

SIAO ABA, MIKO LUMABAO, ALMASIS LAUBAN, AND BENJAMIN DANDA, COMPLAINANTS, VS. ATTYS. SALVADOR DE GUZMAN, JR., WENCESLAO “PEEWEE” TRINIDAD, AND ANDRESITO FORNIER, RESPONDENTS.

A.C. No. 7649. December 14, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an administrative complaint filed by Siao Aba, Miko Lumabao, Almasis Lauban and Benjamin Danda (complainants) against lawyers Salvador De Guzman, Jr., Wenceslao “Peewee” Trinidad, and Andresito Fornier (respondents). Complainants claim that respondents instigated and filed fabricated criminal complaints against them before the Iligan City Prosecutor’s Office for Large Scale and Syndicated Illegal Recruitment and Estafa under I.S. No. 06-1676 and I.S. No. 06-1835.[1] Complainants pray for the imposition of the grave penalty of disbarment upon respondents.[2] Attached to complainants’ letter-complaint is the Joint Counter-Affidavit and Affidavit of Complaint[3] allegedly submitted by complainants in the preliminary investigation of the criminal complaints.

The Facts

Complainants claim that in January 2006 they met former Pasay City Regional Trial Court Judge Salvador P. De Guzman, Jr. (De Guzman) in Cotabato City.⁴ De Guzman allegedly persuaded them to file an illegal recruitment case (I.S. No. 2006-C-31, Lauban, et al. vs. Alvarez, Amante, Montesclaros, et al.) against certain persons, in exchange for money.⁵ De Guzman allegedly represented to complainants that his group, composed of Pasay City Mayor Wenceslao “Peewee” Trinidad (Trinidad), Atty. Andresito Fornier (Fornier), Everson Lim Go Tian, Emerson Lim Go Tian, and Stevenson Lim Go Tian (Go Tian Brothers), were untouchable.[6]

In the third week of February 2006, complainants allegedly received from De Guzman a prepared Joint Complaint-Affidavit with supporting documents, which they were directed to sign and file.[7] The Joint Complaint-Affidavit and supporting documents were allegedly fabricated and manufactured by De Guzman.[8]

During the I.S. No. 2006-C-31 proceedings before the Cotabato City Prosecutor’s Office, complainants allegedly received several phone calls from De Guzman, Trinidad, Fornier, and the Go Tian brothers, all of them continuously telling complainants to pursue the case.[9] When complainants asked De Guzman what would happen if a warrant of arrest would be issued, De Guzman allegedly replied, “Ipa tubus natin sa kanila, perahan natin sila.”[10]

Complainants claim they were bothered by their conscience, and that is why they told De Guzman and his group that they planned to withdraw the criminal complaint in I.S. No. 2006-C-31.[11] Complainants were allegedly offered by respondents P200,000.00 to pursue the case, but they refused.[12] Complainants were once again

allegedly offered by respondents One Million Pesos (P1,000,000.00) to pursue the case until the end, but they refused again.[13] For this reason, respondents allegedly orchestrated the filing of fabricated charges for syndicated illegal recruitment and estafa (I.S. No. 06-1676 and I.S. No. 06-1835) against complainants in Iligan City.[14] On 30 November 2006, Aba claims to have received a text message from De Guzman, saying, “Gud p.m. Tago na kayo. Labas today from Iligan Warrant of Arrest. No Bail. Dating sa Ctbto pulis mga Wednesday. Gud luck kayo.”[15]

In support of their allegations in the administrative complaint, complainants submitted the allegedly fabricated complaint, 16 supporting documents, [17] letter of De Guzman to Cotabato City Councilor Orlando Badoy, [18] De Guzman’s Affidavit of Clarification submitted in I.S. No. 2006-C-31, [19] and other relevant documents. Subsequently, complainants filed a Motion to Dismiss Complaint against Atty. Trinidad and Atty. Fornier, [20] and prayed that the complaint be pursued against De Guzman.

