

JOSEFINA M. ANIÑON, COMPLAINANT, VS. ATTY. CLEMENCIO SABITSANA, JR., RESPONDENT.

A.C. No. 5098. April 11, 2012

Ponente: BRION, J.

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BRION, J.:

We resolve this disbarment complaint against Atty. Clemencio Sabitsana, Jr. who is charged of: (1) violating the lawyer's duty to preserve confidential information received from his client;^[1] and (2) violating the prohibition on representing conflicting interests.^[2]

In her complaint, Josefina M. Aniñon (complainant) related that she previously engaged the legal services of Atty. Sabitsana in the preparation and execution in her favor of a Deed of Sale over a parcel of land owned by her late common-law husband, Brigido Caneja, Jr. Atty. Sabitsana allegedly violated her confidence when he subsequently filed a civil case against her for the annulment of the Deed of Sale in behalf of Zenaida L. Cañete, the legal wife of Brigido Caneja, Jr. The complainant accused Atty. Sabitsana of using the confidential information he obtained from her in filing the civil case.

Atty. Sabitsana admitted having advised the complainant in the preparation and execution of the Deed of Sale. However, he denied having received any confidential information. Atty. Sabitsana asserted that the present disbarment complaint was instigated by one Atty. Gabino Velasquez, Jr., the notary of the disbarment complaint who lost a court case against him (Atty. Sabitsana) and had instigated the complaint for this reason.

The Findings of the IBP Investigating Commissioner

In our Resolution dated November 22, 1999, we referred the disbarment complaint to the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. In his Report and Recommendation dated November 28, 2003, IBP Commissioner Pedro A. Magpayo Jr. found Atty. Sabitsana administratively liable for representing conflicting interests. The IBP Commissioner opined:

In *Bautista vs. Barrios*, it was held that a lawyer may not handle a case to nullify a contract which he prepared and thereby take up inconsistent positions. Granting that Zenaida L. Cañete, respondent's present client in Civil Case No. B-1060 did not initially learn about the sale executed by Bontes in favor of complainant thru the confidences and information divulged by complainant to respondent in the course of the preparation of the said deed of sale, respondent nonetheless has a duty to decline his current employment as counsel of Zenaida Cañete in view of the rule prohibiting representation of conflicting interests.

In *re De la Rosa* clearly suggests that a lawyer may not represent conflicting interests in the absence of the written consent of all parties concerned given after a full disclosure of the facts. In the present case, no such written consent was secured by respondent before accepting employment as Mrs. Cañete's counsel-of-record.

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Complainant and respondent's present client, being contending claimants to the same property, the conflict of interest is obviously present. There is said to be inconsistency of interest when on behalf of one client, it is the attorney's duty to contend for that which his duty to another client requires him to oppose. In brief, if he argues for one client this argument will be opposed by him when he argues for the other client. Such is the case with which we are now confronted, respondent being asked by one client to nullify what he had formerly notarized as a true and valid sale between Bontes and the complainant. (footnotes omitted)[3]

The IBP Commissioner recommended that Atty. Sabitsana be suspended from the practice of law for a period of one (1) year.[4]

The Findings of the IBP Board of Governors

In a resolution dated February 27, 2004, the IBP Board of Governors resolved to adopt and approve the Report and Recommendation of the IBP Commissioner after finding it to be fully supported by the evidence on record, the applicable laws and rules.[5] The IBP Board of Governors agreed with the IBP Commissioner's recommended penalty.

Atty. Sabitsana moved to reconsider the above resolution, but the IBP Board of Governors denied his motion in a resolution dated July 30, 2004.

The Issue

The issue in this case is whether Atty. Sabitsana is guilty of misconduct for representing conflicting interests.

The Court's Ruling

After a careful study of the records, we agree with the findings and recommendations of the IBP Commissioner and the IBP Board of Governors.

The relationship between a lawyer and his/her client should ideally be imbued with the highest level of trust and confidence. This is the standard of confidentiality that must prevail to promote a full disclosure of the client's most confidential information to his/her lawyer for an unhampered exchange of information between them. Needless to state, a client can only entrust confidential information to his/her lawyer based on an expectation from the lawyer of utmost secrecy and discretion; the lawyer, for his part, is duty-bound to observe candor, fairness and loyalty in all dealings and transactions with the client.[6] Part of the lawyer's duty in this regard is to avoid representing conflicting interests, a matter covered by Rule 15.03, Canon 15 of the Code of Professional Responsibility quoted below:

Rule 15.03. -A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

"The proscription against representation of conflicting interests applies to a situation where the opposing parties are present clients in the same action or in an unrelated action."[7] The prohibition also applies even if the "lawyer would not be called upon to contend for one client that which the lawyer has to oppose for the other client, or that there would be no occasion to use the confidential information acquired from one to the disadvantage of the other as the two actions are wholly unrelated." [8] To be held accountable under this rule, it is "enough that the opposing parties in one case, one of whom would lose the suit, are present clients and the nature or conditions of the lawyer's respective retainers with each of them would affect the performance of the duty of undivided fidelity to both clients." [9]

Jurisprudence has provided three tests in determining whether a violation of the above rule is present in a given case.

