

THIRD DIVISION

[A.C. No. 7110, April 20, 2016]

ARTHUR S. TULIO, COMPLAINANT, VS. ATTY. GREGORY F. BUHANGIN, RESPONDENT.

DECISION

PERALTA, J.:

Before us is a Complaint for Disbarment filed by Arthur S. Tulio (*Tulio*) against respondent Atty. Gregory F. Buhangin (*Atty. Buhangin*), docketed as A.C. No. 7110 for Gross Dishonesty in violation of the Lawyer's Oath and the Code of Professional Responsibility.

In his Complaint dated March 8, 2006,^[1] Tulio narrated that he became acquainted with Atty. Buhangin even during the time when he was a surveyor and not yet a lawyer. He alleged that as a surveyor then, Atty. Buhangin was the one who prepared survey plans for the complainant in connection with the estate left by his mother. Eventually, when he became a lawyer, Tulio sought his legal advice concerning a property owned by his mother which was then transferred in the names of third parties.

On June 29, 2000, by virtue of Tulio's agreement with his siblings, Atty. Buhangin prepared and notarized a Deed of Waiver of Rights dated June 29, 2000 which was signed by all of his siblings in his favor. Thereafter, Tulio engaged the services of Atty. Buhangin to represent him in filing a case for specific performance and damages which was docketed as Civil Case No. 4866-R entitled "*Heirs of Angelina S. Tulio, represented by Arthur S. Tulio vs. Heirs of Artemio E. Patacsil, represented by Lennie Ayuste*" before the Regional Trial Court of Baguio City, Branch 3.^[2] Through his efforts, Tulio claims that he and the defendants in Civil Case No. 4866-R agreed to a settlement and that he exclusively paid the defendants.

On December 10, 2005, to Tulio's surprise, Atty. Buhangin represented his siblings and filed a complaint against him over legal matters which he had entrusted to him. The complaint was docketed as Civil Case No. 6185-R pending before the Regional Trial Court of Baguio City, Branch 7 and entitled "*Deogracias S. Tulio, et.al. vs. Arthur S. Tulio*" for rescission of the deed of waiver of rights which he himself prepared and notarized. Tulio further averred that Atty. Buhangin made misrepresentations in the complaint since he knew beforehand that his siblings waived their rights in his favor over the parcel of land covered by TCT No. 67145 even before Civil Case No. 4866-R was filed.

On January 2, 2006, Tulio immediately filed a Motion to Disqualify^[3] Atty. Buhangin for his unethical conduct in gross violation of his duties and responsibilities as a lawyer. Subsequently, on January 11, 2006, Atty. Buhangin filed a Motion to Withdraw^[4] as counsel. It was stated in the said motion that Atty. Buhangin: "*due*

to conflict of interest, undersigned respectfully requests that he be allowed by this Honorable Court to withdraw his appearance in this case as counsel for the plaintiff."

Complainant alleged that the actions of Atty. Buhangin were deliberate and intentional in order to serve his own personal interests against his interests as his client, hence, constitutes gross dishonesty in violation of his oath and responsibility as a lawyer and notary public.

Thus, the instant complaint for disbarment against Atty. Buhangin.

On April 5, 2006, the Court resolved to require Atty. Buhangin to file his Comment relative to the complaint filed against him.^[5]

In compliance, Atty. Buhangin submitted his Comment^[6] on January 12, 2007, where he admitted that indeed he had been engaged as legal counsel of the Estate of Angeline Tulio, represented by the heirs of Angeline Tulio which included among others Deogracias S. Tulio, Gloria Tulio-Bucaoto, Tita Tulio-Guerrero, Anthony Tulio and complainant Tulio. He, however, asserted that his legal representation was neither personal nor directed in favor of complainant Tulio alone but instead in the latter's capacity as an heir of Angeline Tulio. Atty. Buhangin disputed Tulio's claim that the latter personally engaged his services as legal counsel for Civil Case No. 4866-R and insisted that his legal representation was made for and in behalf of the heirs of Angeline Tulio. Atty. Buhangin alleged that Tulio abused the confidence lodged upon him by his siblings by executing the deed of waiver of rights in his favor, for the purpose of depriving the other heirs of Angeline Tulio their lawful shares in the estate of their mother. He maintained that there was no conflict of interest when he filed the complaint for the declaration of nullity of the waiver of rights as he was in fact merely protecting the interests of the other heirs of Angeline Tulio.

On February 14, 2007, the Court then resolved to refer the instant case to the Integrated Bar of the Philippines for investigation, report and recommendation/decision.^[7]

Mandatory conferences between the parties were set on July 24, 2007 and September 3, 2007. However, only complainant appeared without counsel, while Atty. Buhangin failed to appear in both instances despite prior notice. Thus, the IBP, in its Order dated September 3, 2007, directed Atty. Buhangin to show cause why he should not be given anymore the chance to participate in the proceedings before the Commission. Both parties were likewise directed to submit their verified Position Papers. Again, only Tulio submitted his Position Paper while Atty. Buhangin failed anew to comply with the Order of the Commission.

In his Position Paper dated October 9, 2007, Tulio refuted Atty. Buhangin's allegation that he represents the heirs of Angeline Tulio, and that his legal representation is not personal to him alone. Tulio pointed out that in his motion to withdraw as counsel, Atty. Buhangin had, in fact, admitted that he is withdrawing from the case due to conflict of interest. Tulio likewise denied that he meant to defraud and deprive his siblings of their shares. He asserted that it was actually Atty. Buhangin who drafted, prepared and even notarized the deed of waiver of rights, thus, if he knew the same to be fraudulent, why then would he prepare and even notarize the

same.

To prove that he had, in fact, engaged the legal services of Atty. Buhangin for his own benefit and personal interest, Tulio submitted the correspondences made and prepared by Atty. Buhangin prior to the institution of Civil Case No. 4866-R addressed to Rebecca F. Patacsil which were dated August 29, 2000 and October 16, 2000, respectively. Thus, Tulio maintains that Atty. Buhangin violated his lawyer's oath and the Code of Professional Responsibility when he acted as counsel for his siblings in Civil Case No. 6185-R.

In its Report and Recommendation, the IBP-CBD found Atty. Buhangin to have violated not only his lawyer's oath but also the Code of Professional Responsibility, and recommended that he be meted the penalty of suspension for two (2) months.

The IBP-CBD found Atty. Buhangin guilty of violating the rule on conflict of interest since it believed that in Civil Case No. 4866-R, there was indeed an attorney-client relationship existing between Tulio and Atty. Buhangin, and not between the latter and the heirs of Angeline Tulio. It further held that when Atty. Buhangin filed a complaint against Tulio in representation of his other siblings over legal matters which the former entrusted to him, he clearly violated the trust and confidence reposed to him by his client.

In a Notice of Resolution No. XX-2013-599 dated May 11, 2013, the IBP-Board of Governors adopted and approved *in toto* the Report and Recommendation of the IBP-CBD.

No motion for reconsideration has been filed by either party.

RULING

We concur with the findings of the IBP-CBD except as to the imposable penalty.

Rule 15.03 of the Code reads:

Canon 15 - A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

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.

Under the afore-cited rule, it is explicit that 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. It behooves lawyers not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice.^[8]

In *Hornilla v. Atty. Salunat*,^[9] the Court discussed the concept of conflict of interest, to wit: