

ATTY. VICENTE ROY L. KAYABAN, JR., COMPLAINANT, VS. ATTY. LEONARDO B. PALICTE, III, RESPONDENT.

A.C. No. 10815 (Formerly CBD Case No. 16-5089). October 05, 2021

Ponente: GAERLAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-10815/>

GAERLAN, J.:

This resolves the complaint for disbarment[1] filed by Atty. Vicente Roy L. Kayaban, Jr. (complainant) against Atty. Leonardo B. Palicte III (respondent).

Facts

On June 26, 2015, complainant filed before the Office of the Bar Confidant a verified disbarment complaint[2] against respondent for misrepresentation and unauthorized use of complainant's name and identity specifically in Civil Case No. 82422[3] filed and then pending before the Metropolitan Trial Court (MeTC), Branch 63-Makati City.

The complaint stemmed from complainant's receipt of an Order[4] dated February 12, 2014 issued by the MeTC Branch 63 of Makati City in the above civil case directing complainant to explain within five days from receipt of said Order why no sanction shall be imposed upon him for his failure to appear in the hearing on said date.[5] Albeit confused, complainant promptly complied with the MeTC Order by submitting his Ex-Parte Manifestation,[6] alleging the following:

1. Last March 21, 2014, the undersigned received an Order from this Honorable Court dated February 12, 2014 making him to explain why no sanction should be taken against him for failure to appear in the day's hearing.
2. However, the undersigned is absolutely unaware of said case.
3. Undersigned's former classmate - ATTY. LEONARDO B. PALICTE, III - the Deputy Secretary General on Legal Affairs of the House of Representatives, Congress of the Philippines, whose office is located at Batasan Pambansa Complex, Batasan Hills, Quezon City, would be the proper person who should give an explanation both personal and written, copy furnish (sic) the undersigned, as this case appears to be one of a number of cases Atty. Palicte has accepted using undersigned's name and office address without the latter's knowledge and consent.
4. Furthermore, undersigned most respectfully requests that henceforth, all notices, orders, communications, resolutions, judgment or decisions relative to the above-titled case be addressed directly to said Atty. Leonardo B. Palicte, III, as undersigned has nothing to do with the case. To stress, undersigned never entered his appearance as counsel for any of the parties therein.
5. Finally, undersigned is filing this manifestation Ex Parte as he does not know whom to furnish copies of this Manifestation because, to reiterate, he does not know the case, the parties and their respective addresses, and most especially, the party whom he is supposed to represent.[7]

Complainant also requested an audience with MeTC-Branch 63 Presiding Judge Alberto N. Azarcon III (Judge

Azarcon).[8] Upon examination of the records of the case, complainant and Judge Azarcon discovered that complainant, through an Entry of Appearance with Urgent Ex-Parte Motion for Extension of Time to File an Answer and/or Responsive Pleading,[9] entered his appearance as part of the law firm "Kayaban Palicte & Associates." [10]

Consequently, complainant sent a letter to respondent demanding that complainant be disassociated from the case as well as from any other case where respondent may have unauthorizedly used complainant's name and address.[11] Respondent, through a letter reply[12] dated September 1, 2014, stated:

Dear Roy:

I am in receipt of your letter dated August 13, 2014.

Please accept my apologies and assurances that I am moving towards complying with your demand to your satisfaction and will notify you accordingly.

Thank you very much.

Truly yours,

(Sgd.)

ATTY. LEONARDO B. PALICTE III[13]

Accordingly, respondent filed a Notice of Change of Address of Counsel in Civil Case No. 82422.[14] Finding this remedy insufficient to rectify respondent's continuous misrepresentation, complainant sent another letter to respondent, asserting his stance that mere change of address would neither correct anything nor allay his apprehensions that he (complainant) may still be held liable or responsible as supposed counsel in the subject civil case. Complainant then reiterated his demand for an immediate, positive, and corrective action from respondent's end.[15] His demand being unheeded, complainant instituted the present disbarment complaint against respondent.

