



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 December 2020** which reads as follows:*

**“A.C. No. 9461 [formerly CBD Case No. 13-3757] (Felicidad L. Barcena v. Atty. Salvador S. Panelo) —**

**Antecedents**

In her verified Complaint dated April 28, 2012, Felicidad L. Barcena (complainant) charged Atty. Salvador S. Panelo (respondent) with alleged violation of Bar Matter No. (B.M.) 1922<sup>1</sup> and ignorance of the law. She essentially averred that on October 27, 2011, respondent, on behalf of his client Aristeo Demavivas, filed with the Regional Trial Court (RTC) Puerto Princesa City, Palawan a complaint for breach of contract with prayer for preliminary injunction and temporary restraining order against her, Nuovo Hotel Michelangelo, Inc. (Nuovo Hotel), and Alberto Altigondo. The complaint was docketed as Civil Case No. 4764. On even date, respondent also wrote a letter<sup>2</sup> addressed to Hon. Jocelyn Sundiang-Dilig (Exec. Judge Sundiang-Dilig), Executive Judge of RTC-Puerto Princesa City, Palawan requesting the issuance of a temporary restraining order (TRO) within seventy-two (72) hours from filing of the complaint. Respondent, however, failed to indicate in both complaint and letter-request the date and correct number of his Mandatory Continuing Legal Education (MCLE) Compliance

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<sup>1</sup> Re: Recommendation of the Mandatory Continuing Legal Education (MCLE) Board to Indicate in All Pleadings Filed with the Courts the Counsel's MCLE Certificate of Compliance or Certificate of Exemption.

<sup>2</sup> *Rollo*, p. 4.

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Certificate as required by B.M. 1922.<sup>3</sup> Only the following details appeared on the signature page of the complaint, *viz.*:

(signed)  
Salvador S. Panelo  
Counsel for the Plaintiff  
xxx xxx xxx  
Lifetime IBP Member No. 09797 Attorney Roll No. 24860  
MCLE Compliance No. 0012929<sup>4</sup>

And on the letter-request, only the following information:

(signed)  
Salvador S. Panelo  
Counsel for the Plaintiff  
Aristeo Dimavivas

Even then, Exec. Judge Sundiang-Dilig still issued a 72-Hour TRO against complainant and her co-defendants in Civil Case No. 4764 stating therein that the complaint was “sufficient in substance and form.”<sup>5</sup>

To verify respondent’s MCLE compliance, complainant went to the Office of the Integrated Bar of the Philippines (IBP), MCLE Division which issued a Certification<sup>6</sup> dated November 4, 2011, thus:

**Complied:**

- a. **FIRST MCLE Compliance No. I-0017632**  
(April 15, 2001 to April 14, 2004)
- b. **SECOND MCLE Compliance No. II-0017929**  
(April 15, 2004 to April 14, 2007)

**No compliance:**

- c. **THIRD MCLE COMPLIANCE PERIOD**  
(April 15, 2007 to April 14, 2010)<sup>7</sup>

During the November 9, 2011 hearing, therein defendants’ counsel in Civil Case No. 4764, moved to dismiss the complaint for respondent’s failure to indicate therein the number and date of issue of his MCLE Certificate of Compliance as required under B.M. 1922.<sup>8</sup> The trial court, however, ruled

<sup>3</sup> *Id.* at 1.

<sup>4</sup> *Id.* at 15.

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

<sup>6</sup> *Id.* at 17.

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

<sup>8</sup> The Court *En Banc* Resolution dated June 3, 2008 provides: “The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to **REQUIRE** practicing members of the bar to **INDICATE** in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. **Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.**” (Emphasis in the original).

that respondent's MCLE compliance was considered provisional. It reset the next hearing to December 7, 2011.<sup>9</sup> Complainant filed a Motion for Reconsideration<sup>10</sup> while respondent filed his Opposition<sup>11</sup> thereto stating "there was a provisional compliance with the MCLE requirement."<sup>12</sup> There is, however, no such thing as provisional compliance under B.M. 1922. Respondent nonetheless failed to prove he was exempted from complying with the MCLE. Thus, respondent violated B.M. 1922 and must be held administratively liable therefor.

In compliance with the Court's Resolution dated July 9, 2012, respondent filed his Comment<sup>13</sup> stating that the filing of the administrative complaint against him was merely intended to vex and intimidate him into withdrawing as counsel for his client, Aristeo Demavivas.<sup>14</sup> Complainant distorted the facts to mislead the Court. The truth is it was Nuovo Hotel's Board of Directors, its President Alberto Altigondo, and its corporate secretary, herein complainant, who committed criminal acts meant to take-over the hotel, thus preventing its legitimate lessee-operator, Demavivas, from entering its premises and performing his duties to the corporation. As the lawyer of Demavivas, respondent merely performed his duty to protect the rights and interests of his client. After the RTC-Puerto Princesa City, Palawan ordered complainant and her cohorts to desist from further committing acts of harassment and intimidation against his client, they embarked on a legal odyssey to get back at him.<sup>15</sup>

Respondent asserted he did not violate B.M. 1922. When he filed the complaint on October 27, 2011, he indicated his Second MCLE Compliance number in good faith because when he filed said complaint, he was still in the process of completing his Third MCLE Compliance. Inadvertently, however, the typist omitted the date of compliance and erroneously indicated respondents Second MCLE Compliance Number as "0017929" instead of "0012929."<sup>16</sup> He was already ninety-eight (98%) percent compliant and only lacked 6.5 units of the prescribed courses for the Third MCLE Compliance as indicated in the Certification<sup>17</sup> dated November 16, 2011 issued by the MCLE Office. It was only on November 28, 2011, or thirty-one (31) days after the filing of the complaint, when he got his Third MCLE Certificate of Compliance.<sup>18</sup> Thus, on December 7, 2011, he filed a Motion to Admit Copy of the Complaint with 3<sup>rd</sup> MCLE Compliance Number and Date o[f]<sup>19</sup> Issue<sup>20</sup>

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<sup>9</sup> *Rollo*, p. 24.

<sup>10</sup> *Id.* at 20-21.

<sup>11</sup> *Id.* at 82-84.

<sup>12</sup> *Id.* at 2.

<sup>13</sup> *Id.* at 37-49.

<sup>14</sup> *Id.* at 39-40.

<sup>15</sup> *Id.* at 40.

<sup>16</sup> *Id.* at 41.

<sup>17</sup> *Id.* at 85.

<sup>18</sup> *Id.* at 86.

<sup>19</sup> Could be typographical error, must be "of" instead of "or".

<sup>20</sup> *Rollo*, p. 31-33.

praying for the trial court to admit the revised copy of the complaint which already contained his Third MCLE Compliance number and date of issue.

Respondent claimed not making any misrepresentation to the trial court. He presented in good faith his Second MCLE Compliance and his substantial, nay, full compliance with the Third MCLE Compliance.<sup>21</sup> He had also completed his Fourth MCLE Compliance on November 22, 24 and 29, 2011, and December 1, 6, 8 and 13, 2011.<sup>22</sup> He implored the Court to uphold the doctrine that “technical rules cannot prevail over substantial justice” as adopted by the RTC-Puerto Princesa City, Palawan.<sup>23</sup>

Under Resolution<sup>24</sup> dated November 21, 2012, the Court referred the case to the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) for investigation and report and recommendation.

### **The Proceedings Before the IBP-CBD**

During the mandatory conference held by the IBP-CBD on June 28, 2013, both parties appeared. Complainant, however, submitted a Manifestation<sup>25</sup> stating that she was withdrawing the complaint against respondent. The mandatory conference was terminated and the parties were directed to file their respective verified position papers within a period of thirty (30) days. Respondent complied and submitted his position paper on September 6, 2013 basically echoing his comment to the complaint. Complainant, on the other hand, no longer submitted her position paper. Consequently, the IBP-CBD considered the case submitted for resolution.<sup>26</sup>

### **The IBP-CBD’s Report and Recommendation**

In his Report and Recommendation<sup>27</sup> dated June 14, 2014, Investigating Commissioner Romualdo A. Din, Jr. found that respondent violated B.M. 1922 which, in turn, constituted violations of Canon 1,<sup>28</sup> Rule 1.01<sup>29</sup> of the Code of Professional Responsibility (Code) and the Lawyer’s Oath.<sup>30</sup> The IBP-CBD clarified that the MCLE Compliance which lawyers should indicate in all pleadings must be the unexpired MCLE Compliance. So, at the time of filing of the complaint on October 27, 2011, respondent was required to indicate his Third MCLE Compliance number and date of issue, not the second one which had already expired.

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<sup>21</sup> *Id.* at 47.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 48.

<sup>24</sup> *Id.* at 166.

<sup>25</sup> IBP-CBD records, Vol. II, p. 6.

<sup>26</sup> At pp. 1-2 of the IBP-CBD Report and Recommendation; *rollo*, unnumbered page.

<sup>27</sup> *Rollo*, unnumbered page.

<sup>28</sup> CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW OF AND LEGAL PROCESSES.

<sup>29</sup> Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

<sup>30</sup> The part which states that: xxxx I will support the Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; xxxx.

The IBP-CBD, nevertheless, acknowledged the fact that respondent had already completed his required MCLE units and had submitted the corresponding documents in support of his compliance. It also recognized that respondent did not commit a misconduct which seriously affects his moral character as a lawyer, an officer of the court, and a member of the Bar. Thus, the IBP-CBD recommended that respondent be reprimanded only for his infraction, *viz.*:

**WHEREFORE**, in view of the foregoing, it is respectfully recommended that Atty. Salvador S. Pabelo be reprimanded for violating Rule 1.01 of the Code of Professional Responsibility because of his failure to abide by the dictate of Bar Matter No. 1922.<sup>31</sup>

### **The IBP Board of Governors' Resolution**

By Resolution No. XXI-2015-499 dated June 7, 2015,<sup>32</sup> the IBP Board of Governors (Board) adopted the IBP-CBD's report and recommendation.

On November 25, 2015, respondent filed his Motion for Reconsideration<sup>33</sup> reiterating that: a) he was in good faith when he indicated his Second MCLE Compliance in the complaint filed before the RTC-Puerto Princesa City, Palawan since he was still in the process of completing his Third MCLE; b) at the time he filed the complaint, he had substantially complied with B.M. 1922, having completed ninety-eight (98%) percent of the prescribed courses for the Third MCLE Compliance; c) he immediately submitted to the trial court his Certificate of Third MCLE Compliance after its issuance; d) a violation of B.M. 1922 does not call for any disciplinary action against the lawyer concerned and only imposes the penalty of dismissal of the case and expunction from the records of the pleading filed; e) the RTC-Puerto Princesa City itself found no violation of B.M. 1922 when it denied complainant's motion to dismiss; and, f) contrary to the findings of the IBP-CBD, a violation of B.M. 1922 cannot be deemed a violation of Rule 1.01 of the Code as well as the Lawyer's Oath since it does not involve any unlawful, dishonest, immoral or deceitful conduct.

In its Resolution No. XXII-2016-631<sup>34</sup> dated November 29, 2016, the Board denied respondent's motion for reconsideration. The IBP elevated the entire records for the Court's final imprimatur since the IBP's factual findings, legal conclusions, and proposed penalty are only recommendatory.<sup>35</sup>

<sup>31</sup> p. 10 of the IBP Report and Recommendation; *rollo*, unnumbered page.

<sup>32</sup> IBP-CBD records, Vol. III, p. 1.

<sup>33</sup> *Id.* at 12-19.

<sup>34</sup> *Rollo*, unnumbered page.

<sup>35</sup> See *Bernardino v. Santos*, 754 Phil. 52, 71 (2015).

### The Court's Ruling

B.M. 1922 requires lawyers to indicate the number and date of their MCLE Certificate of Completion or Exemption in all pleadings and motions they file before the courts. A counsel's failure to include such information in a pleading is a ground for its dismissal, *viz.*:

Bar Matter No. 1922. — Re: Recommendation of the Mandatory Continuing Legal Education (MCLE) Board to Indicate in All Pleadings Filed with the Courts the Counsel's MCLE Certificate of Compliance or Certificate of Exemption. — The Court Resolved to **NOTE** the Letter, dated May 2, 2008, of Associate Justice Antonio Eduardo B. Nachura, Chairperson, Committee on Legal Education and Bar Matters, informing the Court of the diminishing interest of the members of the Bar in the MCLE requirement program.

