

## **EN BANC**

**[ A.C. No. 10758 (Formerly CBD Case No. 11-3215), December 05, 2017 ]**

**ATTY. ROSITA L. DELA FUENTE TORRES, *ET AL.*, PETITIONERS,  
VS. ATTY. BAYANI P. DALANGIN, RESPONDENT.**

**[A.C. No. 10759 (Formerly CBD Case No. 12-3292), December 5,  
2017]**

**GLENDA ALVARO, PETITIONER, VS. ATTY. BAYANI P. DALANGIN,  
RESPONDENT.**

**[A.C. No. 10760 (Formerly CBD Case No. 12-3369), December 5,  
2017]**

**ATTY. BAYANI P. DALANGIN, PETITIONER, VS. ATTY. ROSITA L.  
DELA FUENTE TORRES AND ATTY. AVELINO ANDRES,  
RESPONDENTS.**

**[A.C. No. 10761 (Formerly CBD Case No. 12-3458), December 5,  
2017]**

**ATTY. BAYANI P. DALANGIN, PETITIONER, VS. ATTY. ROSITA L.  
DELA FUENTE TORRES, RESPONDENT.**

## **D E C I S I O N**

**REYES, JR., J:**

These are four administrative complaints that were separately filed with the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) by and against substantially the same parties, particularly:

- (1) CBD Case No. 11-3215 for gross immorality, malpractice and gross misconduct filed by Atty. Rosita L. Dela Fuente-Torres (Atty. Torres). et al., against Atty. Bayani P. Dalangin (Atty. Dalangin) and docketed before the Court as A.C. No. 10758;
- (2) CBD Case No. 12-3292 for gross misconduct filed by Glenda Alvaro (Alvaro) against Atty. Dalangin and docketed before the Court as A.C. No. 10759;
- (3) CBD Case No. 12-3369 for gross misconduct, violation of the lawyer's oath and violation of Canon 1 of the Code of Professional Responsibility (CPR) filed by Atty. Dalangin against Atty. Torres and Atty. Avelino Andres (Atty. Andres), docketed in this Court as A.C. No. 10760; and

- (4) CBD Case No. 12-3458 for grave misconduct, dishonesty and violation of Canon 1 of the CPR filed by Atty. Dalangin against Atty. Torres and docketed in this Court as A.C. No. 10761.

### **The Antecedents**

#### **A.C. No. 10758**

CBD Case No. 11-3215 is a complaint<sup>[1]</sup> for gross immorality, malpractice and gross misconduct filed against Atty. Dalangin by the following complainants: (1) Atty. Torres (2) Felicidad O. Samatra (Samatra); (3) Alvaro; (4) Mary DF. Noveras (Noveras); and (5) Generosa S. Camacho (Camacho).<sup>[2]</sup>

The complaint imputed upon Atty. Dalangin several breaches of his duties as a lawyer. *First*, it was alleged that Atty. Dalangin filed against employees of the Judiciary and a fellow lawyer groundless suits, which were merely prompted by his loss in a case and intended to cover up his negligence as counsel. By his acts, Atty. Dalangin committed gross misconduct, and breached Rule 18.03, Canon 18, Rules 1.02 and 1.03, Canon 1, and Canon 11 of the CPR.<sup>[3]</sup>

It appeared that prior to the institution of CBD Case No. 11-3215, a complaint for disbarment was filed against Atty. Torres by Apolonia Marzan (Marzan) and Melody Valdez (Valdez), who were clients of Atty. Dalangin and the losing parties in an unlawful detainer case decided by Presiding Judge Efren B. Mallare (Judge Mallare) of the Municipal Trial Court (MTC) of Sto. Domingo, Nueva Ecija. Marzan and Valdez later disclosed to Atty. Torres that the filing of the disbarment case was orchestrated by Atty. Dalangin, who prepared the affidavit and instructed them to sign it even without explaining the contents and tenor of the document.

When Marzan and Valdez eventually realized that their affidavit was used to file a disbarment complaint with the IBP against Atty. Torres, they decided to terminate the services of Atty. Dalangin. By their new counsel's advice, Marzan and Valdez stopped attending the disbarment hearings, and the case was eventually dismissed by the IBP. Atty. Dalangin also caused Marzan and Valdez's filing of administrative cases against Judge Mallare and Noveras, as the Clerk of Court of the MTC, which complaints were nonetheless likewise dismissed by the Supreme Court upon the IBP's recommendation.<sup>[4]</sup>

*Second*, Atty. Dalangin was accused of maintaining an illicit and immoral affair with one Julita Pascual (Pascual), a clerk at the Public Attorney's Office (PAO) in Talavera, Nueva Ecija, where Atty. Dalangin previously worked as district public attorney. After Atty. Dalangin had left PAO, he retained Pascual as his private secretary, who still remained to be employed with PAO. Atty. Dalangin and Pascual had a daughter whom they named Julianne, even when each of them had existing marriages with some other persons.<sup>[5]</sup> The affair between Atty. Dalangin and Pascual, and the paternity of Julianne, were known to the community, especially the courts.<sup>[6]</sup> Julianne was nonetheless entered in the civil registry as Pascual and her legal husband's own child so as to conceal the fact that Atty. Dalangin was the real father.<sup>[7]</sup> The foregoing acts allegedly breached Rule 1.01, Canon 1, and Rule 7.03, Canon 7 of the CPR.

*Third*, Atty. Dalangin was accused of malpractice for acts that dated back to his prior employment with PAO. He allegedly collected attorney's fees from indigent litigants who sought his assistance, like complainant Camacho from whom he demanded an acceptance fee of P8,000.00. When Camacho explained that he could only produce P3,000.00, Atty. Dalangin threw the case records on a table and retorted, "*Mabubuhay ba naman ang abogado [dito]*."<sup>[8]</sup> Without prior authority from his superiors, Atty. Dalangin also willfully appeared in areas outside his jurisdiction as a district public attorney.<sup>[9]</sup>

*Fourth*, the complaint included charges that pertained to Atty. Dalangin's handling of his court cases. It was claimed that Atty. Dalangin misquoted jurisprudence in a pleading he filed in court, which act constituted a breach of Rule 10.02, Canon 10 of the CPR.<sup>[10]</sup> In a case for robbery filed by Samatra against Pascual, Atty. Dalangin also wielded his influence and prepared perjured statements from supposed witnesses, a clear violation of Rule 10.02, Canon 10 of the CPR.<sup>[11]</sup> Finally, Atty. Dalangin violated Rule 10.01, Canon 10 of the CPR when he submitted in a civil case fraudulent and misleading evidence, particularly a certificate of title without the page reflecting the annotations pertinent to the case.<sup>[12]</sup>

Atty. Dalangin filed his Answer and refuted all charges.<sup>[13]</sup> He denied having a hand in the preparation of the disbarment complaint against Atty. Torres, as he argued that neither his name nor his signature appeared in the records thereof. His relationship with Pascual, on the other hand, was only maliciously misinterpreted. He was only a close friend of the Pascuals, and some of Pascual's children, including Julienne, were his godchildren.<sup>[14]</sup>

Atty. Dalangin likewise denied the claim that he collected attorney's fees while he worked as a PAO lawyer. Although he admitted appearing as a public attorney in an area that was beyond his jurisdiction, the appearance was with the Regional Public Attorney's verbal authority, claimed by Atty. Dalangin to be sufficient under office practice.<sup>[15]</sup> Finally, the alleged mistakes that he committed as counsel in specific cases' presentation of evidence had been rectified in court.<sup>[16]</sup>

### **A.C. No. 10759**

CBD Case No. 12-3292, a complaint<sup>[17]</sup> for gross misconduct, was filed by Alvaro against Atty. Dalangin for an incident that happened on the morning of November 14, 2011, while Alvaro was waiting for the start of a hearing at the lobby of the Regional Trial Court (RTC), Branch 37, Sto. Domingo, Nueva Ecija. Upon seeing Alvaro, Atty. Dalangin allegedly hurled slanderous and defamatory remarks against her, as he spoke at the top of his voice and referred to her as a "certified swindler." He also confronted and threatened Alvaro for her participation in the filing of CBD Case No. 11-3215, and then precluded her from visiting the PAO in Talavera, Nueva Ecija. Atty. Dalangin's tirade was heard and witnessed by several persons, and some of them executed their respective affidavits<sup>[18]</sup> to narrate the incident. The foregoing impelled Alvaro to seek Atty. Dalangin's disbarment for a violation of Rules 1.01 and 1.02, Canon 1, Rule 7.03, Canon 7, and Rule 8.02, Canon 8 of the CPR.

While Atty. Dalangin admitted in his Answer<sup>[19]</sup> the alleged confrontation, he denied shouting invectives at Alvaro. When he talked to Alvaro, he merely confronted her for what he claimed were lies declared in her affidavit in CBD Case No. 11-3215.

Atty. Dalangin also warned to seek legal remedies should Alvaro fail to substantiate the truth of her testimonies.

Atty. Dalangin also admitted that he precluded Alvaro from visiting PAO, but explained that this was prompted by his knowledge that Alvaro was a fixer, who used the name of the office and demanded money from indigent clients. For Atty. Dalangin, Alvaro filed this complaint to get back at Atty. Dalangin for banning her at the PAO and depriving her of earning from her illegal activities.<sup>[20]</sup>

### **A.C. No. 10760**

The two other complaints, CBD Case No. 12-3369 and CBD Case No. 12-3458, were instituted by Atty. Dalangin.

In CBD Case No. 12-3369,<sup>[21]</sup> Atty. Dalangin sought the disbarment of Atty. Torres and Atty. Andres for gross misconduct, violation of the lawyer's oath, and breach of Rules 1.01 and 1.02, Canon 1 of the CPR. He claimed that both lawyers conspired with their clients in filing CBD Case No. 11-3215, even as they violated Republic Act (R.A.) No. 4200, otherwise known as the Anti-Wiretapping Act.

