

## FIRST DIVISION

[ A.C. No. 12537, September 03, 2020 ]

**LEOLENIE R. CAPINPIN, COMPLAINANT, VS. ATTY. RIO T. ESPIRITU, RESPONDENT.**

### R E S O L U T I O N

**LOPEZ, J.:**

Leolenie R. Capinpin filed a complaint<sup>[1]</sup> for disbarment against Atty. Rio T. Espiritu for using and taking advantage of his legal knowledge to achieve his malicious, evil and unlawful purpose. Capinpin narrated that Atty. Espiritu served as her legal adviser and retained counsel. Sometime in 1993, Capinpin approached Atty. Espiritu with regard to a mortgage she obtained from Banco de Oro (BDO), Cubao Branch.<sup>[2]</sup> Allegedly, Atty. Espiritu advised Capinpin to execute a Deed of Sale in his favor, so that the former can transact directly with BDO. At the same time, Capinpin gave Atty. Espiritu P200,000.00 to settle her indebtedness to BDO.

At one point, she went with Atty. Espiritu to BDO to settle her account. However, Atty. Espiritu left her in the car to wait. Upon his return, Atty. Espiritu told Capinpin that the bank refused to receive payment, and that a case was already filed in court.<sup>[3]</sup> Later on, Atty. Espiritu made Capinpin execute a Special Power of Attorney as she will be leaving for Germany. While Capinpin was in Germany, she entrusted to Atty. Espiritu her Toyota Lite Ace, which she was selling.

In January 1994, Capinpin arrived in the Philippines and found out that Atty. Espiritu was able to transfer the land and vehicle in his name.<sup>[4]</sup> Capinpin talked to Atty. Espiritu, who promised to return her properties, but this promise was not heeded. After a long time, it was only on February 8, 2014, that Capinpin and Atty. Espiritu's paths crossed at Seahorse Hotel, Pollilo, Quezon. When Capinpin approached Atty. Espiritu, the latter dismissed her saying, "*ayaw kong pag-usapan ang bagay na nangyari 20 years ago.*"<sup>[5]</sup>

Finally, Capinpin averred that the foregoing acts of Atty. Espiritu merit his disbarment for "*unlawfully, maliciously, wittingly, and wilfully employing tactics, schemes and methods which are not in accord with the standards of the legal profession.*"<sup>[6]</sup>

For his part, Atty. Espiritu countered that Capinpin's complaint is malicious and full of perjured statements.<sup>[7]</sup> He denied receiving money from Capinpin, as well as, serving as her legal counsel since he was a lawyer of the Quezon City District Office of the Public Attorney's Office (PAO-QC) from 1990 to 1994.<sup>[8]</sup> He only accompanied Capinpin to BDO-Cubao Branch, sometime in 1992-1993, as a favor when she visited him at PAO-QC.<sup>[9]</sup> Moreover, perusal of the Answer filed by Capinpin in Civil Case No. Q93-15901 before the Regional Trial Court of Quezon City (RTC-QC), specifically, paragraphs 13 and 14, shows that Capinpin was present inside the

bank, contrary to her claims that Atty. Espiritu left her in the car and prevented her from talking to bank personnel.<sup>[10]</sup> More importantly, the Answer was signed by Atty. Dionisio Maneja, Jr. as Capinpin's counsel.<sup>[11]</sup>

Atty. Espiritu validly acquired Capinpin's properties, when the latter offered them for sale as she was contemplating on settling down in Germany.<sup>[12]</sup> They negotiated and agreed on a reasonable price.<sup>[13]</sup> In 1994, Capinpin requested to repurchase the lot, but Atty. Espiritu did not acquiesce to her offer. Thereafter, from 1995 to 2015, they would see each other from time to time, and Capinpin even sought legal advice from Atty. Espiritu, but he was never retained as counsel.<sup>[14]</sup> Finally, Atty. Espiritu denied having met Capinpin at Seahorse Hotel because, on February 8, 2014, since he was in Quezon City with a client – Mr. Manuel Utulo – and, in the afternoon was in a Financial Rehabilitation Seminar at Max's Restaurant in Quezon City Circle.<sup>[15]</sup>

On June 22, 2016, the Investigating Commissioner of the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) rendered a report, recommending the dismissal of the complaint for lack of merit,<sup>[16]</sup> thus:

After a thorough and exhaustive evaluation of evidence, the undersigned Commissioner recommends that the complaint be DISMISSED for lack of merit.

x x x x

Firstly, respondent worked with PAO from July 1990 to April 1994. Contrary to complainant's assertion, documents do not suggest that respondent acted as counsel for Leolenie R. Capinpin in both civil cases involving her and Lydia Sol (Civil Case No O-91-10383 pending before Branch 76 of Quezon City), and BDO (Civil Case No. Q-93-15901). It must be noted that respondent has Special Power of Attorney ("SPA" for brevity) for these cases where he acted as her attorney-in-fact, not as counsel of record. x x x.

x x x x

Are Public Attorney Office Lawyers allowed to render such work in court as a mere Attorney-in-Fact and not as PAO lawyer? This is an issue better resolved by the Public Attorney's Office under its own rules and regulations. Clearly, complainant neither alleged "conflict of interest" as basis of her complaint, nor proved the same.

If respondent is not the counsel of complainant, who is her counsel? Is it Atty. Dionisio Maneja? The undersigned believe so. Even assuming that Atty. Maneja is not authorized by complainant when he filed her Answer in Court, we must take note that complainant ratified his acts when on February 14, 1994, the Honorable Court in Civil Case No. Q-93-15901 for "Sum of Money with Preliminary Attachment" granted the "Joint Motion to Dismiss" filed by both parties, duly assisted by their respective counsel. It must be noted that the names "Banco de Order, Ishiwata, Atty. Maneja and L. Capinpin" were written on the Order. Complainant was in the Philippines when this case was heard and she did not dispute the dismissal of this case. Complainant even alleged that the case was

dismissed through compromise agreement. Compromise Agreements are regularly signed by both parties and their counsel to merit the Court's approval. By acquiescing to the representation of Atty. Maneja in this hearing, she ratified all his previous acts and making them valid.

The allegations that respondent suggested a fictitious or simulated sale and verification is a serious matter. However, evidence on record does not sufficiently establish such fact. Hence, in the absence of sufficient and convincing evidence showing the existence of deceit, respondent is entitled to the presumption of innocence. It must be stressed, however, that the CBD [Commission on Bar Discipline] is not the proper forum to adjudicate a transaction which is purely civil in nature such as the sale of a parcel of land and vehicle between the parties. The same have to be threshed out in the proper court.

In disbarment proceeding just like in criminal proceedings, the respondent lawyer enjoys the presumption of innocence. Such presumption must be overcome by clear preponderance of evidence. When the evidence is insufficient, the required quantum of proof is not met, in which event, the case must be dismissed. x x x.

WHEREFORE, PREMISES CONSIDERED, it is respectfully recommended that the complaint be DISMISSED for lack of merit.<sup>[17]</sup>

Capinpin moved for reconsideration of the investigating commissioner's findings,<sup>[18]</sup> but was denied.<sup>[19]</sup> On September 24, 2015, the Board of Governors of the IBP resolved to adopt the findings of fact and recommendation of the Investigating Commissioner.<sup>[20]</sup>

In the meantime, Capinpin filed a petition for review on *certiorari*<sup>[21]</sup> before this Court, reiterating her prayer that Atty. Espiritu be held guilty for violating the Lawyer's Oath and the Code of Professional Responsibility (CPR), and that he be dropped from the roll of attorneys. Capinpin maintains that she obtained the services of Atty. Espiritu to represent her in several civil cases, not knowing that the latter was a PAO lawyer. While handling the affairs of Capinpin, Atty. Espiritu took advantage of his legal knowledge and surreptitiously transferred Capinpin's properties in his name.

The petition for review is misplaced. We held in *Festin v. Atty. Zubiri*,<sup>[22]</sup> that the filing of a petition for review does not conform with the standing procedure for the investigation of administrative complaints against lawyers.<sup>[23]</sup> Section 12 (b) and (c) of Rules 139-B of the Rules of Court, as amended by Bar Matter No. 1645 dated October 13, 2015, states:

Section 12. *Review and recommendation by the Board of Governors.*

x x x x

(b) After its review, the Board, by the vote of a majority of its total membership, shall recommend to the Supreme Court the dismissal of the complaint or the imposition disciplinary action against the respondent. The Board shall issue a resolution setting forth its findings and

recommendations, clearly and distinctly stating the facts and the reasons on which it is based. x x x.

(c) The Board's resolution, together with the entire records and all evidence presented and submitted, shall be transmitted to the Supreme Court for final action within ten (10) days from issuance of the resolution.

[24]

Indeed, the authority to discipline a lawyer, who transgresses his ethical duties under the CPR, lies with this Court. Any final action on a lawyer's administrative liability shall be done by the Court based on the entire records of the case, including the IBP Board's recommendation, without need to file any additional pleading. On this score, the filing of a petition for review is unnecessary. The IBP Board's resolution and case records were forwarded to the Court. We are then bound to fully consider all documents contained therein, regardless of any further pleading filed by any party — including the present petition for review, which the Court may nonetheless consider if only to completely resolve the merits of this case and determine respondent's actual administrative liability.[25]

After a careful review of the records, the Court adopts the recommendation of the IBP Board of Governors dismissing the case against Atty. Espiritu.

There is no evidence that Atty. Espiritu was retained as counsel by Capinpin. The latter's claim, that she obtained the services of Atty. Espiritu to handle her civil cases, and especially, to deal with BDO, lacks factual basis. *First*, with regard to Civil Case No. Q93-15901, the Answer filed by Capinpin before Branch 82 of the RTC-QC, was signed by Atty. Dionisio Maneja, Jr.[26] It was alleged therein that Capinpin offered the subject property to Atty. Espiritu.[27] Incidentally, Capinpin signed the Verification attached to the Answer, attesting that she caused the preparation of the pleading, and that she understood and confirmed its contents, which are true and correct.[28] It is then clear that Atty. Espiritu did not represent Capinpin in the civil case. The mention of Atty. Espiritu in the Answer was not in his capacity as a lawyer, but as a prospective buyer of Capinpin's property. The same is true with the letter addressed to BDO's Chief Legal Counsel, Atty. Irene Ishiwata, dated August 4, 1993, and signed by Atty. Espiritu. *Second*, the Motion to Set Case for Reception of Rebuttal Evidence, in Civil Case No. 0-91-10383, was signed by Atty. Espiritu as attorney-in-fact of Capinpin. An attorney-in-fact is an agent authorized to act on behalf of another person, but not necessarily authorized to practice law. Capinpin's insistence, that their agreement was to establish an attorney-client relationship and not just a mere principal-agent relationship, is misplaced. Capinpin never presented the Special Power of Attorney she executed in favor of Atty. Espiritu or any other evidence to prove her attorney-client relationship with Atty. Espiritu, like the receipt for the money supposedly entrusted to him.

We stress that disbarment of lawyers is a proceeding that aims to purge the law profession of unworthy members of the bar. It is intended to preserve the nobility and honor of the legal profession. While the Supreme Court has the plenary power to discipline erring lawyers through this kind of proceedings, it does so in the most vigilant manner so as not to frustrate its preservative principle.[29]

Jurisprudence is replete with cases reiterating that in disbarment proceedings, the burden of proof rests upon the complainant.[30] In the case of *Reyes v. Atty. Nieva*,