

ANTONIO B. BALTAZAR, COMPLAINANT, VS. ATTY. NORBIN P. DIMALANTA, RESPONDENT.

A.C. NO. 5424. October 11, 2005

Ponente: CARPIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-5424/>

CARPIO, J.:

The Case

This is a disbarment complaint against respondent Atty. Norbin P. Dimalanta for violation of Rules 1.01, 1.03, and 10.01 of the Code of Professional Responsibility.

The Facts

Complainant Antonio B. Baltazar ("complainant") is the private complainant in Criminal Case No. G-4499 and Criminal Case No. G-5132 which were raffled on 1 December 1998 and 10 May 2000, respectively, to Branch 49 of the Regional Trial Court, Guagua, Pampanga ("trial court"). In those cases, the Office of the Deputy Ombudsman for Luzon ("Ombudsman") charged one Bartolome Cabrera ("Cabrera")^[1] with violation of Section 3(e) of Republic Act No. 3019. Respondent Atty. Norbin P. Dimalanta ("respondent") was Cabrera's counsel. Before the Information for Criminal Case No. G-5132 was raffled to the trial court, respondent had filed with the Ombudsman a motion for the reinvestigation of Criminal Case No. G-4499.

The trial court scheduled Cabrera's arraignment in Criminal Case No. G-5132 on 6 June 2000. On that day, respondent filed a motion dated 2 June 2000 to postpone the arraignment and to be "granted leave to seek [reinvestigation] xxx, and to allow the Office of the Ombudsman to reinvestigate xxx [the] case."^[2] Acting on respondent's prayer to defer the arraignment, the trial court, in its Order^[3] of 6 June 2000, moved the arraignment to 11 July 2000.

On 20 June 2000, the trial court issued a follow-up Order ("20 June Order 2000") resolving respondent's motion for reinvestigation, thus:

Acting on the motion to defer arraignment and to allow reinvestigation of this case filed by Atty. Norbin P. Dimalanta, counsel for the accused, a copy of which was received by the public prosecutor on June 6, 2000 who manifested that he is leaving the matter to the sound discretion of the Honorable Court.

The Court having found the motion to be meritorious hereby grants the same and allows the accused to seek reinvestigation and the Office of the Ombudsman to conduct a reinvestigation and to submit its report on the outcome of the reinvestigation within thirty (30) days from receipt hereof.

In the meantime, considering the proximity of the scheduled arraignment set on July 11, 2000 and upon motion of counsel for the accused, the arraignment set on that date is cancelled and reset to August 29, 2000 at 9:00 o'clock in the morning.^[4] (Emphasis supplied)

For lack of a prosecutor, the trial court cancelled and re-set the hearings on 29 August 2000 and on 12 October

2000 to 27 November 2000. In the hearing of 27 November 2000, the prosecutor again failed to appear, thus the trial court issued an Order[5] re-scheduling the arraignment to 25 January 2001 after further noting that the "reinvestigation of [the] case is still pending with the Ombudsman."

In the hearing of 25 January 2001, the trial court issued the following Order ("25 January 2001 Order"):

At today's scheduled arraignment, Asst. Provincial Prosecutor Vivian T. Dabu, Atty. Norbin P. Dimalanta[,] private complainant and accused appeared. Atty. Dimalanta manifested that he has a pending motion for reconsideration of the order dated April 29, 1999 of the Ombudsman denying this (sic) earlier motion for re-investigation. According to Atty. Dimalanta he has not yet received the resolution of his motion for reconsideration, hence (sic), he moved for the resetting of the arraignment. Prosecutor Dabu while interposing no objection requested that the next arraignment be intransferrable in character as the case [has] been pending since January 1, 1998.

The motion to postpone arraignment is granted and the same is reset to March 26, 2001 at 2:00 o'clock in the afternoon. Accused is directed to take the necessary steps to secure a resolution of his motion for reconsideration before the next scheduled hearing as the arraignment will proceed, with or without any resolution from the Ombudsman.[6] (Emphasis supplied)

In his Complaint[7] dated 26 March 2001, complainant contended that respondent made false representations to the trial court to delay his client's arraignment in Criminal Case No. G-5132 because respondent never sought a reinvestigation of that case with the Ombudsman. Thus, complainant sought to hold respondent liable for violation of Rules 1.01, 1.03, and 10.01 of the Code of Professional Responsibility ("Code") which provide:

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

Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

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.

In his Answer,[8] respondent alleged that this administrative complaint is only one of many frivolous criminal and administrative suits complainant filed to harass him for rendering legal services to a client who is the political opponent of a relative of complainant. Respondent pointed out that complainant has no interest in Criminal Case No. G-5132 since he is not a party to that case.

The Court referred this matter to the Integrated Bar of the Philippines ("IBP") for investigation, report, and recommendation.[9]

The IBP Report

In his Report dated 5 July 2004 ("Report"), Commissioner Elpidio G. Soriano III ("Commissioner Soriano") of the IBP Commission on Bar Discipline found respondent liable for "falsehood committed before [the trial court] xxx, in violation of his duties under the Code of Professional Responsibility and the lawyer's oath." Commissioner Soriano recommended respondent's suspension from the practice of law for six months. The Report reads:

As can be gleaned from the records of the instant case, respondent did lie to the trial court with respect to the pending motion for reinvestigation before the Ombudsman in Criminal Case No. G-5132.

There never was a pending motion. Initially, in filing the Motion to Defer Arraignment and To Allow Reinvestigation of the Case, he led the Court into believing that he intends to file the motion for

reinvestigation, therefore the arraignment was reset. Five months after the first resetting [or on 27 November 2000], he represented to the trial court that he had already filed the subject motion and that it was still pending, thus the arraignment was again moved on (sic) another date.

On 25 January 2001, respondent betrayed himself in open court. He stated that his motion for reinvestigation was denied by the Ombudsman in an Order dated 29 April 1999 and that he has a pending motion for reconsideration of the same Order.

Respondent has raised his fooling of the trial court to a higher notch by so doing. It must be noted that the initial setting of the arraignment was on 6 June 2000. In his Motion to Defer Arraignment and To Allow Reinvestigation of the Case on the same date, he stated that he was surprised by the filing of the Information and the issuance of the Warrant of Arrest against the Accused and that he was not provided ample opportunity to file the motion for reinvestigation. His representation thereafter that there is [a] pending motion for reconsideration of a denied motion for reinvestigation dated 29 April 1999 is patently inconsistent with his earlier stance. How could the subject motion not yet filed on 6 June 2000 be denied on 29 April 1999? The trial court should have quickly spotted such discrepancy. But this is digressing on the issue at hand.

It turns out that there is indeed a motion for reinvestigation which was denied by the Ombudsman on 29 April 1999. However, this denial was with regard to an entirely different case.

The Resolution which led into filing the (sic) Information in Criminal Case [No.] G-5132, the case in issue, was denominated OMB-1-99-2381. The motion for reinvestigation was filed in OMB-1-98-1109, later filed as Criminal Case No. G-44[9]9. OMB-1-99-2381 was a complaint filed by complainant in the instant administrative case against Bartolome Cabrera, a Barangay Captain, for violation of Sec. 3(e) of Republic [Act No.] 3019 for allegedly failing to issue a Certification to File Action in Court in a Katarungang Pambarangay conciliation proceeding pending before Cabrera's office despite the fact that all efforts for settlement have failed and there was nothing to be done but to issue the aforestated certification. On the other hand, [OMB-1-98-1109] involved the same parties but with additional respondents-spouses Manuelito Bagasina and Catalina Bagasina-charging respondents of (sic) violation of Sec. 3(e) and Sec. 4 of Republic Act [No.] 3019 for allegedly demolishing a house without authority to do the same. Clearly, even if the two cases have the same complainant and a common respondent, they cover different transactions which, by no stretch of the imagination, could be mistaken as belonging to the same case since they are based on different set of facts.[10]

The IBP Board of Governors adopted and approved the Report in its Resolution No. XVI-2004-395 dated 30 July 2004.

In his Comment to the Report filed with this Court, respondent, among others, contended for the first time that his manifestation during the hearing of 25 January 2001 that he "has a pending motion for reconsideration of the order dated 29 April 1999 xxx," as noted in the 25 January 2001 Order in Criminal Case No. G-5132, was made in and intended for Criminal Case No. G-4499. To prove his claim, respondent submitted a copy of an Order dated 25 January 2001 that the trial court issued in Criminal Case No. G-4499, certified by its Officer-In-Charge Edna P. Carlos, with the same content as the Order of the same date issued in Criminal Case No. G-5132. Respondent implied that the duplication of these Orders might have taken place because the trial court consolidated and jointly heard Criminal Case No. G-4499 and Criminal Case No. G-5132.[11]

In his Opposition to respondent's Comment, complainant countered that it was not unusual for the trial court to have issued identical Orders for Criminal Case No. G-4499 and Criminal Case No. G-5132 on 25 January 2001 as those cases, which the trial court jointly tried, had the same accused and counsel for the defense. Both cases were awaiting the Ombudsman's resolution of the defense's supposed motions for reinvestigation. Complainant added that the trial court's issuance of identical Orders are "not new" to respondent because in the hearing of 27 November 2000, the trial court also issued identical Orders for Criminal Case Nos. G-4499 and G-5132, copies of

which complainant attached to his Opposition. Complainant maintained that the trial court's issuance of the identical 25 January 2001 Orders does not negate respondent's liability for dishonesty and misrepresentation because respondent "opted not to challenge" such.[12]

The Ruling of the Court

We find the complaint against respondent without merit and accordingly dismiss it.

Respondent Need Not File Another

Motion for Reinvestigation with the Ombudsman

The IBP finds respondent liable for dishonesty and misrepresentation for leading the trial court to believe that he had filed with the Ombudsman a motion for reinvestigation of Criminal Case No. G-5132 when "there was never a pending motion." The IBP also points to respondent's manifestation in the hearing of 25 January 2001 that the Ombudsman denied his motion for reinvestigation on 29 April 1999 as further proof of respondent's misrepresentation because respondent prayed for reinvestigation only on 6 June 2000.

We cannot sustain the IBP's findings.

The Ombudsman Administrative Order No. 13-96[13] ("AO 13-96"), dated 7 February 1996, provides the procedure for reinvestigation by the Ombudsman of cases pending with the courts, thus:

A. REINVESTIGATION

1. All Petitions/Motions for Reinvestigation of cases already filed in court shall not be entertained and the same shall, instead, be addressed to the court trying the case.[14]
2. Where the trial court orders/directs the conduct of reinvestigation proceedings, the same shall be undertaken by the prosecutor assigned to prosecute the case in court and shall as far as practicable, be limited to the reception and evaluation of such evidence as the accused may deem fit to present for the purpose of overturning the finding of probable cause arrived at during the inquest or preliminary investigation proceedings; without prejudice, however, to the right of the complainant/offended party to be notified of such proceedings and to submit, in appropriate cases, proof in contravention of the evidence adduced by the accused. (Emphasis supplied)

Hence, all motions for reinvestigation must be addressed to the trial court where the case is pending. If the trial court grants reinvestigation, the Ombudsman shall proceed to receive such evidence as the parties may wish to submit to either support or controvert the prosecutor's finding of probable cause. To require the filing of another motion for reinvestigation with the Ombudsman, as the IBP seems to suggest, not only runs counter to AO 13-96 but also derogates on the trial court's exclusive prerogative to order reinvestigation.

