



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**MANUEL B. TABLIZO,**

*Complainant,*

- versus -

**ATTYS. JOYRICH M. GOLANGCO,  
ADORACION A. AGBADA, ELBERT  
L. BUNAGAN, and JOAQUIN F.  
SALAZAR,**

*Respondents.*

**A.C. No. 10636**

Present:

**PERLAS-BERNABE, J.,**  
*Chairperson,*

**HERNANDO,**

**INTING,**

**DELOS SANTOS, and**

**BALTAZAR-PADILLA,\* JJ.**

Promulgated:

12 OCT 2020

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**DECISION**

**HERNANDO, J.:**

Before the Court is an administrative case for Grave Misconduct initiated by complainant Manuel Bajaro Tablizo against the following respondents, all officials of the Office of the Deputy Ombudsman for Luzon:

- (a) Respondent Atty. Elbert L. Bunagan (Bunagan), Graft Investigation & Prosecution Officer (GIPO) I – Bureau A;
- (b) Respondent Atty. Joaquin F. Salazar (Salazar), Director, Evaluation & Investigation Office (EIO) – Bureau A;
- (c) Respondent Atty. Joyrich M. Golangco (Golangco), GIPO I – Bureau B; and
- (d) Respondent Atty. Adoracion A. Agbada (Agbada), Director, EIO – Bureau B.

\* On leave.

It arose from the following factual antecedents:

Through separate Complaint-Affidavits filed before the Provincial Prosecutor Office of Virac, Catanduanes, complainant averred that Santos V. Zafe (Zafe) and Jose U. Alberto II (Alberto), then former and incumbent Mayors, respectively, of the Municipality of Virac, Catanduanes, violated Republic Act (RA) Nos. 3019<sup>1</sup> and 6713<sup>2</sup> when they failed to sign each and every page of certain municipal tax ordinances<sup>3</sup> as required by Section 54 of the Local Government Code (LGC) and for still implementing them in the said Municipality, despite their defect and nullity. The Complaint-Affidavits were indorsed to the Office of the Ombudsman for Luzon where they were docketed as OMB-L-C-12-0531/OMB-L-A-12-06-13 and OMB-L-C-12-0532/OMB-L-A-0614 (OMB Cases) and raffled to respondent Atty. Bunagan, GIPO I – Bureau A. After an exchange of pleadings by the parties, respondent Atty. Bunagan issued a Consolidated Resolution<sup>4</sup> dated October 18, 2013 (Consolidated Resolution), reviewed by respondent Atty. Salazar, EIO Director – Bureau A, with the following recommendations:

**WHEREFORE**, premises considered, it is respectfully recommended that:

1. In *OMB-L-C-12-0531*, the complaint for violation of Section 3(e) of R.A. No. 3019 against respondents former Municipal Mayors **JOSE U. ALBERTO II** and **SANTOS V. ZAFE**, both of the Local Government of Virac, Catanduanes, be **DISMISSED** for lack of merit;
2. In *OMB-L-C-12-0532*, the complaint for violation of Section 3(e) of R.A. No. 3019 against respondent former Municipal Mayor **JOSE U. ALBERTO II** of the Local Government of Virac, Catanduanes, be **DISMISSED** for lack of merit; and
3. In *OMB-L-A-12-0613* and *OMB-L-A-12-0614*, the administrative complaints against respondents former Municipal Mayors **JOSE U. ALBERTO II** and **SANTOS V. ZAFE**, both of the Local Government of Virac, Catanduanes, be **DISMISSED** for the reasons discussed above. However, respondents are admonished that similar omission in the future shall be dealt with severely.<sup>5</sup>

The Consolidated Resolution was approved by Ombudsman Conchita Carpio Morales (Carpio Morales) on December 26, 2013.<sup>6</sup>

Complainant filed a Motion for Reconsideration of the Consolidated Resolution on the ground that grave errors of facts and violation of law had been committed prejudicial to his interest and rights. He also included in his Motion for Reconsideration a prayer that respondents Atty. Bunagan and Atty. Salazar inhibit themselves from the resolution of said motion to avoid any suspicion of partiality.

<sup>1</sup> The Anti-Graft and Corrupt Practices Act.

<sup>2</sup> Code of Conduct and Ethical Standards for Public Officials and Employees.

<sup>3</sup> Municipal Tax Ordinance (MTO) No. 2008-14 in the case of Zafe and MTO No. 99-014 in the case of Alberto.

<sup>4</sup> *Rollo*, pp. 36-49.

<sup>5</sup> *Id.* at 47-48.

<sup>6</sup> *Id.* at 49.

Acting on complainant's prayer for the inhibition of respondents Atty. Bunagan and Atty. Salazar, Deputy Ombudsman for Luzon Gerard A. Mosquera (Mosquera) reassigned the OMB Cases to EIO – Bureau B.

On April 8, 2014, a Consolidated Resolution (on Complainant's Motion for Reconsideration)<sup>7</sup> (Consolidated Resolution – MR) was issued by respondent Atty. Golangco, GIPO I – Bureau B, and reviewed by respondent Atty. Agbada, EIO Director – Bureau B, recommending that complainant's Motion for Reconsideration be denied for lack of merit. The Consolidated Resolution – MR was approved by Ombudsman Carpio Morales on June 9, 2014.<sup>8</sup>

Thereafter, complainant filed the instant Complaint-Affidavit dated July 9, 2014 against respondents before the Office of the Court Administrator (OCA), docketed as A.C. No. 10636. He averred that "respondents maliciously failed to follow/observe the standards of personal conduct provided under R.A. No. 6713 and R.A. No. 6770 in the discharge and execution of their official duties for failing and/or refusing to investigate in the real sense of the word, the charges against Alberto and Zafe."<sup>9</sup> After receipt of respondents' Joint Comments, the Court, in a Resolution<sup>10</sup> dated July 29, 2015, referred the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation. It was docketed as CBD Case No. 15-4788 before the Commission on Bar Discipline (CBD) of the IBP.

Complainant also subsequently filed a letter-complaint dated August 13, 2014 before the Internal Affairs Board (IAB) of the Office of the Ombudsman charging respondents with Grave Misconduct based on the very same allegations. The Evaluation Report<sup>11</sup> dated October 10, 2014 submitted by the IAB Investigator and approved on January 23, 2015 by Deputy Ombudsman for Luzon Mosquera, dismissed the complaint outright.

In the meantime, Investigating Commissioner Dominica L. Dumangeng-Rosario (Dumangeng-Rosario) scheduled and facilitated mandatory conferences among the parties in CBD Case No. 15-4788 on December 14, 2015, February 18, 2016, and July 22, 2016. Respondents attended all the mandatory conferences<sup>12</sup> and duly submitted their respective mandatory conference briefs and subsequently, their Joint Position Paper.

In contrast, complainant failed to appear in any of the mandatory conferences. For the mandatory conference scheduled on February 18, 2016, he filed a Manifestation and Motion requesting the appointment of a suitable member of the Bar to act as his counsel and assist him during the hearing, citing Sections 2 and 7 of Rule 139-B of the Rules of Court. His Manifestation and Motion was forwarded

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<sup>7</sup> Id. at 59-65.

<sup>8</sup> Id. at 64.

<sup>9</sup> Id. at 9.

<sup>10</sup> Id. at 99.

<sup>11</sup> Id. at 75-78.

<sup>12</sup> Except respondent Atty. Golangco who was unable to attend the mandatory conference on July 22, 2016 because he was conducting a pre-bar review.

by the IBP Board of Governors to the National Center for Legal Aid (NCLA). However, Atty. Jonas Florentino D.L. Cabochan (Cabochan), NCLA National Director, replied through a letter<sup>13</sup> dated May 16, 2016 that the NCLA does not represent parties in disbarment proceedings. In an Order<sup>14</sup> dated June 27, 2016, Investigating Commissioner Dumangeng-Rosario informed complainant of Atty. Cabochan's reply to his Manifestation and Motion; advised complainant to engage the services of counsel and to submit his mandatory conference brief within 10 days from notice; and directed the parties to attend the next mandatory conference on July 22, 2016. Once again, complainant failed to attend the mandatory conference on July 22, 2016, submitting instead another Manifestation and Motion in which he maintained that:

2. x x x Simply put, my trust and confidence in respondents herein as Ombudsman lawyers, have really eroded. Their resolutions dismissing and exonerating the respondents in my ombudsman case against the two (2) mayors of Virac, Catanduanes are the reasons why I filed a case against them at the Supreme Court because up to this point and time the people of Virac are made to pay their taxes computed based on the unsigned revenue code. x x x<sup>15</sup>

After stating that his financial and health predicaments rendered him permanently unable to attend the mandatory conferences and that he needed the services of a counsel as he had no training and skill to prosecute the case by himself, he moved and prayed that Investigating Commissioner Dumangeng-Rosario pursue and continue the investigation of the instant administrative case in the interest of justice, equity, and fair play. Complainant then already submitted the case for resolution.<sup>16</sup>

### **Report and Recommendation of the IBP:**

In her Report and Recommendation dated January 27, 2017, Investigating Commissioner Dumangeng-Rosario concluded, thus:

As discussed above, it is not sufficiently shown that the respondents, Atty. Golangco, Atty. Agbada, Atty. Bunagan, and Atty. Salazar [have] violated any of their professional duties as a lawyer and therefore it is RECOMMENDED that the complaint against them be DISMISSED.<sup>17</sup>

The IBP Board of Governors then passed a Resolution dated April 20, 2017 adopting the findings of fact and recommendation of the Investigating Commissioner to dismiss the complaint against the respondents.

### **Our Ruling**

The Court adopts and approves the aforementioned Resolution of the IBP.

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<sup>13</sup> *Rollo*, p. 100.

<sup>14</sup> *Id.* at 99.

<sup>15</sup> *Id.* at 165.

<sup>16</sup> *Id.*

<sup>17</sup> *Id.* at 214.

Complainant herein charges respondents with Gross Misconduct in relation to the performance of their official duties as officers of the Office of the Ombudsman. In *Vitriolo v. Dasig*,<sup>18</sup> the Court laid down that as a general rule, “a lawyer who holds a government office may not be disciplined as a member of the Bar for misconduct in the discharge of his duties as a government official. However, if said misconduct as a government official also constitutes a violation of his oath as a lawyer, then he may be disciplined by this Court as a member of the Bar.”<sup>19</sup>

In his Complaint-Affidavit herein, complainant was essentially challenging the Consolidated Resolution and Consolidated Resolution – MR in the OMB Cases in which respondents dismissed complainant’s criminal and administrative charges against Zafe and Alberto. He averred that respondents maliciously refused or failed to conduct proper investigation of the charges in the OMB Cases to complainant’s detriment and, hence, eroding his trust and confidence in the Office of the Ombudsman.

Gross misconduct is punishable by either disbarment or suspension from the practice of law, as provided under Section 27,<sup>20</sup> Rule 138 of the Rules of Court. It has been defined as “any inexcusable, shameful or flagrant unlawful conduct on the part of a person concerned with the administration of justice; *i.e.*, conduct prejudicial to the rights of the parties or to the right determination of the cause. The motive behind this conduct is generally a premeditated, obstinate or intentional purpose.”<sup>21</sup>

In *Rico v. Madrazo, Jr.*,<sup>22</sup> the Court pronounced:

It is settled that in disbarment and suspension proceedings against lawyers in this jurisdiction, the burden of proof rests upon the complainant. Thus, this Court has held that “in consideration of the gravity of the consequences of the disbarment or suspension of a member of the bar, we have consistently held that a lawyer enjoys the presumption of innocence, and the burden of proof rests upon the complainant to satisfactorily prove the allegations in his complaint through substantial evidence.” A complainant’s failure to dispense the same standard of proof requires no other conclusion than that which stays the hand of the Court from meting out a disbarment or suspension order.

