

EN BANC

[A.C. No. 6622, July 10, 2012]

MANUEL G. VILLATUYA, COMPLAINANT, VS. ATTY. BEDE S. TABALINGCOS, RESPONDENT.

DECISION

PER CURIAM:

In this Complaint for disbarment filed on 06 December 2004 with the Office of the Bar Confidant, complainant Manuel G. Villatuya (complainant) charges Atty. Bede S. Tabalingcos (respondent) with unlawful solicitation of cases, violation of the Code of Professional Responsibility for nonpayment of fees to complainant, and gross immorality for marrying two other women while respondent's first marriage was subsisting.^[1]

In a Resolution^[2] dated 26 January 2005, the Second Division of this Court required respondent to file a Comment, which he did on 21 March 2005.^[3] The Complaint was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation within sixty (60) days from receipt of the record.^[4]

On 23 June 2005, the Commission on Bar Discipline of the IBP (Commission) issued a Notice^[5] setting the mandatory conference of the administrative case on 05 July 2005. During the conference, complainant appeared, accompanied by his counsel and respondent. They submitted for resolution three issues to be resolved by the Commission as follows:

1. Whether respondent violated the Code of Professional Responsibility by nonpayment of fees to complainant
2. Whether respondent violated the rule against unlawful solicitation, and
3. Whether respondent is guilty of gross immoral conduct for having married thrice.^[6]

The Commission ordered the parties to submit their respective verified Position Papers. Respondent filed his verified Position Paper,^[7] on 15 July 2005 while complainant submitted his on 01 August 2005.^[8]

Complainant's Accusations

Complainant averred that on February 2002, he was employed by respondent as a

financial consultant to assist the latter on technical and financial matters in the latter's numerous petitions for corporate rehabilitation filed with different courts. Complainant claimed that they had a verbal agreement whereby he would be entitled to P50,000 for every Stay Order issued by the court in the cases they would handle, in addition to ten percent (10%) of the fees paid by their clients. He alleged that, from February to December 2002, respondent was able to rake in millions of pesos from the corporate rehabilitation cases they were working on together. Complainant also claimed that he was entitled to the amount of .900,000 for the 18 Stay Orders issued by the courts as a result of his work with respondent, and a total of P4,539,000 from the fees paid by their clients.^[9] Complainant appended to his Complaint several annexes supporting the computation of the fees he believes are due him.

Complainant alleged that respondent engaged in unlawful solicitation of cases in violation of Section 27 of the Code of Professional Responsibility. Allegedly respondent set up two financial consultancy firms, Jesi and Jane Management, Inc. and Christmel Business Link, Inc., and used them as fronts to advertise his legal services and solicit cases. Complainant supported his allegations by attaching to his Position Paper the Articles of Incorporation of Jesi and Jane,^[10] letter-proposals to clients signed by respondent on various dates^[11] and proofs of payment made to the latter by their clients.^[12]

On the third charge of gross immorality, complainant accused respondent of committing two counts of bigamy for having married two other women while his first marriage was subsisting. He submitted a Certification dated 13 July 2005 issued by the Office of the Civil Registrar General-National Statistics Office (NSO) certifying that Bede S. Tabalingcos, herein respondent, contracted marriage thrice: first, on 15 July 1980 with Pilar M. Lozano, which took place in Dasmarinas, Cavite; the second time on 28 September 1987 with Ma. Rowena Garcia Piñon in the City of Manila; and the third on 07 September 1989 with Mary Jane Elgincolin Paraiso in Ermita, Manila.^[13]

Respondent's Defense

In his defense, respondent denied the charges against him. He asserted that complainant was not an employee of his law firm – Tabalingcos and Associates Law Office^[14] – but of Jesi and Jane Management, Inc., where the former is a major stockholder.^[15] Respondent alleged that complainant was unprofessional and incompetent in performing his job as a financial consultant, resulting in the latter's dismissal of many rehabilitation plans they presented in their court cases.^[16] Respondent also alleged that there was no verbal agreement between them regarding the payment of fees and the sharing of professional fees paid by his clients. He proffered documents showing that the salary of complainant had been paid.^[17]

