HUMBERTO C. LIM, JR., IN BEHALF OF PENTA RESORTS CORPORATION/ATTORNEY-IN-FACT OF LUMOT A. JALANDONI, COMPLAINANT, VS. ATTY. NICANOR V. VILLAROSA, RESPONDENT.

A.C. NO. 5303. June 15, 2006

Ponente: CORONA, J.

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CORONA, J.:

Humberto C. Lim Jr.[1] filed a verified complaint for disbarment against respondent Atty. Nicanor V. Villarosa on July 7, 2000.[2] On February 19, 2002, respondent moved for the consolidation of the said complaint with the following substantially interrelated cases earlier filed with the First Division of this Court:

- Administrative Case No. 5463: Sandra F. Vaflor v. Atty. Adoniram P. Pamplona and Atty. Nicanor V. Villarosa;

- Administrative Case No. 5502: Daniel A. Jalandoni v. Atty. Nicanor V. Villarosa.

In a resolution dated February 24, 2003, this Court considered Administrative Case No. 5463 closed and terminated.[3] On February 4, 2004, considering the pleadings filed in Administrative Case No. 5502, the Court resolved:

> (a)
>
> to NOTE the notice of the resolution dated September 27, 2003 of the Integrated Bar of the Philippines dismissing the case against respondent for lack of merit; and
>
> (b)
>
> to DENY, for lack of merit, the petition filed by complainant praying that the resolution of the Integrated Bar of the Philippines dismissing the instant case be reviewed and that proper sanctions be imposed upon respondent.[4]

No motion for reconsideration of the aforesaid denial in Administrative Case No. 5502 appears in the records. The Court is now called upon to determine the merits of this remaining case (A.C. No. 5303) against respondent.

The complaint read:

> AS FIRST CAUSE OF ACTION
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> xxx xxx xxx
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> - II -

That respondent is a practicing lawyer and a member of the Integrated Bar of the Philippines, Bacolod City, Negros Occidental Chapter.... That sometime on September 19, 1997, Lumot A. Jalandoni, Chairman/President of PRC was sued before RTC, Branch 52 in Civil Case No. 97-9865, RE: Cabiles et al. vs. Lumot Jalandoni, et al. The latter engaged the legal services of herein respondent who formally entered his appearance on October 2, 1997 as counsel for the defendants Lumot A. Jalandoni/Totti Anlap Gargoles.... Respondent as a consequence of said Attorney-Client relationship represented Lumot A. Jalandoni et al in the entire proceedings of said case. Utmost trust and confidence was reposed on said counsel, hence delicate and confidential matters involving all the personal circumstances of his client were entrusted to the respondent. The latter was provided with all the necessary information relative to the property in question and likewise on legal matters affecting the corporation (PRC) particularly [involving] problems [which affect] Hotel Alhambra. Said counsel was privy to all transactions and affairs of the corporation/hotel....

- III -

That it was respondent who exclusively handled the entire proceedings of afore-cited Civil Case No. 97-9865 [and] presented Lumot A. Jalandoni as his witness prior to formally resting his case. However, on April 27, 1999 respondent, without due notice prior to a scheduled hearing, surprisingly filed a Motion to withdraw as counsel, one day before its scheduled hearing on April 28, 1999.... A careful perusal of said Motion to Withdraw as Counsel will conclusively show that no copy thereof was furnished to Lumot A. Jalandoni, neither does it bear her conformity.... No doubt, such notorious act of respondent resulted to (sic) irreparable damage and injury to Lumot A. Jalandoni, et al since the decision of the court RTC, Branch 52 proved adverse to Lumot A. Jalandoni, et al.... The far reaching effects of the untimely and unauthorized withdrawal by respondent caused irreparable damage and injury to Lumot A. Jalandoni, et al; a highly meritorious case in favor of his client suddenly [suffered] unexpected defeat.

- IV -

That the grounds alleged by respondent for his withdrawal as counsel of Lumot A. Jalandoni, et al. was that he is [a] retained counsel of Dennis G. Jalbuena and the Fernando F. Gonzaga, Inc. It was Dennis G. Jalbuena who recommended him to be the counsel of Lumot A. Jalandoni, et al. It is worthy to note that from the outset, respondent already knew that Dennis G. Jalbuena is the son-in-law of Lumot A. Jalandoni being married to her eldest daughter, Carmen J. Jalbuena. The other directors/officers of PRC were comprised of the eldest sibling of the remaining children of Lumot A. Jalandoni made in accordance with her wishes, with the exception of Carmen J. Jalbuena, the only daughter registered as one of the incorporators of PRC, obviously, being the author of the registration itself [sic].... Respondent further stated that he cannot refuse to represent Dennis G. Jalbuena in the case filed against the latter before the City Prosecutors Office by PRC/Lumot A. Jalandoni due to an alleged retainership agreement with said Dennis G. Jalbuena. [He] likewise represented Carmen J. Jalbuena and one Vicente Delfin when PRC filed the criminal complaint against them.... On April 06, 1999, twenty-one (21) days prior to respondent's filing of his Motion to Withdraw as Counsel of Lumot A. Jalandoni, et al., respondent entered his appearance with Bacolod City Prosecutor OIC-Vicente C. Acupan, through a letter expressly stating that effective said date he was appearing as counsel for both Dennis G. Jalbuena and Carmen J. Jalbuena and Vicente Delfin in the "Estafa" case filed by the corporation (PRC) against them.... Simply stated, as early as April 6, 1999 respondent already appeared for and in behalf of the Sps. Carmen and Dennis Jalbuena/Vicente Delfin while concurrently representing Lumot A. Jalandoni, et al. in Civil Case No. 97-9865ï¿½. However, despite being fully aware that the interest of his client Lumot A. Jalandoni [holding an equivalent of Eighty-two (82%) percent of PRC's shares of stocks] and the interest of PRC are one and the same, notwithstanding the fact that Lumot A. Jalandoni was still his client in Civil Case No. 97-9862, respondent opted to represent opposing clients at the same time. The corporation's complaint for estafa (P3,183,5525.00) was filed against the Sps. Dennis and Carmen J. Jalbuena together with UCPB bank manager Vicente Delfin. Succeeding events will show that respondent instead of desisting from further violation of his [lawyer's] oath regarding fidelity to his client, with extreme arrogance, blatantly ignored our laws on Legal

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Ethics, by palpably and despicably defending the Sps. Dennis and Carmen J. Jalbuena in all the cases filed against them by PRC through its duly authorized representatives, before the Public Prosecutors Office, Bacolod City (PP vs. Sps. Dennis and Carmen J. Jalbuena for False Testimony/Perjury, viol. of Art. 183 RPC under BC I.S. No. 2000-2304; viol. of Art. 363, 364, 181 and 183 RPC under BC I.S. 2000-2343, PP vs. Carmen J. Jalbuena for viol. of Art. 315 ... under BC I.S. 2000-2125 and various other related criminal cases against the Sps. Dennis and Carmen Jalbuena)....

AS SECOND CAUSE OF ACTION

xxx xxx xxx

- I -

xxx xxx xxx

There is no dispute that respondent was able to acquire vast resources of confidential and delicate information on the facts and circumstances of [Civil Case No. 97-9865] when Lumot A. Jalandoni was his client ... which knowledge and information was acquired by virtue of lawyer-client relationship between respondent and his clients. Using the said classified information which should have been closely guarded ... respondent did then and there, willfully, unlawfully, feloniously conspired and confabulated with the Sps. Dennis and Carmen J. Jalbuena in concocting the despicable and fabricated charges against his former clients denominated as PP vs. Lumot A. Jalandoni, Pamela J. Yulo, Cristina J. Lim and Leica J. Lim for viol. of Art. 172 of Revised Penal Code due to a board resolution executed by the corporation which the Sps. Jalbuena, with the assistance of herein respondent, claimed to have been made without an actual board meeting due to an alleged lack of quorum, [among other things]. Were it not for said fiduciary relation between client and lawyer, respondent will not be in a position to furnish his conspirator spouses with confidential information on Lumot A. Jalandoni/PRC, operator of Alhambra Hotel.

- II -

Adding insult to injury, respondent opted to deliberately withhold the entire case file including the marked exhibits of the Cabiles case for more than three (3) months after his untimely unilateral withdrawal therefrom, despite repeated demands from [his] client. On July 26, 1999, capitalizing on his knowledge of the indispensability of said documents particularly the marked exhibits, which deadline to file the formal offer of exhibits was continually impressed upon the new counsel by the court, respondent suddenly interposed an amount of five thousand (P5,000.00) pesos as consideration prior to or simultaneous to the turnover of said documents.... [On] July 29, 1999, left with no other alternative owing to the urgency of the situation, PRC issued Check No. 2077686 for P5,000.00 in payment thereof. This was duly received by respondent's office on the same date.... Such dilatory tactics employed by respondent immensely weakened the case of Lumot A. Jalandoni eventually resulting to (sic) an adverse decision against [her]....