The Court further Resolved, upon the recommendation of the Committee on Legal Education and Bar Matters, to **REQUIRE** practicing members of the bar to **INDICATE** in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. **Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.** (Emphasis in the original)

The obligation to disclose the information required under B.M. 1922 is not a useless formality. It seeks to ensure that legal practice is reserved only for those who have complied with the recognized mechanism for “keeping abreast of the law and jurisprudence, maintaining the ethics of the profession, and enhancing the standards of the practice of law.”<sup>36</sup>

In any event, to avoid inordinate delays in the disposition of cases brought about by a counsel's failure to indicate in his or her pleadings the number and date of issue of his or her MCLE Certificate of Compliance, the Court issued *En Banc* Resolution dated January 14, 2014 which amended B.M. 1922 by repealing the phrase “*Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records*” and replacing it with “*Failure to disclose the required information would subject the counsel to appropriate penalty and disciplinary action.*”<sup>37</sup> Thus, under the amendatory resolution, failure of a counsel to indicate in the pleadings the number and date of issue of his or her MCLE Compliance Certificate will no longer result in the dismissal of the case and the expunction of the pleadings from the records, but will subject the counsel to the prescribed fine and/or disciplinary action.<sup>38</sup> A non-compliant lawyer must now pay a non-compliance fee of ₱1,000.00 and still comply with

<sup>36</sup> *Sps. Cruz v. Onshore Strategic Assets (SPV-AMC), Inc.*, G.R. No. 212862, June 17, 2019.

<sup>37</sup> *People v. Arrojado*, 772 Phil. 440-448, (2015).

<sup>38</sup> *Id.* at 448-449.

the MCLE requirements within a sixty (60)-day period, otherwise, he or she will be listed as a delinquent IBP member after investigation by the IBP-CBD and recommendation by the MCLE Committee.<sup>39</sup>

It is undisputed that when respondent filed the complaint in Civil Case No. 4764 on October 27, 2011 or prior to the amendment of B.M. 1922 on January 14, 2014, he failed to indicate the date and number of his MCLE Compliance Certificate for the immediately preceding period, which is the third compliance period as required by B.M. 1922. Respondent, therefore, risked dismissal of the case and expunction of the complaint by the trial court, to his client's detriment.<sup>40</sup>

In *People v. Arrojado*,<sup>41</sup> the investigating prosecutor filed an Information against Arrojado without indicating the number and date of issue of her MCLE Certificate of Compliance. Consequently, the trial court dismissed the case without prejudice. The Court, however, ruled that the more prudent and practical thing that the trial court should have done to avoid delay in the disposition of the case, was not to dismiss the Information but to simply require the investigating prosecutor to indicate therein the number and date of issue of her MCLE Certificate of Compliance.<sup>42</sup>

In *Doble, Jr. v. ABB, Inc.*,<sup>43</sup> the Court of Appeals dismissed outright Doble, Jr.'s petition for certiorari on procedural grounds including his counsel's failure to indicate his compliance with the Fourth MCLE Compliance period. On motion for reconsideration, Doble, Jr.'s counsel submitted proof of his MCLE compliance, but the Court of Appeals still denied the motion. On petition for review, We ruled that the appellate court erred in denying the motion for reconsideration considering that the procedural defect had already been corrected, thus:

**Granted that the Petition for *Certiorari* was filed before the CA on October 29, 2013 even before the effectivity of *En Banc* Resolution dated January 14, 2014 which amended B.M. No. 1922, it bears to stress that petitioners counsel later submitted Receipts of Attendance in the MCLE Lecture Series for his MCLE Compliance IV on March 3, 2014 and the Certificate of Compliance albeit on January 26, 2015. Hence, the CA erred in issuing the assailed November 28, 2014 Resolution denying Doble's motion for reconsideration, there being no more reason not to reinstate the petition for *certiorari* based on procedural defects which have already been corrected. **Needless to state, liberal construction of procedural rules is the norm to effect substantial justice, and litigations should, as much as possible, be decided on the merits and not on technicalities.** (emphasis supplied)**

<sup>39</sup> *Turla v. Caringal*, A.C. No. 11641, March 12, 2019.