According to complainant, his supposed signature appearing on said Entry of Appearance was a forgery because he never signed the same and his official signature is actually long and complicated which he affixes after the main body of whatever pleading he files. He uses his initials only when he signs the Notice of Hearing and/or the Explanation of Service. Respondent used and forged complainant's initials in the Entry of Appearance in Civil Case No. 82422 because it is easier to forge than complainant's official signature.[16] To substantiate his allegation of forgery, complainant incorporated a specimen[17] of his primary signature and attached two (2) sample pleadings[18] with his official signature and initials.

Records show that complainant also instituted a complaint for Dishonesty and Grave Misconduct against herein respondent before the Office of the Ombudsman (OMB).[19] To supplement the disbarment complaint against respondent, complainant submitted before the Court a copy of his Reply-Affidavit[20] in the Ombudsman case. Complainant, in said Reply-Affidavit, maintained that he had nothing to do with Civil Case No. 82422. He firmly denied having any informal partnership with respondent and insisted that the forgery of his signature in the Entry of Appearance in said civil case was respondent's doing. While it pains complainant that his relationship with respondent (who is complainant's friend and compadre, respondent's first-born son being complainant's godson) had turned this way, nonetheless, complainant stressed that he has a duty to protect his name and reputation. Respondent's misrepresentation and dishonest act and his subsequent failure to rectify his wrongdoings show his unfitness to stay not only in the legal profession but in public service as well. To be precise, respondent's acts and omission are indicative of his failure to conduct himself according to the Code of Professional Responsibility (CPR), specifically Rules 1.01, 10.01, and 16.01 thereof.[21]

In his verified Comment/Opposition,[22] respondent countered that he and complainant were informal partners in the practice of law. It was during this informal partnership that Civil Case No. 82422 was referred to respondent sometime in 2003.[23] Naturally, respondent had the impression that it was again a partnership between him and complainant. Denying complainant's accusation of forgery, respondent stressed that forgery must be proved by clear, positive, and convincing evidence. Complainant's submission of two (2) sample pleadings hardly supports his claim of forgery more so considering his admission that he has been using two (2) signatures. Respondent believes that the present disbarment complaint was complainant's way to get even with respondent relative to a drug case that they previously collaborated with. It was a case referred by respondent's church and there were no big fees paid or collected, contrary to complainant's assumptions.[24] Respondent also denied committing misrepresentation in court. He asserts that as early as 2003, he had already filed a Notice of Substitution[25] (of counsel) in Civil Case No. 82422, which effectively released complainant from all duties as counsel on record. Anent his letter of "apology" dated September 1, 2014, respondent explained that at the time he received complainant's demand letter, respondent had no vivid memory of all the facts and circumstances of complainant's allegations. However, considering the nature of his relationship with complainant, respondent deemed it appropriate to immediately apologize to an old friend. Such letter should not, in any way, be taken as an admission of any liability or a confession of a wrongdoing. Complainant's allegation that respondent ignored complainant's demands is likewise untrue. It just so happened that respondent, at that time, was saddled with official tasks, his family's health problems, and the death of his brother that immensely affected his disposition. Respondent thus requested a mutual friend, Atty. Joel C. Aguilar, to talk to complainant for possible solutions, but to no avail. Finally, complainant's act of attaching a full copy of the disbarment complaint to the OMB complaint/case is a flagrant disregard of Section 18, Rule 139-B on the confidentiality of disciplinary proceedings against a lawyer and for which complainant must be accordingly sanctioned.[26] In sum, respondent prayed that the disbarment case be dismissed for utter lack of merit.[27]

