



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

INOCENCIO I. BALISTOY,
Petitioner,

A.C. No. 8667

Present:

- versus -

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, JJ.

Promulgated:

03 FEB 2016

ATTY. FLORENCIO A. BRON,
Respondent.

X-----X

DECISION

BRION, J.:

We resolve the present petition for review on *certiorari*,¹ to nullify the May 10, 2013 resolution² of the Board of Governors (*BOG*) of the Integrated Bar of the Philippines (*IBP*) dismissing the *complaint-affidavit for disbarment*³ filed before the Office of the Bar Confidant (*OBC*) by the complainant Inocencio I. Balistoy (*Balistoy*) against the respondent Atty. Florencio A. Bron (*Atty. Bron*).

* On Leave.

¹ *Rollo*, pp. 250-254; filed pursuant to Rule 45 of the Rules of Court.

² *Id.* at 303; Notice of Resolution signed by IBP National Secretary Nasser A. Marohomsalic.

³ *Id.* at 2-4.

The Facts

Balistoy was the plaintiff in Civil Case No. 03-105743 (*civil case*), entitled *Inocencio I. Balistoy v. Paul L. Wee and Peter L. Wee*, for damages, pending with the Regional Trial Court (RTC), Branch 30, Manila. Atty. Bron was the counsel for the defendants, the Wee brothers.

On March 5, 2003, Atty. Bron filed a *Motion to Dismiss and Motion for Issuance of Order to Show Cause with Counterclaim*⁴ in the case. Paul and Peter executed the verification and certification of non-forum shopping for the motion, exhibiting Community Tax Certificate (CTC) No. 12249877,⁵ issued on January 9, 2003 in Quezon City, for Paul, and CTC No. 1385810, issued on January 29, 2003,⁶ in Manila, for Peter. On January 20, 2004, Atty. Bron filed an Answer⁷ for the defendants who exhibited CTC No. 12249877⁸ for Paul and CTC No. 12249883 for Peter,⁹ both CTCs issued on January 9, 2003, in Manila.

Meantime, Balistoy discovered that the CTCs exhibited by Paul and Peter had already expired and that the CTC Paul used for the answer had the same number as the CTC he showed for the motion to dismiss, but the place of issue was changed from Manila to Quezon City.

Balistoy went to the Office of the Treasurer of the City of Manila and the Bureau of Internal Revenue in Quezon City to verify the discrepancies in the CTCs of Paul and Peter. Manila Treasurer Liberty M. Toledo issued a certification¹⁰ stating that CTC No. 12249877 “was not among those allotted by the BIR to the City of Manila in the year 2003.” On the other hand, Eloisa C. Tamina, the Chief of the Accountable Forms Division of the BIR, Quezon City, certified¹¹ that the CTCs bearing serial numbers **CC1200312249877** to **CC1200312249883**, and **CC1200212249877** to **CC1200212249883** were issued to the Municipal Treasurer of Taguig, Metro Manila, on September 26, 2003, and to the Provincial Treasurer of Pampanga, on October 2, 2002, respectively.

Regarding the civil case, Balistoy learned that Atty. Bron and his clients failed to appear at the hearing on September 6, 2006. This prompted Judge Lucia P. Purugganan of the RTC, Branch 30, to issue an order¹² on the same day, declaring the defendants were deemed to have waived their right to present evidence, and that the case was considered submitted for decision. According to the order, when the case was called for the reception of evidence on September 6, 2006, Atty. Bron appeared in the morning of that

⁴ *Id.* at 5-12.

⁵ *Id.* at 12.

⁶ *Id.*

⁷ *Id.* 15-27.

⁸ *Id.* at 27

⁹ *Id.*

¹⁰ *Id.* at 30; dated February 3, 2006.

¹¹ *Id.* at 31; Certification dated February 8, 2006.

¹² *Id.* at 38.

day and manifested before the clerk of court that one of the defendants' nephews suffered injuries in a vehicular accident,¹³ thus, the reason for their failure to attend the hearing.

The defendants moved for reconsideration¹⁴ of the order. This time, Balistoy faulted Atty. Bron for his "inconsistent allegations" in the motion. He alluded to Atty. Bron's claim that at 9:00 o'clock in the morning of September 6, 2006, Paul told him by phone that he suffered knee injuries in a vehicular accident and had to be lifted to a clinic along Aurora Blvd., in Quezon City for medical attention.¹⁵ Atty. Bron attached to the motion the medical certificate (unsigned)¹⁶ dated November 27, 2006, of a Dr. Joy M. Villano who attended to Paul.

On June 20, 2007, Atty. Bron moved for a resetting of the hearing¹⁷ on the ground that Paul, who was scheduled to testify on that day and who had just arrived from Malaysia with a fever, was placed under quarantine. Judge Purugganan granted the motion¹⁸ subject to the submission of proof that Paul had indeed been quarantined on June 20, 2007. In compliance, Atty. Bron submitted a medical certificate¹⁹ dated June 18, 2007, stating that Paul had a fever and was under the care of a Dr. Pierette Y. Kaw.

Balistoy also verified the authenticity of the medical certificate and discovered that it did not come from the NAIA; and that the NAIA arrival logbook showed that Paul was not registered as a passenger coming from Malaysia on June 18, 2007.²⁰

Armed with his discoveries, Balistoy filed the present complaint.

Atty. Bron's Position

In a comment²¹ dated October 9, 2010, as required by the Court,²² Atty. Bron prayed for a dismissal of the complaint as it was filed, he claimed, in retaliation for his diligent discharge of his duties as counsel for the Wee brothers. He offered the following arguments:

1. *The notarial act of January 21, 2004*

Atty. Bron knows Paul and Peter Wee so well such that he could have notarized the *jurat* in the verification of the pleadings he filed in their

¹³ *Id.* par. 1.

¹⁴ *Id.* at 32-35.

¹⁵ *Id.* at 32; Motion for Reconsideration, p. 1, last paragraph.

¹⁶ *Id.* at 32.

¹⁷ *Id.* at 39, Order dated June 20, 2007, RTC , Br. 30, p. 1, par. 11.

¹⁸ *Id.*

¹⁹ *Id.* at 41.

²⁰ *Id.* at 305.

²³ *Rollo*, pp. 55-62.

²⁴ Resolution dated August 16, 2010; *rollo*, p. 47.

defense with or without their community tax certificates (*CTCs*). To prove his point, he claimed that his law office assigned the Wee brothers to him as clients, but aside from that, they had engaged him (in 2001 and 2002) in their individual businesses as labor and business law consultant.

On Balistoy's claim that the CTCs exhibited by Paul and Peter were falsified, Atty. Bron maintained that he did not "procure" the subject CTCs, nor had he the opportunity, at the time of the execution of the notarial act, to verify whether the CTCs were duly issued by the proper authorities. Moreover, he added, Balistoy had already filed a criminal complaint regarding the disputed CTCs.

2. The Motion for Reconsideration

Atty. Bron moved to reconsider the RTC's September 6, 2006 order to clarify why he asked for a resetting of the hearing. His failure to present evidence on that day was due to lack of witnesses and not because he was unprepared for the hearing. He claimed he was at the court premises as early as 10:00 o'clock in the morning of that day waiting for Paul to testify, but the latter figured in an accident on his way to the court; the other witness, a Ms. Concepcion Ramos, was not also available as she was not aware that she would be presented on that day. Likewise, he did not "procure" Paul's accident or his medical certificate.