As to the charge of unlawful solicitation, respondent denied committing any. He contended that his law firm had an agreement with Jesi and Jane Management, Inc., whereby the firm would handle the legal aspect of the corporate rehabilitation case; and that the latter would attend to the financial aspect of the case' such as the preparation of the rehabilitation plans to be presented in court. To support this

contention, respondent attached to his Position Paper a Joint Venture Agreement dated 10 December 2005 entered into by Tabalingcos and Associates Law Offices and Jesi and Jane Management, Inc.;^[18] and an Affidavit executed by Leoncio Balena, Vice-President for Operations of the said company.^[19]

On the charge of gross immorality, respondent assailed the Affidavit submitted by William Genesis, a dismissed messenger of Jesi and Jane Management, Inc., as having no probative value, since it had been retracted by the affiant himself.^[20] Respondent did not specifically address the allegations regarding his alleged bigamous marriages with two other women.

On 09 January 2006, complainant filed a Motion to Admit Copies of 3 Marriage Contracts.^[21] To the said Motion, he attached the certified true copies of the Marriage Contracts referred to in the Certification issued by the NSO.^[22] The appended Marriage Contracts matched the dates, places and names of the contracting parties indicated in the earlier submitted NSO Certification of the three marriages entered into by respondent. The first marriage contract submitted was a marriage that took place between respondent and Pilar M. Lozano in Dasmarinas, Cavite, on 15 July 1980.^[23] The second marriage contract was between respondent and Ma. Rowena G. Piñon, and it took place at the Metropolitan Trial Court Compound of Manila on 28 September 1987.^[24] The third Marriage Contract referred to a marriage between respondent and Mary Jane E. Paraiso, and it took place on 7 September 1989 in Ermita, Manila. In the second and third Marriage Contracts, respondent was described as single under the entry for civil status.

On 16 January 2006, respondent submitted his Opposition to the Motion to Admit filed by complainant, claiming that the document was not marked during the mandatory conference or submitted during the hearing of the case.^[25] Thus, respondent was supposedly deprived of the opportunity to controvert those documents.^[26] He disclosed that criminal cases for bigamy were filed against him by the complainant before the Office of the City Prosecutor of Manila. Respondent further informed the Commission that he had filed a Petition to Declare Null and Void the Marriage Contract with Rowena Piñon at the Regional Trial Court (RTC) of Biñan, Laguna, where it was docketed as Civil Case No. B-3270.^[27] He also filed another Petition for Declaration of Nullity of Marriage Contract with Pilar Lozano at the RTC- Calamba, where it was docketed as Civil Case No. B-3271.^[28] In both petitions, he claimed that he had recently discovered that there were Marriage Contracts in the records of the NSO bearing his name and allegedly executed with Rowena Piñon and Pilar Lozano on different occasions. He prayed for their annulment, because they were purportedly null and void.

On 17 September 2007, in view of its reorganization, the Commission scheduled a clarificatory hearing on 20 November 2007.^[29] While complainant manifested to the Commission that he would not attend the hearing,^[30] respondent manifested his willingness to attend and moved for the suspension of the resolution of the administrative case against the latter. Respondent cited two Petitions he had filed with the RTC, Laguna, seeking the nullification of the Marriage Contracts he discovered to be bearing his name.^[31]

On 10 November 2007, complainant submitted to the Commission duplicate original copies of two (2) Informations filed with the RTC of Manila against respondent, entitled "People of the Philippines vs. Atty. Bede S. Tabalingcos."^[32] The first criminal case, docketed as Criminal Case No. 07-257125, was for bigamy for the marriage contracted by respondent with Ma. Rowena Garcia Piñon while his marriage with Pilar Lozano was still valid.^[33] The other one, docketed as Criminal Case No. 07-257126, charged respondent with having committed bigamy for contracting marriage with Mary Jane Elgincolin Paraiso while his marriage with Pilar Lozano was still subsisting.^[34] Each of the Informations recommended bail in the amount of P24,000 for his provisional liberty as accused in the criminal cases.^[35]

On 20 November 2007, only respondent attended the clarificatory hearing. In the same proceeding, the Commission denied his Motion to suspend the proceedings pending the outcome of the petitions for nullification he had filed with the RTC–Laguna. Thus, the Commission resolved that the administrative case against him be submitted for resolution.^[36]

IBP's Report and Recommendation

On 27 February 2008, the Commission promulgated its Report and Recommendation addressing the specific charges against respondent.^[37] The first charge, for dishonesty for the nonpayment of certain shares in the fees, was dismissed for lack of merit. The Commission ruled that the charge should have been filed with the proper courts since it was only empowered to determine respondent's administrative liability. On this matter, complainant failed to prove dishonesty on the part of respondent.^[38] On the second charge, the Commission found respondent to have violated the rule on the solicitation of client for having advertised his legal services and unlawfully solicited cases. It recommended that he be reprimanded for the violation. It failed, though, to point out exactly the specific provision he violated.^[39]

As for the third charge, the Commission found respondent to be guilty of gross immorality for violating Rules 1.01 and 7.03 of the Code of Professional Responsibility and Section 27 of Rule 138 of the Rules of Court. It found that complainant was able to prove through documentary evidence that respondent committed bigamy twice by marrying two other women while the latter's first marriage was subsisting.^[40] Due to the gravity of the acts of respondent, the Commission recommended that he be disbarred, and that his name be stricken off the roll of attorneys.^[41]

On 15 April 2008, the IBP Board of Governors, through its Resolution No. XVIII-2008-154, adopted and approved the Report and Recommendation of the Investigating Commissioner.^[42] On 01 August 2008, respondent filed a Motion for Reconsideration, arguing that the recommendation to disbar him was premature. He contends that the Commission should have suspended the disbarment proceedings pending the resolution of the separate cases he had filed for the annulment of the marriage contracts bearing his name as having entered into those contracts with other women. He further contends that the evidence proffered by complainant to establish that the latter committed bigamy was not substantial to merit the punishment of disbarment. Thus, respondent moved for the reconsideration of the resolution to disbar him and likewise moved to archive the administrative

proceedings pending the outcome of the Petitions he separately filed with the RTC of Laguna for the annulment of Marriage Contracts.^[43]

On 26 June 2011, the IBP Board of Governors denied the Motions for Reconsideration and affirmed their Resolution dated 15 April 2008 recommending respondent's disbarment.^[44]

The Court's Ruling

The Court affirms the recommendations of the IBP.

First Charge: **Dishonesty for nonpayment of share in the fees**

While we affirm the IBP's dismissal of the first charge against respondent, we do not concur with the rationale behind it.

The first charge of complainant against respondent for the nonpayment of the former's share in the fees, if proven to be true is based on an agreement that is violative of Rule 9.02^[45] of the Code of Professional Responsibility. A lawyer is proscribed by the Code to divide or agree to divide the fees for legal services rendered with a person not licensed to practice law. Based on the allegations, respondent had agreed to share with complainant the legal fees paid by clients that complainant solicited for the respondent. Complainant, however, failed to proffer convincing evidence to prove the existence of that agreement.

We ruled in *Tan Tek Beng v. David*^[46] that an agreement between a lawyer and a layperson to share the fees collected from clients secured by the layperson is null and void, and that the lawyer involved may be disciplined for unethical conduct. Considering that complainant's allegations in this case had not been proven, the IBP correctly dismissed the charge against respondent on this matter.

Second Charge: **Unlawful solicitation of clients**

Complainant charged respondent with unlawfully soliciting clients and advertising legal services through various business entities. Complainant submitted documentary evidence to prove that Jesi & Jane Management Inc. and Christmel Business Link, Inc. were owned and used as fronts by respondent to advertise the latter's legal services and to solicit clients. In its Report, the IBP established the truth of these allegations and ruled that respondent had violated the rule on the solicitation of clients, but it failed to point out the specific provision that was breached.

A review of the records reveals that respondent indeed used the business entities mentioned in the report to solicit clients and to advertise his legal services, purporting to be specialized in corporate rehabilitation cases. Based on the facts of the case, he violated Rule 2.03^[47] of the Code, which prohibits lawyers from soliciting cases for the purpose of profit.

A lawyer is not prohibited from engaging in business or other lawful occupation.