



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

WILFREDO B. REYES,
Complainant,

A.C. No. 11710

Present:

- versus -

**ATTY. SHERWIN PROSE C.
CASTAÑEDA,**
Respondent.

LEONEN, *S.A.J.*, Chairperson,
LAZARO-JAVIER,
M. LOPEZ,
J. LOPEZ, and
KHO, JR., *JJ.*

Promulgated:

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DECISION

KHO, JR., J.:

For the Court's resolution is a Complaint¹ filed before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline (CBD) on April 24, 2017 by Wilfredo B. Reyes (Reyes) against respondent Atty. Sherwin Prose C. Castañeda (respondent) for violation of the Lawyer's Oath and Canon 1, Rule 1.01 and Canon 6, Rule 6.02 of the Code of Professional Responsibility (CPR).

The Facts

In the Complaint, Reyes alleged that respondent engaged in unlawful, dishonest, immoral, and deceitful conduct, and used his public position to promote his private interest. Particularly, Reyes claimed that respondent was

¹ Rollo, pp. 2-8.

KHO

appointed as Director III of the National Printing Office (NPO) only on August 18, 2016, as evidenced by the Appointment² signed by then President Rodrigo Duterte, and the *Panunumpa sa Katungkulan* executed on July 1, 2016,³ but which was officially stamped received by the Records Section, Administrative Division of the NPO only on September 5, 2016. Reyes added that the formal assumption to office of respondent on August 18, 2016 was officially disseminated to all concerned in the NPO through a Memorandum⁴ dated August 31, 2016.⁵

Moreover, Reyes averred that respondent collected from the NPO on October 10, 2016 and subsequently encashed Land Bank of the Philippines Check No. 439435, for the amount of PHP 154,490.34, purportedly representing the regular salary, Personnel Economic Relief Allowance, and Representation and Transportation Allowance of respondent covering the period July 1, 2016 to August 31, 2016, as reflected in the Disbursement Voucher.⁶ Reyes argued that respondent had no legal right to claim salary and other benefits for the July 1, 2016 to August 17, 2016 period, nor did he have the right to work, use the facility, resources and property, as well as perform the duties and functions of the Office of Director III of the NPO during the same period as he was appointed and formally assumed as such official only on August 18, 2016.⁷

In a Resolution⁸ dated September 14, 2017, the Court required respondent to file his comment within 10 days from notice (Resolution to Comment). Despite said notice, respondent failed to file his comment. Thus, on August 6, 2018, the Court issued a Resolution⁹ directing respondent to show cause why he should not be disciplinarily dealt with or held in contempt for his failure to file said comment (show cause Resolution). Respondent failed to comply with the show cause Resolution. Thus, the Court issued a **Resolution¹⁰ dated July 8, 2019, imposing upon respondent a fine of PHP 1,000.00, payable to the Court within 10 days from notice**. The Court also referred the complaint to the IBP for investigation, report, and recommendation.¹¹

Acting on the Court's referral, the IBP-CBD issued a Notice¹² dated November 13, 2019, requiring the parties to appear at the Mandatory Conference on December 9, 2019 and to submit their respective mandatory conference briefs at least five days prior to the scheduled date of conference.

² *Id.* at 9.

³ *Id.* at 10.

⁴ *Id.* at 12.

⁵ *See id.* at 95–96.

⁶ *Id.* at 11.

⁷ *See id.* at 96.

⁸ *Id.* at 28.

⁹ *Id.* at 34.

¹⁰ *Id.* at 36–37.

¹¹ *See id.* 94–95.

¹² *Id.* at 38.

During the Mandatory Conference held on December 9, 2019, none of the parties appeared. Thus, an **Order¹³ was issued on the same date terminating the conference and directing the parties to submit their respective verified position papers within a non-extendible period of 10 days from notice.** Despite said notice, neither parties submitted their verified position papers. Thus, the case was submitted for resolution.¹⁴

The IBP Proceedings

In a Report and Recommendation¹⁵ dated May 30, 2022, the IBP Investigating Commissioner (IBP Commissioner) found the complaint against respondent without merit, but nonetheless recommended the suspension of respondent from the practice of law for a period of two years for his willful disobedience of the lawful orders of the Supreme Court and the IBP.¹⁶

The IBP Commissioner found that Reyes failed to substantiate the charges against respondent since all documents attached to the Complaint were mere photocopies and hence, inadmissible in evidence pursuant to Rule 130, Sections 3 and 8 of the Rules of Court.¹⁷ Nonetheless the IBP Commissioner found respondent liable for violation of Canon 1 of the CPR for his failure to comply with the lawful orders of the Court and the IBP.