3. The June 20, 2007 resetting

The same predicament, Atty. Bron stressed, may be said of the June 20, 2007 incident—he was present in court, while his witness (Paul) was not available. Paul's executive secretary, a Ms. Jacqueline Francisco, informed him that Paul had just arrived from Malaysia and was advised to go on self-quarantine. Again, he said he did not "procure" the medical certificate Paul presented to the court and had no opportunity to verify its authenticity. Neither did he manifest before the court that the NAIA issued a medical certificate to Paul or that the court ordered him (Atty. Bron) to secure a medical certificate from the NAIA.

4. Respondent in good faith

In conclusion, Atty. Bron stressed that in performing the notarial act for his clients, or moving for reconsideration of the September 6, 2006 RTC order and asking for the postponement of the June 20, 2007 hearing, he had acted in good faith and without the slightest intention to cause prejudice to Balistoy.

Referral to the Integrated Bar of the Philippines

In a resolution²³ dated January 13, 2011, the Court referred the complaint to the IBP for investigation, report, and recommendation. The IBP's Commission on Bar Discipline assigned the case to Commissioner Oliver A. Cachapero.

Comm. Cachapero required the parties to submit position papers on the case. In his submission,²⁴ Balistoy reiterated the allegations in his complaint-affidavit. He insisted that Atty. Bron committed deceit, gross misconduct, malpractice, and clear violations of the law and the rules on notarial practice.

For his part,²⁵ Atty. Bron again asked for a dismissal of the complaint on grounds that (1) his performance of notarial functions in 2003 and January 2004 is not a violation of the notarial rule which took effect on August 1, 2004;²⁶ and (2) the complaint has no basis, it being just a manifestation of Balistoy's obsession to get even with those who, he believed, did him wrong like the Wee brothers who, allegedly, were responsible for his loss of livelihood, and their lawyer, who ruined his life.

Atty. Bron argued that even if the notarization of a document presented by parties whose CTCs had expired is an offense punishable by the rules, he cannot be penalized for his performance of notarial acts before the effectiveness of the rules in August 2004.

Even on the assumption that the notarial rules can be given retroactive effect, Atty. Bron argued, he cannot be made liable for violating the rules; neither is he guilty of gross misconduct in handling the civil case against the Wee brothers. Regarding the CTC issue, Atty. Bron clarified that it was not he, but the secretary in his law office, who indicated the particulars of the subject CTCs in the verification and certification attached to the motion to dismiss the civil case.

On the other hand, in the preparation of the answer which he himself encoded, he asked for the presentation of the current CTCs of the Wee brothers, but no new CTCs were produced; he was thus compelled to accept their old CTCs as he was pressed for time for the filing of the pleading. In any case, he stressed, the CTCs were merely exhibited to him and he had no hand in securing them.

In regard to his alleged misrepresentations in relation to the non-appearance of the defendants at the hearings of the civil case, Atty. Bron maintained that in the two instances when the hearing was postponed, Paul

²³ *Rollo*, p.77.

²⁴ *Id.* at 98-100.

²⁵ *Id.* at 104-120; Position Paper dated September 9, 2011.

²⁶ A.M. No. 02-8-13-SC.

Wee gave him medical certificates which he had no hand in obtaining and the physicians who issued the certificates were not known to him. At any rate, he explained, the reconsideration of the RTC's September 6, 2006 order was addressed to the sound discretion of the court.

The IBP Action

In his report and recommendation²⁷ dated September 26, 2011, Comm. Cachapero recommended that the complaint be dismissed for lack of merit.

While he was convinced that Paul Lee or someone acting in his behalf "rigged" his CTC No. 12249877, particularly the actual place where it was issued, Comm. Cachapero found Balistoy to have failed to adduce evidence that Atty. Bron was aware of his client's fraudulent, deceitful or dishonest act. He also failed to present proof that Atty. Bron had discovered the same fraud or deception and failed to rectify it by advising his client, or if his client refuses, by doing something such as informing the injured person or his counsel so that they may take appropriate steps.²⁸

The same is true with respect to the submission of two medical certificates to the RTC which Balistoy described were falsified. Comm. Cachapero found no clear and convincing proof of Atty. Bron's participation in the supposed falsification.

On May 10, 2013, the IBP Board of Governors (*BOG*) passed Resolution N. XX-2013-565²⁹ adopting and approving Comm. Cachapero's recommendation and dismissing the complaint.

The Petition

Undaunted, Balistoy now asks the Court to set aside the IBP resolution, contending that the IBP BOG erred when it declared that there is no substantial evidence to make Atty. Bron liable for violation of the rules on notarization and for gross misconduct in the practice of law.

Balistoy insists that Atty. Bron prepared, notarized, and filed a motion to dismiss and an answer to the civil case, knowing that the CTCs his clients showed him were fraudulent, thereby consenting to a wrongdoing. Further, Atty. Bron submitted a falsified medical certificate for his client Paul Wee who was supposedly quarantined upon arrival from Malaysia, in compliance with a court order for him to present proof that Paul could not attend the hearing on June 20, 2007.

²⁷ *Id.* at 304-307.

²⁸ Canon 41, Canons of Professional Ethics.

²⁹ *Id.* at 303; Notice of Resolution signed by IBP National Secretary Nasser A. Marohomsalic.

Balistoy submits that the documentary evidence he presented in relation to Atty. Bron's "wrongdoings" is sufficient proof of the charges against him.

Atty. Bron's Comment

In a comment³⁰ dated May 14, 2014, Atty. Bron prays that the petition be dismissed for Balistoy's failure to move for reconsideration of the IBP BOG's resolution dismissing his complaint. He submits that such a failure resulted in the IBP BOG resolution attaining finality.

In support of his position, Atty. Bron cites the concurring opinion³¹ in *Oca v. Atty. Daniel B. Liangco*,³² which in turn cited the Court's June 17 Resolution in B.M. No. 1755 where the Court emphasized the application of Section 12, Rule 139-B of the Rules of Court, thus: *In case a decision is rendered by the BOG [Board of Governors] that exonerates the respondent or imposes a sanction less than suspension or disbarment, the aggrieved party can file a motion for reconsideration within the 15-day period from notice. If the motion is denied, said party can file a petition for review under Rule 45 of the Rules of Court with this Court within fifteen (15) days from notice of the resolution resolving the motion. If no motion for reconsideration is filed, the decision shall become final and executory and a copy of said decision shall be furnished this Court.*

Referral of the Case to the Office of the Bar Confidant (OBC)

On July 28, 2014, the Court referred³³ the case to the OBC for evaluation, report and recommendation. On April 28, 2015, the OBC submitted its report,³⁴ recommending that the disbarment case be dismissed for "insufficient evidence proving Respondent's participation in the fraudulent or deceitful acts."³⁵

The OBC stressed that while Balistoy's discoveries are enough to cast doubt on the validity of the CTC's, they are not conclusive to warrant Atty. Bron's disbarment as Balistoy failed to clearly prove that Atty. Bron was aware of his clients' fraudulent acts at the time he notarized the documents or that he did not take steps to correct the situation.

The Court's Ruling

The petition is without merit.

³⁰ *Id.* 311-315.

³¹ Penned by Justice Presbitero J. Velasco, Jr.

³² A.C. No. 5355, December 13, 2011, 662 SCRA 103, 124,125,

³³ *Rollo*, p. 318; Resolution dated July 28, 2014.

³⁴ *Id.* at 319-321.

³⁵ *Id.* at 321; OBC recommendation.

The IBP BOG committed no reversible error in dismissing the complaint for disbarment against Atty. Bron. As the IBP's Comm. Cachapero and the OBC aptly concluded, Balistoy failed to sufficiently prove that Atty. Bron was aware of his clients' fraudulent and deceitful acts in relation to the presentation of their CTCs, particularly Paul Wee, and the submission of the medical certificates to the RTC, again, with respect to Paul.