One test is whether a lawyer is duty-bound to fight for an issue or claim in behalf of one client and, at the same time, to oppose that claim for the other client. Thus, if a lawyer's argument for one client has to be opposed by that same lawyer in arguing for the other client, there is a violation of the rule.

Another test of inconsistency of interests is whether the acceptance of a new relation would prevent the full discharge of the lawyer's duty of undivided fidelity and loyalty to the client or invite suspicion of unfaithfulness or double-dealing in the performance of that duty. Still another test is whether the lawyer would be called upon in the new relation to use against a former client any confidential information acquired through their connection or previous employment.[10] [emphasis ours]

On the basis of the attendant facts of the case, we find substantial evidence to support Atty. Sabitsana's violation of the above rule, as established by the following circumstances on record:

One, his legal services were initially engaged by the complainant to protect her interest over a certain property. The records show that upon the legal advice of Atty. Sabitsana, the Deed of Sale over the property was prepared and executed in the complainant's favor.

Two, Atty. Sabitsana met with Zenaida Cañete to discuss the latter's legal interest over the property subject of the Deed of Sale. At that point, Atty. Sabitsana already had knowledge that Zenaida Cañete's interest clashed with the complainant's interests.

Three, despite the knowledge of the clashing interests between his two clients, Atty. Sabitsana accepted the engagement from Zenaida Cañete.

Four, Atty. Sabitsana's actual knowledge of the conflicting interests between his two clients was demonstrated by his own actions: first, he filed a case against the complainant in behalf of Zenaida Cañete; second, he impleaded the complainant as the defendant in the case; and third, the case he filed was for the annulment of the Deed of Sale that he had previously prepared and executed for the complainant.

By his acts, not only did Atty. Sabitsana agree to represent one client against another client in the same action; he also accepted a new engagement that entailed him to contend and oppose the interest of his other client in a property in which his legal services had been previously retained.

To be sure, Rule 15.03, Canon 15 of the Code of Professional Responsibility provides an exception to the above prohibition. However, we find no reason to apply the exception due to Atty. Sabitsana's failure to comply with the requirements set forth under the rule. Atty. Sabitsana did not make a full disclosure of facts to the complainant and to Zenaida Cañete before he accepted the new engagement with Zenaida Cañete. The records likewise show that although Atty. Sabitsana wrote a letter to the complainant informing her of Zenaida Cañete's adverse claim to the property covered by the Deed of Sale and, urging her to settle the adverse claim; Atty. Sabitsana however did not disclose to the complainant that he was also being engaged as counsel by Zenaida Cañete.[11] Moreover, the records show that Atty. Sabitsana failed to obtain the written consent of his two clients, as required by Rule 15.03, Canon 15 of the Code of Professional Responsibility.

Accordingly, we find — as the IBP Board of Governors did — Atty. Sabitsana guilty of misconduct for representing conflicting interests. We likewise agree with the penalty of suspension for one (1) year from the practice of law recommended by the IBP Board of Governors. This penalty is consistent with existing jurisprudence on the administrative offense of representing conflicting interests.[12]

We note that Atty. Sabitsana takes exception to the IBP recommendation on the ground that the charge in the complaint was only for his alleged disclosure of confidential information, not for representation of conflicting interests. To Atty. Sabitsana, finding him liable for the latter offense is a violation of his due process rights since

he only answered the designated charge.

We find no violation of Atty. Sabitsana's due process rights. Although there was indeed a specific charge in the complaint, we are not unmindful that the complaint itself contained allegations of acts sufficient to constitute a violation of the rule on the prohibition against representing conflicting interests. As stated in paragraph 8 of the complaint:

Atty. Sabitsana, Jr. accepted the commission as a Lawyer of ZENAIDA CANEJA, now Zenaida Cañete, to recover lands from Complainant, including this land where lawyer Atty. Sabitsana, Jr. has advised his client [complainant] to execute the second sale[.]

