

**EMILIANI WILFREDO R. CRUZ AND CARLOS R. CRUZ,
COMPLAINANTS, V. ATTY. EVELYN BRUL-CRUZ AND ATTY.
GRACELDA N. ANDRES, RESPONDENTS.**

A.C. No. 7121 (Formerly CBD Case No. 04-1244). March 08, 2022

Ponente: HERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-7121/>

HERNANDO, J.:

"Ethics is knowing the difference between what you have a right to do and what is right to do."

- Justice Potter Stewart

This is a complaint[1] for disbarment filed by Emiliani Wilfredo R. Cruz and Carlos R. Cruz (collectively, complainants) against Atty. Evelyn Brul-Cruz (Atty. Evelyn) and Atty. Gracelda N. Andres (Atty. Gracelda) (collectively, respondents) on the ground of grave misconduct.

The Factual Antecedents:

Complainants are among the compulsory heirs of the spouses Carlos Galman Cruz, Sr. (Carlos, Sr.) and Emiliana de la Rosa Cruz (Emiliana) (collectively, spouses Cruz). During their lifetime, the spouses Cruz acquired several properties including seven parcel of lands located in Meycauayan, Bulacan and covered by Transfer Certificates of Title Nos. (TCT) T-93571, T-93572, T-93573, T-93574, T-93575, T-93576, and T-93577 (Meycauayan properties). These titles were registered in the names of the spouses Cruz since 1968.[2]

On May 29, 1974, Emiliana died intestate. Four years after her demise, or in 1978, Carlos, Sr. married respondent Atty. Evelyn.[3]

When Carlos, Sr. died on January 14, 1988, the properties in his and Emiliana's names remained undivided as neither a judicial nor an extrajudicial partition was executed by their heirs.[4]

However, complainants discovered sometime in 2000 that the Meycauayan properties became subjects of an expropriation case entitled "Republic of the Philippines represented by the Toll Regulatory Board v. Sps. Engracio & Ana Angeles, et al." filed before the Regional Trial Court (RTC) of Malolos, Bulacan and docketed as Civil Case No. 771-M-2000.[5] Among the respondents in Civil Case No. 771-M-2000 were the spouses Cruz. Complainants were surprised when they found out that Atty. Evelyn knew about the case, and yet, she did not inform them. Instead, she actively participated and misrepresented herself and her own children with Carlos, Sr. as the alleged sole heirs.[6]

Complainants were also surprised to know that respondent Atty. Gracelda, a relative of Atty. Evelyn, acted as counsel of their parents in the proceedings without their authority. They claimed that it was highly impossible for Atty. Gracelda to represent the spouses Cruz since they had long passed away. Notably, Atty. Gracelda filed an Answer[7] dated January 9, 2001, a Compliance[8] dated October 17, 2002, and a Manifestation[9] dated November 6, 2002 on behalf of the spouses Cruz.

Atty. Evelyn, represented by Atty. Gracelda, also filed a petition for issuance of owner's duplicate title of the Meycauayan properties.[10] In the petition, she alleged that the said lands were assigned to her pursuant to an agreement among the heirs of the spouses Cruz. Atty. Evelyn further claimed that she possessed the titles of the subject properties but she lost them when she transferred residence. She presented an affidavit of loss to support her claim.[11]

Interestingly, Atty. Evelyn did not testify during the trial. Instead, it was her daughter, Evecar Cruz, who took the witness stand on her behalf by virtue of a purported Special Power of Attorney[12] dated June 6, 2002.[13]

Complainants claimed that they never assigned the subject lands to Atty. Evelyn. Moreso, the titles of the Meycauayan properties remained in the possession of Carlos Cruz, Jr. (Carlos, Jr.) hence, were not lost as claimed by Atty. Evelyn and Atty. Gracelda. Complainants also insisted the lands had not been partitioned among the heirs.[14]

Complainants, thus, subsequently filed criminal complaints for perjury and an administrative complaint against Atty. Evelyn for making false testimonies in the affidavit of loss, which was the basis of the petition for issuance of owner's duplicate of titles.[15]

The petition for issuance of duplicate title was eventually dismissed by the trial court pursuant to an ex-parte motion for its withdrawal by Atty. Evelyn.[16]

Consequently, complainants sought the disbarment of respondents.

Complainants also averred that a complaint against Atty. Evelyn was filed before the Presidential Anti-Graft Commission (PAGC) for falsification of her Statement of Assets, Liabilities and Net Worth (SALN) for failure to declare her property located at Las Piñas City in violation of Republic Act No. (RA) 3019 (RA 3019) or the Anti-Graft and Corrupt Practices Act, and RA 6713 or the Code of Conduct and Ethical Standards for Public Employees. The PAGC later found Atty. Evelyn guilty of falsification of her 1999, 2000 and 2002 SALNs and meted her the penalty of dismissal from service, which dismissal was subsequently downgraded to a mere suspension.[17]

Complainants also claimed: that Atty. Gracelda, being the Deputy Executive Director of the Legal Affairs Bureau in the House of Representatives, unlawfully appeared in the expropriation case as the opposing party is the government itself which employed her.[18]

In a Joint Answer,[19] Atty. Evelyn asserted that she owned the Meycauayan properties. These were her share in the inheritance from her late husband, Carlos, Sr., as stated in a June 1, 1991 letter[20] written by Carlos, Jr. Hence, Atty. Evelyn had been diligently paying their real property taxes from the time her possession thereof commenced.[21]

Atty. Evelyn also admitted that complainants were not aware of the expropriation proceedings of the Meycauayan properties as these were already under her administration even while Carlos, Sr. was still alive.[22]

On the charge of perjury, Atty. Evelyn averred that she did not falsify her affidavit of loss that was attached to the petition for issuance of duplicate of titles as she believed that the titles of the subject properties were in her possession.[23]

On the other hand, Atty. Gracelda claimed that she represented Atty. Evelyn and not the spouses Cruz in the expropriation case. The spouses Cruz' names were only inadvertently included in the manifestation and compliance by her secretary who merely copied their names in the computer file while preparing the pleadings.[24]

Report and Recommendation of the Integrated Bar of the Philippines:

In a Report and Recommendation[25] dated October 25, 2005, the Investigating Commissioner of the Integrated Bar of the Philippines (IBP) recommended the dismissal of the complaint against respondents. She noted that the complaint merely involved a "bitter family dispute about inheritance,"[26] which ordinary courts would aim for settlement. Further, Atty. Evelyn is in lawful possession of the Meycauayan properties, her share in the inheritance, pursuant to the families' agreement stated in the June 1, 1991 Letter[27] of Carlos, Jr.[28]

In fact, the agreement and subsequent possession thereof by Atty. Evelyn were never impugned before any court by the complainants. She had been in peaceful possession of the Meycauayan properties for the past 16 years until the expropriation proceedings took place.[29]

The Investigating Commissioner also found that Atty. Evelyn did not falsify the affidavit of loss which was the basis of her petition for issuance of owner's duplicate of titles as she believed in good faith that the titles were in her possession. Neither did she conceal the petition from complainants since notices were sent to them.[30]