Trinidad, on the other hand, in his Comment filed with this Court [21] and Position Paper filed with the Commission on Bar Discipline, [22] denied all the allegations in the complaint. Trinidad vehemently declared that he has never communicated with any of the complainants and has never been to Cotabato. [23] He further claimed that the subscribed letter-complaint does not contain ultimate facts because it does not specify the times, dates, places and circumstances of the meetings and conversations with him. [24] Trinidad asserted that the complaint was a fabricated, politically motivated charge, spearheaded by a certain Joseph Montesclaros (Montesclaros), designed to tarnish Trinidad’s reputation as a lawyer and city mayor. [25] Trinidad claims that Montesclaros was motivated by revenge because Montesclaros mistakenly believed that Trinidad ordered the raid of his gambling den in Pasay City. [26] Trinidad also claims that he, his family members and close friends have been victims of fabricated criminal charges committed by the syndicate headed by Montesclaros. [27]

Trinidad pointed out that this syndicate, headed by Montesclaros, is abusing court processes by filing fabricated criminal complaints of illegal recruitment in remote areas with fabricated addresses of defendants. [28] Since the defendants’ addresses are fabricated, the defendants are not informed of the criminal complaint, and thus the information is filed with the court. [29] Consequently, a warrant of arrest is issued by the court, and only when the warrant of arrest is served upon the defendant will the latter know of the criminal complaint. [30] At this point, Montesclaros intervenes by extorting money from the defendant in order for the complainants to drop the criminal complaint. [31] To prove the existence of this syndicate, Trinidad presented the letter of Eden Rabor, then a second year law student in Cebu City, to the Philippine Center for Investigative Journalism and to this Court, requesting these institutions to investigate the syndicate of Montesclaros, who has victimized a Canadian citizen who was at that time jailed in Cebu City due to an extortion racket. [32] Trinidad also presented the Decision of Branch 65 of the Regional Trial Court of Tarlac City on the illegal recruitment charge against his friend, Emmanuel Cinco, which charge was dismissed because the charge was fabricated, as admitted by complainants themselves. [33]

Trinidad further claimed that, in some cases, the Montesclaros syndicate included some of their members as respondents to divert suspicion. [34] Trinidad pointed out that his wife was a victim of this fabricated criminal charge of illegal recruitment filed in Marawi City. [35] Fortunately, when the warrant of arrest was being served in Pasay City Hall, Trinidad’s wife was not there. [36] Lastly, Trinidad declared that Montesclaros has perfected the method of filing fabricated cases in remote and dangerous places to harass his victims. [37]

Fornier, on the other hand, in his Comment filed with this Court [38] and Position Paper filed with the Commission on Bar Discipline, [39] claimed that in his 35 years as a member of the bar, he has conducted himself professionally in accordance with the exacting standards of the legal profession. [40] Fornier denied knowing any of the complainants, and also denied having any dealings or communication with any of them. He likewise

claimed that he has not filed, either for himself or on behalf of a client, any case, civil, criminal or otherwise, against complainants.[41] Fornier claimed that he was included in this case for acting as defense counsel for the Go Tian Brothers in criminal complaints for illegal recruitment.[42] Fornier claimed that the Go Tian Brothers are victims of an extortion racket led by Montesclaros.[43] For coming to the legal aid of the Go Tian Brothers, Fornier exposed and thwarted the plan of the group of Montesclaros to extort millions of pesos from his clients.[44] Fornier claimed that the filing of the complaint is apparently an attempt of the syndicate to get even at those who may have exposed and thwarted their criminal designs at extortion.[45] Fornier prays that the Court will not fall prey to the scheme and machinations of this syndicate that has made and continues to make a mockery of the justice system by utilizing the courts, the Prosecutor's Offices, the Philippine National Police and the Philippine Overseas Employment Administration in carrying out their criminal activities.[46] Lastly, Fornier claimed that complainants failed to establish the charges against him by clear, convincing and satisfactory proof, as complainants' affidavits are replete with pure hearsay, speculations, conjectures and sweeping conclusions, unsupported by specific, clear and convincing evidence.[47]

De Guzman, on the other hand, instead of filing a Comment with this Court, filed a Motion to Dismiss Complaint[48] on the ground that the Joint Counter-Affidavit and Affidavit of Complaint attached to the Letter-Complaint, which was made the basis of this administrative complaint, are spurious.[49] According to the Certification issued by the Office of the City Prosecutor in Iligan City, complainants Lauban, Lumabao and Aba, who were charged for violation of Republic Act No. 8042 (Migrant Workers Act), which charge was subsequently dismissed through a Joint Resolution rendered by the Prosecutor, did not submit any Joint Counter-Affidavit in connection with the charge, nor did they file any Affidavit of Complaint against any person.[50]