Further demonstrating before this Honorable Court the notoriety of respondent in representing conflicting interest which extended even beyond the family controversy was his improper appearance in court in Civil Case No. 99-10660, RE: Amy Albert Que vs. Penta Resorts Corp., this time favoring the party opponent of defendant who is even outside the family circle. During the pre-trial hearing conducted on May 5, 1999, while still [holding] exclusive possession of the entire case file of his client in Civil Case No. 97-9865, respondent brazenly positioned himself beside Atty. Adoniram P. Pamplona, counsel of plaintiff [in] a suit against his client Lumot A. Jalandoni/PRC, coaching said counsel on matters [he was privy to] as counsel of said client. Facts mentioned by said counsel of the plaintiff starting from the last par. of page 25 until and including the entire first par. of page 26 were the exact words dictated by respondent. The entire incident was personally witnessed by herein complainant [who was] only an arms length away from them during the hearing.... However, the particular portion showing the said irregular acts of respondent was deliberately excluded by the court stenographer from the transcript, despite her detailed recollection and affirmation thereof to herein

> complainant. This prompted the new counsel of Lumot A. Jalandoni/PRC to complain to the court why Atty. Nicanor Villarosa was coaching Atty. Pamplona in such proceedings.... Said corrections were only effected after repeated demands to reflect the actual events which [transpired] on said pre-trial....[5] (emphasis ours)

In an addendum to the July 4, 2000 complaint, Lim also pointed to certain acts of respondent which allegedly violated the Rules of Court - perpetration of falsehood and abuse of his influence as former public prosecutor. These supposedly affected the status of the cases that Lim filed against the clients of respondent.[6]In a motion to dismiss dated October 30, 2000, respondent claimed that the complainant violated Circular No. 48-2000 because, in his verification, Lim stated:

> 3. That [he] prepared this instant complaint for disbarment against Atty. Nicanor V. Villarosa, read its contents, the same are all true and correct to [his] own personal knowledge and belief.[7] (emphasis ours)

Section 4, Rule 7 of the Rules of Court explicitly provides that:

> SEC. 4. Verification. - Except when otherwise specifically required by law or rule, pleadings need not be under oath, verified or accompanied by affidavit. (5a)
>
> A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records.
>
> A pleading required to be verified which contains verification based on "information and belief" or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading. (As amended, A.M. 00-2-10, May 1, 2000.) (emphasis ours)

While the Rules provide that an unsigned pleading produces no legal effect,[8] the court may, in its discretion, allow such deficiency to be remedied if it appears that the same was due to mere inadvertence and not intended for delay.[9] We find that Lim was not shown to have deliberately filed the pleading in violation of the Rules.

In his comment dated December 1, 2000, respondent, reiterating his ground for the dismissal of the complaint, added:

> [that] complainant Humberto C. Lim, Jr. has not only violated the Rule on Civil Procedure but he was/is NOT duly authorize[d] by the Penta Resorts Corp. (PRC) nor [by] Lumot A. Jalandoni to file this complaint against [him]. Neither [was Lim] a proper party to file this complaint. This fact is an additional ground to have his case dismissed because Humberto C. Lim Jr. exceeded whatever authority was granted to him as embodied in a resolution and the Special Power of Attorney allegedly granted to him by the complainants.[10]

To bolster his assertion that the complaint against him was unfounded, respondent presented the following version in his defense:

> FACTS OF THE CASE
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> xxx xxx xxx
>
> That Mrs. Jalandoni has two sons-in-law, namely Dennis G. Jalbuena married to her daughter, Carmen J. Jalbuena, and Humberto C. Lim Jr., the herein complainant married to her daughter, Cristina J. Lim.
>
> That Mrs. Lumot Jalandoni organized a corporation namely the Penta Resorts Corporation (PRC) where she owned almost ninety seven percent (97%). In other words, in reality, Penta Resorts Corporation is a single proprietorship belonging to Mrs. Jalandoni. That the only property of the corporation is as above-stated, the Alhambra Hotel, constructed solely through the effort of the spouses Jalbuena on that parcel of land now claimed by the Cabiles family.
>
> That sometime on the year 1997 the case above-cited (Civil Case No. 97-9865) was filed before the court

> against the sisters.
>
> That [he], being RETAINED counsel of the spouses Dennis and Carmen J. Jalbuena was RECOMMENDED by the spouses to the sisters to answer the complaint filed against them.
>
> II.
>
> That as counsel to the sisters, [he] filed a Motion for Extension Of Time To File Answer ... and ultimately, [he] filed an Answer With Counter-Claim And Prayer For Issuance Of Writ Of Preliminary Injunction....
>
> That reading the Answer ... it is clear that the defense of the sisters totally rest on public documents (the various titles issued to the land in question because of the series [of changes] in ownership) and the sisters' and their parents' actual occupation and possession thereof. xxx xxx xxx
>
> Mr. Lim['s] accusation against [him] in the light of the above-facts is the best evidence of Humberto C. Lim, Jr.'s penchant for exaggeration and distortion of the truth. Since the defense of the sisters to retain ownership of the land in question is based on PUBLIC documents, what delicate and confidential matters involving personal circumstances of the sisters allegedly entrusted to [him], is Mr. Humberto C. Lim, Jr. talking about in paragraphs I and II of his Complaint? What [privity] to all transactions and affairs of the corporation/hotel is he referring to? Whatever transactions the corporation may have been involved in or [may be getting involved into], is totally immaterial and irrelevant to the defense of the sisters.
>
> There was nothing personal [about the] circumstances of the sisters nor transactions of the corporation [which were] discussed. The documents being offered as evidence, [he] reiterate[s] for emphasis, are public; the presumption is that the whole world knows about them....
>
> That [he] [also] vehemently den[ies] another distorted allegation of Mr. Lim that [he] represented Mrs. Jalandoni [in] the entire proceedings of [the] case. [Lim] himself attested that [he] [filed] [his] Motion to Withdraw As Counsel, dated April 26, 1999 ... , before the trial court, sometime on April 27, 1999. How then could [he] have represented Mrs. Jalandoni for [the] entire proceedings of the case?
>
> Further, Mr. Lim intentionally hid from this Honorable Court the important fact that [his] Motion to Withdraw was APPROVED by the trial court because of the possibility of a conflict of interest. xxx xxx xxx. [11]

Respondent discredited Lim's claim that he deliberately withheld the records of the cited civil case. He insisted that it took him just a few days, not three months, to turn over the records of the case to Lim.[12] While he admitted an oversight in addressing the notice of the motion to withdraw as counsel to Mrs. Totti Anlap Gargoles instead of Mrs. Jalandoni at Hotel Alhambra, he maintained that it was the height of hypocrisy to allege that Mrs. Jalandoni was not aware of his motion to withdraw[13] since Mrs. Gargoles is Mrs. Jalandoni's sister and Hotel Alhambra is owned by PRC which, in turn, actually belongs to Mrs. Jalandoni. Respondent also argued that no prejudice was suffered by Mrs. Jalandoni because she was already represented by Atty. Lorenzo S. Alminaza from the first hearing date.[14] In fact, respondent contended, it was he who was not notified of the substitution of counsels.[15]As to the bill of P 5,000, respondent stated:

> That Mr. Lim begrudge[s] [him] for billing Mrs. Jalandoni Five Thousand (Php5,000.00) Pesos. Mr. Humberto C. Lim Jr. conveniently forgets that the net worth of the property together with its improvements, under litigation in that Cabiles, et al. vs. Gargoles et al. case, is a minimum of THIRTY MILLION (Php30,000,000.00) PESOS then, and more so now. [He] cannot find any law which prohibits a counsel from billing a client for services in proportion to the services he rendered.[16]

In view of these developments, respondent was adamant that:

> the only real question to be answered in this complaint is why Mr. Lim so consistently [determined] to immerse the Jalandoni family [in] a series of criminal and civil suits and to block all attempts to reconcile the

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> family by prolonging litigations, complaints and filing of new ones in spite of the RESOLUTION of the corporation and the UNDERTAKING of the members....[17]

On June 18, 2001, the Court resolved to refer the complaint to the Integrated Bar of the Philippines (IBP) for investigation. Commissioner Lydia A. Navarro made the following report and recommendation:

> xxx xxx xxx
>
> After going over the [pieces of evidence] submitted by the parties[,] the undersigned noted that from the onset, PRC had a case wherein respondent was its counsel. Later on, complainant had a case against spouses Jalbuena where the parties were related to each other and the latter spouses were represented by the respondent as their retained counsel; after respondent had allegedly withdrawn as counsel for the complainant in Civil Case No. 97-9865.
>
> Being the husband of one of the complainants which respondent himself averred in his answer, it is incumbent upon Humberto Lim Jr. to represent his wife as one of the representatives of PRC and Alhambra Hotel in the administrative complaint to protect not only her interest but that of the [family's].
>
> From the facts obtaining, it is evident that complainant had a lawyer-client relationship with the respondent before the latter [was] retained as counsel by the Spouses Jalbuena when the latter were sued by complainant's representative.
>
> We cannot disregard the fact that on this situation for some reason or another there existed some confidentiality and trust between complainants and respondent to ensure the successful defense of their cases.
>
> Respondent for having appeared as counsel for the Spouses Jalbuena when charged by respondent's former client Jalandoni of PRC and Alhambra Hotel, represented conflicting interests ... in violation of the Canon of Professional Responsibility.
>
> As such therefore, the Undersigned has no alternative but to respectfully recommend the suspension of the respondent from the practice of law for a period of six (6) months from receipt hereof.
>
> RESPECTFULLY SUBMITTED.
>
> Pasig City, June 20, 2002.[18]

The IBP Board of Governors (Board), however, reversed the recommendation of the investigating commissioner and resolved to dismiss the case on August 3, 2002.[19] Lumot A. Jalandoni filed a motion for reconsideration (MR) on October 18, 2002 but the Board denied the MR since it no longer had jurisdiction to consider and resolve a matter already endorsed to this Court.[20]

Before delving into the core issues of this case, we need to address some preliminary matters.

Respondent argues that the alleged resolution of PRC and the special power of attorney given by Lumot A. Jalandoni to Humberto did not contemplate the filing of an administrative complaint.[21] Citing the Rules of Court, respondent said that:

> [s]uch complaints are personal in nature and therefore, the filing of the same, cannot be delegated by the alleged aggrieved party to any third person unless expressly authorized by law.

We must note, however, the following:

> SECTION 1. How instituted. - Proceedings for disbarment, suspension or discipline of attorneys may be taken by the Supreme Court motu propio, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. The complaint shall state clearly and concisely the facts complained of and shall be

> supported by affidavits or persons having personal knowledge of the facts therein alleged and/or by such documents a may substantiate said facts.
>
> The IBP Board of Governors may, motu propio or upon referral by the Supreme Court or by a Chapter Board of Officers, or at the instance of any person, initiate and prosecute proper charges against any erring attorneys....[22] (emphasis ours)

Complaints against members of the Bar are pursued to preserve the integrity of the legal profession, not for private vendetta. Thus, whoever has such personal knowledge of facts constituting a cause of action against erring lawyers may file a verified complaint with the Court or the IBP.[23] Corollary to the public interest in these proceedings is the following rule:

> SEC. 11. Defects. - No defect in a complaint, notice, answer, or in the proceeding or the Investigator's Report shall be considered as substantial unless the Board of Governors, upon considering the whole record, finds that such defect has resulted or may result in a miscarriage of justice, in which event the Board shall take such remedial action as the circumstances may warrant, including invalidation of the entire proceedings.[24] (emphasis ours)

Respondent failed to substantiate his allegation that Lim's complaint was defective in form and substance, and that entertaining it would result in a miscarriage of justice. For the same reason, we will no longer put in issue the filing at the onset of a motion to dismiss by respondent instead of an answer or comment.[25]The core issues before us now are:

- whether there existed a conflict of interest in the cases represented and handled by respondent, and

- whether respondent properly withdrew his services as counsel of record in Civil Case No. 97-9865.

CONFLICT OF INTEREST

Petitioners alleged that as an offshoot of representing conflicting interests, breach of attorney-client confidentiality and deliberate withholding of records were committed by respondent. To effectively unravel the alleged conflict of interest, we must look into the cases involved.

In Civil Case No. 97-9865, respondent represented Lumot A. Jalandoni and Totti Anlap Gargoles. This was a case for the recovery of possession of property involving Hotel Alhambra, a hotel owned by PRC.

In BC I.S. No. 99-2192, Lim v. Vicente Delfin, Spouses Dennis and Carmen Jalbuena, respondent was counsel for Delfin and the spouses Jalbuena. In this case, plaintiff Cristina Lim sued the spouses Jalbuena and Delfin on the basis of two checks issued by PRC for the construction of Hotel Alhambra.[26] The corporate records allegedly reflected that the contractor, AAQ Sales and Construction (AAQSC), was already paid in full yet Amy Albert Que of AAQSC still filed a collection case against PRC for an unpaid balance.[27] In her complaint-affidavit, Cristina averred:

> 11. That it was respondent Carmen J. Jalbuena, who took advantage of [her] signatures in blank in DBP Check Nos. 0865590 and 0865591, and who filled up the spaces of the payee, date and amount without the knowledge and consent of any officer of the corporation and [herself], after which she caused the delivery of the same checks to her husband Dennis Jalbuena, who encashed without [their] knowledge and consent, and received the proceeds of the same checks... (as evidenced by his signature in receipt of payment on the dorsal side of the said checks) with the indispensable participation and cooperation of respondent Vicente B. Delfin, the Asst. Vice President and Branch Head of UCPB....[28]

Notably, in his comment, respondent stated:

> There was a possibility of conflict of interest because by this time, or one month before [he] filed [his] Motion to Withdraw, Mrs. Jalandoni /Penta Resorts Corporation, Mr. Lim, through his wife, Cristina J. Lim, by another counsel, Atty. Lorenzo S. Alminaza, filed a criminal complaint against the spouses Dennis and Carmen J. Jalbuena on March 26, 1999... under BC-I.S. Case No. 99-2192.[29]

Similarly, in BC I.S. Nos. 00-1370, 2000-2304, 2000-2343, 00-2125, 00-2230, 00-880, respondent positioned himself against PRC's interests.

And, in Civil Case No. 99-10660, a collection case against PRC, Atty. Alminaza of PRC was alarmed by the appearance of respondent at the table in court for AAQSC's counsel.[30]

Canon 15 of the Code of Professional Responsibility (CPR) highlights the need for candor, fairness and loyalty in all the dealings of lawyers with their clients. Rule 15.03 of the CPR aptly provides:

> 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.

It is only upon strict compliance with the condition of full disclosure of facts that a lawyer may appear against his client; otherwise, his representation of conflicting interests is reprehensible.[31] Conflict of interest may be determined in this manner:

> There is representation of conflicting interests if the acceptance of the new retainer will require the attorney to do anything which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation, to use against his first client any knowledge acquired through their connection.[32] (emphasis ours)

The rule on conflict of interests covers not only cases in which confidential communications have been confided but also those in which no confidence has been bestowed or will be used.[33]

> Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double-dealing in the performance thereof, and also whether he will be called upon in his new relation to use against his first client any knowledge acquire in the previous employment. The first part of the rule refers to cases in which the opposing parties are present clients either in the same action or in a totally unrelated case; the second part pertains to those in which the adverse party against whom the attorney appears is his former client in a matter which is related, directly or indirectly, to the present controversy.[34] (emphasis ours)

The rule prohibits a lawyer from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or in totally unrelated cases. The cases here directly or indirectly involved the parties' connection to PRC, even if neither PRC nor Lumot A. Jalandoni was specifically named as party-litigant in some of the cases mentioned.

> An attorney owes to his client undivided allegiance. After being retained and receiving the confidences of the client, he cannot, without the free and intelligent consent of his client, act both for his client and for one whose interest is adverse to, or conflicting with that of his client in the same general matter.... The prohibition stands even if the adverse interest is very slight; neither is it material that the intention and motive of the attorney may have been honest.[35] (emphasis ours)

The representation by a lawyer of conflicting interests, in the absence of the written consent of all parties concerned after a full disclosure of the facts, constitutes professional misconduct which subjects the lawyer to disciplinary action.[36]

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Even respondent's alleged effort to settle the existing controversy among the family members[37] was improper because the written consent of all concerned was still required.[38] A lawyer who acts as such in settling a dispute cannot represent any of the parties to it.[39]

WITHDRAWAL AS COUNSEL IN CIVIL CASE NO. 97-9865

The next bone of contention was the propriety of respondent's withdrawal as counsel for Lumot A. Jalandoni in Civil Case No. 97-9865 to fulfill an alleged retainership agreement with the spouses Jalbuena in a suit by PRC, through Cristina Lim, against the Jalbuenas and Delfin (BC I.S. No. 99-2192). In his December 1, 2000 comment, respondent stated that it was he who was not notified of the hiring of Atty. Alminaza as the new counsel in that case and that he withdrew from the case with the knowledge of Lumot A. Jalandoni and with leave of court.

The rule on termination of attorney-client relations may be summarized as follows:

> The relation of attorney and client may be terminated by the client, by the lawyer or by the court, or by reason of circumstances beyond the control of the client or the lawyer. The termination of the attorney-client relationship entails certain duties on the part of the client and his lawyer.[40]

Accordingly, it has been held that the right of an attorney to withdraw or terminate the relation other than for sufficient cause is considerably restricted. Canon 22 of the CPR reads:

> Canon 22 - A lawyer shall withdraw his services only for good cause and upon notice appropriate in the circumstances.