Lastly, the Investigating Commissioner found no proof that Atty. Evelyn concealed and intended to transfer in her name the Meycauayan properties and appropriate for herself the proceeds in the expropriation proceedings. Had she opted to do so, Atty. Evelyn would not have objected to the Answer in Intervention filed by complainants. Also, the proceeds in the expropriation proceedings were deposited in the bank under the name of the heirs of Carlos, Sr.[31]

Anent Atty. Gracelda, the Investigating Commissioner exculpated her from any administrative liability as she merely represented Atty. Evelyn and her children. No sufficient proof was presented to prove that she represented the spouses Cruz and their heirs without authority.[32]

The Investigating Commissioner further opined that the inclusion of the names of the spouses Cruz under Atty. Gracelda's signature in the pleadings filed before the court was a mere inadvertence and an honest mistake attributed to the latter's secretary who merely copied the files saved in the computer. Moreover, the bodies of the pleadings evinced that Atty. Gracelda was representing the "Heirs of Carlos Cruz represented by Evelyn Cruz".[33]

In a Resolution[34] dated January 28, 2006, the IBP Board of Governors (Board) resolved to adopt and approve the findings of the Investigating Commissioner as well as the recommendation to dismiss the complaint for lack of merit.

Complainants sought reconsideration and the reversal of the January 28, 2006 Resolution of the IBP Board before this Court. In Our June 26, 2006 Minute Resolution,[35] complainants' motion for reconsideration was treated as a Petition for Review and respondents were directed to file their comment thereon.

Meanwhile, on June 26, 2011, the IBP Board issued a Resolution[36] denying complainants' motion for reconsideration.

Aggrieved, complainants filed a Petition for Certiorari[37] under Rule 65 of the Rules of Court before this Court arguing that the IBP Board gravely abused its discretion in dismissing the complaint for disbarment against respondents.

In a Resolution[38] dated July 3, 2013, the Court referred the petition to the Office of Bar Confidant (OBC) for evaluation, report and recommendation.

Report and Recommendation of the Office of the Bar Confidant:

In its Report and Recommendation[39] dated January 10, 2014, the OBC found Atty. Evelyn administratively liable for gross misconduct in violation of Canon 10, Rule 10.01 of the Code of Professional Responsibility (CPR). The OBC opined that the letter of Carlos, Jr. to Atty. Evelyn contained only a mere proposal on the partition of the subject properties, which is not equivalent to an actual settlement. There was no categorical declaration that the Meycauayan properties were already ceded to Atty. Evelyn.[40]

Worse, Atty. Evelyn did not present any other evidence to prove that she and the complainants, as heirs of Carlos, Sr., agreed that she would inherit the Meycauayan properties. On the contrary, in her counter-affidavit filed before the PAGC in PAGC-ADM-0180-03, Atty. Evelyn categorically stated that she and the complainants did not partition the properties they inherited from Carlos, Sr.[41]

The OBC found that in filing the petition for issuance of owner's duplicate title, Atty. Evelyn falsely claimed that the Meycauayan properties were already ceded to her. In addition, she lied when she claimed that the titles of the subject properties were in her possession before they got lost, when in fact they were actually in the possession of Carlos, Jr.[42]

Considering that the Meycauayan properties had not been appropriated to Atty. Evelyn and their titles were not lost and had never been in her possession, the OBC found the testimony of Atty. Evelyn's daughter on her behalf to be false, highly irregular and misleading.[43]

Anent the case of Atty. Gracelda, the OBC likewise found her administratively liable for gross misconduct in violation of Canon 10, Rules 10.01 and 10.02 of the CPR. The OBC noted that Atty. Gracelda pretended to be the counsel of the spouses Cruz by filing various pleadings on their behalf relative to the petition for issuance of duplicate of titles. Further, Atty. Gracelda, while still employed in the government, appeared as counsel of Atty. Evelyn in the expropriation case without proof of authority to practice.

Thus, the OBC recommended that the penalty of indefinite suspension be imposed against respondents, to wit:

WHEREFORE, IN VIEW OF THE FOREGOING, the Office of the Bar Confidant (OBC) respectfully submits for the consideration of the Honorable Court the recommendation that Atty. Evelyn Brul-Cruz and Atty. Gracelda N. Andres be INDEFINITELY SUSPENDED from the practice of law, with a stern warning that a repetition of the same or a similar act will be dealt with more severely.[44] (Emphasis omitted)

Issue

The core issue is whether respondents should be held administratively liable for gross misconduct.

Our Ruling

The Court adopts the findings of the OBC but modifies its recommended penalties against Atty. Evelyn and Atty. Gracelda.

Disbarment proceedings are sui generis. Their purpose is neither to impose a penal or civil sanction but to purge an erring lawyer from the legal profession to protect the public and the courts.[45] Thus, the Court has cautiously exercised its disciplinary powers against lawyers who are found unfit of being members of the Bar.[46]

Apropos to our disciplinary powers, the burden of proof in disbarment proceedings rests upon the complainant.[47] He/she must therefore establish by substantial evidence the guilt of the respondent lawyer warranting the imposition of the proper administrative sanction. In *Buntag v. Atty. Toledo*,[48] citing *Spouses Boyboy v. Atty. Yabut, Jr.*,[49] the Court defined the standard of substantial evidence in administrative proceedings in this wise:

The standard of substantial evidence required in administrative proceedings is more than a mere scintilla. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. While rules of evidence prevailing in courts of law and equity shall not be controlling, the obvious purpose being to free administrative boards from the compulsion of technical rules so that the mere admission of matter which would be deemed incompetent in judicial proceedings would not invalidate the administrative order, this assurance of a desirable flexibility in administrative procedure does not go so far as to justify orders without basis in evidence having rational probative force.[50]

A thorough evaluation of the records of the case at bench shows substantial evidence that both respondents are administratively liable.

In *Dayan Sta. Ana Christian Neighborhood Association, Inc. v. Espiritu*,^[51] the Court emphasized that the legal profession is a noble calling imbued with public trust, viz.:

The fiduciary duty of a lawyer and advocate is what places the law profession in a unique position of trust and confidence, and distinguishes it from any other calling. Once this trust and confidence is betrayed, the faith of the people not only in the individual lawyer but also in the legal profession as a whole is eroded. To this end, all members of the bar are strictly required to at all times maintain the highest degree of public confidence in the fidelity, honesty and integrity of their profession. The nature of the office of a lawyer requires that he shall be of good moral character. This qualification is not only a condition precedent to admission to the legal profession, but its continued possession is essential to maintain one's good standing in the profession. Law is a noble profession, and the privilege to practice it is bestowed only upon individuals who are competent intellectually, academically, and, equally important, morally. Because they are vanguards of the law and the legal system, lawyers must at all times conduct themselves, especially in their dealings with their clients and the public at large, with honesty and integrity in a manner beyond reproach.[52] (Citations omitted)

Possession of good moral character is not a fleeting requirement that an aspiring lawyer must only possess to be admitted to the bar. It is an unremitting qualification that a lawyer must always possess to maintain his/her good standing as a member of the bar. As We have held in *Heck v. Santos*:^[53]

The qualification of good moral character is a requirement which is not dispensed with upon admission to membership of the bar. This qualification is not only a condition precedent to admission to the legal profession, but its continued possession is essential to maintain one's good standing in the profession. It is a continuing requirement to the practice of law and therefore does not preclude a subsequent judicial inquiry, upon proper complaint, into any question concerning one's mental or moral fitness before he became a lawyer. This is because his admission to practice merely creates a rebuttable presumption that he has all the qualifications to become a lawyer. The rule is settled that a lawyer may be suspended or disbarred for any misconduct, even if it pertains to his private activities, as long as it shows him to be wanting in moral character, honesty, probity or good demeanor. Possession of good moral character is not only a prerequisite to admission to the bar but also a continuing requirement to the practice of law.[54] (Citations omitted)

Regrettably, respondent lawyers failed to maintain the good moral character requirement.

