

LAURENCE D. PUNLA AND MARILYN SANTOS, COMPLAINANTS, VS. ATTY. ELEONOR MARAVILLA-ONA, RESPONDENT.*A.C. No. 11149 (Formerly CBD Case No. 13-3709). August 15, 2017*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-11149/>**PER CURIAM:**

The present administrative case stemmed from a Complaint-Affidavit[1] filed with the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) by complainants Laurence D. Punla and Marilyn Santos against respondent Atty. Eleonor Maravilla-Ona, charging the latter with violation of the lawyer's oath, for neglecting her clients' interests.

Factual Background

The facts, as culled from the disbarment complaint, are summarized in the Report and Recommendation[2] of Investigating Commissioner Ricardo M. Espina viz.:

In a complaint-affidavit filed on 15 January 2013, complainants alleged that they got to know respondent lawyer sometime in January 2012 when they requested her to notarize a Deed of Sale; that subsequently, they broached the idea to respondent that they intend (sic) to file two (2) annulment cases and they wanted respondent to represent them; that respondent committed to finish the two (2) annulment cases within six (6) months from full payment; that the agreed lawyer's fee for the two annulment cases is P350,000.00; that the P350,000.00 was paid in full by complainants, as follows: P100,000.00 on 27 January 2012 as evidenced by respondent's Official Receipt (O.R.) No. 55749 of even date (Annex "A"); P150,000.00 on 28 January 2012 as evidenced by respondent's Official Receipt (O.R.) No. 56509 of even date (Annex "B"); P50,000.00 on 14 March 2012 personally handed to respondent lawyer and evidenced by respondent's handwritten acknowledgement receipt of same date (Annex "C"); and, P50,000.00 on 15 March 2012 deposited to respondent's Metrobank account no. 495-3-49509141-5 (Annex "D").

On the commitment of respondent that she will (sic) finish the cases in six (6) months, complainants followed up their cases in September 2012 or about 6 months from their last payment in March 2012. They were ignored by respondent. On 25 September 2012, complainants sent a letter (Annex "E") to respondent demanding that the P350,000.00 they paid her be refunded in full within five (5) days from receipt of the letter. In a Certification dated 07 November 2012 (Annex "F"), the Philpost of Dasmariñas, Cavite, attested that complainants' letter was received by respondent on 01 October 2012. No refund was made by respondent.[3]

In an Order[4] dated January 25, 2013, the IBP directed respondent to file her Answer within 15 days. No answer was filed. A Mandatory Conference/Hearing was set on December 4, 2013[5] but respondent did not appear, so it was reset to January 22, 2014.[6] However, respondent again failed to attend the mandatory conference/hearing as scheduled. Hence, in an Order[7] dated January 22, 2014, the mandatory conference was terminated and both parties were directed to submit their verified position papers.

Report and Recommendation of the Investigating Commissioner

The Investigating Commissioner was of the opinion that respondent is guilty of violating Canons 17 and 18 of the

Code of Professional Responsibility, to wit:[8]

There is clear violation of Canons 17 and 18, Canons of Professional Responsibility. These canons, quoted hereunder, [state]:

CANON 17 - A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

CANON 18 - A lawyer shall serve his client with competence and diligence.

Of particular concern is Rule 18.04, Canon 18 of the Code of Professional Responsibility, which requires a lawyer to always keep the client informed of the developments in his case and to respond whenever the client requests for information. Respondent has miserably failed to comply with this Canon.[9]

In addition, the IBP Investigating Commissioner found that respondent has been charged with several infractions. Thus:

Moreover, verification conducted by this Office shows that this is not the first time that respondent lawyer has been administratively charged before this Office. As shown in the table below, respondent is involved in the following active cases:

COMPLAINANTS

CASE NO.

