

## EN BANC

[ A.C. No. 11351, August 14, 2019 ]

**PHILIPPINE INVESTMENT ONE (SPV-AMC), INC., REPRESENTED  
BY CARLOS GAUDENCIO M. MAÑALAC, COMPLAINANT, VS. ATTY.  
AURELIO JESUS V. LOMEDA, RESPONDENT.**

### DECISION

#### PER CURIAM:

For our resolution is an Affidavit-Complaint<sup>[1]</sup> filed before the Integrated Bar of the Philippines, Commission on Bar Discipline (IBP-CBD) by Philippine Investment One (complainant) through its General Manager, Carlos Gaudencio M. Mañalac, against Atty. Aurelio Jesus V. Lomeda (respondent) for violating Section 27, Rule 138 of the Rules of Court and Rule 1.01, Canon 1 of the Code of Professional Responsibility (CPR).

#### Factual Antecedents

This administrative case is rooted from a purported accommodation mortgage among Big "N" Corporation (Big "N") as accommodation mortgagor, Lantaka Distributors Corporation (Lantaka) as accommodated party, and United Coconut Planters Bank (UCPB) as mortgagee.<sup>[2]</sup> This mortgage came about by virtue of the transaction documents submitted by respondent to UCPB, which include a purported Memorandum of Agreement<sup>[3]</sup> between Lantaka and Big "N", the owner's copy of the title<sup>[4]</sup> over the townhouses owned by Big "N" and a notarized Secretary's Certificate<sup>[5]</sup> issued by respondent which reads as follows:

I, **AURELIO JV LOMEDA**, in my capacity as Corporate Secretary of Big N Corporation, a private corporation organized and existing under the laws of the Philippines, x x x, hereby CERTIFY that:

During the meeting of the stockholders of the Corporation held on July 28, 2006 at which a quorum was present, the following Resolutions were approved and adopted, to wit:

"RESOLVED, as it is hereby resolved, that the Corporation's real property and all improvements existing thereon and covered by Transfer Certificate of Title No. 124230 of the Registry of Deeds for Quezon City be made the subject of a real estate mortgage under prevailing bank rates;"

"RESOLVED FURTHER, to authorize, as it hereby authorizes, **EDGAR ARGOSINO NANES**, to sign, for and on behalf of the Corporation, any and all deeds of mortgage and other relevant documents in connection with the real estate mortgage;" and

"RESOLVED FINALLY, that any and all transactions entered into by Edgar Argosino Nanes for and on behalf of the Corporation in connection with the real estate mortgage be acknowledged, as they are hereby acknowledged, as transactions of the Corporation."

The foregoing Resolutions have not been repealed or amended in any manner as of the date hereof and may be relied upon for any and all legal intents and purposes.<sup>[6]</sup>

x x x x

Thus, secured by the said mortgage, UCPB extended a credit line worth P10,000,000.00 to Lantaka. Said real estate mortgage was annotated on the title of the mortgaged properties.<sup>[7]</sup>

After some time, UCPB assigned to complainant all its rights over Lantaka's credit line, which was purportedly secured by Big "N"'s mortgage.<sup>[8]</sup>

In an unexpected turn of events, however, Big "N" filed a civil case for Declaration of Nullity of Memorandum of Agreement, Secretary's Certificate, Real Estate Mortgage, and Cancellation of Encumbrance on TCT No. 124230; Declaration of Nullity of Sale; Delivery of the Owner's Copy of TCT No. 124230; and Damages against Lantaka, a certain Ric Raymund F. Palanca (Palanca) of Lantaka, UCPB, and herein complainant and respondent, among others.<sup>[9]</sup>

Succinctly, in the said civil case, Big "N" alleged that it was not privy to any agreement as regards accommodating Lantaka for UCPB to extend a credit line to the latter. Big "N" also alleged that the Secretary's Certificate which was the basis of the accommodation mortgage was null and void as the person who executed the same, herein respondent, "is not, was not, and has never been" the corporate secretary of Big "N". According to Big "N," the company never knew who respondent was. Hence, he could not have bound Big "N" to any contract. Neither was there any truth as to the content of the said Secretary's Certificate as Big "N" emphatically denied having passed any resolution as stated therein.<sup>[10]</sup>

On March 21, 2012, the Regional Trial Court (RTC) of Quezon City, Branch 88, issued a Judgment Based on Compromise<sup>[11]</sup> in the said civil case, wherein it approved the Compromise Agreement<sup>[12]</sup> between Big "N" and herein respondent. In the said Compromise Agreement, respondent admitted that he is not, was not, and has never been a corporate secretary of Big "N," and that he has no authority to issue a Secretary's Certificate on behalf of Big "N." Respondent also explained therein that said document was prepared by and was part of Palanca's ploy; that he was also a victim thereof as he was merely used as a tool to perpetrate the said ploy. Satisfied with the explanation, Big "N" agreed to drop the case against respondent as agreed upon in the Compromise Agreement.