I.

On the administrative liability of Atty. Evelyn

The Court is not convinced by Atty. Evelyn's claim that she owned the Meycauayan properties. Her assertion that the properties were part of her inheritance was solely anchored on the June 1, 1991 letter of Carlos, Jr. to the heirs. However, a reading of the letter disclosed that it was a mere proposal to partition the properties of the spouses Cruz, which include the Meycauayan properties.^[55] It cannot be inferred from the letter that the heirs had reached a final agreement on their respective shares. Had it been so, an extra-judicial settlement agreement would have been executed by the parties, which is clearly lacking in the instant case.

Atty. Evelyn's claim that the heirs have already arrived at a settlement was a bare allegation and unsupported by any proof. Interestingly, she even wrote the other heirs on June 8, 2003 suggesting "to settle [the estate] amicably and extra-judicially x x x [to save] a big sum of filing fees in Court and penalty in taxes." [56] Interestingly, the letter was written after the expropriation proceedings of the Meycauayan properties and the institution of the petition for issuance of owner's duplicate title in 2000 and 2002, respectively.

That Atty. Evelyn knew and was aware that the estate has not yet been settled was clear from a reading of the Counter-Affidavit [57] that she herself filed in the administrative case against her before the PAGC, to wit:

3.

Respondent was surprised why, Complainants, being her stepchildren, [are] questioning the source of income for her acquisition of properties stated in her SAL[N] when they very well know the sources of respondents' income. Attached herewith is the letter of Complainant Carlos Jr. who, in July 2, 1994 wrote to remind me of his proposal years before for property settlement/arrangement of the De La Rosa-Cruz/Brul-Cruz Family, which was never finalized, copy of which is hereto attached as Annex "2" and made an integral part hereof.

x x x x

7.

Complainants were also aware that the proposal for property settlement/arrangement of the properties left by their father was never finalized and Respondent did nothing to push through said settlement, until now, for she was busy working as an Assistant Prosecutor as well as tending to the business left by their father[.][58] (Emphasis supplied)

By filing a petition for issuance of duplicate copies of titles of the Meycauayan properties, Atty. Evelyn misled the court when she stated that the subject properties were already appropriated to her. She even consented to her daughter testifying on her behalf on the purported assertions that the titles were in her (Atty. Evelyn's) possession but were lost when she transferred residence.

However, this was wholly negated by the complainants who showed that the titles were actually their possession. Confronted with this, Atty. Evelyn immediately caused the withdrawal of the petition and sought to finalize the partition of the estate. These acts of Atty. Evelyn, as correctly observed by the OBC, clearly show that Atty. Evelyn resorted to lying in order to mislead the court that the Meycauayan properties were already appropriated to her.

Clearly, Atty. Evelyn intentionally and deliberately made untruthful statements. Her willful attempt to deceive the courts, especially this Court, in making it appear that she already owned the Meycauayan properties through inheritance when she was fully aware that no final partition of the estate has yet been made, is a mockery of the administration of justice, which we cannot condone. She intentionally employed deceit and lies to deceive the court. She used her legal knowledge and expertise as weapons to advance her own interests and selfish motives, and not to protect the integrity and trust of the public in the law and the courts. Indeed, "a little knowledge is a dangerous thing. So is a lot." [59]

Moreover, as a lawyer, Atty. Evelyn ought to know that a mere letter indicating the prospective shares of the heirs is not equivalent to a legal partition or settlement of the estate.

Atty. Evelyn's contemptuous acts constitute grave misconduct which is defined as "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not mere error in judgment." [60] Her acts do not only speak of grave misconduct, but are also tantamount to deception, falsehood, and misuse of court processes. It is therefore clear

that she transgressed Canons 1, 7, and 10, and Rules 1.01, 1.02, 7.03, 10.01, 10.02, and 10.03 of the CPR, to wit:

CANON 1 — A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

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

Rule 1.02 — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

x x x x

CANON 7 — A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION, AND SUPPORT THE ACTIVITIES OF THE INTEGRATED BAR.

x x x x

Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

CANON 10 — A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 — A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead or allow the Court to be misled by any artifice.

Rule 10.02 — A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment or assert as a fact that which has not been proved.

Rule 10.03 — A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

Further, Atty. Evelyn breached the Lawyer's Oath as she failed to adhere to her sworn duties to: (a) "obey the laws as well as the legal orders of the duly constituted authorities therein;" (b) "do no falsehood, nor consent to the doing of any in court;" (c) "not wittingly or willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same;" and (d) "conduct myself as a lawyer according to the best of my knowledge and discretion, with all good fidelity as well to the courts."

Taken together, Atty. Evelyn utterly disregarded and disrespected the courts and the legal profession. Thus, she deserves to be sanctioned. We find the penalty of suspension from the practice of law for a period of six months proper under the prevailing circumstances.

II.

On the administrative liability of Atty. Gracelda

The Court, on the other hand, finds Atty. Gracelda guilty of engaging in the practice of law without the written authority from the House of Representatives (HoR).

Canon 6 of the CPR explicitly states that the Code applies to lawyers in government service in the discharge of their duties. Rule 6.02 further directs them to not use their public positions to promote or advance their private interests, nor allow the latter to interfere with their public duties.

Concededly, a lawyer employed by the government may still engage in limited private practice unless there is total prohibition due to the nature of the government office where he/she is employed, his/her position in government, or other applicable statutes. To be allowed to engage in private practice, a government-employed

lawyer must first secure a written permission to appear as counsel in a case pursuant to Civil Service Commission (CSC) Resolution No. 99-1907,[61] issued on August 27, 1999. Section 18 of said resolution states:

SEC. 18. Unless otherwise provided by law, no officer or employee shall engage directly or indirectly in any private business or profession without a written permission from the head of the agency. Provided that this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the government: provided further, that if an employee is granted permission to engage in outside activities, the time devoted outside of office hours should be fixed by the head of the agency so that it will not impair in any way the efficiency of the officer or employee nor pose a conflict or tend to conflict with the official functions. (Emphasis supplied)

Rule XVIII, Section 12 of the Revised Civil Service Rules further states:

Section 12. No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of the Department: Provided, That this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government; Provided, further, That if an employee is granted permission to engage in outside activities, time so devoted outside of office hours should be fixed by the agency to the end that it will not impair in any way the efficiency of the officer or employee: And provided, finally, that no permission is necessary in the case of investments, made by an officer or employee, which do not involve real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer of the board of directors. (Emphasis supplied)

Section 7(b)(2) of RA 6713 also provides:

Section 7. Prohibited Acts and Transactions. — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x x

(b) Outside employment and other activities related thereto. — Public officials and employees during their incumbency shall not:

x x x x

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; or

x x x x

These prohibitions shall continue to apply for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of subparagraph (b) (2) above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, in which case the one-year prohibition shall likewise apply.

