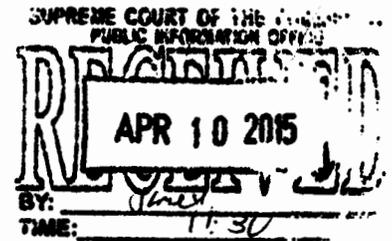




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **March 18, 2015**, which reads as follows:

“G.R. No. 211816 (*Atty. Leo C. Romero vs. Bob Evangelista Guerzon*). – This treats of the Amended Verified Petition to Cite in Indirect Contempt filed by petitioner Atty. Leo C. Romero against respondent Bob E. Guerzon for allegedly divulging information regarding petitioner’s pending disciplinary case, in contravention of Section 18, Rule 139 of the Rules of Court and the *sub judice* rule.

Petitioner filed a case for “Exclusion and Blacklisting and/or Deportation” against respondent before the Bureau of Immigration (BI) for allegedly committing offenses, which, according to petitioner, include illegal possession of firearms, falsification of documents, and perjury.

In response to the charges levelled against him, respondent filed a Rejoinder Affidavit that partly reads:

4. On the contrary, complainant’s sullied reputation as a lawyer is evidenced by the administrative complaint filed against him by his own brother, copy of which is hereto attached as ANNEX 5.¹

The administrative complaint against petitioner Romero adverted to refers to the disbarment proceeding initiated by his brother, Vittorio Romero, which was filed with the Court. Docketed as A.C. No. 9272,² the said case was eventually referred to the Integrated Bar of the Philippines (IBP) for investigation, report, recommendation, or resolution.³

Because of the statement made in the rejoinder, petitioner now claims that respondent violated the confidentiality rule on disciplinary cases under Section 18, Rule 139 of the Rules of Court, which reads:

¹ Rollo, p. 14.

² Entitled *Vittorio C. Romero v. Atty. Leo C. Romero*.

³ Rollo, p. 13.

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.

To bolster his contention, petitioner cites *Tan and CST Enterprises v. IBP Commission on Bar Discipline and Atty. Jaime N. Soriano (Tan)* wherein this Court held:

Disciplinary proceedings against a lawyer are private and confidential until its final determination. The confidential nature of the proceedings has a three-fold purpose, to wit: (i) to enable the court and the investigator to make the investigation free from any extraneous influence or interference; (ii) to protect the personal and professional reputation of attorneys from baseless charges of disgruntled, vindictive and irresponsible persons or clients by prohibiting the publication of such charges pending their resolution; and (iii) to deter the press from publishing the charges or proceedings based thereon.

Petitioners had in effect announced to the world the pending disbarment case against respondent. Not only did they disclose the ongoing proceedings, they also divulged most, if not all of the contents of respondent's Verified Answer. Clearly, petitioners' acts impinged on the confidential nature of the disbarment proceedings against Atty. Soriano.

The Court reminded petitioners in *Tan* to observe strictly the rule on confidentiality after the latter indicated in their pleadings the pendency of administrative cases against Atty. Jaime Soriano, as what herein respondent has done.

Additionally, herein petitioner postulates that respondent's act likewise constituted an act of interference with the processes and proceedings of the Court as it allegedly impeded, obstructed and degraded the administration of justice, in violation of the *sub judice* rule.

At the core of the controversy is the issue of whether or not respondent can be cited in contempt of court for violating the rules on confidentiality and *sub judice*.

The petition is meritorious.

**Respondent's disclosure is not
protected privileged communication**

In the recent *Fortun v. Quinsayas*,⁴ citing *People v. Castelo*,⁵ the Court held that contempt is akin to libel where the principle of privileged communication may be invoked as a defense. Hence, the Court ruled:

⁴ G.R. No. 194578, February 13, 2013.

⁵ 114 Phil. 892 (1962).

While the present case involves an incident of contempt the same is akin to a case of libel for both constitute limitations upon freedom of the press or freedom of expression guaranteed by our Constitution. **So what is considered a privilege in one may likewise be considered in the other.** The same safeguard should be extended to one whether anchored in freedom of the press or freedom of expression. Therefore, this principle regarding privileged communications can also be invoked in favor of appellant. (emphasis added)

Corrolarily, the Court's ruling in *Alcantara v. Ponce*⁶ states:

It is hornbook learning that the **actions and utterances in judicial proceedings** so far as the actual participants therein are concerned and preliminary steps leading to judicial action of an official nature **have been given absolute privilege.** x x x

x x x x

While the doctrine of privileged communication can be abused, and its abuse can lead to great hardships, to allow libel suits to prosper strictly on this account will give rise to even greater hardships. The doctrine itself rests on public policy which looks to the free and unfettered administration of justice. **It is as a rule applied liberally.**

The one obstacle that those pleading the defense of privileged communication must hurdle is the test of relevancy. Under this test, a matter alleged in the course of the proceedings need not be in every case material to the issues presented but **should be legitimately related to the issues or be so pertinent to the controversy that it may become the subject of inquiry in the course of trial.** (emphasis added)

Verily, if found relevant to the judicial proceeding wherein the administrative complaint was adverted to, said disclosure would fall within the ambit of privileged communication and would, therefore, free respondent from sanctions for contempt.

As can be recalled, the instant petition arose when respondent attached a copy of the administrative complaint against petitioner in his Rejoinder Affidavit. Said pleading was in answer to petitioner's complaint for deportation filed with the BI for respondent's alleged illegal possession of firearms and acts of falsification.

Respondent's contention—that the attached administrative complaint is relevant, pertinent, and material to his defense—is specious. Aside from his mere say-so that it is relevant, the Verified Comment is bereft of any substantial argument to justify such claim.

A perusal of the administrative complaint would yield the same result. In his complaint affidavit, Vittorio Romero narrated acts of abuse allegedly committed by petitioner against his person and their mother. He likewise

⁶ G.R. No. 156183, February 28, 2007; citations omitted.

described acts of bribery allegedly performed by petitioner to secure favorable decisions for his clients. He further enumerated dismissed criminal charges against him for rape and sexual harassment, the filing by complainants of which was allegedly orchestrated by petitioner as part of his machinations to be appointed guardian over Vittorio's properties. From these allegations, it becomes fairly obvious that there is no clear nexus between petitioner's disciplinary case and the deportation proceeding pending with the BI. Hence, respondent's disclosure of the administrative complaint's pendency falls outside the ambit of privileged communication.

Respondent did not violate the rule on *sub judice*

Anent respondent's alleged violation of the *sub judice* rule, petitioner's argument fails to impress.

As eloquently explained in Justice Arturo Brion's Supplemental Opinion in *Lejano v. People*:⁷

In essence, **the *sub judice* rule restricts comments and disclosures pertaining to pending judicial proceedings.** The restriction applies not only to participants in the pending case, i.e., to members of the bar and bench, and to litigants and witnesses, but also to the public in general, which necessarily includes the media. Although the Rules of Court does not contain a specific provision imposing the *sub judice* rule, it supports the observance of the restriction by punishing its violation as indirect contempt under Section 3(d) of Rule 71:

x x x x

Comments on the merits of the case may refer to the credibility of witnesses, the character of the accused, the soundness of the alibis offered, the relevance of the evidence presented, and generally any other comment bearing on the guilt or innocence of the accused. **The danger posed by this class of speech is the undue influence it may directly exert on the court in the resolution of the criminal case, or indirectly through the public opinion it may generate against the accused and the adverse impact this public opinion may have during the trial.** The significance of the *sub judice* rule is highlighted in criminal cases, as the possibility of undue influence prejudices the accused's right to a fair trial. x x x (emphasis added)

Thus, for a comment to be considered as contempt of court, "it must really appear" that such does impede, interfere with and embarrass the administration of justice.⁸

In the extant case, a cursory reading of respondent's rejoinder-affidavit readily reveals that his statements are not, in the least, contemptuous. Aside from his sole mention of the word "sullied" to describe petitioner's reputation, respondent made no other comment as regards the

⁷ G.R. No. 176389, December 14, 2010.

⁸ *Marantan v. Diokno*, G.R. No. 205956, February 12, 2014.

administrative case. Verily, this lone description is not sufficient to constitute a violation of the rule of *sub judice* since no undue influence, let alone a threat to the Court's impartiality, can be ascribed to respondent's language and utterances. By no stretch of the imagination could respondent's statement pose a serious and imminent threat to the administration of justice. Likewise, no intent to impede, obstruct, or degrade the administration of justice can be inferred from respondent's comments.⁹ From the foregoing, the charges against respondent for his alleged violation of the rule on *sub judice* must fail.

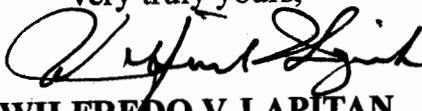
The imposable penalty

Under Sec. 7, Rule 71 of the Rules of Court, indirect contempt against a Regional Trial Court or a court of equivalent or higher rank is punishable by a fine not exceeding ₱30,000 or imprisonment not exceeding six months or both.¹⁰ In the case at bar, despite the dismissal of the charges on *sub judice*, there is sufficient ground to penalize respondent for violating the rule on confidentiality, warranting the imposition of a fine in the amount of ten thousand pesos (₱10,000).

WHEREFORE, We find respondent Bob E. Guerzon **GUILTY** of indirect contempt for disclosing information on the disbarment complaint against Atty. Leo C. Romero to the Bureau of Immigration. He is hereby **FINED** ten thousand pesos (₱10,000) as penalty.

SO ORDERED."

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court *3/24/15*

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The Presiding Judge
REGIONAL TRIAL COURT
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⁹ Id.

¹⁰ *Fortun v. Quinsayas*, supra note 4.