In his Position Paper filed with the Commission on Bar Discipline,[51] De Guzman stated he is an 81-year old retired Regional Trial Court judge.[52] He pointed out that there are no details regarding the allegations of grave and serious misconduct, dishonesty, oppression, bribery, falsification of documents, violation of lawyers' oath and other administrative infractions.[53] De Guzman invited the attention of the Investigating Commissioner to his Affidavit of Clarification which he submitted in I.S. No. 2006-C-31 to deny any participation in the preparation of the criminal complaint and to narrate in detail how he became involved in this case which was masterminded by Montesclaros.[54] In his Affidavit of Clarification,[55] De Guzman claimed that he had no participation in the preparation of the criminal complaint in I.S. No. 2006-C-31, and he was surprised to receive a photocopy of the counter-affidavit of Rogelio Atangan, Atty. Nicanor G. Alvarez, Lolita Zara, Marcelo Pelisco and Atty. Roque A. Amante, Jr., implicating him in the preparation of the complaint.[56] De Guzman stated that he was surprised to find his and his clients' names in the counter-affidavit, and for this reason, felt under obligation to make the Affidavit of Clarification.[57] Lastly, De Guzman declared that he has "no familiarity with the complainants or Tesclaros Recruitment and Employment Agency, nor with other respondents in the complaint, but he believes that Atty. Roque A. Amante, Jr. and Atty. Nicanor G. Alvarez are the key players of Joseph L. Montesclaros in the illegal recruitment business." [58]

During the mandatory conference hearings on 28 November 2008[59] and 13 March 2009,[60] none of the complainants appeared before the Investigating Commissioner to substantiate the allegations in their complaint despite due notice.[61]

Report and Recommendation of the Commission on Bar Discipline

The recommendation of the Investigating Commissioner of the Commission on Bar Discipline reads:

In view of the foregoing, the charges against the Respondent Trinidad and Fornier are deemed to be without basis and consequently, the undersigned recommends DISMISSAL of the charges against them.

As to Respondent de Guzman, a former Regional Trial Court Judge, there is enough basis to hold him administratively liable. Accordingly, a penalty of SUSPENSION for two (2) months is hereby recommended.[62]

The Investigating Commissioner found, after a careful perusal of the allegations in the complaint as well as in the attachments, that complainants failed to substantiate their charges against respondents Trinidad and Fornier.[63] Other than bare allegations, complainants did not adduce proof of Trinidad and Fornier's supposed involvement or participation directly or indirectly in the acts constituting the complaint.[64] In addition, complainants, on their own volition, admitted the non-participation and non-involvement of Trinidad and Fornier when complainants filed their Motion to Dismiss Complaint against Atty. Trinidad and Atty. Fornier Only.[65] For these reasons, the Investigating Commissioner recommended that the charges against Trinidad and Fornier be dismissed for utter lack of merit.

On the other hand, the Investigating Commissioner stated that De Guzman failed to deny the allegations in the Letter-Complaint or to explain the import of the same.[66] Moreover, De Guzman failed to controvert the "truly vicious evidence" against him:

But what should appear to be a truly vicious evidence for Respondent is the letter he sent to Orlando D. Badoy, City Councilor, Cotabato City dated February 16, 2006. This letter was alleged in and attached to the Joint Counter-Affidavit with Affidavit of Complaint. The letter had confirmed the allegation of his travel to Cotabato City to file charges against persons he did not identify. He intriguingly mentioned the name Ben Danda as the one to whom he handed the complaint. Danda, incidentally, was one of those who executed the Letter of Complaint along with Siao Aba, Miko Lumabao, Benjamin Danda and Almasis Lauban which was filed before the Supreme Court.[67]

The Decision of the Board of Governors of the Integrated Bar of the Philippines

The Board of Governors of the Integrated Bar of the Philippines adopted the recommendation of the Investigating Commissioner's Report and Recommendation on the dismissal of the charges against Fornier and Trinidad.[68] In De Guzman's case, the Board of Governors increased the penalty from a suspension of two (2) months to a suspension of two (2) years from the practice of law for his attempt to file illegal recruitment cases to extort money:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED with modification, and APPROVED the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A" and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that the case against Respondents Trinidad and Fornier is without merit, the same is hereby DISMISSED. However, Atty. Salvador De Guzman, Jr. is hereby SUSPENDED from the practice of law for two (2) years for his attempt to file illegal recruitment cases in order to extort money.[69]

The Issue

The issue in this case is whether Trinidad, Fornier and De Guzman should be administratively disciplined based on the allegations in the complaint.