In *Ziga v. Judge Arejola*,[62] the Court expounded on the rationale for imposing restriction on government officials and employees, including lawyers, to engage in private practice in this wise:

As a Civil Service employee, he cannot engage in private practice without the written permission from this Court. The public expects him to devote full time to his judicial work. As a general rule, the appointment or election of an attorney to a government office disqualifies him from engaging in the private practice of law. The reason for the disqualification is that a public office is a public trust, and a public officer or employee is

obliged not only to perform his duties with the highest degree of responsibility, integrity, loyalty, and efficiency but also with exclusive fidelity. The disqualification is intended to preserve the public trust in a public office, avoid conflict of interests or a possibility thereof, assure the people of impartiality in the performance of public functions and thereby promote the public welfare.[63]

There is no evidence on record showing that Atty. Gracelda was authorized to engage in private practice and to represent the spouses Cruz and/or Atty. Evelyn in the expropriation proceedings and the petition for issuance of duplicate titles cases. Upon scrutiny, she signed the pleadings, except for the Answer dated January 9, 2001 filed in the expropriation case, relative to the cases in the year 2002.

Atty. Gracelda did not present any certification or written approval from the Secretary General of the HoR allowing her to engage in private practice during those years. What she merely attached were Memoranda dated March 30, 2001[64] and March 29, 2004[65] issued by the Secretary General allowing her to engage in a limited practice of law subject to conditions.

Thus, the Court could only surmise that Atty. Gracelda did not have the requisite authority to engage in a limited practice of law during the periods she filed the pleadings on behalf of Atty. Evelyn. Undoubtedly, Atty. Gracelda engaged in an unauthorized practice of law in violation not only of the CPR but pertinent laws.

Anent the allegation that Atty. Gracelda appeared as counsel of the spouses Cruz without authority, the Court finds the same to be simply misplaced. Indeed, Atty. Gracelda identified herself as the "Counsel for Defendant Sps. Carlos Cruz and Emiliana Cruz" in the following pleadings, which she filed in the expropriation proceedings, to wit: (a) Answer[66] dated January 9, 2001; (b) Comment (on plaintiff's urgent ex-parte motion for issuance of writ of possession)[67] dated April 11, 2002; (c) Petition for Issuance of Duplicate of Title[68] dated April 15, 2002; (d) Comment[69] (on Plaintiff's Motion for Issuance of Order of Expropriation) dated August 27, 2002; (e) Reply[70] (to Opposition) dated July 4, 2002; (f) Compliance[71] dated October 17, 2002; and (g) Manifestation[72] dated November 6, 2002. However, it was clearly indicated in the body of the said pleadings that the expropriation case was filed on behalf of the "Heirs of Carlos G. Cruz represented by Evelyn B. Cruz." [73] The Answer dated January 9, 2001 expressly stated that Carlos, Sr. died intestate and the heirs referred to therein were his children with Atty. Evelyn.[74] Atty. Gracelda likewise attached the death certificate of Carlos, Sr. in the Answer.

Clearly then, the wordings that she was the "Counsel for Defendant Sps. Carlos Cruz and Emiliana Cruz" in the aforementioned pleadings were mere inadvertence and typing errors on the part of Atty. Gracelda's secretary. Atty. Gracelda only appeared for Atty. Evelyn and her children with Carlos, Sr. She never declared that Carlos, Sr. was still alive at the time of the expropriation proceedings. There was also no proof that she categorically and deliberately excluded the complainants, who are also the heirs of Carlos, Sr. Neither was there proof that she represented them without their consent or authority.

Similarly, the pleadings pertinent to the petition for issuance of duplicate certificates of titles of the Meycauayan properties stated that she filed the Petition and the Reply thereon on behalf of Atty. Evelyn. It is likewise expressly stated that Atty. Evelyn was the second wife of Carlos, Sr., and the action was based on the agreement, which was attached to the petition, between Atty. Evelyn and complainants, who are her stepchildren, as regards their inheritance.

Thus, Atty. Gracelda is only administratively liable for unauthorized practice of law. In *Yumol, Jr. v. Ferrer*, [75] respondent lawyer therein was found engaging in practice of law, such as appearing and filing pleadings before the courts and notarizing various documents, without authority to practice from the Commission on Human Rights (CHR). He was thus suspended from the practice of law for a period of one year. On the other hand, in *Lorenzana*

v. Fajardo,[76] respondent lawyer was suspended for six months for engaging in unauthorized practice of law while being employed as Legal Officer V at the Urban Settlement Office in Manila. The same period of suspension was sanctioned against the respondent lawyer in *Catu v. Rellosa*,[77] who appeared as counsel of the defendants in an ejectment proceeding while he was a punong barangay.

However, in *Abella v. Cruzabra*[78] (*Abella*), the Court discussed that engaging in the private practice of profession, when unauthorized, is classified as a light offense punishable by reprimand under the Uniform Rules on Administrative Cases in the Civil Service.[79]

Considering that this is the first and only administrative complaint against Atty. Gracelda, the Court finds it proper to impose the penalty of reprimand against her, in accordance with *Abella*.

III.

Final Note

On a final note, the Court agrees with the observation of the IBP that the instant case involved a "bitter family dispute about inheritance." [80] However, respondents resorted to committing misconduct in protecting their interests and in using their legal knowledge in order to take advantage of the complainants. There is no quibble that they should thus be held administratively accountable therefor. Interestingly, these acts of misconduct escaped the attention of the IBP and even justified the exoneration of both respondents.

At this juncture, it is proper to issue a reminder that a lawyer is expected to exude moral fitness both in his/her public or private life so as to continue to engage in the practice of law.[81] Rule 7.03 of the CPR expressly mandated every lawyer neither to engage in any conduct that would adversely reflect his/her fitness to practice law, nor shall he/she, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

In other words, a lawyer should possess a high standard of honesty and fairness whether in his private or personal capacity.[82] As We have held in *Agno v. Cagatan*: [83]

The afore-cited canons emphasize the high standard of honesty and fairness expected of a lawyer not only in the practice of the legal profession but in his personal dealings as well. A lawyer must conduct himself with great propriety, and his behavior should be beyond reproach anywhere and at all times. For, as officers of the courts and keepers of the public's faith, they are burdened with the highest degree of social responsibility and are thus mandated to behave at all times in a manner consistent with truth and honor. Likewise, the oath that lawyers swear to impresses upon them the duty of exhibiting the highest degree of good faith, fairness and candor in their relationships with others. Thus, lawyers may be disciplined for any conduct, whether in their professional or in their private capacity, if such conduct renders them unfit to continue to be officers of the court.[84] (Citations omitted)

Thus, once again, the Court reminds all practicing lawyers that their membership in the bar is a privilege given only to those who possess the high ethical standards expected of a lawyer. Anyone who falls short of the said standards can be stripped off of the privilege. Furthermore, to use one's knowledge of law for self-serving intentions to the prejudice and disadvantage of the other parties will never be tolerated.