Unrelenting, complainant filed a Reply.[28] He narrated how he and respondent became collaborating counsels in a drug case sometime in June 2003. As alleged by the respondent, the case was referred by a member of respondent's church. Respondent negotiated for P500,000.00 as acceptance fee and P10,000.00 per appearance fee, which are to be divided equally (hating-kapatid) between him and complainant. Unfortunately, such equal sharing did not happen. What complainant received was the measly amount of P50,000.00, supposedly as partial payment for attorney's fees. Complainant felt cheated and thereafter completely distanced and detached himself from respondent. Complainant did not even bother collecting the balance of his attorney's fees. This unfortunate incident further shows the impossibility of complainant and respondent collaborating again for Civil Case No. 82422. Complainant is firm in his stance that he had nothing to do with said civil case nor did he ever confer with his supposed client therein. Respondent, alone, knew of said case. Complainant does not even know who among the parties he represents.[29] While respondent claims that he already filed a Notice of Substitution as early as 2003, such was not a curative solution as substitution connotes that complainant was the original counsel on record and respondent was merely replacing complainant. Besides, that complainant continues to receive pleadings and court orders (including the February 12, 2014 MTC Order) relative to Civil Case No. 82422 is telling that complainant is still a counsel on record in said case.[30] A perusal of the Notice of Substitution[31] would also reveal its notable similarities (in format, style, font, and presentation) with the Entry of Appearance[32] purportedly signed by complainant, which in turn leads to the conclusion that said two documents were prepared by just one person - the respondent. Significantly, complainant points out that he would not have signed the Entry of Appearance because his name as printed therein did not have the suffix "Jr.,"[33] a mistake that respondent usually makes when writing complainant's name as can also be seen in the Notice of Substitution and even in the Landbank check[34] that respondent issued to complainant for partial payment of the latter's attorney's fees in the drug case.[35] On his alleged disregard of Section 18,[36] Rule 139-B of the Rules of Court,

complainant asserts that the Ombudsman case against respondent and the instant disbarment case are grounded on same facts. Thus, it is inevitable that the allegations in the disbarment complaint be incorporated or cited in the OMB case. These are truthful declarations of facts that need to be disclosed under oath as required.[37]

In a Resolution dated June 20, 2016, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.[38]

During the mandatory conference on December 6, 2016, complainant and the messenger of respondent's counsel were present. The latter presented a handwritten letter from respondent's counsel requesting for the cancellation of the conference. Complainant objected and successfully moved that the mandatory conference be terminated.[39]

Meanwhile, the OMB, through a Decision dated March 29, 2017,[40] found respondent guilty of Less Serious Dishonesty. Respondent was meted the penalty of nine (9) months suspension without pay.[41] Respondent moved for reconsideration but was denied by the OMB.[42]

On October 12, 2017, IBP Investigating Commissioner Sherwin C. De Joya issued a Report and Recommendation,[43] finding respondent guilty of violating Canon 1, Rule 1.01, Canon 7, Canon 10, Rule 10.01, and Canon 11 of the CPR.[44] The Investigating Commissioner recommended that respondent be disbarred for his infractions.[45]

Through a Resolution[46] dated May 19, 2018, the IBP Board of Governors adopted the findings of fact of the Investigating Commissioner but reduced the penalty to suspension, viz.:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, with modification, to reduce the recommended penalty of DISBARMENT to SUSPENSION FROM THE PRACTICE OF LAW for two (2) years, considering that 1) respondent has no previous cases and is a first time offender; 2) the Ombudsman finds the respondent for less serious dishonesty only from a charge of gross dishonesty.[47]

Respondent did not move for reconsideration. Hence, the case is now before Us for resolution and final action.

The Court's Ruling

We adopt the Resolution of the IBP.

The Lawyer's Oath enjoins every lawyer, not just to obey the laws of the land, but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts, as well as to his clients.[48] As instruments in the administration of justice, as vanguards of our legal system, and as members of this noble profession whose task is to always seek the truth, members of the bar are expected to maintain a high standard of honesty, integrity, and fair dealing.[49]

As officers of the court, lawyers are expected to act with complete candor. They may not resort to the use of deception, not just in some, but in all their dealings.[50] Complete and absolute honesty is expected of lawyers when they appear and plead before the courts. Any act that obstructs or impedes the administration of justice constitutes misconduct which merits disciplinary action on lawyers.[51]

On this score, Canon 1 and Rule 1.01 thereof, as well as Canon 10 and Rule 10.01 thereof, are significant:

CANON 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

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

x x x x

CANON 10 - A lawyer owes candor, fairness and good faith to the court.

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. (Emphasis supplied)

Notably here, both the OMB and the IBP found that respondent committed misrepresentation and dishonesty when he utilized complainant's name and office address without authority and made it appear that complainant entered appearance as a counsel on record in Civil Case No. 82422 before the MeTC of Makati City, Branch 63.

Our own scrutiny of the records of the case before Us yields the same conclusion.

First, records disclose that as early as January 5, 2004, complainant has already demanded for the rectification of respondent's misrepresentation.[52] Said letter was duly received by respondent that resulted to his filing, on February 4, 2004, of a Notice of Substitution of counsel before the MeTC, Branch 63 of Makati City.[53] Apparently, such rectification was ineffective because complainant continued to be a counsel of record in Civil Case No. 82422 as further shown by the February 12, 2014 Order of the MeTC directing complainant to explain his "non-appearance" in the hearing on said date.[54] This prompted complainant to again demand for his disassociation from the case and for respondent to make the necessary manifestation before the MeTC. Instead of doing so, respondent just filed a Notice of Change of Address of Counsel[55] without informing the MeTC of complainant's non-involvement, from the very start, in Civil Case No. 82422.

Second, respondent firmly denies forging complainant's signature in the disputed Entry of Appearance. Nonetheless, respondent's letter[56] apologizing to complainant along with his filing of a Notice of Substitution and Notice of Change of Address of Counsel (in response to complainant's demands for rectifying measures) are telling that respondent had, at the very least, knowledge of the preparation and filing of the subject Entry of Appearance. Also significant is the similarity on how complainant's name was written in the Entry of Appearance[57] and the Notice of Substitution.[58] As pointed out by the complainant, his name in said two (2) documents conspicuously lacks the suffix "Jr.," which was also the case as regards the Landbank check[59] issued by the respondent to the complainant. This bolsters the conclusion that respondent had a hand in the preparation of the disputed Entry of Appearance.

Third, instead of owning up to his mistake, respondent tried to circumvent the tenor of his "apology" in the letter dated September 1, 2014 and argued that the same was not an admission of his guilt but rather, it was just the prudent thing to do considering his friendship with the complainant. Respondent's unremorseful attitude is further manifested by his unsubstantiated imputation of ill-will and malice to complainant in instituting this disbarment complaint.

Worse, respondent even prays that this Court sanctions complainant for alleged violation of the confidentiality rule on disciplinary proceedings against erring lawyers, when complainant attached a copy of the disbarment complaint to the OMB complaint. Respondent seemed to have forgotten that not only is he a member of the bar, he is also a public servant. As aptly argued by the complainant, the disclosure of the present disbarment complaint in the OMB complaint was inevitable not only because they are grounded on the same facts, but more importantly, such disclosure was necessary if only to show compliance with the rule on non-forum shopping. Besides, it must be pointed out that the confidentiality in disciplinary actions for lawyers is not absolute. It is not to be applied, under any circumstance, to all disclosures of any nature. The confidentiality rule requires only that proceedings against attorneys be kept private and confidential. The rule does not extend so far that it covers the mere existence or pendency of disciplinary actions. Hence, complainant in attaching a copy of the disbarment complaint to the OMB complaint did not per se violate the confidentiality rule as the purpose was to inform the

OMB of its existence.[60]

Finally, respondent's misrepresentation and dishonest conduct indubitably show his failure to uphold the integrity and dignity of the legal profession as mandated under Canon 7[61] of the CPR. Respondent likewise transgressed Canon 11[62] of the CPR in failing to observe the respect due to the courts and making a mockery of the judicial institution and court processes, which he has sworn to protect and uphold. Respondent's misrepresentations before the court, to the complainant, and to the client show that he failed to perform the four-fold duty of a lawyer to: society, the legal profession, the courts and the client.[63]

We now proceed to the penalty for respondent's infractions.

Respondent, as a lawyer in government service, is a keeper of public faith and is burdened with high degree of social responsibility, higher than his brethren in private practice.[64] Lawyers in public office are expected not only to refrain from any act or omission which tend to lessen the trust and confidence of the citizenry in government but also uphold the dignity of the legal profession at all times and observe a high standard of honesty and fair dealing.[65]

Further, when lawyers, in the performance of their duties, act in a manner that prejudices not only the rights of their client, but also of their colleagues and offends due administration of justice, appropriate disciplinary measures and proceedings are available such as reprimand, suspension or even disbarment to rectify their wrongful acts.[66]

We agree with the IBP Board of Governors that the penalty of disbarment is too harsh considering that this is respondent's first offense and his infractions were not connected to or done in the performance of his official duties as Deputy Secretary General on Legal Affairs of the House of Representatives. In any event, the Court's findings herein, coupled with the OMB Decision finding respondent administratively liable for less serious dishonesty, signify that respondent has indubitably failed to discharge his high degree of social responsibility as a member of the legal profession and the civil service. Respondent's suspension from the practice of law for a period of two (2) years is condign under the circumstances.