The Ruling of this Court

We adopt the Decision of the Board of Governors and the Report and Recommendation of the Investigating Commissioner on the dismissal of the charges against Trinidad and Fornier.

We reverse the Decision of the Board of Governors and the Report and Recommendation of the Investigating

Commissioner with regard to De Guzman's liability, and likewise dismiss the charges against De Guzman.

Presumption, Burden of Proof and Weight of Evidence

Section 3(a), Rule 131 of the Rules of Court provides that a person is presumed innocent of crime or wrongdoing. This Court has consistently held that an attorney enjoys the legal presumption that he is innocent of charges against him until the contrary is proved, and that as an officer of the court, he is presumed to have performed his duties in accordance with his oath.[70]

Burden of proof, on the other hand, is defined in Section 1 of Rule 131 as the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law. In disbarment proceedings, the burden of proof rests upon the complainant, and for the court to exercise its disciplinary powers, the case against the respondent must be established by convincing and satisfactory proof.[71]

Weight and sufficiency of evidence, under Rule 133 of the Rules of Court, is not determined mathematically by the numerical superiority of the witnesses testifying to a given fact. It depends upon its practical effect in inducing belief for the party on the judge trying the case.[72]

Consequently, in the hierarchy of evidentiary values, proof beyond reasonable doubt is at the highest level, followed by clear and convincing evidence, then by preponderance of evidence, and lastly by substantial evidence, in that order.[73] Considering the serious consequences of the disbarment or suspension of a member of the Bar, the Court has consistently held that clearly preponderant evidence is necessary to justify the imposition of administrative penalty on a member of the Bar.[74]

Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other.[75] It means evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[76] Under Section 1 of Rule 133, in determining whether or not there is preponderance of evidence, the court may consider the following: (a) all the facts and circumstances of the case; (b) the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony; (c) the witnesses' interest or want of interest, and also their personal credibility so far as the same may ultimately appear in the trial; and (d) the number of witnesses, although it does not mean that preponderance is necessarily with the greater number.

When the evidence of the parties are evenly balanced or there is doubt on which side the evidence preponderates, the decision should be against the party with the burden of proof, according to the equipoise doctrine.[77]

To summarize, the Court has consistently held that in suspension or disbarment proceedings against lawyers, the lawyer enjoys the presumption of innocence, and the burden of proof rests upon the complainant to prove the allegations in his complaint. The evidence required in suspension or disbarment proceedings is preponderance of evidence. In case the evidence of the parties are equally balanced, the equipoise doctrine mandates a decision in favor of the respondent.

De Guzman's Liability

The Court reverses the Decision of the Board of Governors and the Report and Recommendation of the Investigating Commissioner regarding De Guzman's liability for the following reasons: (a) the documents submitted by complainants in support of their complaint are not credible; (b) complainants did not appear in any of the mandatory conference proceedings to substantiate the allegations in their complaint; and (c) complainants were not able to prove by preponderance of evidence that De Guzman communicated with them for the purpose of

filing fabricated illegal recruitment charges for purposes of extortion.

The documents submitted by complainants are clearly not credible. First, complainants submitted a Joint Counter-Affidavit and Affidavit of Complaint, which contained all their allegations of misconduct against De Guzman, Trinidad and Fornier. Complainants misled the Investigating Commissioner, the Board of Governors of the Integrated Bar of the Philippines, and this Court into believing that the Joint Counter-Affidavit and Affidavit of Complaint was submitted to the Office of the City Prosecutor in Iligan to rebut the illegal recruitment charges against them. The Joint Counter-Affidavit and Affidavit of Complaint purportedly appears to be subscribed and sworn to before a prosecutor. After inquiry by De Guzman, however, the Office of the City Prosecutor of Iligan issued a Certification denying the submission of this document by complainants:

This is to certify that based on available records of the Office, ALMASIS LAUBAN, MIKO LUMABAO and SIAO ALBA were among the respondents named and charged with Violation of Republic Act No. 8042 under I.S. No. 06-1835, Page 254, Vol. XVI, and I.S. No. 06-1676, Page 240, Vol. XVI, which complaints were dismissed thru a Joint Resolution dated December 29, 2006 rendered by the Office.