The legal profession is more than a title, glory, or prestige one ought to achieve. It carries a corresponding obligation to the courts, to the people, and to the society for proper dispensation and administration of justice. Trust and confidence reposed by the public in the integrity of the legal profession and court processes must be preserved at all times. Hence, the Court will never turn a blind eye on any erring lawyers who are nothing but rusts, corroding the sturdy iron pillars of justice our vanguards have tirelessly and relentlessly protected.

WHEREFORE, the Court finds respondent Atty. Evelyn Brul-Cruz GUILTY of grave misconduct in violation of Canons 1, 7, and 10, and Rules 1.01, 1.02, 7.03, 10.01, 10.02, and 10.03 of the Code of Professional Responsibility and the Lawyer's Oath. She is, thus, hereby SUSPENDED from the practice of law for a period of six months effective immediately upon receipt of this Decision. Respondent Atty. Evelyn Brul-Cruz is DIRECTED to immediately file a Manifestation to the Court that her suspension has started, copy furnished all courts and quasi-judicial bodies where she has entered her appearance as counsel.

The Court also finds respondent Atty. Gracelda N. Andres GUILTY of unauthorized practice of law for failure to acquire written authority from the House of Representatives. She is accordingly REPRIMANDED with a STERN WARNING that a commission of the same or similar offense would be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant, for recording in the personal files of respondents; the Office of the Court Administrator for dissemination to all the Courts of the Philippines; the Integrated Bar of the Philippines, which shall disseminate copies thereof to all its chapters; and all administrative and quasi-judicial agencies of the Republic of the Philippines.

SO ORDERED.

Gesmundo, C.J., Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, and Marquez, JJ., concur.

Perlas-Bernabe, J., no part due to close relations to one of the parties.

Leonen, J., on official leave but voted.

Caguioa, J., see concurring opinion.

Kho, Jr., J., on official leave.

[1] Rollo, Volume I, pp. 2-19.

[2] Id. at 3.

[3] Id.

[4] Id.

[5] Id. pp. 26-39.

[6] Id. at 3-4.

[7] Id. at 44-49.

[8] Id. at 40-41.

[9] Id. at 42-43.

[10] Id. at 65-68.

[11] Id. at 65.

[12] Id. at 103.

[13] Id. at 10.

[14] Id. at 7-9.

[15] Id. at 10.

- [16] Id. at 11.
- [17] Id. at 13-18.
- [18] Id. at 18-19.
- [19] Id. at 215-230.
- [20] Id. at 232-236.
- [21] Id. at 223-224.
- [22] Id. at 220.
- [23] Id. at 219-220.
- [24] Id.
- [25] Rollo, Volume II, pp. 1799-1811.
- [26] Id. at 1808.
- [27] Id. at 1955-1959.
- [28] Id. at 1808.
- [29] Id. at 1809-1810.
- [30] Id.
- [31] Id. at 1809-1811.
- [32] Id. at 1811.
- [33] Id. at 1807.
- [34] Id. at 1798.
- [35] Rollo, Volume I, p. 964.
- [36] Rollo, Volume II, p. 1797.
- [37] Id. at 1812-1886.
- [38] Id. at 2214.
- [39] Id. at 2250-2261.
- [40] Id. at 2257.
- [41] Id. at 2257-2258.
- [42] Id. at 2259.
- [43] Id. at 2259-2260.
- [44] Id. at 2261.
- [45] *Kaye v. Garcia*, A.C. No. 12678, February 24, 2020; *Gonzales v. Alcaraz*, 534 Phil. 471, 482 (2006).
- [46] Id.

- [47] *Lim v. Perocho*, A.C. No. 11066 (Notice), April 6, 2016.
- [48] *Buntag v. Toledo*, A.C. No. 12125 (Resolution), February 11, 2019.
- [49] 449 Phil. 664 (2003).
- [50] *Buntag v. Toledo*, supra note 37, citing *Spouses Boyboy v. Yabut, Jr.*, supra note 49 at 670.
- [51] 528 Phil. 2 (2006); See also *Villa v. Defensor-Velez*, A.C. No. 12202, December 5, 2019.
- [52] *Id.* at 10-11.
- [53] 467 Phil. 798 (2004).
- [54] *Id.* at 823.
- [55] *Rollo*, Volume II, p. 1956.
- [56] *Rollo*, Volume I, p. 92.
- [57] *Id.* at pp. 93-97.
- [58] *Id.* at 93-94.
- [59] Albert Einstein (1879-1455), German-American Physicist.
- [60] *Spouses Whitson v. Atienza*, 457 Phil. 11, 18 (2003).
- [61] Revised Rules on Appointments & Other Personnel Actions.
- [62] 451 Phil. 449 (2003).
- [63] *Id.* at 461.
- [64] *Rollo*, Volume I, p. 722.
- [65] *Id.* at 723.
- [66] *Id.* at 44-49.
- [67] *Id.* at 459-461.
- [68] *Id.* at 65-66.
- [69] *Rollo*, Volume II, pp. 1943-1945.
- [70] *Rollo*, Volume I, pp. 104-105.
- [71] *Id.* at 40.
- [72] *Id.* at 42-43.
- [73] *Rollo*, Volume I, pp. 40-48.
- [74] *Id.* at 45.
- [75] 496 Phil. 363 (2005).
- [76] 500 Phil 382 (2005).
- [77] 569 Phil. 539 (2008).

[78] 606 Phil. 200 (2009).

[79] Section 52, Rule IV, CSC Resolution No. 99-1936.

[80] Rollo, Volume II, p. 1808.

[81] Buenaventura v. Gille, A.C. No. 7446, December 9, 2020.

[82] Id.

[83] 580 Phil. 1 (2008).

[84] Id. at 16-17; See also Buenaventura v. Gille, *supra* note 81.

CONCURRING OPINION

CAGUIOA, J.:

This is a disbarment complaint^[1] filed against Atty. Evelyn Brul-Cruz (Atty. Brul-Cruz) and Atty. Gracelda N. Andres (Atty. Andres) (collectively, respondents) for grave misconduct, dishonesty, fraud, and misrepresentation, in violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR).

The ponencia finds both respondents guilty. In particular, Atty. Brul-Cruz is found guilty of violating Canons 1, 7, and 10, and Rules 1.01, 1.02, 7.03, 10.01, 10.02 and 10.03 of the CPR and the Lawyer's Oath, while Atty. Andres is found liable for the unauthorized practice of law for failing to acquire written authority from the House of Representatives (HoR). Accordingly, the ponencia deems it appropriate to suspend Atty. Brul-Cruz from the practice of law for a period of six (6) months, and to reprimand Atty. Andres.^[2]

I agree with the disposition of the ponencia. This separate opinion expounds on my reasons for concurring with the ponencia on the administrative liability and the penalty imposed on respondents.