In a Resolution¹⁸ dated July 9, 2022, the IBP Board of Governors resolved to adopt and approve the Report and Recommendation of the IBP Commissioner dismissing the Complaint against respondent for lack of merit. The IBP Board of Governors, however, modified the penalty, imposing instead a fine in the amount of PHP 5,000.00 each, or for a total of PHP 20,000.00, for respondent's failure to comply with (i) the following directives of the IBP Commissioner (i.e., [a] attend the Mandatory Conference, [b] submit the Mandatory Conference brief, and [c] submit his Position Paper) and (ii) the Order of the Court to file his comment.¹⁹

Subsequently, on August 1, 2022, respondent filed before the IBP an Urgent Manifestation²⁰ dated July 27, 2022, explaining that he came to know of the pending case before the IBP only after checking his "myIBP" app with the notation "pending case – contact IBP." **He added that he had already resigned from the NPO on September 28, 2018.** He averred that upon learning of this information, he immediately requested for verification of the

¹³ *Id.* at 39.

¹⁴ *See id.* at 95.

¹⁵ *Id.* at 94–100. Penned by Commissioner Leandro M. Millano.

¹⁶ *See id.* at 100.

¹⁷ *Id.* at 97–99.

¹⁸ *Id.* at 92–93. Signed by National Secretary Doroteo Lorenzo B. Aguila.

¹⁹ *See id.* at 92.

²⁰ *Id.* at 49–51.

said case and a photocopy of its entire docket. He claimed that he never received any communication from the IBP relative to this case, neither did the NPO inform him or forward the notices to his residential address. Accordingly, respondent prayed for the dismissal of the complaint against him for lack of merit.²¹

The Issue Before the Court

The issue before the Court is whether respondent should be held administratively liable for the act complained of.

The Court's Ruling

The Court resolves to adopt the findings of fact and recommendation of the IBP, with modification, as will be further discussed hereunder.

I.

At the outset, it is important to note that on April 11, 2023, the Court *En Banc* unanimously approved A.M. No. 22-09-01-SC or the Code of Professional Responsibility and Accountability (CPRA), repealing the CPR, Rule 138, Sections 20 to 37 and Rule 139-B of the Rules of Court. Section 3 of the General Provisions of the CPRA states that it “shall take effect [15] calendar days after its publication in the Official Gazette or any newspaper of general circulation.” The CPRA was published in the Philippine Star and Manila Bulletin on May 14, 2023 and, hence, already effective on May 30, 2023.²²

In this relation, Section 1 of the General Provisions of the CPRA states that it “*shall be applied to all pending and future cases, except to the extent that in the opinion of the [Court], its retroactive application would not be feasible or would work injustice, in which case the procedure under which the cases were filed shall govern.*”

In view of the foregoing, the Court shall resolve this case under the framework of the CPRA, to the extent that it is applicable.

II.

As a rule, an attorney enjoys the legal presumption of innocence until

²¹ See *id.* at 49–50.

²² See *Request of the Public Attorney's Office to Delete Section 22, Canon III of the Proposed Code of Professional Responsibility and Accountability*, A.M. No. 23–05–05–SC, July 11, 2023 [Per J. Singh, *En Banc*].

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the contrary is proved. It is settled that the burden of proof in disbarment and suspension proceedings rests on the complainant.²³ Section 32 of the CPRA explicitly states that the complainant bears the burden to prove the allegations against respondent by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. Considering the serious consequence of disbarment or suspension of a member of the Bar, complainant cannot rely on mere assumptions and suspicions as evidence.²⁴

Considering the facts and allegations in the complaint, the Court finds that there exists no substantial evidence to hold respondent administratively liable for the acts complained of. As the IBP Commissioner properly observed, Reyes failed to substantiate the charges against respondent considering the inadmissibility of the evidence he submitted. It bears reiterating that the Court will not hesitate to mete out proper disciplinary punishment upon lawyers who are shown to have failed to live up to their sworn duties. In the same vein, it will not hesitate to extend its protective arm when the accusation against them is not indubitably proven,²⁵ as in this case.