This is to certify further that the abovenamed persons did not submit any Joint Counter-Affidavit in connection to the complaints filed against them, and neither did they file any Affidavit of Complaint against any person.[78] (Emphasis supplied)

To repeat, complainants deceived and misled the Investigating Commissioner, the Board of Governors of the Integrated Bar of the Philippines, and this Court into believing that the Joint Counter-Affidavit and Affidavit of Complaint, which contained all their allegations of misconduct, were submitted and sworn to before a prosecutor. This deception gives doubt to the credibility of the other documents complainants submitted in support of their administrative charges against respondents. Worse, complainants submitted falsified documents to the Investigating Commissioner, the Board of Governors, and this Court.

Second, De Guzman, Fornier and Trinidad all claim that complainants are part of a syndicate headed by Montesclaros that has perfected the filing of fabricated criminal charges. Given this claim that complainants are well-adept in filing fabricated criminal charges supported by fabricated documents, this Court is more cautious in appreciating the supporting documents submitted by complainants. Complainants bear the burden of proof to establish that all the documents they submitted in support of their allegations of misconduct against respondents are authentic. Unfortunately, complainants did not even attend any mandatory conference called by the Investigating Commissioner to identify the documents and substantiate or narrate in detail the allegations of misconduct allegedly committed by respondents. To make matters worse, the Joint Counter-Affidavit and Affidavit of Complaint complainants attached to their Letter-Complaint, which supposedly contained all their allegations of misconduct against respondents, is spurious, not having been submitted to the Office of the City Prosecutor of Iligan, despite purportedly having the signature and seal of the prosecutor.

Third, the allegations of complainants lack material details to prove their communication with De Guzman. If De Guzman really called and texted them that a warrant of arrest would be issued, what mobile number did De Guzman use? Out of the voluminous documents that complainants submitted, where is the warrant for their arrest? What is their occupation or profession? Who are these complainants? These questions are unanswered because complainants did not even bother to attend any mandatory conference called by the Investigating Commissioner, despite due notice. For this reason, the allegations of De Guzman's misconduct are really doubtful.

Lastly, the supposedly "vicious" evidence against De Guzman, which was a letter he allegedly sent to Cotabato City Councilor Orlando Badoy, is not credible. This letter states:

Dear Orly,

Thank you very much for a wonderful visit to Cotabato City. I learned much about the South and the way of life there.

It took me time to prepare the complaint to be filed. In the meantime, the son-of-a-gun filed charges against us in Marawi City! I have addressed the affidavit-complaint directly to your man, Ben Danda, with instructions for him and the other two complainants to sign the same before an assistant prosecutor and file with City Prosecutor Bagasao. But we are relying on you to orchestrate the whole thing, from the prosecutor to the RTC Judge, especially the warrants of arrest.

Thank you and best regards.[79]

The signatures of De Guzman in his Affidavit of Clarification and in the purported letter have material discrepancies. At the same time, complainants did not even explain how they were able to get a copy of the purported letter. Complainants did not present the recipients, Orlando Badoy or Atty. Francis V. Gustilo, to authenticate the letter. In addition, none of the complainants appeared before the Investigating Commissioner to substantiate their allegations or authenticate the supporting documents.

The Investigating Commissioner, on the other hand, put a lot of weight and credibility into this purported letter:

Again, to the extreme amazement of the undersigned, Respondent failed to offer denial of the letter or explain the import of the same differently from what is understood by the Complainants. But even with that effort, the letter is so plain to understand. Verily, the undersigned cannot ignore the same and the message it conveys.[80]

Generally, the letter would have been given weight, if not for the fact that complainants, whom respondents claim are part of an extortion syndicate, are consistently involved in the fabrication of evidence in support of their criminal complaints. Moreover, contrary to the Investigating Commissioner's observation, De Guzman actually denied any involvement in the preparation of complainants' criminal complaint in I.S. No. 2006-C-31. In his Affidavit of Clarification, De Guzman stated:

1.5. Undersigned has no participation in the above-captioned complaint, but to his surprise, he recently received a photocopy of (a) the counter-affidavit of Rogelio Atangan, (b) Atty. Nicanor G. Alvarez, (c) Lolita Zara, (d) Marcelo Pelisco, and (e) Atty. Roque A. Amante Jr. (his records at the Surpeme Court does not have any "Daryll");