STATUS

PENALTY

WHEN FILED

Ten (10) consolidated cases:

1. Felisa Amistoso, et al.
2. Anita Lagman
3. Isidro H. Montoya
4. Noel Angcao
5. Mercedes Bayan
6. Rustica Canuel
7. Anita Canuel
8. Elmer Canuel
9. Evangeline Sangalang
10. Felisa Amistoso

A.C. No. 6369

A.C. No. 6371

A.C. No. 6458

A.C. No. 6459

A.C. No. 6460

A.C. No. 6462

A.C. No. 6457

A.C. No. 6463

A.C. No. 6464

A.C. No. 6469

Pending with Supreme Court

Suspension

11. Beatrice Yatoo, et al.

CBD Case No. 10-2733

Pending with Supreme Court

Suspension

July 26, 2010

12. Norma Guterrez

CBD Case No. 12-3444

For report and recommendation

May 23, 2012

13. Bienvenida Flor Suarez

CBD Case No. 12-3534

For report and recommendation

August 01, 2012

Clearly, respondent lawyer has been a serial violator of the Canons of Professional Responsibility as shown in the thirteen (13) pending cases filed against her. Add to that the present case and that places the total pending administrative cases against respondent at fourteen (14). That these 14 cases were filed on different dates and by various individuals is substantial proof that respondent has the propensity to violate her lawyer's oath - and has not changed in her professional dealing with the public.[10]

Consequently, the Investigating Commissioner recommended that respondent be disbarred and ordered to pay complainants the amount of P350,000.00 with legal interest until fully paid.[11]

Recommendation of the IBP Board of Governors

The IBP Board of Governors, in Resolution No. XXI-2015-156[12] dated February 20, 2015, resolved to adopt the findings of the Investigating Commissioner as well as the recommended penalty of disbarment.

The issue in this case is whether respondent should be disbarred.

Our Ruling

The Court resolves to adopt the findings of fact of the IBP but must, however, modify the penalty imposed in view of respondent's previous disbarment.

Rule 138, Sec. 27 of the Rules of Court provides the penalties of disbarment and suspension as follows:

Disbarment or suspension of attorneys by Supreme Court; grounds therefor. — A member of the bar may be disbarred 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 admission to practice, or for a wilful disobedience of any lawful order of a superior court, or for corruptly or wilfully appearing as an attorney for a party to a case without authority so to do x x x.

Here, there is no question as to respondent's guilt. It is clear from the records that respondent violated her lawyer's oath and code of conduct when she withheld from complainants the amount of P350,000.00 given to her, despite her failure to render the necessary legal services, and after complainants demanded its return.

It cannot be stressed enough that once a lawyer takes up the cause of a client, that lawyer is duty-bound to serve the latter with competence and zeal, especially when he/she accepts it for a fee. The lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him/her.[13] Moreover, a lawyer's failure to return upon demand the monies he/she holds for his/her client gives rise to the presumption that he/she has appropriated the said monies for his/her own use, to the prejudice and in violation of the trust reposed in him/her by his/her client.[14]

What is more, this Court cannot overlook the reality that several cases had been filed against respondent, as pointed out by the IBP. In fact, one such case eventually led to the disbarment of respondent. In *Suarez v. Maravilla-Ona*,[15] the Court meted out the ultimate penalty of disbarment and held that the misconduct of respondent was aggravated by her unjustified refusal to obey the orders of the IBP directing her to file an answer and to appear at the scheduled mandatory conference. This constitutes blatant disrespect towards the IBP and amounts to conduct unbecoming a lawyer.

In the same case, the Court took note of the past disbarment complaints that had been filed against Atty. Maravilla-Ona viz.:

x x x In A.C. No. 10107 entitled *Beatrice C. Yatco*, represented by her Attorney-In-Fact, *Marivic Yatco v. Atty. Eleanor Maravilla-Ona*, the complainant filed a disbarment case against Atty. Maravilla-Ona for issuing several worthless checks as rental payments for the complainant's property and for refusing to vacate the said property, thus forcing the latter to file an ejectment case against Atty. Maravilla-Ona. The IBP required Atty. Maravilla-Ona to file her Answer, but she failed to do so. Neither did she make an appearance during the scheduled mandatory conference. In its Resolution dated February 13, 2013, the IBP found Atty. Maravilla-Ona guilty of serious misconduct[,] and for violating Canon 1, Rule 1.01 of the Code. The Court later adopted and approved the IBP's findings in its Resolution of September 15, 2014, and suspended Atty. Maravilla-Ona from the practice of law for a period of one year.

In yet another disbarment case against Atty. Maravilla-Ona, docketed as A.C. No. 10944[,] and entitled *Norma M. Gutierrez v. Atty. Eleonor Maravilla-Ona*, the complainant therein alleged that she engaged the services of Atty. Maravilla-Ona and gave her the amount of P80,000.00 for the filing of a case in court. However, Atty. Maravilla-Ona failed to file the case, prompting the complainant to withdraw from the engagement and to demand the return of the amount she paid. Atty. Maravilla-Ona returned P15,000.00[,] and executed a promissory note to pay the remaining P65,000.00. However, despite several demands, Atty. Maravilla-Ona failed to refund completely the complainant's money. Thus, a complaint for disbarment was filed against Atty. Maravilla-Ona for grave misconduct, gross negligence and incompetence. But again, Atty. Maravilla-Ona failed to file her Answer and [to] appear in the mandatory conference before the IBP. The IBP found that Atty. Maravilla-Ona violated Canon 16, Rule 16.03 of the Code [of Professional Responsibility] and recommended her suspension for a period of five (5) years, considering her previous infractions. The Court, however, reduced Atty. Maravilla-Ona's penalty to suspension from the practice of law for a period of three (3) years, with a warning that a repetition of the same or similar offense will be dealt with more severely. She was also ordered to return the complainant's money.

Clearly, Atty. Maravilla-Ona exhibits the habit of violating her oath as a lawyer and the Code [of Professional Responsibility], as well as defying the processes of the IBP. The Court cannot allow her blatant disregard of the Code [of Professional Responsibility] and her sworn duty as a member of the Bar to continue. She had been warned that a similar violation [would] merit a more severe penalty, and yet, her reprehensible conduct has, again, brought embarrassment and dishonor to the legal profession.[16]

Back to the case at bar: While indeed respondent's condemnable acts ought to merit the penalty of disbarment, we cannot disbar her anew, for in this jurisdiction we do not impose double disbarment.

WHEREFORE, the Court hereby ADOPTS the findings of the Integrated Bar of the Philippines and FINDS respondent ATTY. ELEONOR MARAVILLA-ONA GUILTY of gross and continuing violation of the Code of Professional Responsibility and accordingly FINED P40,000.00. Respondent is also ORDERED to PAY complainants the amount of P350,000.00, with 12% interest from the date of demand until June 30, 2013 and 6% per annum from July 1, 2013 until full payment.[17] This is without prejudice to the complainants' filing of the appropriate criminal case, if they so desire.

Furnish a copy of this Decision to the Office of the Bar Confidant, which shall append the same to the personal record of respondent; to the Integrated Bar of the Philippines; and the Office of the Court Administrator, which shall circulate the same to all courts in the country for their information and guidance.

This Decision shall be immediately executory.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Perlas-Bernabe, Jardeleza, Martires, Tijam, Reyes, Jr., and Gesmundo, JJ., concur.

Leonen, J., See Separate Opinion.

Caguioa, J., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on August 15, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 4, 2017 at 3:00 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 2-4.

[2] Id. at 20-24.

[3] Id. at 21.

[4] Id. at 10.

[5] Id. at 11.

[6] Id. at 13.

[7] Id. at 15.

[8] Id. at 23.

[9] Id. at 23-24.

[10] Id. at 22-23.

[11] Id. at 24.

[12] Id. at 18.

[13] *Olayta-Camba v. Atty. Bongon*, 757 Phil. 1, 5-6 (2015).

[14] *Llunar v. Ricafort*, A.C. No. 6484, June 16, 2015, 757 SCRA 614, 620.

[15] A.C. No. 11064, September 27, 2016.

[16] Id. at 6-7.

[17] *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

SEPARATE OPINION

LEONEN, J.:

I concur with the ponencia's findings but vote to still impose the penalty of disbarment on respondent. I am aware that she has already been disbarred.

The majority found that respondent's acts merited the penalty of disbarment but that this Court cannot disbar her again as she was already disbarred by virtue of *Suarez v. Maravilla-Ona*.^[1]

In the past, this Court has imposed the penalty of suspension on lawyers who have already been disbarred. In *Sanchez v. Torres*,^[2] for the purpose of recording the case in the respondent's personal file in the Office of the Bar Confidant, this Court suspended him for two (2) years even though he had been disbarred in an earlier case.^[3] Likewise, in *Paras v. Paras*,^[4] the respondent was penalized with suspension for six (6) months, although the Court acknowledged that the suspension could no longer be effectuated due to his previous disbarment.^[5]

Paras adopted the reasoning in *Sanchez* that the penalty should still be meted out for recording with the Office of the Bar Confidant. If a disbarred lawyer may later be penalized with suspension for another complaint, then it stands to reason that disbarment may also still be imposed.

