



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 12, 2020 which reads as follows:

“A.C. No. 2999 – (Federico A. Raz v. Atty. Francisco G. Rivero)

Complainant Federico A. Raz¹ charged respondent Atty. Francisco G. Rivero with deceit and gross misconduct, in direct violation of the lawyer’s oath, Canon 1, Rule 1.03,² Canon 10, Rule 10.01,³ and Canon 12, Rule 12.04⁴ of the Code of Professional Responsibility (CPR).

Complainant alleged that Benedicto Pueblo sued him for sum of money in the case of *Benedicto Pueblo v. Engr. Federico Raz*, docketed as Civil Case No. 1423 before Branch II of the Regional Trial Court (RTC) for Tagum, Davao City. Respondent was the counsel of Pueblo in this case.⁵

A hearing was scheduled on October 7, 1982, however, respondent moved to postpone due to a prior professional engagement scheduled on the same date and time in the Professional Regulation Commission (PRC) Manila regarding the case of *Albelda v. Berioso*, docketed as Administrative Case No. 490.⁶ Complainant wrote to the PRC Manila to inquire whether respondent appeared before the PRC

¹ Deceased, substituted by his wife, Rosario Acevedo Raz. *Rollo*, p. 64.

² Canon 1, Rule 1.03 – A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man’s cause.

³ Canon 10, 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.

⁴ Canon 12, Rule 12.04 – A lawyer shall not unduly delay a case, impede the execution of a Judgment or misuse Court processes.

⁵ *Rollo*, p. 1.

⁶ *Id.* at 5-6.

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on the same date.⁷ The PRC informed complainant that Administrative Case No. 490 was dismissed on December 3, 1981, the dismissal was already final and executory, and respondent did not appear before the PRC on the date in question.⁸

Another hearing was scheduled on August 11, 1986 at 8:30am. Here, respondent again filed an Urgent Motion to Postpone⁹ because he had a hearing with the Ministry of Labor and Employment (MOLE) in Davao City at the same time and date. Said Motion did not reach complainant's counsel in time, thus, his counsel traveled from Davao City to Tagum only to find out that the hearing was postponed.¹⁰ Complainant inquired with MOLE Davao which confirmed that respondent appeared before it on the same date for his hearing at 3:30pm.¹¹

On April 1, 1987, the Clerk of Court of the Second Division of this Court required respondent to comment on said complaint within ten (10) days from notice.¹² Respondent filed an Urgent Motion for Extension of Time to File Comment which was granted. He was given an extension of thirty (30) days.¹³ He, however, complied only on October 28, 2008 or twenty-one (21) years later.¹⁴

Respondent apologized for his failure to file his comment on time, citing his busy schedule due to his appointment as Provincial Fiscal of Davao del Norte and then as City Prosecutor of Tagum. From his appointment on February 9, 1987 up to his mandatory retirement on October 4, 2006, he diligently attended to the needs of the prosecution office daily from 6:00am until 9:00pm, even on weekend inquest duties. Since retiring in 2006, he has not practiced as a lawyer because of his failing health and he is simply enjoying his retirement years.¹⁵

Respondent denied that he lied in the two (2) motions for postponement. He admitted that there was no hearing in PRC Manila on the date in question. He averred, however, that his professional engagement was to accompany his client in verifying the status of the case. More, he attended six (6) hearings on August 11, 1986 in MOLE Davao, as evidenced by letters written by his client¹⁶ requiring him to

⁷ *Id.* at 7.

⁸ *Id.* at 8.

⁹ *Id.* at 9-10.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 11.

¹² *Id.* at 12.

¹³ *Id.* at 16.

¹⁴ *Id.* at 23-37.

¹⁵ *Id.* at 72-79.

¹⁶ *Id.* at 61.

appear for the scheduled hearings starting at 8:30am on the same date and confirmed by MOLE Davao.¹⁷

During the mandatory conference, only respondent appeared as complainant had already passed away.¹⁸ Likewise, only respondent complied with the directive of the Integrated Bar of the Philippines – Commission on Bar Discipline (IBP-CBD) to submit a position paper.¹⁹

IBP-CBD's Report and Recommendation

Under Report and Recommendation²⁰ dated September 11, 2008, the IBP-CBD recommended that respondent be suspended from the practice of law for three (3) months, finding that respondent's acts fell short of his sworn duty to observe candor and fairness in his dealings with the court, parties, and his colleagues. He violated the lawyer's oath and the CPR by stating falsehoods in the two (2) motions for postponement.

IBP Board of Governors' Resolution

By Resolution²¹ dated November 8, 2018, the IBP Board of Governors (BOG) adopted and approved the recommendation of the IBP-CBD.

Issue

Did respondent violate the lawyer's oath and the CPR when he filed the subject motions for postponement?

Ruling

The Court modifies the findings of the IBP-CBD and the IBP BOG and imposes the penalty of suspension from the practice of law for a period of six (6) months.

As regards the motion to postpone the hearing set on August 11, 1986, the Court disagrees with the findings of the IBP that respondent failed to prove that he had a conflict on the same date. Respondent has sufficiently proven that he did in fact appear on even

¹⁷ *Id.* at 62.

¹⁸ *Id.* at 64.