I.

At the onset, it must be emphasized that the Investigating Commissioner of the Integrated Bar of the Philippines (IBP) recommended the dismissal of the disbarment complaint against respondents.^[3] The Report and Recommendation^[4] of the Investigating Commissioner was based on the results of a fact-finding investigation, including a mandatory conference during which the parties appeared before the Investigating Commissioner himself.^[5] At the conclusion of the hearing, the parties were asked to submit their respective position papers, with supporting affidavits and documentary evidence.^[6]

In its Resolution dated January 28, 2006, the IBP Board of Governors (BOG) resolved to adopt and approve the recommendation to dismiss the complaint.^[7] When complainants moved for the reconsideration of this Resolution, the IBP BOG unanimously resolved to deny the motion for being "a mere reiteration of the matters which had already been threshed out and taken into consideration."^[8]

Aggrieved, complainants filed a Petition for Certiorari^[9] to assail the resolutions of the IBP, which the Court referred to the Office of the Bar Confidant (OBC) for evaluation, report, and recommendation.^[10] The OBC, after resolving to require respondents to comment,^[11] issued its own recommendation to indefinitely suspend both respondents from the practice of law.^[12]

It is worth noting that apart from complainants' additional allegations regarding the proceedings before the IBP, their Petition for Certiorari is only a restatement of their complaint against respondents. The documentary

evidence attached to the petition are also the same evidence assessed and weighed by the IBP and its Investigating Commissioner. In this regard, and in light of the conflicting findings of the IBP and the OBC, the Court should carefully scrutinize the OBC's basis for effectively overturning the recommendation of the IBP.

The IBP notably found that the complaint involves "a bitter family dispute about inheritance."^[13] The IBP concluded that Atty. Brul-Cruz was already in possession of the subject properties at the time of the expropriation, and she believed, in good faith, that the properties were assigned to her pursuant to the agreement of the Heirs of Carlos G. Cruz, Sr.^[14] As regards the allegations against Atty. Andres, it is significant to highlight that the IBP's Report and Recommendation did not mention any, or on its own make a finding of misconduct, much less of deceit, dishonesty, and misrepresentation.

In arriving at a conclusion different from the IBP, however, the OBC relied upon Atty. Brul-Cruz's counter-affidavit in the proceedings before the Presidential Anti-Graft Commission (PAGC) where she admitted that the agreement among the Heirs of Carlos G. Cruz, Sr. on the distribution of the decedent's properties was never finalized. To the OBC, this admission negated her supposed good faith in assuming ownership over the subject properties.^[15] In stark contrast to the OBC's independent factual findings on Atty. Brul-Cruz's misconduct, there was no contrary evidence cited by the OBC to ascribe liability on Atty. Andres. The OBC simply relied on the allegations of complainants to support its recommendation to likewise overturn the findings of the IBP and indefinitely suspend Atty. Andres.

Since the OBC's recommendations relied on the same evidence that the IBP had likewise passed upon, the Court should cautiously assess which tribunal's factual conclusions deserve more credence. For this purpose, I respectfully submit that the Court should consider the IBP and the OBC's manner of appreciating the parties' evidence.

As a general rule, premium should be given to first-hand reception of evidence, as well as the opportunity to observe the conduct and demeanor of the parties during the mandatory conference. In the same way that a trial court's assessment of the demeanor of the witness during trial is given weight and respect by appellate courts, the IBP, as a fact-finding tribunal, is also generally in a better position to assess the veracity of the parties' claims and the value of evidence they presented. Thus, the Court accords, as it should, great weight to the factual findings of the IBP and the same will be overturned only when strong evidence is adduced to the contrary.

Here, the OBC has shown that Atty. Brul-Cruz's main basis for her defense of good faith was belied by the admission she made in her counter-affidavit submitted in the proceedings before the PAGC. However, it has miserably failed to do the same with the case of Atty. Andres. As such, the Court should be more cautious in simply adopting the findings of the OBC as regards Atty. Andres' liability.

II.

On the administrative liability of Atty. Andres

The ponencia dismissed complainants' claims that Atty. Andres represented them without their parents' authority when she appeared as counsel of Carlos G. Cruz, Sr. and Emiliana Cruz (Spouses Cruz), despite the fact that the spouses had passed away years prior to the filing of the pleadings.^[16]

I concur.

Contrary to the bare allegation of complainants, the records show that Atty. Andres did not deliberately mislead the courts. Insofar as the pleadings filed in the expropriation proceedings are concerned, it is clearly indicated in the body of these pleadings that they were filed by Atty. Andres on behalf of the "Heirs of Carlos G. Cruz

represented by Evelyn B. Cruz." [17] It was expressly alleged in the Answer dated January 9, 2001 filed by Atty. Andres that Carlos G. Cruz, Sr. died intestate, and that the heirs referred to therein were his children with Atty. Brul-Cruz. [18] Attached to the Answer was the Death Certificate [19] of Carlos G. Cruz, Sr., which showed that the informant was his son, Apolinario R. Cruz who, in turn, was evidently not among the heirs represented by Atty. Andres.

The foregoing circumstances clearly prove that Atty. Andres made an appearance only for Evelyn B. Cruz as the surviving spouse of the deceased Carlos G. Cruz, Sr. and the children sired by him to her. These accordingly belie any imputation of deceit and dishonesty on her part. Atty. Andres obviously did not misrepresent to the court that Carlos G. Cruz, Sr. was still alive as she specifically alleged at the beginning of the expropriation proceedings that he had already died. To be sure, she herself attached the Death Certificate of Carlos G. Cruz, Sr. to the Answer she prepared. These do not show any sinister motive to exclude the other heirs of Carlos G. Cruz, Sr. (sired from the first wife) from the expropriation proceedings. [20] None of the pleadings directly alleged or implied that the heirs she represented were the sole heirs of Carlos G. Cruz, Sr.

Furthermore, pursuant to the Implementing Rules and Regulations of Republic Act (R.A.) No. 8974, [21] the applicable law on expropriation at that time, it is the government which has the onus of impleading as defendants "all persons owning or claiming to own, or occupying, any part thereof or interest" [22] in the expropriated property. Thus, it was the burden of the complainant in the expropriation proceedings — the Republic of the Philippines, not Atty. Andres — to manifest that there were other heirs to the subject property. More importantly, complainants were not precluded from intervening in the expropriation proceedings, especially since the titles over the subject properties were clearly registered in the names of their deceased parents, the Spouses Cruz.