<sup>40</sup> *Id.*

<sup>41</sup> *People v. Arrojado*, supra note 37.

<sup>42</sup> *Id.* at 447-448

<sup>43</sup> 810 Phil. 210 (2017).

Here, respondent himself admitted that what he indicated in the complaint was his Second MCLE Compliance number, although there was typographical error since the number “2” was inadvertently typed as “7” (0017929 instead of 0012929) and the date of compliance was omitted.<sup>44</sup> He offered the defense of good faith, claiming that at the time of filing the complaint, he was still in the process of completing his Third MCLE Compliance and was in fact, already 98% compliant and only lacked 6.5 units of the prescribed courses for the Third MCLE Compliance. As proof thereof, he submitted the Certification<sup>45</sup> dated November 16, 2011 issued by the MCLE Office. Further, on December 7, 2011, after he received his Third MCLE Certificate of Compliance,<sup>46</sup> he filed a motion before the trial court to admit a revised copy of the complaint this time containing his Third MCLE Compliance Number and date of issue.

We acknowledge respondent’s effort to correct the procedural defect in the complaint he filed as well as his compliance, albeit belatedly, with the MCLE requirement. We also respect the RTC-Puerto Princesa City’s exercise of its sound discretion for not dismissing the complaint based solely on respondent’s failure to indicate the details of his Third MCLE Compliance. Indeed, the trial court’s ruling was in consonance with the Court’s pronouncements on the subject. In *Marcelo v. Dalmacio-Joaquin*,<sup>47</sup> the Court reprimanded Judge Dalmacio-Joaquin for not considering Atty. Marcelo’s defense, that her failure to indicate in her pleading, the details regarding her Third MCLE Compliance, was based on her honest belief that she was exempted therefrom. Thus, the Court pronounced that Judge Dalmacio-Joaquin should have relaxed the application of B.M. 1922 in the interest of substantial justice.

As it is, respondent’s violation of B.M. 1922 prior to its amendment is not a ground for disciplinary action.<sup>48</sup> At most, his violation shall only cause the dismissal of the complaint as well as its expunction from the records. Too, We accord due respect to the trial court’s order finding that respondent had managed to comply with his MCLE requirement and had corrected the procedural defect in the complaint.

Notably, respondent did not commit a misconduct that eroded his standing and moral character as an officer of the court and member of the Bar. Verily, We see no reason to impose any disciplinary sanction on him.

Respondent, nonetheless, is reminded to exercise the necessary diligence and prudence in promptly complying with the MCLE requirement. Members of the Bar are required to undergo continuing legal education to ensure that throughout their career, they keep abreast of the law and

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<sup>44</sup> *Rollo*, p. 41.

<sup>45</sup> *Id.* at 85.

<sup>46</sup> *Id.* at 86.

<sup>47</sup> *Marcelo v. Dalmacio-Joaquin*, 764 Phil. 362 (2015).

<sup>48</sup> See *Noble III v. Ailes*, 762 Phil. 296-303, (2015).



jurisprudence, maintain the ethics of the profession, and enhance the standard of the practice of law.<sup>49</sup>

**ACCORDINGLY**, the complaint is **DISMISSED**. Atty. Salvador S. Panelo is **REMINDED** to always strictly and promptly comply with the Mandatory Continuing Legal Education requirement.

**SO ORDERED.**" (Perlas-Bernabe, S.A.J., on official leave; Rosario, J., designated additional member per S.O. 2797, dated November 5, 2020)

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:

  
MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court  
19 MAY 2021

FELICIDAD L. BARCENA  
Complainant  
(present address unknown)

ATTY. SALVADOR S. PANELO (reg)  
Respondent  
23-B Big Horse Shoe Drive  
Horse Shoe Village  
N. Domingo cor. Hemady Sts.  
1100 Quezon City

INTEGRATED BAR OF THE PHILIPPINES (reg)  
Doña Julia Vargas Avenue  
Ortigas Center, 1605 Pasig City

THE BAR CONFIDANT (x)  
Supreme Court, Manila

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Supreme Court, Manila

*Please notify the Court of any change in your address.*  
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<sup>49</sup> *Lim v. Swan-Radam*, A.C. No. 12295 (Notice), March 18, 2019.

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