

EN BANC

[A.C. NO. 6632, August 02, 2005]

**NORTHWESTERN UNIVERSITY, INC., AND BEN A. NICOLAS,
COMPLAINANTS, VS. ATTY. MACARIO D. ARQUILLO,
RESPONDENT.**

DECISION

PANGANIBAN, J.:

Representing conflicting interests is prohibited by the Code of Professional Responsibility. Unless all the affected clients' written consent is given after a full disclosure of all relevant facts, attorneys guilty of representing conflicting interests shall as a rule be sanctioned with suspension from the practice of law.

The Case and the Facts

This administrative case stems from a sworn Letter-Complaint^[1] filed with the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) by Ben A. Nicolas, acting for himself and on behalf of Northwestern University, Inc. In that Letter-Complaint, Atty. Macario D. Arquillo was charged with deceit, malpractice, gross misconduct and/or violation of his oath as attorney by representing conflicting interests. The material averments of the Complaint are summarized by the IBP-CBD as follows:

"Herein [c]omplainants, Northwestern University, Inc. and Mr. Ben A. Nicolas, accuses (sic) herein [r]espondent, Atty. Macario D. Arquillo, of engaging in **conflicting interest** in a case before the National Labor Relations Commission, Regional Arbitration Branch No. 1, San Fernando, La Union.

"Complainant alleges that in a consolidated case, herein [r]espondent appeared and acted as counsels for both complainants (eight out of the eighteen complainants therein) and respondent (one out of the ten respondents therein).

"In a consolidation of NLRC Cases [Nos.] 1-05-1086-97, 1-05-1087-97, 1-05-1088-97, 1-05-1091-97, 1-05-1092-97, 1-05-1097-97, 1-05-1109-97, 1-05-1096-97 ("consolidated cases"), herein [r]espondent appeared as counsel for complainants therein, Teresita A. Velasco, Gervacio A. Velasco, Mariel S. Hernando, Virginio C. Rasos, Bonifacio S. Blas, Ronald A. Daoang, Luzviminda T. Urcio and Araceli Quimoyog. **In the very same consolidated case**, [r]espondent was also the counsel of one of the respondents therein, Jose G. Castro.

"Complainants, as their evidence, submitted the Motion to Dismiss dated

August 12, 1997 filed by Jose G. Castro, represented by his counsel, herein [r]espondent filed before the NLRC of San Fernando, La Union. Sixteen (16) days later or on August 28, 1997, [r]espondent filed a Complainant's Consolidated Position Paper, this time representing some of the complainants **in the very same consolidated case.**"^[2] (Citations omitted)

Respondent failed to file his Answer to the Complaint despite a June 24 1998 Order^[3] of the IBP-CBD directing him to do so. Even after receiving five notices, he failed to appear in any of the scheduled hearings. Consequently, he was deemed to have waived his right to participate in the proceedings. Thereafter, the complainants were ordered to submit their verified position paper with supporting documents, after which the case was to be deemed submitted for decision.^[4] In their Manifestation^[5] dated August 30, 2004, they said that they would no longer file a position paper. They agreed to submit the case for decision on the basis of their Letter-Affidavit dated March 16, 1998, together with all the accompanying documents.

Report and Recommendation of the IBP

In his Report,^[6] Commissioner Dennis B. Funa found respondent guilty of violating the conflict-of-interests rule under the Code of Professional Responsibility. Thus, the former recommended the latter's suspension from the practice of law for a period of six (6) months.

In Resolution No. XVI-2004-415 dated October 7, 2004, the Board of Governors of the IBP adopted the Report and Recommendation of Commissioner Funa, with the modification that the period of suspension was increased to two (2) years.

On December 12, 2004, the Resolution and the records of the case were transmitted to this Court for final action, pursuant to Section 12(b) of Rule 139-B of the Rules of Court. On January 20, 2005, respondent filed a Motion for Reconsideration to set aside Resolution No. XVI-2004-415. The IBP denied the Motion.

The Court's Ruling

We agree with the findings of the IBP Board of Governors, but reduce the recommended period of suspension to one year.

Administrative Liability of Respondent

The Code of Professional Responsibility requires lawyers to observe candor, fairness and loyalty in all their dealings and transactions with their clients.^[7] Corollary to this duty, lawyers shall not represent conflicting interests, except with all the concerned clients' written consent, given after a full disclosure of the facts.^[8]

When a lawyer represents two or more opposing parties, there is a conflict of interests, the existence of which is determined by three separate tests: (1) when, in representation of one client, a lawyer is required to fight for an issue or claim, but is also duty-bound to oppose it for another client; (2) when the acceptance of the new retainer will require an attorney to perform an act that may injuriously affect the