Interestingly, Atty. Sabitsana even admitted these allegations in his answer.[13] He also averred in his Answer that:

6b. Because the defendant-to-be in the complaint (Civil Case No. B-1060) that he would file on behalf of Zenaida Caneja-Cañete was his former client (herein complainant), respondent asked [the] permission of Mrs. Cañete (which she granted) that he would first write a letter (Annex "4") to the complainant proposing to settle the case amicably between them but complainant ignored it. Neither did she object to respondent's handling the case in behalf of Mrs. Cañete on the ground she is now invoking in her instant complaint. So respondent felt free to file the complaint against her.[14]

We have consistently held that the essence of due process is simply the opportunity to be informed of the charge against oneself and to be heard or, as applied to administrative proceedings, the opportunity to explain one's side or the opportunity to seek a reconsideration of the action or ruling complained of.[15] These opportunities were all afforded to Atty. Sabitsana, as shown by the above circumstances.

All told, disciplinary proceedings against lawyers are sui generis.[16] In the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession. We likewise aim to ensure the proper and honest administration of justice by purging the profession of members who, by their misconduct, have proven themselves no longer worthy to be entrusted with the duties and responsibilities of an attorney.[17] This is all that we did in this case. Significantly, we did this to a degree very much lesser than what the powers of this Court allows it to do in terms of the imposable penalty. In this sense, we have already been lenient towards respondent lawyer.

WHEREFORE, premises considered, the Court resolves to ADOPT the findings and recommendations of the Commission on Bar Discipline of the Integrated Bar of the Philippines. Atty. Clemencio C. Sabitsana, Jr. is found GUILTY of misconduct for representing conflicting interests in violation of Rule 15.03, Canon 15 of the Code of Professional Responsibility. He is hereby SUSPENDED for one (1) year from the practice of law.

Atty. Sabitsana is DIRECTED to inform the Court of the date of his receipt of this Decision so that we can determine the reckoning point when his suspension shall take effect.

SO ORDERED.

Peralta,[*] Perez, Sereno, and Reyes, JJ., concur.

[*] Additional Member vice Justice Antonio T. Carpio per raffle dated March 19, 2012.

[1] Rollo, pp. 5-6. See paragraphs 6, 9 and 10 of the complaint.

[2] Ibid.

[3] Pages 7 to 8 of the Report and Recommendation.

[4] *Id.* at 8-9.

[5] Resolution No. XVI-2004-124.

[6] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 15.

[7] *Quiambao v. Bamba*, Adm. Case No. 6708, August 25, 2005, 468 SCRA 1, 11.

[8] *Ibid.*

[9] *Ibid.*

[10] *Id.* at 10-11, citing *Tiania v. Ocampo*, A.C. Nos. 2285 and 2302, August 12, 1991, 200 SCRA 472, 479; *Abaqueta v. Florido*, A.C. No. 5948, January 22, 2003, 395 SCRA 569; *Pormento, Sr. v. Pontevedra*, A.C. No. 5128, March 31, 2005, 454 SCRA 167; and *Ruben E. Agpalo*, *Legal Ethics* 223 (6th ed. 1997), citing *Memphis & Shelby County Bar Ass'n v. Sanderson*, 52 Tenn. App. 684; 378 SW2d 173 (1963); B.A. Op. 132 (15 March 1935).

[11] *Rollo*, p. 82.

[12] *Quiambao v. Bamba*, *supra* note 7, at 16, citing *Vda. de Alisbo v. Jalandoon, Sr.*, Adm. Case No. 1311, July 18, 1991, 199 SCRA 321; *Philippine National Bank v. Cedo*, Adm. Case No. 3701, March 28, 1995, 243 SCRA 1; *Maturan v. Gonzales*, A.C. No. 2597, March 12, 1998, 287 SCRA 443; and *Northwestern University, Inc. v. Arquillo*, A.C. No. 6632, August 2, 2005, 465 SCRA 513.

[13] *Rollo*, p. 55.

[14] *Id.* at 55-56.

[15] *Teresita T. Bayonla v. Atty. Purita A. Reyes*, A.C. No. 4808, November 22, 2011, citing *Samalio v. Court of Appeals*, G.R. No. 140079, March 31, 2005, 454 SCRA 462.

[16] *Teresita T. Bayola v. Atty. Purita A. Reyes*, *supra* note 13, citing *Suzuki v. Tiamson*, Adm. Case No. 6542, September 30, 2005, 471 SCRA 129.

[17] *Ibid.*

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