1.6. Undersigned counsel's name and that of his clients appear in the counter-affidavit of Atty. Nicanor G. Alcarez (Montesclaros' lawyer who appeared in the sala of Pasay RTC Judge Francisco Mendiola as against the undersigned), or Marcelo Pelisco, a known henchman of Montesclaros and a squatter at the Monica Condominium, and Atty. Amante, and for this reason, undersigned counsel feels under obligation to make this affidavit of clarification for the guidance of the Investigating Prosecutor;

x x x

4.4. Undersigned has no familiarity with the Tesclaros Recruitment & Employment Agency nor with the complainants (except for Laura Timbag Tuico of Cotabato City), nor with the other respondents, but he believes that Atty. Roque A. Amante Jr. and Atty. Nicanor G. Alvarez are the key players of Joseph L. Montesclaros in the illegal recruitment business.[81]

For these reasons, the Court finds that the documents submitted by complainants in support of their complaint against De Guzman are not credible. Accordingly, the Court dismisses the charges against De Guzman.

De Guzman enjoys the legal presumption that he committed no crime or wrongdoing. Complainants have the burden of proof to prove their allegations of misconduct against De Guzman. Complainants were not able to

discharge this burden because the documents they submitted were not authenticated and were apparently fabricated. Also, complainants did not appear in the mandatory conference proceedings to substantiate the allegations in their complaint. In disbarment proceedings, what is required to merit the administrative penalty is preponderance of evidence, which weight is even higher than substantial evidence in the hierarchy of evidentiary values. Complainants were not able to prove by preponderance of evidence that De Guzman communicated with them and persuaded them to file fabricated charges against other people for the purpose of extorting money. In fact, even if the evidence of the parties are evenly balanced, the Court must rule in favor of De Guzman according to the equipoise doctrine. For these reasons, the Court reverses the Decision of the Board of Governors and the Report and Recommendation of the Investigating Commissioner, and accordingly dismisses the charges against De Guzman.

Trinidad's and Fornier's Liabilities

The Court adopts the findings of fact and the report and recommendation of the Investigating Commissioner with respect to Trinidad's and Fornier's liabilities:

A careful persusal of the allegations in as well as the attachments to the Joint Counter Affidavit with Affidavit of Complaint reveals that Complainants failed miserably to substantiate their charges against Respondents. Other than their bare allegations, the Complainants did not adduce proof of Respondent's supposed involvement or participation directly or indirectly in the acts complained of. For instance, they failed to prove though faintly that Respondents had gone to Cotabato City to personally induce and persuade the complainants to file illegal recruitment charges against Atty. Nicanor G. Alvarez and sixteen (16) others or that they have prodded and stirred them to do so as they did by any form of communication. The supposed telephone call the Respondents and their supposed cohorts had made during the proceedings before the Cotabato City Prosecutor's Office to the Complainants is unbelievable and absurd. It is inconceivable that Complainants could have answered the calls of six (6) persons during a serious proceeding such as the inquest or preliminary investigation of a criminal complaint before the City Prosecutor. To the undersigned, the fallacy of the allegation above strongly militates against the reliability of Complainants' charges against Respondents.

x x x

But on top of all, the Complainants had by their own volition already made unmistakable Respondents' non-participation or non-involvement in the charges they have filed when they wittingly filed their Motion to Dismiss Complaint against Atty. Trinidad and Atty. Fornier Only. The undersigned realizes only too well that the filing of a Motion to Dismiss is proscribed in this Commission, however, any such pleading must be appreciated as to its intrinsic merit. A clear reading of the same reveals that the Complainants had wanted to clarify that they have erroneously included Respondents Trinidad and Fornier as parties to the case. In particular, they explained that they had no communication or dealings whatsoever with the said lawyers as to inspire belief that the latter had some involvement in their charges. The undersigned finds the affidavit persuasive and for that he has no reason to ignore the import of the same as a piece of evidence.[82]

At any rate, we consider the case against Trinidad and Fornier terminated. Under Section 12(c) of Rule 139-B, the administrative case is deemed terminated if the penalty imposed by the Board of Governors of the Integrated Bar of the Philippines is less than suspension or disbarment (such as reprimand, admonition or fine), unless the complainant files a petition with this Court within 15 days from notice:

If the respondent is exonerated by the Board or the disciplinary sanction imposed by it is less than suspension or disbarment (such as admonition, reprimand, or fine) it shall issue a decision exonerating respondent or imposing such sanction. The case shall be deemed terminated unless upon petition of the complainant or other interested party filed with the Supreme Court within fifteen (15) days from notice of the Board's resolution, the Supreme Court orders otherwise.