As regards the pleadings relating to the issuance of the owner's duplicate title, both the Petition [23] dated April 15, 2002 and the Reply (to Opposition) [24] dated July 4, 2002 clearly show that they were filed on behalf of therein petitioner Atty. Brul-Cruz. The Petition was also forthright about Atty. Brul-Cruz being the second wife of Carlos G. Cruz, Sr., as the action was premised on the purported agreement between Atty. Brul-Cruz and "her stepchildren." [25] The agreement among the heirs of Carlos G. Cruz, Sr. was even attached to the Petition and made an integral part thereof. [26]

Again, this belies complainants' accusation that Atty. Andres deliberately made it appear that she represented the Spouses Cruz in order to "maneuver the titles." [27] It is clear from the pleadings that there were no defendants impleaded therein, much less the Spouses Cruz themselves. On this basis, there is merit in Atty. Andres' claim that the signature pages, which indicated that she is the "Counsel for Defendant Sps. Carlos Cruz and Emiliana Cruz", were mere clerical errors made without any deliberate attempt to mislead.

All told, the records sufficiently establish that Atty. Andres did not maliciously misrepresent herself as counsel for the Spouses Cruz without their consent or authority. An examination of the pleadings themselves, as well as their annexes, readily disproves this claim. [28] While Atty. Andres may have mistakenly indicated an erroneous fact, this oversight, and her failure to ensure that everything in the pleading was correct or accurate, do not rise to the level of deceit, dishonesty, or gross misconduct, which constitutes a violation of Rule 1.01 [29] of the CPR. Neither does the foregoing inadvertence amount to a violation of Rule 10.01 [30] prohibiting lawyers from engaging in any falsehood or conduct that misleads the court, as it is quite evident that the errors were not made for some dishonest purpose.

Anent the allegation that during her employment as a government lawyer, Atty. Andres was practicing her profession without the requisite authority, I again concur with the ponencia that she should be held liable for this violation. [31]

Section 7 of R.A. No. 6713[32] prohibits public officials and employees from engaging in certain acts or entering into transactions. In particular, government employees are prohibited under paragraph (b)(2) of the same provision from engaging in the private practice of a profession. This prohibition, however, is not absolute. A government employee may be granted permission allowing a limited practice of profession, subject to the following conditions: (1) such practice is authorized by the Constitution or the law; and (2) such practice will not conflict or tend to conflict with the public official or employee's official functions.

During the time material to the averments of the complaint, the governing regulation was Civil Service Commission (CSC) Resolution No. 991907,[33] issued on August 27, 1999. Section 18 of said resolution states:

SEC. 18. Unless otherwise provided by law, no officer or employee shall engage directly or indirectly in any private business or profession without a written permission from the head of agency. Provided that this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the government: provided further, that if an employee is granted permission to engage in outside activities, the time devoted outside of office hours should be fixed by the head of the agency so that it will not impair in any way the efficiency of the officer or employee nor pose a conflict or tend to conflict with the official functions. (Emphasis supplied)

Atty. Andres does not dispute that as of the year 2000, she was employed in the HoR.[34] She submits that by virtue of the separate Memoranda issued on May 4, 1999, March 30, 2001, and March 29, 2004, the HoR Secretary General granted her request for permission to engage in a limited practice of law.[35] However, the authority granted to her does not correspond to the periods she represented Atty. Brul-Cruz, particularly: (a) the expropriation proceedings initiated on October 12, 2000;[36] (b) the action for the issuance of owner's duplicate title, initiated on April 15, 2002;[37] and (c) the judicial settlement of the estate of Carlos G. Cruz, Sr. initiated on May 6, 2003.[38]

As the ponencia aptly ruled, engaging in the unauthorized private practice of law is not grievous enough to justify the penalty of disbarment.[39] In *Yumol, Jr. v. Ferrer, Sr.*,[40] respondent appeared and filed pleadings in various court cases while he was employed as a lawyer in the Commission of Human Rights. Records also showed that respondent notarized numerous documents during his employment. There being no written request for permission to engage in private practice and a duly approved leave of absence, the Court found respondent guilty of gross misconduct. In penalizing respondent with a one (1)-year suspension from the practice of law, the Court significantly remarked:

Complainants ask that respondent be disbarred. On imposing the supreme penalty of disbarment, the rule is that disbarment is meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court. While we will not hesitate to remove an erring attorney from the esteemed brotherhood of lawyers, where the evidence calls for it, we will also not disbar him where a lesser penalty will suffice to accomplish the desired end. In the case at bar, the IBP Investigating Commissioner Rebecca V. Maala recommended the suspension of respondent for two (2) years while the IBP Board of Governors recommended a lighter penalty of six (6) months suspension. Taking our cue therefrom, we find one (1) year suspension to be sufficient sanction against respondent—suspension being primarily intended not as a punishment, but as a means to protect the public and the legal profession.[41] (Underscoring supplied)

Meanwhile, in *Lorenzana v. Fajardo*,[42] respondent was found liable for multiple violations of the CPR, which included the unauthorized practice of law during his employment as Legal Officer in the Urban Resettlement Office of Manila. Respondent was reprimanded and suspended from the practice of law for a shorter period of six (6) months. The Court imposed the same period of suspension on respondents in *Lim-Santiago v. Sagucio*,[43] and *Catu v. Rellosa*,[44] and against one of the respondents in *Cabalida v. Lobrido, Jr.*[45]

Significantly, the Court noted in *Abella v. Cruzabra*[46] that under the Uniform Rules on Administrative Cases in the Civil Service, engaging in the private practice of profession without authority is considered a light offense punishable by reprimand.[47] Respondent was therefore merely reprimanded, with a warning against the repetition of the same or similar act in the future.

There is no reason for the Court to deviate from the foregoing principles, especially in this case where evidence of deceit and gross misconduct is sorely lacking. As important, this appears to be Atty. Andres' first and only administrative case. Certainly, this should be appreciated as a mitigating circumstance in her favor. Thus, I agree that Atty. Andres should be penalized with a reprimand for engaging in the private practice of her profession without authority.

III.

On the administrative liability of Atty. Brul-Cruz

The finding of grave misconduct against Atty. Brul-Cruz was hinged on her misrepresentation that the properties, which were the subject of the proceedings on expropriation and issuance of owner's duplicate title (Bulacan Properties), were assigned to her by the Heirs of Carlos G. Cruz, Sr. The ponencia finds that Atty. Brul-Cruz intentionally and deliberately made untruthful statements, having known that the letter from one of the heirs was merely a proposal and not an actual settlement of the estate.[48]

The records show that in the petition for issuance of owner's duplicate title, Atty. Brul-Cruz claimed to have been in possession of the certificates of title over the Bulacan Properties. She further stated that they appear to have been lost when she transferred her residence from Sta. Mesa, Manila to Quezon City.[49] However, these allegations later turned out to be false, as the titles were in the possession of complainant Carlos R. Cruz. He was able to refute these allegations before the trial court and present the original owner's duplicate copies of the titles in his possession.[50]

Thus, even without going into the evidentiary value of the purported agreement among the Heirs of Carlos G. Cruz, Sr. — which is notably being disputed by complainants — the fact remains that Atty. Brul-Cruz willfully misrepresented that the titles over the subject properties were lost, when in fact, they were not. As well, Atty. Brul-Cruz cannot argue that the agreement among the heirs was already final and binding, and in the same breath, initiate an action for the settlement of the intestate estate of Carlos G. Cruz, Sr.[51] As the OBC astutely observed, and as noted by the ponencia,[52] Atty. Brul-Cruz was fully aware of the nature of said agreement when she alleged in her Counter-Affidavit[53] before the PAGC that:

3.

