



Republic of the Philippines
 Supreme Court
 Baguio City

VERIFIED TRUE COPY
Welford Lopez
 WELFORD M. LAPITAN
 Division Clerk of Court
 Third Division

MAY 26 2016

THIRD DIVISION

ARTHUR S. TULIO,
 Complainant,

A.C. No. 7110

Present:

VELASCO, JR., J., *Chairperson,*
 PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

- versus -

Promulgated:

ATTY. GREGORY F. BUHANGIN,
 Respondent.

April 20, 2016

Welford Lopez

X-----X

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.

¹ *Rollo*, pp. 1-2.

W

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 Angeline 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 Disqualify³ 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 Withdraw⁴ 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

² *Id.* at 5-9.
³ *Id.* at 18-20
⁴ *Id.* at 21-22.
⁵ *Id.* at 23.



In compliance, Atty. Buhangin submitted his Comment⁶ 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.

⁶ *Id.* at 27-31.

⁷ *Id.* at 33.

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:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client." This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof.¹⁰

The rule prohibiting conflict of interest was fashioned to prevent situations wherein a lawyer would be representing a client whose interest is directly adverse to any of his present or former clients. In the same way, a lawyer may only be allowed to represent a client involving the same or a substantially related matter that is materially adverse to the former client only if the former client consents to it after consultation. The rule is grounded in the fiduciary obligation of loyalty. Throughout the course of a lawyer-client relationship, the lawyer learns all the facts connected with the client's case, including the weak and strong points of the case. Knowledge and information gathered in the course of the relationship must be treated as sacred and guarded with care. 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 paramount in the

⁸ *Orola v. Atty. Ramos*, A.C. No. 9860, September 11, 2013, 705 SCRA 350, 357 (2013).

⁹ 453 Phil. 108 (2003)

¹⁰ *Hornilla v. Atty. Salunat*, *supra*, at 111-112. (Citations omitted)

administration of justice. The nature of that relationship is, therefore, one of trust and confidence of the highest degree.

Hornilla case provides an absolute prohibition from representation with respect to opposing parties in the same case. In other words, a lawyer cannot change his representation from one party to the latter's opponent in the same case, as in this case.

Atty. Buhangin's allegation that he represents for and in behalf of the Heirs of Angeline Tulio and not personal or exclusive to complainant cannot be given any credence. *First*, Atty. Buhangin himself admitted in his *Motion to Withdraw* that he was withdrawing his appearance in Civil Case No. 6185 against Tulio due to conflict of interest. *Secondly*, it cannot be denied that there was an exclusive attorney-client relationship between Tulio and Atty. Buhangin as evidenced by the demand letters which Atty. Buhangin prepared specifically as counsel of Tulio. *Thirdly*, as correctly observed by the IBP, other than his bare assertion that he was representing the estate and the Heirs of Angeline Tulio, Atty. Buhangin failed to satisfactorily show any circumstance that he was actually representing the Heirs of Angeline Tulio and not solely for Tulio.

Also, we take note that in both Civil Case No. 4866-R (*Heirs of Angeline S. Tulio represented by Arthur S. Tulio vs. Heirs of Artemio Patacsil*) and Civil Case No. 6185-R (*Deogracias S. Tulio, et.al. vs. Arthur Tulio*), the subject property under dispute, particularly TCT No. T-67145, is one and the same. This is also the same subject property of the Deed of Waiver of Rights which the plaintiffs in Civil Case No. 6185-R have executed and signed in favor of Tulio, which Atty. Buhangin later on used against Tulio. Clearly, the series of Atty. Buhangin's actions in protecting the rights and interest of Tulio over the subject property before and after the filing of Civil Case No. 4866-R, to the preparation of the Deed of Waiver of Rights in favor of Tulio runs counter and in conflict to his subsequent filing of Civil Case No. 6185-R and his imputation of fraud against Tulio. There is no question that Atty. Buhangin took an inconsistent position when he filed Civil Case No. 6185-R against Tulio whom he has defended and protected as client in the past. Even if the inconsistency is remote or merely probable or even if he has acted in good faith and with no intention to represent conflicting interests, it is still in violation of the rule of conflict of interest.

Atty. Buhangin's subsequent withdrawal of his appearance as counsel in Civil Case No. 6185-R came too late as by the mere filing of the complaint against Tulio, it manifested his disloyalty and infidelity to Tulio as his client. That the representation of conflicting interest is in good faith



and with honest intention on the part of the lawyer does not make the prohibition inoperative.¹¹

Canon 17 of the Code of Professional Responsibility provides that a lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed on him. His highest and most unquestioned duty is to protect the client at all hazards and costs even to himself. The protection given to the client is perpetual and does not cease with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client.¹²

Likewise, Atty. Buhangin's conduct in the course of the proceedings before the IBP is also a matter of concern. Despite due notices, he failed to attend all the mandatory conferences set by the IBP. He also ignored the IBP's directive to file his position paper. Indubitably, because of Atty. Buhangin's refusal to comply with the orders and directives of the IBP, the case which was filed in 2006 dragged on for several years. Clearly, this conduct runs counter to the precepts of the Code of Professional Responsibility and violates the lawyer's oath which imposes upon every member of the Bar the duty to delay no man for money or malice.

In *Ngayan v. Atty. Tugade*,¹³ we ruled that [a lawyer's] failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despicency for his oath of office in violation of Section 3, Rule 138 of the Rules of Court.

Atty. Buhangin's failure to submit his position paper without any valid explanation is enough reason to make him administratively liable since he is duty-bound to comply with all the lawful directives of the IBP, not only because he is a member thereof, but more so because IBP is the Court-designated investigator of this case.¹⁴ As an officer of the Court, respondent is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP.¹⁵



¹¹ *Quiambao v. Atty. Bamba*, 565 Phil. 126, 135 (2005).

¹² *Heirs of Lydio Falame v. Atty. Baguio*, 571 Phil. 428, 442 (2008).

¹³ 271 Phil. 654, 659 (1991).

¹⁴ *Vecino v. Atty. Ortiz, Jr.*, 579 Phil. 14, 16-17 (2008).

¹⁵ *Gone v. Atty. Ga.*, 662 Phil. 610, 617 (2011).

We would have merely affirmed the recommended penalty by the IBP-CBD on Atty. Buhangin, *i.e.*, suspension from the practice of law for two (2) months. However, considering that aside from his violation of the rule on conflict of interest, he has also shown wanton disregard of the IBP's orders which caused undue delay in the resolution of this case and we deemed it appropriate to modify and increase the recommended penalty of suspension from the practice of law from two (2) months to six (6) months.

WHEREFORE, respondent Atty. Gregory F. Buhangin is hereby held **GUILTY** of representing conflicting interests in violation of Rule 15.03, Canon 15 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of six (6) months, with a **WARNING** that a repetition of the same or similar acts in the future will be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to Atty. Buhangin's personal record. Further, let copies of this Decision be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson

JOSE PORTUGAL PEREZ
Associate Justice

BIENVENIDO L. REYES
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
MAY 26 2016