Here, complainants did not appeal the Decision of the Board of Governors dismissing the charges against Trinidad and Fornier. In fact, complainants filed with this Court a Motion to Dismiss Complaint Against Trinidad and Fornier.

WHEREFORE, we AFFIRM the Decision of the Board of Governors of the Integrated Bar of the Philippines, adopting the Report and Recommendation of the Investigating Commissioner, and DISMISS the charges against Attys. Wenceslao “Peewee” Trinidad and Andresito Fornier for utter lack of merit. We REVERSE the Decision of the Board of Governors of the Integrated Bar of the Philippines, modifying and increasing the penalty in the Report and Recommendation of the Investigating Commissioner, and accordingly DISMISS the charges against Atty. Salvador P. De Guzman, Jr. also for utter lack of merit.

SO ORDERED.

Brion, Perez, Sereno, and Reyes, JJ., concur.

[1] Rollo, p. 1.

[2] Id. at 2.

[3] Id. at 3-10.

[4] Id. at 4.

[5] Id.

[6] Id.

[7] Id. at 4-5.

[8] Id.

[9] Id. at 5.

[10] Id.

[11] Id.

[12] Id.

[13] Id. at 6.

[14] Id. at 7.

[15] Id. at 6.

[16] Id. at 11-14.

[17] Id. at 15-61.

[18] Id. at 24.

[19] Id. at 27-29.

[20] Id. at 493-498.

[21] Id. at 135-167.

[22] Id. at 549-560.

[23] Id. at 140, 507.

[24] Id. at 149.

[25] Id. at 151.

[26] Id. at 152.

[27] Id. at 151.

[28] Id. at 138-139.

[29] Id.

[30] Id.

[31] Id. at 156-157.

[32] Id. at 169-171.

[33] Id. at 181-182.

[34] Id. at 158.

[35] Id. at 153.

[36] Id. at 152.

[37] Id. at 156.

[38] Id. at 240-300.

[39] Id. at 584-612.

[40] Id. at 244-245.

[41] Id. at 245.

[42] Id. at 245-246.

[43] Id. at 246.

[44] Id.

[45] Id.

[46] Id.

[47] Id. at 247.

[48] Id. at 218-220.

[49] Id. at 219.

[50] Id. at 221.

[51] Id. at 572-575.

[52] Id. at 572.

[53] Id.

[54] Id. at 573.

[55] Id. at 27-29.

[56] Id. at 27.

[57] Id.

[58] Id. at 29.

[59] Id. at 515.

[60] Id. at 541.

[61] Id. at 515, 541.

[62] Id. at 733-737.

[63] Id. at 734.

[64] Id.

[65] Id. at 735.

[66] Id. at 736.

[67] Id.

[68] Id. at 731.

[69] Id.

[70] In Re: De Guzman, 154 Phil. 127 (1974); De Guzman v. Tadeo, 68 Phil. 554 (1939); In Re: Tiongko, 43 Phil. 191 (1922); Acosta v. Serrano 166 Phil. 257 (1977).

[71] Santos v. Dichoso, 174 Phil. 115 (1978); Noriega v. Sison, 210 Phil. 236 (1983).

[72] Lim v. Court of Appeals, 324 Phil. 400, 413 (1996).

[73] Manalo v. Roldan-Confessor, G.R. No. 102358, 19 November 1992, 215 SCRA 808.

[74] Santos v. Dichoso, supra note 71; Noriega v. Sison, supra note 71.

[75] Habagat Grill v. DMC-Urban Property Developer, Inc., 494 Phil. 603, 613 (2005); Bank of the Philippine Islands v. Reyes, G.R. No. 157177, 11 February 2008, 544 SCRA 206, 216.

[76] Republic v. Bautista, G.R. No. 169801, 11 September 2007, 532 SCRA 598, 612.

[77] Rivera v. Court of Appeals, 348 Phil. 734, 743 (1998); Marubeni Corp. v. Lirag, 415 Phil. 29 (2001).

[78] Rollo, p. 221.

[79] Id. at 24.

[80] Id. at 736.

[81] Id. at 27-29.

[82] Id. at 734-735.

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