¹⁹ *Id.* at 86-105.

²⁰ Penned by Commissioner Lemuel M. Santos. *rollo*, pp. 123-126.

²¹ *Id.* at 121.

date and time in MOLE Davao as the counsel on record for six (6) hearings on that date, as confirmed by MOLE Davao.

In his Urgent Motion for Postponement dated October 2, 1982,²² respondent averred that it would be impossible for him to attend the scheduled hearing as he has a professional engagement in PRC Manila for Administrative Case No. 490. PRC Manila, however, clarified that said case was dismissed on December 3, 1981 and that respondent did not appear before them on the date in question. The IBP correctly found that the reason given by respondent that he was scheduled to accompany his client to verify the status of the case is tenuous. The Court keenly notes how respondent continues to lie through his teeth without any tinge of remorse by stubbornly insisting he had a hearing in a case that was terminated almost a year before he said he attended one of its hearings. What aggravates his infraction is that even after the PRC Manila had already issued its official certification he continues to display the temerity to lie. More, respondent did not even adduce a single piece of evidence to prove this claim.

By stating falsehoods in his Urgent Motion for Postponement dated October 2, 1982,²³ respondent violated Canon 10, Rule 10.01 of the CPR which mandates that a lawyer must not do any falsehood nor consent to the doing of any in court, or mislead the court. Meanwhile, Section 27, Rule 138²⁴ of the Rules of Court provides that a member of the bar may be disbarred or suspended from his office as attorney by the Court for any deceit, malpractice, or other gross misconduct in such office. The postponements likewise delayed the proceedings in Civil Case No. 1423 then pending before the Tagum RTC. This is against Canon 12, Rule 12.04 which essentially states that a lawyer shall not unduly delay a case.

Notably, it appears that the IBP failed to consider that pursuant to respondent's Urgent Motion for Extension of Time to File Comment,²⁵ the Court granted him an extension of thirty (30) days,²⁶ however, the period lapsed without him filing his comment or offering

²² *Id.* at 5-6.

²³ *Id.*

²⁴ Section 27. *Attorneys removed or suspended by Supreme Court on what grounds.* — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willful appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

²⁵ *Rollo*, pp. 13-15.

²⁶ *Id.* at 16.

an explanation as to why he would be unable to do so. This is a clear violation of Canon 12, Rule 12.03 which states that a lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.

The determination of whether an attorney should be disbarred or merely suspended for a period involves the exercise of sound judicial discretion. In several administrative cases, factors such as length of service, humanitarian and equitable considerations, and advanced age have affected the Court's determination of the imposable penalty.²⁷

The Court had previously disbarred or imposed suspension for a period ranging from one (1) to three (3) years on attorneys who were found to have engaged in deceitful conduct. In *Gustilo v. De La Cruz*,²⁸ respondent Atty. Estefano H. De La Cruz was disbarred for his dishonest and deceitful conduct, particularly in knowingly using a false MCLE compliance number in his pleadings. In *Turla v. Caringal*,²⁹ respondent Atty. Jose Caringal was suspended from the practice of law for three (3) years for misrepresenting in his pleadings that he was exempted from MCLE. In *Crisostomo, et al, v. Nazareno*,³⁰ respondent Atty. Philip Nazareno was suspended from the practice of law for one (1) year for making false declarations in the certifications against forum shopping attached to pleadings he filed.

Here, considering that: (1) respondent served the government and the people faithfully as Provincial Fiscal and as City Prosecutor for almost twenty (20) years; (2) this is his first infraction on record; and (3) his advanced age and failing health, the Court resolves to impose a lower penalty than those established in the aforesaid jurisprudence.

In *Spouses Balbin v. Baranda, Jr.*,³¹ the Court took note of the fact that respondent Atty. Mariano Baranda, Jr. is already in the twilight years of his life and accordingly imposed the penalty of suspension from the practice of law for six (6) months. Under these circumstances, the Court similarly finds suspension from the practice of law for six (6) months an appropriate penalty.

²⁷ *Domingo v. Revilla*. A.C. No. 5473, July 3, 2018.

²⁸ *Gustilo v. De La Cruz*, A.C. No. 12318, October 15, 2019.

²⁹ *Turla v. Caringal*, A.C. No. 11641, March 12, 2019.

³⁰ *Crisostomo, et al, v. Nazareno*, 736 Phil. 1, 13-14 (2014).

³¹ *Spouses Balbin v. Baranda, Jr.*, A.C. No. 12041, November 5, 2018.

WHEREFORE, the Court hereby finds respondent Atty. Francisco G. Rivero **GUILTY** of violating the lawyer’s oath and the Code of Professional Responsibility. Accordingly, the Court hereby **SUSPENDS** him from the practice of law for six (6) months effective immediately. He is further **WARNED** that a repetition of the same offense or similar act shall be dealt with more severely. He is **DIRECTED** to report to this Court the date of his receipt of this Resolution to enable it to determine when his suspension from the practice of law shall take effect.

Let copies of this Resolution be furnished to the Office of the Bar Confidant, to be appended to respondent’s personal record as an attorney. Likewise, copies shall be furnished to the Integrated Bar of the Philippines for its information and guidance, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.” *Reyes, J. Jr., J. on leave.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court

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