Respondent's admission of his actions in the Compromise Agreement prompted herein complainant to file this administrative case. Complainant argues that respondent's admission that the statements in the Secretary's Certificate that he executed were not true, which were material to the damage and prejudice caused to

complainant, makes him liable criminally and administratively. It is constitutive of a criminal act, *i.e.*, falsification and/or estafa. It also constitutes as malpractice in violation of his oath as a lawyer.<sup>[13]</sup>

Mandatory conferences were set by the IBP-CBD and the parties were directed to submit their respective briefs with regard to the complaint. Notably, respondent never responded and participated in the proceedings despite adequate and repeated notices.<sup>[14]</sup>

### **Findings and Recommendation of the IBP**

In its Report and Recommendation<sup>[15]</sup> dated February 17, 2015, the IBP-CBD found respondent to have engaged in an unlawful, dishonest, immoral or deceitful conduct in knowingly executing a falsified Secretary's Certificate and having it notarized, which document became instrumental in facilitating an obligation amounting to P10,000,000.00. The IBP-CBD also considered respondent's unjustified refusal to participate in the proceedings, the gravity of the wrongful act done, and the damage caused by his actions in recommending the penalty of one year suspension from the practice of law.

In its Resolution No. XXI-2015-386,<sup>[16]</sup> the IBP Board of Governors (IBP Board) adopted and approved the IBP-CBD's Report and Recommendation with modification to the penalty, *viz.*:

*RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", considering Respondent's violation of Canon 1, Rule 1.01 of the Code of Professional Responsibility in relation to Section 27, Rule 138 of the Rules of Court. Thus, Respondent Atty. Aurelio Jesus V. Lomeda is hereby **SUSPENDED from the practice of law for three (3) years.***

No motion for reconsideration or petition for review was thereafter filed.

### **The Ruling of the Court**

The IBP's findings are well-taken but we find it proper to modify its recommendation as to the penalty.

Time and again, this Court has ruled that any misconduct or wrongdoing of a lawyer, indicating unfitness for the profession justifies disciplinary action because good character is an essential and continuing qualification for the practice of law.<sup>[17]</sup>

The CPR is emphatic in its provisions with regard to the high moral standards required in the legal profession. The following provisions of the CPR are relevant, *viz.*:

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

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

Further, the lawyer's oath enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in or out of court.<sup>[18]</sup>

In this case, respondent patently transgressed the lawyer's oath and the CPR by knowingly misrepresenting himself as the corporate secretary of Big "N", executing a Secretary's Certificate containing false statements, and knowingly allowing himself to be used in perpetrating fraud to the prejudice of Big "N", which likewise resulted to the prejudice of herein complainant. These acts were admitted by respondent, which admission was recognized by the trial court in its Judgment Based on Compromise<sup>[19]</sup> in the civil case filed by Big "N." Notably, respondent never questioned said Judgment Based on Compromise.

We find the excuse given by respondent for his action, *i.e.*, it was Palanca who prepared the document, and that he was merely a victim and used as a tool in Palanca's ploy and scheme, disturbing and unacceptable. The stubborn fact remains that, for whatever reason, he knowingly executed a falsified document and made himself be used in his legal capacity to perpetrate a deceptive ploy to the prejudice of Big "N". It must be stressed that the CPR exacted from him not only a firm respect for the law and legal processes, but also the utmost degree of good faith in all his professional and even personal dealings.

Worse, not only did respondent assist and became instrumental in perpetrating an activity which was aimed at deceiving others and defying the law, he likewise displayed utter disrespect to, and disregard of the authority of the Court. Despite several notices, respondent never bothered to comply with the IBP's order for him to participate in the proceedings of this administrative case. By his repeated dismissive conduct, the respondent exhibited an unpardonable lack of respect for the authority of the Court. The Court cannot turn a blind eye on this matter because it reflected respondent's undisguised contempt of the proceedings of the IBP, a body that the Court has invested with the authority to investigate this administrative case against him. It cannot be overemphasized that more than anyone who has dealings with the court and its duly constituted authorities like the IBP, a lawyer has the bounden duty to comply with his/her lawful orders. Section 27,<sup>[20]</sup> Rule 138 of the Rules of Court, provides that a member of the bar may be disbarred or suspended from practice of law for willful disobedience of any lawful order of a superior court, among other grounds.

Undoubtedly, these established factual circumstances warrant this Court's exercise of its disciplinary authority. This Court cannot overstress the duty of the members of the Bar to, at all times, uphold the integrity and dignity of the legal profession. The ethics of the legal profession rightly enjoin lawyers to act with the highest standards of truthfulness and nobility in the course of their practice of law. If the lawyer falls short of this standard, the Court will not hesitate to discipline the lawyer by imposing an appropriate penalty based on the exercise of sound judicial discretion.<sup>[21]</sup> Clearly, in this case, respondent failed to uphold such ethical standard in his practice of law.

What is more, respondent's culpability is further aggravated by the fact that, when