Suffice it to state that the determination of whether an attorney should be disbarred or merely suspended for a period of time involves the exercise of sound judicial discretion.[67]

WHEREFORE, the Court finds respondent Atty. Leonardo B. Palicte III GUILTY of violating the Lawyer's Oath and Canons 1, 7, 10 and 11 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of two (2) years. He is **STERNLY WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.

Atty. Leonardo B. Palicte III, upon receipt of this Resolution, shall immediately serve his suspension. He shall formally manifest to this Court that his suspension has started, and copy furnish all courts and quasi-judicial bodies where he has entered his appearance, within five (5) days upon receipt of this Decision. Respondent shall also serve copies of his manifestation on all adverse parties in all the cases he entered his formal appearance.

Let a copy of this Decision be furnished to the Office of the Bar Confidant to be attached to the personal records of Atty. Leonardo B. Palicte III. Copies of this Decision should also be served on the Integrated Bar of the Philippines for its proper disposition, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Gesmundo, C. J., Perlas-Bernabe, Caguioa, Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, M. Lopez, Rosario, J. Lopez, and Dimaampao, JJ., concur.
Leonen, J., on official leave.

[1] Rollo, pp. 1-7.

[2] Id.

[3] Id. at 9, entitled CGU International Insurance (AVIVA) v. Profit Cheer Line, Unknown Owner and/or Charterer of the Vessel "M/V KUO LIH/SO29," Sea Linkage Int'l., Inc. and Asian Terminals, Inc.,

[4] Id.

[5] Id.

[6] Id. at 10-11.

[7] Id.

[8] Id. at 2.

[9] Id. at 12-14.

[10] Id. at 2.

[11] Id. at 19.

[12] Id. at 20.

[13] Id.

[14] Id. at 22.

[15] Id. at 23.

[16] Id. at 2-3.

[17] Id. at 2.

[18] Id. at 15-18.

[19] Id. at 26, docketed as OMB-C-A-15-0213.

[20] Id. at 29-35.

[21] Id. at 29-33.

[22] Id. at 55-67.

[23] Id. at 56.

[24] Id. at 56-61.

[25] Id. at 165.

[26] Id. at 61-65.

[27] Id. at 65.

[28] Id. at 148-160.

[29] Id. at 148-150.

[30] Id. at 151.

[31] Id. at 165.

[32] Id. at 12-14.

[33] Id. at 13.

[34] Id. at 161.

[35] Id. at 155-156.

[36] RULE 139-B

Disbarment and Discipline of Attorneys

x x x x

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.

[37] Id. at 158.

[38] Id. at 238.

[39] Id. at 254.

[40] Id. at 389-400.

[41] Id. at 398.

[42] Id. at 403-409.

[43] Id. at 418-422.

[44] Id. at 421-422.

[45] Id. at 422.

[46] Id. at 416-417.

[47] Id. at 416.

[48] *Lim v. Atty. Mendoza*, A.C. No. 10261, July 16, 2019, 909 SCRA 60, 68.

[49] *Philippine Investment One (SPV-AMC), Inc. v. Atty. Lomeda*, A.C. No. 11351, August 14, 2019, 912 SCRA 586, 597.

[50] *Lim v. Atty. Mendoza*, *supra* at 70.

[51] Id.

[52] *Rollo*, p. 345.

[53] Id. at 165.

[54] Id. at 9.

[55] Id. at 22.

[56] Id. at 20.

[57] Id. at 12-14.

[58] Id. at 165.

[59] Id. at 161.

[60] See Atty. Guanzon v. Atty. Dojillo, A.C. No. 9850, August 6, 2018, 876 SCRA 245, 251.

[61] CANON 7 - A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the integrated bar.

[62] CANON 11 - A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

[63] Lim v. Atty. Mendoza, supra note 48 at 68.

[64] Ramos v. Atty. Imbang, 557 Phil. 507, 516 (2007).

[65] Id.

[66] Ret. Judge Alpajora v. Atty. Calayan, 823 Phil. 93, 107-108 (2018).

[67] Telles v. Atty. Dancel, A.C. No. 5279, September 8, 2020.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.