An attorney may only retire from a case either by written consent of his client or by permission of the court after due notice and hearing, in which event the attorney should see to it that the name of the new lawyer is recorded in the case.[41] A lawyer who desires to retire from an action without the written consent of his client must file a petition for withdrawal in court.[42] He must serve a copy of his petition upon his client and the adverse party at least three days before the date set for hearing, otherwise the court may treat the application as a "mere scrap of paper."[43] Respondent made no such move. He admitted that he withdrew as counsel on April 26, 1999, which withdrawal was supposedly approved by the court on April 28, 1999. The conformity of Mrs. Jalandoni was only presumed by Atty. Villarosa because of the appearance of Atty. Alminaza in court, supposedly in his place.

> [A client] may discharge his attorney at any time with or without cause and thereafter employ another lawyer who may then enter his appearance. Thus, it has been held that a client is free to change his counsel in a pending case and thereafter retain another lawyer to represent him. That manner of changing a lawyer does not need the consent of the lawyer to be dismissed. Nor does it require approval of the court.[44]

The appearance of Atty. Alminaza in fact was not even to substitute for respondent but to act as additional counsel.[45] Mrs. Jalandoni's conformity to having an additional lawyer did not necessarily mean conformity to respondent's desire to withdraw as counsel. Respondent's speculations on the professional relationship of Atty. Alminaza and Mrs. Jalandoni find no support in the records of this case.

Respondent should not have presumed that his motion to withdraw as counsel[46] would be granted by the court. Yet, he stopped appearing as Mrs. Jalandoni's counsel beginning April 28, 1999, the first hearing date. No order from the court was shown to have actually granted his motion for withdrawal. Only an order dated June 4, 1999 had a semblance of granting his motion:

> When this case was called for hearing Atty. Lorenzo Alminaza appeared for the defendants considering that Atty. Nicanor Villarosa has already withdrawn his appearance in this case which the Court considered it to be approved as it bears the conformity of the defendants.[47] (emphasis ours)

That Mrs. Jalandoni continued with Atty. Alminaza's professional engagement on her behalf despite respondent's withdrawal did not absolve the latter of the consequences of his unprofessional conduct, specially in view of the conflicting interests already discussed. Respondent himself stated that his withdrawal from Civil Case No. 97-9865 was due to the "possibility of a conflict of interest."[48]

Be that as it may, the records do not support the claim that respondent improperly collected P5,000 from petitioner. Undoubtedly, respondent provided professional services to Lumot A. Jalandoni. Furthermore, there is no evidence that the documents belonging to Mrs. Jalandoni were deliberately withheld. The right of an attorney to retain possession of a client's documents, money or other property which may have lawfully come into his possession in his professional capacity, until his lawful fees and disbursements have been fully paid, is well-established.[49]Finally, we express our utter dismay with Lim's apparent use of his wife's community tax certificate number in his complaint for disbarment against respondent.[50] This is not, however, the forum to discuss this lapse.

WHEREFORE, in view of the foregoing, respondent Atty. Nicanor V. Villarosa is hereby found GUILTY of violating Canon 15 and Canon 22 of the Code of Professional Responsibility and is SUSPENDED from the practice of law for one (1) year, effective upon receipt of this decision, with a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely.

Let a copy of this resolution be entered into the records of respondent and furnished to the Office of the Clerk of Court, the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts in the Philippines, for their information and guidance.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

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[1] Humberto sued on behalf of Penta Resorts Corporation (PRC) and as attorney-in-fact of Lumor A. Jalandoni; Resolution 99-002, Special Power of Attorney, rollo, Vol. I, pp. 18-19.[2] In a manifestation dated May 23, 2002, Humberto averred that Atty. Villarosa was also a respondent to the following administrative cases already submitted for resolution:

- Administrative Case No. 5409: Humberto C. Lim Jr., for and in behalf of PRC and Lumot A. Jalandoni, v. Atty. Adoniram P. Pamplona and Atty. Nicanor V. Villarosa;

- Administrative Case No. 5410: Lumot A. Jalandoni v. Judge Anastacio C. Rufon, Atty. Dionisio C. Isidto and Atty. Nicanor V. Villarosa.

[3] Resolution, rollo (A.C. No. 5463), p. 136.[4] Resolution, rollo (A.C. No. 5502), p. 585.[5] Complaint, rollo, Vol. I, pp. 1-15.[6] Addendum to Complaint dated 04 July 2000, rollo, Vol. I, pp. 110-115.[7] Verification, rollo, Vol. I, p. 16.[8] RULES OF COURT, Rule 7, Sec. 3.[9] Id.[10] Comment to Complainant's Complaint dated July 4, 2000, rollo, Vol. I, p. 166.[11] Comment, rollo, Vol. I, pp. 169-172.[12] Id., pp. 173-176.[13] Comment, rollo, Vol. I, p. 177.[14] Id., pp. 178-180.[15] Id., p. 178.[16] Id., p. 181. [17] Id., p. 192.[18] Report and Recommendation, rollo, Vol. I, pp. 268-269.[19] Notice of Resolution, rollo, Vol. I, p. 259.[20] Notice of Resolution, rollo. Vol. II, p. 8 citing RULES OF COURT, Rule 139-B, Section 12 (c). In a resolution dated February 12, 2003, this Court noted the resolution of the IBP dated August 3, 2002 which reversed the report and recommendation of the investigating commissioner and dismissed the case and the resolution dated October 19, 2002 which denied complainant's motion for reconsideration of the decision of the IBP Board of Governors as the

Board has no more jurisdiction to consider and resolve a matter already endorsed to this Court. (rollo, Vol. II, p. 37) (emphasis ours)[21] Comment, rollo, Vol. I, p. 166; Resolution 99-002, Special Power of Attorney, rollo, Vol. I, pp. 18-19.[22] RULES OF COURT, Rule 139-B, Section 1. As amended, Bar Matter No. 1960, May, 1, 2000.[23] Id.[24] RULES OF COURT, Rule 139-B, Sec. 11.[25] Motion to Expunge from the Records Respondent's Comment to Complainant's Complaint dated 01 December 2000, rollo, Vol. I, p. 243 which was based on prescription.[26] Affidavit-Complaint, rollo, Vol. I, p. 57.[27] Id.[28] Id., p. 58.[29] Comment, rollo, Vol. I, p. 172.[30] Civil Case No. 99-10660 TSN (May 5, 1999), rollo, Vol. I, p. 84.[31] Ernesto L. Pineda, LEGAL AND JUDICIAL ETHICS (Central Professional Books, Inc., Quezon City, Philippines) (1995), 183.[32] Pineda supra note 31, at 179 citing Pierce v. Palmer, 31 R.I. 432.[33] Hilado v. David, 84 Phil. 569 (1949); Nombrado v. Hernandez, 135 Phil 5 (1968); Bautista v. Barrios, 119 Phil 6 (1963).[34] Ruben E. Agpalo, LEGAL AND JUDICIAL ETHICS (2002), 282-283. See also In re Dela Rosa, 27 Phil. 258 (1914); Tiania v. Ocampo, A.C. No. 2285 12 August 1991, 200 SCRA 472.[35] Pineda supra note 31, at 180 citing 5 Am. Jur. 296.[36] In re De la Rosa, 27 Phil. 258 (1914).[37] Comment, rollo, Vol. I, pp. 184-185.[38] Pineda supra note 31, citing Rule 15.04, CPR.[39] Id. Citation omitted.[40] Agpalo supra note 34, at 349.[41] Pineda supra note 31, at 267.[42] Agpalo supra note 34 citing In re Montagne & Dominguez, 3 Phil. 577 (1904); Alcantara, Jr. v. Veloso, No. L-37844, 30 June 1975, 64 SCRA 720; Intestate Estate of the Deceased Luis C. Domingo Sr. v. Aquino, 148 Phil. 486 (1971). See also RULES OF COURT, Rule 138, Section 26.[43] Visitacion v. Manit, 137 Phil. 348 (1969); G.A. Machineries, Inc. v. Januto, 151-A Phil. 5 (1973).[44] Agpalo supra note 34 citing Canon 7, Canons of Professional Ethics; Laput v. Atty. Remotigue and Patalinghug, 116 Phil. 371 (1962); Bernardino Guerrero & Associate v. Tan, 121 Phil. 1239 (1965).[45] Entry of Appearance as Additional Counsel dated April 27, 1999, rollo, Vol. I, p. 206. [46] Motion to Withdraw as Counsel, rollo, Vol. I, pp. 30-31.[47] Penned by Judge Anastacio C. Rufon, rollo, Vol. I, p. 208.[48] Comment, rollo, Vol. I, p. 172.[49] RULES OF COURT, Rule 138, Sec. 37; CPR, Canon 22, Rule 22.02.[50] Rollo, Vol. I., pp. 238-241.

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