

SECOND DIVISION

[A.C. No. 9422, November 19, 2018]

ATTY. FLORANTE S. LEGASPI, COMPLAINANT, V. ATTY. EL CID C. FAJARDO, RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is an administrative complaint^[1] dated February 29, 2012 filed before the Court by complainant Atty. Florante S. Legaspi (complainant) against respondent Atty. El Cid C. Fajardo (respondent) praying that the latter be administratively sanctioned for his alleged acts constituting conflict of interest.

The Facts

Complainant alleged that on July 31, 2008, he, on behalf of his client, Cristina Gabriel (Gabriel), initiated the case entitled "*Cristina Gabriel v. [Jannet]^[2] Malino, Carl Blum Blomary^[3] and the Register of Deeds of Oriental Mindoro,*"^[4] docketed as Civil Case No. CV-08-5950 before the Regional Trial Court of Calapan City, Oriental Mindoro, Branch 40 (RTC). On December 10, 2010, the RTC issued a Decision^[5] on the basis of a Compromise Agreement^[6] signed by both parties.^[7]

Notably, a day before the issuance of such Decision, or on December 9, 2010, respondent filed a formal entry of appearance^[8] stating that he was acting as collaborating counsel for one of the defendants, Jannet Malino (Malino). More than a month later, or on January 18, 2011, respondent filed with the RTC the following: (a) a Special Power of Attorney^[9] purportedly executed by Gabriel appointing him as her attorney-in-fact; and (b) an *Ex-Parte* Plaintiffs Motion to Dismiss^[10] where he affixed his signature as Gabriel's attorney-in-fact.^[11] Thereafter, respondent, purportedly on behalf of Gabriel, filed an undated notice^[12] terminating complainant's services as counsel due to loss of trust and confidence. Complainant then opposed the *Ex-Parte* Plaintiffs Motion to Dismiss, as well as the said notice, contending that: there was no prior advice from Gabriel; the reasons presented in the motion to dismiss had no legal and factual bases; the RTC ruling on the case had already become final and executory; and Gabriel had yet to satisfy his legal fees although she already obtained a favorable judgment with the help of complainant.^[13] In the Orders dated February 3, 2011^[14] and February 18, 2011,^[15] the RTC ruled in favor of complainant, holding that the pleadings and motions purportedly filed by respondent on behalf of Gabriel were irregular, and in any case, must be denied for being moot and academic in view of its ruling which had long become final and executory.^[16]

In view of the foregoing, complainant filed the instant complaint accusing respondent of representing conflicting interests by appearing as collaborating

counsel for Malino, and thereafter, acting as attorney-in-fact for Gabriel.^[17]

In his defense,^[18] while respondent admitted to complainant's narration of facts, he nevertheless maintained, *inter alia*, that his acts do not amount to representing conflicting interests, as his being Gabriel's attorney-in-fact, by filing pleadings on her behalf and furnishing copies thereof to complainant, were simply clerical in nature, and thus, did not amount to acting as a lawyer/counsel for Gabriel.^[19]

In a Resolution^[20] dated December 5, 2012, the Court referred the matter to the Integrated Bar of the Philippines (IBP) for its investigation, report, and recommendation.

The IBP's Report and Recommendation

In a Report and Recommendation^[21] dated January 4, 2014, the Investigating Commissioner found respondent administratively liable, and accordingly, recommended that he be suspended from the practice of law for a period of six (6) months for violating the principle of conflict of interest under Rules 15.01 and 15.03, Canon 15 of the Code of Professional Responsibility (CPR).^[22]

The Investigating Commissioner found that respondent's acceptance of Gabriel's appointment as her attorney-in-fact in Civil Case No. CV-08-5950, while at the same time acting as collaborating counsel for Malino in the same case, is clearly a conflict of interest. It was ratiocinated that even assuming *arguendo* that respondent's functions as Gabriel's attorney-in-fact were merely clerical in nature, it is nevertheless undeniable that he placed himself in a situation where he could easily manipulate one side to gain an advantage for the other. In this regard, the Investigating Commissioner even pointed out that respondent himself admitted that he accepted Gabriel's appointment as her attorney-in-fact as it was advantageous to Malino.^[23]

In a Resolution^[24] dated June 5, 2015, the IBP Board of Governors adopted the Investigating Commissioner's report and recommendation, with modification increasing the recommended period of suspension to one (1) year. Respondent moved for reconsideration^[25] but the same was denied in a Resolution^[26] dated November 28, 2017. Consequently, the assailed Resolution, together with the entire records, was elevated to the Court for final action.^[27] Albeit unnecessary, respondent filed a petition for review on *certiorari*^[28] before the Court.^[29]

The Issue Before the Court

The essential issue in this case is whether or not respondent should be administratively sanctioned for the acts complained of.

The Court's Ruling

The Court adopts the findings and recommendations of the Investigating Commissioner, as modified by the IBP Board of Governors.

The relationship between a lawyer and his/her client should ideally be imbued with the highest level of trust and confidence. This is the standard of confidentiality that must prevail to promote a full disclosure of the client's most confidential information to his/her lawyer for an unhampered exchange of information between them.

Needless to state, a client can only entrust confidential information to his/her lawyer based on an expectation from the lawyer of utmost secrecy and discretion; the lawyer, for his part, is duty-bound to observe candor, fairness and loyalty in all dealings and transactions with the client.^[30] In this regard, Rules 15.01 and 15.03, Canon 15 of the CPR, respectively state:

CANON 15 – A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients

Rule 15.01 – A lawyer, in conferring with a prospective client, shall ascertain as soon as practicable whether the matter would involve a conflict with another client or his own interest, and if so, shall forthwith inform the prospective client.

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Rule 15.03 – A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

An attorney owes his client undivided allegiance. Because of the highly fiduciary nature of their relationship, sound public policy dictates that he be prohibited from representing conflicting interests or discharging inconsistent duties. An attorney may not, without being guilty of professional misconduct, act as counsel for a person whose interest conflicts with that of his present or former client. This rule is so absolute that good faith and honest intention on the erring lawyer's part do not make it inoperative. The reason for this is that a lawyer acquires knowledge of his former client's doings, whether documented or not, that he would ordinarily not have acquired were it not for the trust and confidence that his client placed on him in the light of their relationship. It would simply be impossible for the lawyer to identify and erase such entrusted knowledge with faultless precision or lock the same into an iron box when suing the former client on behalf of a new one.^[31] In other words, a lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste.^[32]

In *Hornilla v. Salunat*,^[33] the Court laid down the parameters in determining the presence of conflict of interest, to wit:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. **The test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client."** This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. **Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is**