

SECOND DIVISION

[**A.C. No. 11944 (Formerly CBD No. 12-3463),
June 20, 2018**]

**BSA TOWER CONDOMINIUM CORPORATION, COMPLAINANT, V.
ATTY. ALBERTO CELESTINO B. REYES II, RESPONDENT.**

DECISION

PERALTA, J.:

The extant case originated from a disbarment complaint which the complainant BSA Tower Condominium Corporation filed against respondent Atty. Alberto Celestino B. Reyes II.

The pertinent facts of the case are as follows:

Complainant BSA Tower Condominium Corporation alleged that it hired respondent Atty. Alberto Celestino B. Reyes II sometime in November 2005 to settle its real estate tax problems with the City of Makati. Between December 2006 and January 2007, Reyes obtained P25 million from BSA Tower, from which he may draw amounts for legitimate expenses in carrying out his official duties. However, out of the said amount, Reyes was only able to account for P5 million. This clearly violated Rule 16.01 of the Code of Professional Responsibility (*CPR*).

Also, on June 22, 2011, Reyes entered his appearance as counsel for the plaintiff in Civil Case 09-089 entitled *Marietta K. Ilusorio v. BSA Tower Condominium Corp. and Waldo Flores* before the Makati Regional Trial Court (RTC), Branch 62. Said case was an action for reimbursement of the amount of P500,000.00 which Ilusorio supposedly gave BSA Tower in advance for the payment of its electric and water bills. Later, Reyes took the witness stand and testified against BSA Tower. He likewise admitted that at the time Ilusorio's purported advances were made, he was BSA Tower's Corporate Secretary. Thus, on October 11, 2011, BSA Tower filed a Motion to Expunge the Testimony against Reyes. It contended that although the subject matter of the civil case involved information which Reyes had acquired by virtue of his former professional relationship with BSA Tower or about which he had been advising the company, he never obtained its written consent or waiver in the matter of him representing Ilusorio in said case. Accordingly, he violated Rules 15.03 and 21.02 of the *CPR* on conflict of interest.

On the other hand, Reyes denied the charges against him. He explained that when BSA Tower engaged his services, its liability stood at P31 million and the land was set to be sold at public auction. Their agreement was that Reyes would be paid 10% of whatever savings BSA Tower would generate through his efforts. Thereafter, BSA Tower's annual realty tax was reduced from P5 million to only P2 million per year beginning 2007. Reyes asserted that BSA Tower's total savings reached P21 million, apart from the amount of P25 million when the settlement was forged. However, BSA Tower never paid him his contingent fee. Hence, he filed a complaint with the

Makati RTC to collect his fee, and the court later ordered BSA Tower to pay him the amount of P1,920,000.00, plus legal interest from January 2007, until fully paid.

As to his appearance as counsel for the plaintiff in Civil Case No. 09-089, Reyes claimed that he had asked BSA Tower's authorized representative if she or the corporation had any objection to his appearance as Ilusorio's counsel. The representative said that she had none. Likewise, when he formally entered his appearance in said civil case, BSA Tower did not object. Yet, it later filed a Motion to Expunge his testimony. The court, however, denied said motion.

On June 13, 2013, the Commission on Bar Discipline of the Integrated Bar of the Philippines (*IBP*) recommended the dismissal of the disbarment complaint against Reyes, to wit:

WHEREFORE, in view of the foregoing, it is respectfully recommended that the disbarment complaint filed by complainant BSA Tower Condominium Corporation against respondent Atty. Alberto Celestino B. Reyes II be **DISMISSED**.

RESPECTFULLY SUBMITTED.^[1]

On June 5, 2015, the IBP Board of Governors passed Resolution No. XXI-2015-377,^[2] which adopted the aforementioned recommendation, thus:

*RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A," finding the recommendation to be fully supported by the evidence on record and applicable laws. Thus, the case against Respondent is hereby **DISMISSED**.*

Unfazed, BSA Tower filed a Motion for Reconsideration. On April 19, 2017, the IBP Board of Governors issued Resolution No. XXII-2017-968,^[3] which provides:

RESOLVED to DENY the Motion for Reconsideration there being no new reason and/or new argument adduced to reverse the previous findings and decision of the Board of Governors.

The Court's Ruling

The Court finds no cogent reason to depart from the findings and recommendation of the IBP that the present disbarment complaint against Reyes must be dismissed.

In administrative proceedings, the burden of proof rests upon the complainant. For the court to exercise its disciplinary powers, the case against the respondent must be established by convincing and satisfactory proof.^[4]

BSA Tower claims that Reyes violated Rules 16.01, 15.03, and 21.02 of the CPR. Canon 16 and Rule 16.01 of the CPR provide:

CANON 1 – A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.

Rule 16.01 - A lawyer shall account for all money or property collected or received for or from the client.