Submitted to support CBD Case No. 11-3215 was Nonilo Alejo's (Alejo) affidavit, which contained a transcript of a recorded telephone conversation between Alejo and one Wilma Pineda (Pineda).<sup>[22]</sup> The recording was without the prior knowledge and consent of Pineda.<sup>[23]</sup>

As a backgrounder, Atty. Dalangin was accused in CBD Case No. 11-3215 of fabricating testimonies against Noveras, who was claimed to be a vital witness in a criminal case against Pascual. In an affidavit drafted by Atty. Dalangin for Pineda, the latter complained of Noveras and Alejo's failure to return in full the cash bond that she posted in a case for violation of the Bouncing Checks Law, even after the case had been dismissed by the trial court. This allegation was negated in the disputed transcript, as Pineda allegedly confirmed receiving the full P8,000.00, but decided to give half thereof to Alejo for a "blow-out" after her case's dismissal.<sup>[24]</sup>

Both Atty. Andres and Atty. Torres disputed the complaint. Atty. Andres asserted that CBD Case No. 12-3369 was filed only to harass and intimidate him, being the counsel of the complainants in CBD Case No. 11-3215.<sup>[25]</sup> By way of defense, he adopted a counter-affidavit<sup>[26]</sup> which he submitted in a separate complaint for violation of R.A. No. 4200 that was filed by Atty. Dalangin with the City Prosecutor of Pasig City. Atty. Andres therein argued that on the basis of Atty. Dalangin's allegations, the case should have been filed by Pineda against Alejo, being the purported victim and the one who recorded the conversation, respectively.

Atty. Torres, on the other hand, pointed out that Atty. Dalangin's reference to R.A. No. 4200 was tantamount to an admission that the conversation actually transpired. This only confirmed a fault committed by Atty. Dalangin for the fabrications in Pineda's earlier affidavit, which was executed purposely to destroy the credibility of Noveras. The submission of the transcript was necessary because Atty. Dalangin's malpractice was one of the main causes of action in CBD Case No. 11-3215.<sup>[27]</sup> Moreover, the record of the conversation between Alejo and Pineda could not be considered a violation of R.A. No. 4200 because no wire or cable was used to tap

their cellular phones. Neither party in the conversation also complained of a supposed wiretapping.<sup>[28]</sup>

### **A.C. No. 10761**

The complaint<sup>[29]</sup> docketed as CBD Case No. 12-3458 was filed solely against Atty. Torres for grave misconduct, dishonesty for violation of Article 183<sup>[30]</sup> of the Revised Penal Code, and breach of Canon 1 of the CPR.

Atty. Dalangin faulted Atty. Torres for submitting in CBD Case No. 11-3215 Marzan and Valdez's affidavit,<sup>[31]</sup> which allegedly contained untruthful statements. Marzan and Valdez knew from the beginning that they were complainants in a disbarment case against Atty. Torres. Atty. Torres, however, later made them issue the perjured statements by using as a leverage her own complaint<sup>[32]</sup> for perjury against Marzan and Valdez, who were then pressured to sign the affidavits in exchange for the perjury case's dismissal.<sup>[33]</sup>

In her Answer<sup>[34]</sup> to the complaint, Atty. Torres insisted on the truth of the statements made by Marzan and Valdez in their affidavit in CBD Case No. 11-3215.

### **Report and Recommendation of the Investigating Commissioner**

The four administrative complaints were eventually consolidated and jointly resolved by the IBP.

After the parties' filing of their respective position papers and the conduct of a series of hearings, Investigating Commissioner Honesto A. Villamor (Investigating Commissioner) issued a Consolidated Report and Recommendation<sup>[35]</sup> dated February 11, 2013, which found sufficient bases for Atty. Dalangin's suspension from the practice of law for three years. Atty. Dalangin's charges against Atty. Dela Torres and Atty. Andres, on the other hand, were recommended for dismissal.

Thus, the Investigating Commissioner's Consolidated Report and Recommendation ended as follows:

WHEREFORE, under the foregoing, finding that Respondent Bayani P. Dalangin violated the provisions of the [CPR] and his Lawyer's Oath specifically on Gross Immorality, and Gross Misconduct in CBD Case No. 11-3215 and CBD Case No. 12-3292, it is recommended that said Respondent be suspended from the practice of law for the period of three (3) years from receipt of the order with a warning that similar offense in the future will be dealt with more severely.

It is further recommended that the charges against Respondent Rosita L. dela Fuente Torres and Respondent Avelino Andres in CBD Case No. 12-3369 and CBD Case No. 12-3458, for lack of merit be ordered dismissed.

RESPECTFULLY SUBMITTED.<sup>[36]</sup>

### **Recommendation of the IBP Board of Governors**

On June 21, 2013, the IBP Board of Governors issued Resolution No. XX-2013-768,<sup>[37]</sup> which adopted and approved the Investigating Commissioner's Consolidated