In the case at bar, there is an absolute dearth of evidence of the respondents’ alleged Gross Misconduct. Other than his bare allegations, complainant was unable to present proof to substantiate his grave charges against respondents. That the Consolidated Resolution and Consolidated Resolution – MR issued by the

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<sup>18</sup> 448 Phil. 199 (2003).

<sup>19</sup> *Id.* at 207.

<sup>20</sup> Section 27. *Attorneys removed or suspended by Supreme Court on what grounds.* – A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a wilful disobedience of any lawful order of a superior court, or for corruptly or willful appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

<sup>21</sup> *Santiago v. Santiago*, A.C. No. 3921, June 11, 2018.

<sup>22</sup> A.C. No. 7231, October 1, 2019.

respondents in the OMB Cases were adverse to complainant does not, by itself, establish malice or prejudice against him.

In contrast, respondents enjoy, absent any evidence to the contrary, the presumption that they had regularly performed their official duties<sup>23</sup> as GIPOs and Directors of the EIO, Office of the Ombudsman, when they resolved the OMB Cases. All parties were accorded the opportunity to be heard following the rules of procedure before the Office of the Ombudsman. In fact, Deputy Ombudsman for Luzon Mosquera effectively granted complainant's prayer for the inhibition of respondents Atty. Bunagan and Atty. Salazar of EIO – Bureau A by re-assigning complainant's Motion for Reconsideration of the Consolidated Resolution to respondents Atty. Golangco and Atty. Agbada of EIO – Bureau B for resolution. It is also noteworthy that both the Consolidated Resolution and Consolidated Resolution – MR were reviewed and ultimately approved by Ombudsman Carpio Morales.

Furthermore, a perusal of the Consolidated Resolution and Consolidated Resolution – MR issued by respondents readily shows that they sufficiently presented the factual and legal bases for the dismissal of complainant's charges against Zafe and Alberto. Therefore, it cannot be argued that the subject Resolutions were completely arbitrary, capricious, or groundless.

More importantly, if complainant really believed that respondents committed reversible errors in judgment or grave abuse of discretion in rendering the Consolidated Resolution and Consolidated Resolution – MR, then his remedy would have been to seek judicial review<sup>24</sup> of the same, and not through a disciplinary case against the respondents. The following declaration of the Court in administrative matters involving judges may be applied by analogy herein: "An administrative complaint is not an appropriate remedy where judicial recourse is still available, such as a motion for reconsideration, an appeal, or a petition for *certiorari*, unless the assailed order or decision is tainted with bad faith, fraud, malice or dishonesty."<sup>25</sup>

**WHEREFORE**, the present administrative case for Grave Misconduct against respondents Atty. Elbert L. Bunagan, Atty. Joaquin F. Salazar, Atty. Joyrich M. Golangco, and Atty. Adoracion A. Agbada, in their respective capacities as officials of the Office of the Deputy Ombudsman for Luzon, is **DISMISSED** for lack of merit.

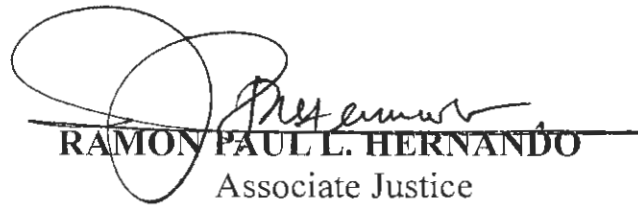
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<sup>23</sup> RULES OF COURT, Rule 131, Section 3(m).

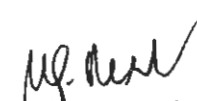
<sup>24</sup> Decisions of the Ombudsman in Criminal Cases may be challenged before this Court through a petition for *certiorari* under Rule 65 of the Rules of Court; while Decisions of the Ombudsman in Administrative Cases may be appealed to the Court of Appeals under Rule 43. (See *Gatchalian v. Office of the Ombudsman*, G.R. No. 229288, August 1, 2018).


<sup>25</sup> *Spouses De Guzman v. Pamintuan*, 452 Phil. 963, 966' (2003).

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

On leave.  
**PRISCILLA J. BALTAZAR-PADILLA**  
Associate Justice