In the present case, the trial court, in its 20 June 2000 Order in Criminal Case No. G-5132, ordered the Ombudsman to "conduct a reinvestigation and to submit its report on the outcome of the reinvestigation within thirty (30) days' from notice. What the parties were supposed to do next was to submit, upon notice, additional evidence before the Ombudsman. As respondent well explained:

[I]n the Order granting the motion for reinvestigation, [the trial court] stated the following:

"The Court having found the motion to be meritorious hereby grants the same and allows the accused to seek reinvestigation and the Office of the Ombudsman to conduct a reinvestigation and to submit its report on the outcome of the reinvestigation within thirty (30) days from receipt hereof." xxx

The Respondent did not anymore file a motion or whatever pleading to the Office of the Ombudsman relative to the said Reinvestigation because the aforequoted Order already directed "the office of the Ombudsman to conduct

a reinvestigation and to submit its report on the outcome of the reinvestigation within thirty (30) days from receipt hereof." [15]

Significantly, complainant does not deny respondent's claim that the Ombudsman did not notify him to submit additional evidence.

On the 25 January 2001 Order

Nor can respondent be held liable for misrepresentation under the 25 January 2001 Order. Complainant does not dispute respondent's new claim that the trial court, after consolidating Criminal Case No. G-4499 and Criminal Case No. G-5132, jointly heard those cases on 25 January 2001. Indeed, complainant also volunteered, for the first time, that the trial court followed the same procedure in the hearing of 27 November 2000. This new information, coupled with the existence of two identical 25 January 2001 Orders, renders likely respondent's claim that his manifestation in the hearing of 25 January 2001 that "he has a pending motion for reconsideration of the Order dated April 29, 1999 of the Ombudsman denying [his] earlier motion for reinvestigation" was meant for Criminal Case No. G-4499 and not for Criminal Case No. G-5132 but was inadvertently duplicated in the latter. Significantly, the Ombudsman, as the IBP noted, did deny respondent's motion for reinvestigation of Criminal Case No. G-4499 on 29 April 1999. Further, the trial court's statement in the 25 January 2001 Order that "the case [has] been pending since January 1, 1998" could not have referred to Criminal Case No. G-5132 because the trial court received that case only on 10 May 2000. On the other hand, the trial court received Criminal Case No. G-4499 on 1 December 1998. Thus, the trial court must have been referring to Criminal Case No. G-4499, albeit inaccurately.

Ordinarily, the Court views with disfavor the submission of new evidence on appeal. [16] This, however, is a disbarment proceeding where procedural rules governing ordinary civil actions are generally not applied, its sole purpose being to determine whether a member of the bar deserves to remain in practice. [17] Hence, the Court can rightly consider the new undisputed evidence the parties presented to determine the merit of this complaint.

WHEREFORE, we DISMISS the Complaint, dated 26 March 2001, against respondent Atty. Norbin P. Dimalanta for lack of merit.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

[1] While only Cabrera was impleaded as defendant in the Information for Criminal Case No. G-4499, two other individuals, Manuelito Bagasina and Catalina Bagasina, were impleaded as Cabrera's co-defendants in the complaint filed with the Ombudsman.

[2] Rollo, p. 9.

[3] Ibid., p. 10.

[4] Ibid., p. 11.

[5] Ibid., p. 12.

[6] Ibid., p. 14.

[7] Ibid., pp. 1-4.

[8] Ibid., pp. 16-21.

[9] Ibid., p. 24.

[10] Report, pp. 5-7.

[11] Comment to IBP Report and Recommendation With Motion to Set Aside [IBP Report and Recommendation], pp. 4-9 and Annexes "8" and "9."

[12] Motion With Leave to Admit Instant Opposition to Comment With Motion to Set Aside IBP Report and Recommendation, pp. 1-3 and Annexes "C" and "D."

[13] GUIDELINES IN THE HANDLING AND PROSECUTION OF OMBUDSMAN CASES FILED WITH OR PENDING BEFORE REGULAR COURTS PURSUANT TO THE PROVISIONS OF REPUBLIC ACT NO. 7975.

[14] This is a reiteration of the rule laid down in *Crespo v. Mogul* (No. L-53373, 30 June 1987, 151 SCRA 462).

[15] IBP Rollo, p. 81.

[16] See *Republic v. Court of Appeals*, 202 Phil. 83 (1982), reported as *Rep. of the Phils., et al. v. Court of Appeals, et al.*

[17] See *Pimentel, Jr. v. Atty. Llorente*, 393 Phil. 544 (2000).

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.