphasis supplied.)

Consequently, before a lawyer may be suspended or disbarred from the practice of law, the rudimentary requirements of due process must be observed. As Rule 138, Section 30 of the Rules of Court affirms:

SECTION 30. *Attorney to be heard before removal or suspension.*

— No attorney shall be removed or suspended from the practice of his profession, until he has had full opportunity upon reasonable notice to answer the charges against him, to produce witnesses in his own behalf, and to be heard by himself or counsel. But if upon reasonable notice he fails to appear and answer the accusation, the court may proceed to determine the matter *ex parte*.

As an administrative proceeding, due process requirements in disciplinary cases are less stringent. Indeed, the right to due process is satisfied when there is notice, and a fair and reasonable opportunity to defend oneself. In addition, technical rules of procedure are not strictly observed. In *Besaga v. Acosta*,¹² we elaborated on the concept of administrative due process as follows:

The observance of fairness in the conduct of any investigation is at the very heart of procedural due process. The essence of due process is to be heard, and, as applied to administrative proceedings, this means a fair and reasonable opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of. Administrative due process cannot be fully equated with due process in its strict judicial sense, for in the former a formal or trial-type hearing is not always necessary, and technical rules of procedure are not strictly applied.

Nevertheless, the non-observance of technicalities in administrative cases does not give us the *carte blanche* to disregard fundamental considerations of fairness.¹³ We are still "bound by law and equity to observe the fundamental requirements of due process."¹⁴

II

In the proceedings before the Committee on Bar Discipline (CBD) of the IBP, the parties agreed that the issues will be limited to whether complainant lost properties due to the actuations of respondent. In his Order¹⁵ dated April 8, 2016, the Investigating Commissioner directed the parties to submit their respective position papers on this very issue, to wit:

¹² G.R. No. 194061, April 20, 2015.

¹³ See *Dimson v. Chua*, G.R. No. 192318, December 5, 2016, 801 Phil.778.

¹⁴ *Id.*

¹⁵ *Rollo*, p. 246.

At today's session, the counsel for the complainant and her representative appeared. The respondent himself and his counsel also appeared.

After lengthy discussions, it was decided that the parties themselves will submit within a period of thirty (30) days from today their respective verified position papers, etc. The agreement being that: on the part of the complainant she has to show that the respondent is responsible for an alleged loss of a property that was awarded to the complainant under a compromise agreement. On the part of the respondent, it is his burden to show that the property subject of the compromise agreement meant for the complainant is intact and that the complainant has not suffered loss of prejudice inn the implementation of the said compromise agreement.

XXX XXX XXX

SO ORDERED.

I agree with the *ponencia* that the Investigating Commissioner and the IBP-BOG erred in limiting the issues to be dealt with during the investigation. As the *ponencia* cogently discussed, disbarment proceedings are *sui generis*. Unlike in criminal or civil suits, no rights are prosecuted in disciplinary cases. Rather, they inquire into the fitness of a lawyer to remain a member of the bar. They are conducted to protect public interest and not to vindicate private rights. As we explained in *Bernal, Jr. v. Prias*:¹⁶

The purpose of disbarment is mainly to determine the fitness of a lawyer to continue acting as an officer of the court and as participant in the dispensation of justice. It is to protect the courts and the public from the misconduct of the officers of the court and to ensure the administration of justice by requiring that those who exercise this important function shall be competent, honorable and trustworthy men in whom courts and clients may repose confidence. 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.

The IBP's error, however, does not exist in a vacuum. It has consequences that reverberate throughout the entire proceedings. If left to fester, their odious effects will certainly taint the resolution of this case with due process defects.

One such consequence is the way respondent was constrained to address one and only one issue—whether his conduct resulted in complainant's loss of property. A review of his submissions shows that respondent complied with this directive.

As the *ponencia* observed, respondent was silent regarding the other charges raised by complainant. I find respondent's silence understandable. He merely followed the order of the Investigating Commissioner to limit his

¹⁶ A.C. No. 11217, October 7, 2020.

discussion to the stipulated issue. After all, it is his duty to abide by the lawful orders of the IBP, with which non-compliance is considered a contemptuous act and a misconduct.¹⁷

Evidently, the opportunity to be heard granted respondent was illusory. Although he was able to file his position paper, he was prevented from arguing the other issues and presenting evidence that may exculpate him or, at the very least, mitigate his liability.

To reiterate, due process is not satisfied by the mere perfunctory existence of the opportunity to be heard. Such opportunity must be fair and reasonable to enable the respondent to mount an intelligent defense. Of course, what is fair and reasonable depends on the circumstances of each case.

For instance, in *Jardeleza v. Sereno*,¹⁸ we ruled that physical presence in a meeting without a reasonable chance to defend oneself does not satisfy due process requirements:

What precisely set off the protest of lack of due process was the circumstance of requiring Jardeleza to appear before the Council and to instantaneously provide those who are willing to listen an intelligent defense. **Was he given the opportunity to do so? The answer is yes, in the context of his physical presence during the meeting. Was he given a reasonable chance to muster a defense? No, because he was merely asked to appear in a meeting where he would be, right then and there, subjected to an inquiry.** It would all be too well to remember that the allegations of his extra-marital affair and acts of insider trading sprung up only during the June 30, 2014 meeting. While the said issues became the object of the JBC discussion on June 16, 2014, Jardeleza was not given the idea that he should prepare to affirm or deny his past behavior. **These circumstances preclude the very idea of due process in which the right to explain oneself is given, not to ensnare by surprise, but to provide the person a reasonable opportunity and sufficient time to intelligently muster his response. Otherwise, the occasion becomes an idle and futile exercise.** (Emphasis supplied.)

In *Fontanilla v. Commission on Audit*,¹⁹ we carved an exception from the general rule that the filing of a motion for reconsideration precludes a violation of the right to due process. In particular, we insisted that the root cause of the due process defect must actually be remedied:

While we have ruled in the past that the filing of a motion for reconsideration cures the defect in procedural due process because the process of reconsideration is itself an opportunity to be heard, this ruling does not embody an absolute rule that applies in all circumstances. **The mere filing of a motion for reconsideration cannot cure the due process defect, especially if the motion was filed precisely to raise the issue of**

¹⁷ RULES OF COURT, Rule 139-B, Section 8. See, e.g., *Belleza v. Macasa*, A.C. No. 7815, July 23, 2009, 611 Phil. 179 and *Sibulo v. Ilagan*, A.C. No. 4711, November 25, 2004, 486 Phil. 197.

¹⁸ G.R. No. 213181, August 19, 2014.

¹⁹ G.R. No. 209714, June 21, 2016.

violation of the right to due process and the lack of opportunity to be heard on the merits remained.

In other words, **if a person has not been given the opportunity to squarely and intelligently answer the accusations or rebut the evidence presented against him, or raise substantive defenses through the proper pleadings before a quasi-judicial body (like the COA) where he or she stands charged, then a due process problem exists.** This problem worsens and the denial of his most basic right continues if, in the first place, he is found liable without having been charged and this finding is confirmed in the appeal or reconsideration process without allowing him to rebut or explain his side on the finding against him.

Time and again, we have ruled that the essence of due process is the opportunity to be heard. In administrative proceedings, one is heard when he is accorded a fair and reasonable opportunity to explain his case or is given the chance to have the ruling complained of reconsidered. (Emphasis supplied.)

In *Gradiola v. Deles*,²⁰ we remanded the case to the CBD for further investigation, report, and recommendation upon a finding that the respondent lawyer suffered a stroke, which may have impaired his cognitive abilities. That an answer was filed and the respondent lawyer was ably represented by counsel who was retained by his son did not deter us from ruling that there is a due process defect that must first be addressed.

In *Baldomar v. Paras*,²¹ a disbarment complaint was filed before us against a lawyer, who denied the charges in his answer. After the complainant filed his reply, we referred the case to the IBP for further investigation. The investigating commissioner, however, failed to conduct hearings on the case. The report and recommendation endorsed to us was based on the same documents that we sent to the IBP. Despite the fact that the parties were able to file pleadings, we still ruled that they were denied the opportunity to be heard. As such, we remanded the case to the IBP for further proceedings.

In sum, due process is satisfied when there is an “opportunity to squarely and intelligently answer the accusations or rebut the evidence presented against him, or **raise substantive defenses through the proper pleadings.**”²²

In this case, it is true that respondent was informed that there were other allegations against him. It is equally true that he was able to file an answer to the complaint. However, for his position paper, the “proper pleading” so to speak, where he could have fully responded to the accusations against him, he was directed to confine his discussion and evidence to the issue agreed upon. At the very least, this case should have been remanded to the IBP to give respondent a full and reasonable opportunity to refute the charges against him.

²⁰ A.C. No. 10267, June 18, 2018.

²¹ A. C. No. 4980, December 15, 2000.

²² *Philippine Mining Development Corp. v. Aginaldo*, G.R. No. 245273, July 27, 2021. Emphasis supplied.

With that said, this case should also not be dismissed as recommended by the IBP-BOG. I agree with the majority that respondent's misconduct was substantially proven. The records do show that respondent admitted to representing conflicting interests, violated Article 1491 of the Civil Code, and failed to disclose his interest in the property subject of the litigation.

ACCORDINGLY, I concur in the result insofar as Atty. Placido M. Sabban is found guilty of misconduct and in the penalty imposed.


RICARDO R. ROSARIO
Associate Justice