The imposition of a penalty is distinct from its service, although these concepts are related.^[6]

In criminal law, this Court has adopted the legal fiction that courts may sentence a person convicted of multiple offenses with the penalties corresponding to each offense, even if the law enforces a maximum duration on the convict's service of the sentences imposed.^[7] Thus, in *People v. Peralta*,^[8] it was emphasized that courts shall impose as many penalties as there are separate and distinct offenses committed, charged, and proved. Each offense carries its own individual penalty. That the service of penalties may be impossible or impractical should not deter courts from imposing those prescribed by law or jurisprudence.^[9] Far from being a useless formality, the imposition of multiple penalties emphasizes the reprehensible character of the convict's acts. It serves as a warning against an improvident grant of clemency to the offender in the future.^[10]

In the same way, the imposition of the penalty of disbarment on a previously disbarred lawyer has meaningful consequences. While disbarred lawyers cannot be disbarred again, they may simultaneously serve multiple penalties of disbarment already imposed, akin to the service of multiple penalties of disqualification from public office, profession, calling, or exercise of the right to suffrage.[11] As stated in Sanchez and Paras, the penalty imposed shall be recorded in the respondent's file in the Office of the Bar Confidant. It is a warning to the bench and bar that the acts committed by the lawyer are anathema to the legal profession, meriting the most severe sanctions.

The imposition of the proper penalty also does justice to those the lawyer has wronged. It communicates to them that her transgressions of her oath as a lawyer and against the canons of the legal profession are not tolerated by this Court. Past serious offenses by the same lawyer should not amount to a mitigation of the penalty to be imposed. If they amount to anything, past transgressions should be aggravating.

Furthermore, multiple penalties will signal to this Court and to the public that clemency may not be granted should the respondent request for it in the future.

Respondent's blatant disregard of her oath as a lawyer and the Code of Professional Responsibility in this case demands her disbarment. The penalty for her acts should not be mitigated in any form whatsoever.

ACCORDINGLY, I vote to hold Atty. Eleonor Maravilla-Ona GUILTY of gross and continuing violation of the Code of Professional Responsibility. I vote that she be DISBARRED from the practice of law and that she be ORDERED TO PAY complainants the amount of P350,000.00 with twelve percent (12%) interest from the date of demand until June 30, 2013 and six percent (6%) per annum from July 1, 2013 until full payment.

[1] A.C. No. 11064, September 27, 2016, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2016/september2016/11064.pdf>> [Per Curiam, En Banc].

[2] 748 Phil. 18 (2014) [Per Curiam, En Banc].

[3] Id. at 24.

[4] A.C. No. 5333, March 13, 2017, <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/march2017/5333.pdf>> [Per J. Perlas-Bernabe, First Division].

[5] Id. at 7.

[6] *People v. Peralta*, 134 Phil. 703, 731 (1968) [Per Curiam, En Banc].

[7] See Rev. Pen. Code, art. 70, which states:

Art. 70. Successive service of sentences. - When the culprit has to serve two or more penalties, he shall serve them simultaneously if the nature of the penalties will so permit; otherwise, the following rules shall be observed:

In the imposition of the penalties, the order of their respective severity shall be followed so that they may be executed successively or as nearly as may be possible, should a pardon have been granted as to the penalty or penalties first imposed, or should they have been served out.

....

Notwithstanding the provisions of the rule next preceding, the maximum duration of the convict's sentence shall

not be more than three-fold the length of time corresponding to the most severe of the penalties imposed upon him. No other penalty to which he may be liable shall be inflicted after the sum total of those imposed equals the said maximum period.

Such maximum period shall in no case exceed forty years.

[8] 134 Phil. 703, 731 (1968) [Per Curiam, En Banc].

[9] Id. at 731.

[10] Id.

[11] In The Matter of the Petition for Habeas Corpus of Pete C. Lagran, 415 Phil. 506, 510 (2001) [Per J. Puno, First Division].

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