Like Comm. Cachapero, the OBC noted that based on the records, Paul's CTC (No. 12249877) might have been tampered with, specifically in regard to the place of its issuance. It stressed that the two CTCs with identical numbers had been issued by the BIR to both the treasurers of Manila and Quezon City, and both certificates were issued to him in Manila and in Quezon City. The OBC considered "this scenario highly improbable" as the assignment of CTC numbers is sequential, which means that no set of numbers is repeated or assigned twice; moreover, the certificates that were supposedly issued to the Wee brothers were discovered to have been issued by the BIR to the treasurer of Taguig, and not to the treasurer of Manila or Quezon City.

We concur with the conclusion of Comm. Cachapero and the OBC that the presentation of the Wee brothers' "tampered" CTCs for the pleadings in the civil case, and Paul's medical certificates in compliance with a court order, do not warrant Atty. Bron's disbarment. There is nothing in the records that clearly indicates that Atty. Bron had knowledge of his clients' fraudulent and deceitful acts with respect to their CTCs, or having known of their defects, he had done nothing to correct their invalidity. The same observation applies to the submission of Paul's medical certificates to the RTC.

Under the circumstances, we find no evidence that Atty. Bron had a hand in the falsification of the Wee Brothers' CTCs or Paul's medical certificates, although we have reservations over his claim that he did not have the opportunity to determine their genuineness. In any event, as the lawyer maintained, his notarization of the motion to dismiss and the answer in the civil case did not give merit to the Wee brothers' defense nor did it weaken Balistoy's case.³⁶ Neither did the submission of Paul's medical certificates constitute a gross misconduct in the practice of law by Atty. Bron as the evidence do not show that he was the one who "procured" the medical certificates or caused Paul's getting sick in Malaysia. In sum, Balistoy failed to discharge the burden of proof in his bid to disbar Atty. Bron.

In *Siao Aba, et al. v. Atty. Salvador De Guzman, Jr., et al.*,³⁷ the Court stressed that "*In disbarment proceedings, the burden of proof rests upon the complainant, and for the Court to exercise its disciplinary powers, the case*

³⁶ *Id.* (page between 13 & 15); Atty. Bron's Position Paper, p. 12.

³⁷ A.C. No. 7649, December 14, 2011, 662 SCRA 361.

against the respondent must be established by clear, convincing and satisfactory proof.” There is no such proof in this case.

Further, In *Ricardo Manubay v. Atty. Gina C. Garcia*,³⁸ the Court held: “A lawyer may be disbarred or suspended for any misconduct showing any fault or deficiency in moral character, probity or good demeanor. The lawyer’s guilt, however, cannot be presumed. Allegation is never equivalent to proof, and a bare charge cannot be equated with liability.” Again, Balistoy failed to provide clear and convincing evidentiary support to his allegations against Atty. Bron.

The foregoing notwithstanding, we find it necessary to impress upon Atty. Bron that as a member of the Bar and a notary public, he could have exercised caution and resourcefulness in notarizing the *jurat* in the pleadings he filed in the civil case by seeing to it that the CTCs presented to him were in order in all respects. That he failed to do so betrays carelessness in his performance of the notarial act and his duty as a lawyer.³⁹ For this, he should be reprimanded.

In the light of the above discussion, we find no need to discuss the question of procedure raised by Atty. Bron.

WHEREFORE, premises considered, the petition is **DENIED** for lack of merit. The complaint for *disbarment* against Atty. Florencio C. Bron is **DISMISSED**. Atty. Bron, however, is **REPRIMANDED** for his lack of due care in notarizing the motion to dismiss and the answer in Civil Case No. 03-105743.

SO ORDERED.



ARTURO D. BRION
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

³⁸

A.C. No. 4700, April 21, 2000.

³⁹

Ramirez v. Ner, A.C. 500, September 27, 1967, 21 SCRA 267.



MARIANO C. DEL CASTILLO
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

(On Leave)
MARVIC M.V.F. LEONEN
Associate Justice