



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **24 August 2020** which reads as follows:*

“A.C. No. 9064 (Paulino S. Tenchavez v. Attys. Alan F. Paguia and Alexander L. Bansil). –

Facts

On July 13, 2011, Paulino S. Tenchavez (Tenchavez) filed a complaint¹ against respondents Atty. Alan F. Paguia (Atty. Paguia) and Atty. Alexander L. Bansil (Atty. Bansil; collectively, respondents). Tenchavez prayed for the disbarment of the respondents for their alleged violation of Canon 1 of the Code of Professional Responsibility (CPR).

In his complaint, Tenchavez alleged that: (1) he was a plaintiff in an injunction case against respondent therein, Magnificat Realty Corporation (Magnificat Realty), before the Regional Trial Court, Quezon City, Branch 76; (2) Atty. Paguia and Atty. Bansil acted as Magnificat Realty’s attorney-in-fact and counsel of record, respectively; (3) a temporary restraining order, and later, a writ of preliminary injunction were issued against Magnificat Realty; (4) the order granting the writ of preliminary injunction was received by Atty. Bansil and Magnificat Realty; and (5) despite the orders of the trial court, Magnificat Realty and respondents disregarded the legal processes and disobeyed the writ of preliminary injunction. Ultimately, Tenchavez claimed that respondents violated their role as officers of the Court, who were obliged to uphold and to respect legal processes.

On August 10, 2011, the Court issued a Resolution² asking respondents to file their respective comment. However, it appears from the records that it was only on August 30, 2014 when Atty. Paguia was able to

¹ *Rollo*, pp. 1-3.

² *Id.* at 149.

send a reply to the Court, thru a Manifestation,³ after receiving a Notice of a Resolution⁴ dated July 14, 2014, which was a show cause order for failure to file comment as directed in 2011.

In his Manifestation, Atty. Paguia averred that: (1) Atty. Bansil already died on December 2, 2013; (2) he was suspended from the practice of law from November 2003 to November 2011, and therefore, did not practice law during the said period; (3) in November 2013 he began undergoing dialysis treatment due to his sickness; and (4) they never received a copy of the complaint of Tenchavez. Atty. Paguia attached a copy of the Death Certificate⁵ of Atty. Bansil and a Medical Certificate⁶ regarding his treatment, to support his claims.

On February 25, 2015, Atty. Paguia finally filed his Comment,⁷ wherein he reiterated that he was not in the practice of law during the time Tenchavez alleged that he committed acts in violation of the CPR. Atty. Paguia likewise submitted an authenticated copy of the Death Certificate⁸ of Atty. Bansil, as directed in a previous resolution of the Court. Subsequently, in a Resolution⁹ dated July 22, 2015, the Court resolved to dismiss the case against Atty. Bansil in view of his demise. On the other hand, as for the case against Atty. Paguia, the case was further referred to the Integrated Bar of the Philippines (IBP) for investigation.

However, even before the investigation started before the IBP, Atty. Paguia already died on September 17, 2015. In fact, when the case was scheduled for Mandatory Conference, it was the counsel of Tenchavez who informed the IBP of the intervening death of Atty. Paguia.

IBP Report and Recommendation

In her Report and Recommendation¹⁰ dated April 7, 2017, Investigating Commissioner Ma. Saniata Liwliwa V. Gonzales-Alzate (Comm. Gonzales-Alzate) recommended the dismissal of the complaint against respondents Atty. Paguia and Atty. Bansil. Comm. Gonzales-Alzate found that: (1) Tenchavez was not able to substantiate his allegations; and (2) Tenchavez was not able to produce evidence, that proved respondents' disregard of the legal processes of the Court. According to Comm. Gonzales-Alzate, the complaint of Tenchavez against respondents was baseless and lacked merit.

In its Resolution¹¹ dated August 29, 2018, the IBP Board of

³ Id. at 153.

⁴ Id. at 152.

⁵ Id. at 154.

⁶ Id. at 155.

⁷ Id. at 163.

⁸ Id. at 164.

⁹ Id. at 167-168.

¹⁰ Id., unpaginated.

¹¹ Id., unpaginated.

Governors resolved to adopt the report and the recommendation of Comm. Gonzales-Alzate to dismiss the complaint against respondents.

Issue

The issue for the Court's resolution is whether or not the respondents violated Canon 1 of the CPR.

Court's Ruling

It must be noted that as of July 22, 2015, the Court already dismissed the case against Atty. Bansil, in view of his death as early as December 2, 2013, a time up to which he never had knowledge of the complaint filed by Tenchavez against him.

This Court has ruled that “[d]eath of the respondent in an administrative case is not in itself a ground for the dismissal of the complaint.¹² The above rule, however, is not without exceptions. The Court ruled that the death of the respondent necessitates the dismissal of the administrative case upon a consideration of any of the following factors: first, the observance of respondent's right to due process; second, the presence of exceptional circumstances in the case on the grounds of equitable and humanitarian reasons; and third, it may also depend on the kind of penalty imposed.”¹³ More particularly, the Court held that to allow an investigation to proceed against a respondent who could no longer be in any position to defend himself would be a denial of his right to be heard, our most basic understanding of due process.¹⁴ Thus, the Court reiterates that the administrative case against Atty. Bansil was deemed closed and terminated as early as July 22, 2015.

Meanwhile, the Court adopts the findings and the recommendation of the IBP Board of Governors that the case against Atty. Paguia should be dismissed for lack of merit.

Tenchavez alleged that Atty. Paguia, who acted as attorney-in-fact for his opponent in a civil case, violated Canon 1 of the CPR that states: a lawyer shall uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes. In administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence. However, due to Tenchavez's failure to establish a *prima facie* case against Atty. Paguia, the Court concurs with the IBP Board of Governors on the dismissal of the case.

The Court will exercise its disciplinary power only by observing due process and if the lawyer's administrative guilt is proved by clear,

¹² *Office of the Court Administrator v. Ong*, 713 Phil. 601, 605 (2013).

¹³ *Re: Romulo P. Atencia*, A.C. No. 8911, July 8, 2019, citing *Limliman v. Judge Ulat-Marrero*, 443 Phil. 732 (2003). (Underscoring supplied)

¹⁴ *Baikong Akang Camsa v. Rendon*, 427 Phil. 518, 524-525 (2002).

convincing, and satisfactory evidence. This norm is aimed at preserving the integrity and reputation of the Law Profession, and at shielding lawyers, in general, due to their being officers themselves of the Court. Any complaint for disbarment or other disciplinary sanction brought against lawyers that is based on frivolous matters or proof, like this case, should be immediately dismissed because its plain objective is to harass or get even with the respondent. The public must be reminded that lawyers are professionals bound to observe and follow the strictest ethical canons, and to subject them to frivolous, unfounded and vexatious charges of misconduct and misbehavior is to do a disservice to the ideals of justice, and to disregard the Constitution and the laws to which all lawyers vow their enduring fealty.¹⁵

WHEREFORE, premises considered, the Resolution dated August 29, 2018 of the Board of Governors of the Integrated Bar of the Philippines in CBD Case No. 15-4766 is hereby **ADOPTED**. The administrative complaint against the late **ATTY. ALAN F. PAGUIA** is **DISMISSED**.

SO ORDERED." (*Baltazar-Padilla, J., on official leave.*)

By authority of the Court:


TERESITA AQUINO TUAZON
 Deputy Division Clerk of Court
 09 OCT 2020 10/9

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 Respondent
 (Deceased)

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 AC9064. 08/24/2020B(145)URES

¹⁵ *Domingo v. Rubio*, 797 Phil. 581, 590-591 (2016).