Respondent [Atty. Brul-Cruz] was surprised why, Complainants, being her step[-]children, is questioning the source of income for her acquisition of properties stated in her SAL when they very well know the sources of respondents' (sic) income. Attached herewith is the letter of Complainant Carlos Jr. who, in July 2, 1994 wrote to remind me of his proposal years before for property settlement/arrangement of the De La Rosa-Cruz/Brul-Cruz Family, which was never finalized, copy of which is hereto attached as Annex "2" and made an integral part hereof.

x x x x

7.

Complainants were also aware that the proposal for property settlement/arrangement of the properties left by their father was never finalized and Respondent [Atty. Brul-Cruz] did nothing to push through said settlement,

until now, for she was busy working as an Assistant Prosecutor as well as tending to the business left by their father[.][54] (Emphasis supplied; original emphasis omitted)

The foregoing claims of Atty. Brul-Cruz are materially inconsistent with her supposed good faith reliance on the agreement among the heirs of Carlos G. Cruz, Sr. She vacillates between the binding and non-binding nature of the agreement, depending on how it can support her arguments before the various proceedings involving the subject properties. These inconsistencies clearly show a willful intention to misrepresent and mislead the courts.

In similar cases involving misrepresentation before the courts, the Court did not immediately disbar the respondent but only imposed the penalty of suspension from the practice of law. For instance, in *Umaguig v. De Vera*,^[55] respondent was suspended for six (6) months because he allowed the submission of a falsified affidavit. In *Lukang v. Llamas*,^[56] respondent was suspended for the same period when he falsely claimed in the petition for reconstitution that his clients were the true and absolute owners of the property. Respondent therein further misrepresented that the property had been free from all liens and encumbrances, despite knowing that the question of ownership was not yet settled.

It likewise bears noting that Atty. Brul-Cruz is entitled to some measure of forbearance, it appearing that this is her first administrative liability. Accordingly, while there is substantial evidence to find Atty. Brul-Cruz liable for misrepresentation and deceit in violation of Rules 7.03, 10.01, and 10.03 of the CPR, I agree with the ponencia that the suspension of Atty. Brul-Cruz from the practice of law for six (6) months is appropriate.^[57]

IV.

In all, I concur with the ponencia. I vote to suspend Atty. Brul-Cruz from the practice of law for a period of six (6) months, and to reprimand Atty. Andres for her unauthorized private practice of law. Again, I submit that the Court should exercise restraint in imposing the most severe penalty of disbarment. The Court aptly held in *Salomon, Jr. v. Frial*^[58] as follows:

Disbarment, jurisprudence teaches, should not be decreed where any punishment less severe, such as reprimand, suspension, or fine, would accomplish the end desired. This is as it should be considering the consequence of disbarment on the economic life and honor of the erring person. x x x^[59]

This ruling should, with more reason, resonate with the Court during the extraordinary time of the pandemic. Atty. Brul-Cruz should be disciplined for her misconduct but under the circumstances obtaining in this case, it would be unconscionable and unjust to perpetually take away her source of livelihood. While the Court is always vigilant in safeguarding the integrity of the legal profession against unscrupulous lawyers, the penalty of disbarment should be reserved only for the most grievous acts clearly supported by the evidence on record. After all, "[t]he power to disbar or suspend ought always to be exercised on the preservative and not on the vindictive principle, with great caution and only for the most weighty reasons."^[60]

[1] Rollo (Vol. I), pp. 2-19.

[2] Ponencia, p. 17.

[3] Rollo (Vol. I), p. 875.

[4] Id. at 863-875.

[5] Id. at 772-860.

[6] Id. at 859.

[7] Id. at 862.

[8] Rollo (Vol. II), p. 1797.

[9] Id. at 1812-1887.

[10] Id. at 2048.

[11] Id. at 2049-2051.

[12] Id. at 2257-2261.

[13] Rollo (Vol. I), p. 872.

[14] Id. at 872-874.

[15] See rollo (Vol. II), pp. 2257-2259.

[16] See ponencia, pp. 14-15.

[17] Rollo (Vol. I), pp. 40-48.

[18] Id. at 44-45.

[19] Id. at 50.

[20] Rollo (Vol. II), pp. 1867-1870.

[21] IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 8974 (AN ACT TO FACILITATE THE ACQUISITION OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS AND FOR OTHER PURPOSES), February 12, 2001.

[22] Id., Sec. 8.

[23] Rollo (Vol. I), pp. 65-68.

[24] Id. at 104-105.

[25] Id. at 65.

[26] Id. at 71-74.

[27] Rollo (Vol. II), p. 1870.

[28] See Villamor, Jr. v. Santos, A.C. No. 9868 (Formerly CBD Case No. 05-1617), April 22, 2015, 757 SCRA 1.

[29] Rule 1.01 reads: "A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."

[30] Rule 10.01 reads: "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."

[31] Ponencia, p. 14.

[32] CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, February 20, 1989.

[33] Amendments to CSC MC 40, s. 1998.

[34] TSN, March 14, 2005, pp. 4-5, rollo (Vol. I), pp. 775-776.

- [35] Rollo (Vol. I), pp. 721-723.
- [36] *Id.* at 26-49.
- [37] *Id.* at 65-66, 104-111.
- [38] *Id.* at 176-183.
- [39] See ponencia, pp. 15-16.
- [40] A.C. No. 6585, April 21, 2005, 456 SCRA 475.
- [41] *Id.* at 492-493. Citations omitted.
- [42] A.C. No. 5712, June 29, 2005, 462 SCRA 1.
- [43] A.C. No. 6705, March 31, 2006, 486 SCRA 10.
- [44] A.C. No. 5738, February 19, 2008, 546 SCRA 209.
- [45] A.C. No. 7972, October 3, 2018, 881 SCRA 321.
- [46] A.C. No. 5688, June 4, 2009, 588 SCRA 218.
- [47] *Id.* at 225.
- [48] Ponencia, p. 10.
- [49] Rollo (Vol. I), p. 65.
- [50] TSN, September 25, 2002, pp. 4-9, *id.* at 78-83.
- [51] Rollo (Vol. I), pp. 176-184.
- [52] Ponencia, pp. 10-11.
- [53] Rollo (Vol. I), pp. 93-97.
- [54] *Id.* at 93-94.
- [55] A.C. No. 10451, February 4, 2015, 749 SCRA 473.
- [56] A.C. No. 4178, July 8, 2019, 907 SCRA 566.
- [57] Ponencia, p. 12.
- [58] A.C. No. 7820, September 12, 2008, 565 SCRA 10.
- [59] *Id.* at 15-16.
- [60] *Gatmaytan, Jr. v. Ilao*, A.C. No. 6086, January 26, 2005, 449 SCRA 269, 270. Italics omitted; citations omitted.

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.