III.

The Court, however, disagrees with the recommendation of the IBP Board of Governors imposing upon respondent the penalty of fine in the amount of PHP 5,000.00 each, or for a total of PHP 20,000.00, for respondent's failure to comply with the IBP Commissioner's directives to attend the Mandatory Conference, submit the Mandatory Conference brief, and submit his position paper, as well as with the Order of the Court to file his comment.

In his Urgent Manifestation²⁶ dated July 27, 2022, respondent explained that he had already resigned from the NPO on September 28, 2018. Thus, he did not receive the November 13, 2019 Notice sent by the IBP requiring him to attend the Mandatory Conference and submit his Mandatory Conference brief, as well as the Order dated December 9, 2019 requiring the parties to file their respective position papers—all of which were sent to the NPO. Respondent added that the NPO, on the other hand, neither informed him nor forwarded to his residential address said Notice and Order. Thus, he learned of the case against him only when he checked his "myIBP" app with the notation "pending case – contact IBP."

The Court finds respondent's explanation reasonable under the circumstances. Indeed, as the facts show, the Notice for the conduct of the

²³ *Armilla-Calderon v. Atty. Lapore*, 881 Phil. 1, 3 (2020) [Per J. Inting, Second Division]. *See also Macabenta v. Atty. Nuyda*, 887 Phil. 818, 825 (2020) [Per J. Peralta, First Division].

²⁴ *See Armilla-Calderon v. Atty. Lapore, id.*

²⁵ *Id.* at 8.

²⁶ *Rollo*, pp. 49–51.

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Mandatory Conference and submission of Mandatory Conference brief, as well as the order requiring the submission of position a paper, were sent to the NPO²⁷ long after respondent has already resigned therefrom on September 28, 2018. Verily, respondent cannot reasonably be expected to comply with these directives, nor be aware of the proceedings before the IBP, *sans* sufficient notice thereof. Hence, respondent should not be penalized for failing to comply with the IBP directives, of which he had no notice of.

Nonetheless, the Court cannot subscribe to respondent's explanation that he learned of the case against him only when he checked the "myIBP" app. It bears highlighting that as early as 2017—when respondent was still with the NPO—respondent was already notified of the disbarment Complaint against him through the Court's Resolution dated September 14, 2017 requiring him to file his comment thereon. Despite said notice, respondent failed to file his comment, prompting the Court to require him to show cause why he should not be disciplinarily dealt with in the Resolution dated August 6, 2018. Records show that on November 22, 2017, or prior to respondent's resignation from the NPO, the NPO received the Resolution to Comment.²⁸ While it appears that the show cause Resolution was received by the NPO on December 6, 2018, or after respondent had resigned from the NPO, the circumstances nonetheless show that respondent had been made aware of the disbarment case against him as early as 2017. Thus, respondent cannot simply feign ignorance of the Complaint to excuse his failure to comply with the Court's directive.

Consequently, the Resolution dated July 8, 2019 imposing upon respondent a fine of PHP 1,000.00 for his failure to comply with the Court's show cause Resolution stands. Respondent is ordered to pay the fine within 10 days from notice. Further, respondent is warned that a repetition of the same or similar acts of failing to comply with the Court's directives shall be dealt with more severely.

ACCORDINGLY, the Complaint filed against Atty. Sherwin Prose C. Castañeda is **DISMISSED** for lack of merit.

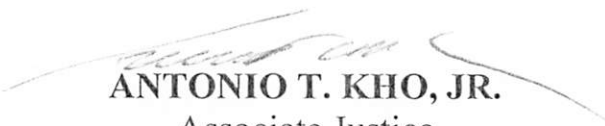
The **Order** issued by the Court in the Resolution dated July 8, 2019 directing Atty. Castañeda to pay the fine in the amount of PHP 1,000.00 **STANDS**. He is warned that a repetition of the same or similar acts of failing to comply with the Court's directives shall be dealt with more severely.

²⁷ See *id.* at 38–39.


²⁸ See *id.* at 30 and 32.

Atty

SO ORDERED.



ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice