



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**ROBERT VICTOR G.
SEARES, JR.,**

Complainant,

Adm. Case No. 9058

Present:

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, JJ.

- versus -

**ATTY. SANIATA LIWLIWA
V. GONZALES-ALZATE,**
Respondent.

Promulgated:

NOV 14 2012

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DECISION

BERSAMIN, J.:

Atty. Saniata Liwliwa V. Gonzales-Alzate is charged with incompetence and professional negligence, and a violation of the prohibition against representing conflicting interests. Complainant Robert Victor G. Seares, Jr. is her former client.

Seares, Jr. alleges that Atty. Gonzales-Alzate was his legal counsel when he ran for the position of Municipal Mayor of Dolores, Abra in the May 2007 elections; that after he lost by a 50-vote margin to Albert Z. Guzman, she filed in his behalf a "Petition Of Protest *Ad Cautelam*"¹ in the Regional Trial Court (RTC) in Bangued, Abra; that the petition was dismissed for being "fatally defective;"² that several months later, she

¹ *Rollo*, pp. 20-27.

² *Id.* at 9.

insisted on filing a “Petition of Protest” in the RTC, but the petition was also dismissed on the ground that it was already time-barred, and on the further ground of forum shopping because the certification against forum shopping was false; that the RTC declared her as “professionally negligent;”³ that he again ran for Municipal Mayor of Dolores, Abra in the May 2010 elections, and won; that he later learned that his political opponents retained her as their counsel;⁴ that with him barely two months in office, one Carlito Turqueza charged him with abuse of authority, oppression and grave misconduct in the Sangguniang Panlalawigan of Abra;⁵ that she represented Turqueza as counsel;⁶ and that she intentionally made false and hurtful statements in the memorandum she prepared in that administrative case in order to attack him.⁷

Seares, Jr. asserts that Atty. Gonzales-Alzate thereby violated Canon 15, Canon 17 and Canon 18 of the *Code of Professional Responsibility* for negligently handling his election protest, for prosecuting him, her former client, and for uttering false and hurtful allegations against him. Hence, he prays that she should be disbarred.

In her comment,⁸ Atty. Gonzales-Alzate denies the charges of professional negligence and incompetence, and of representing conflicting interests. She states that Seares, Jr. solicited her legal services in the last week of May 2007 because his counsel, Atty. Yasser Lumbos, informed him that he could not go to Abra to handle his *ad cautelam* petition;⁹ that Seares, Jr. and his parents were themselves the ones who decided not anymore to appeal the dismissal of the *ad cautelam* petition despite her advice that an appeal would likely succeed;¹⁰ that she did not convince Seares, Jr. to file the second petition because he and his parents were the ones who insisted on

³ Id. at 3.

⁴ Id. at 4.

⁵ Id. at 44-53.

⁶ Id. at 5.

⁷ Id. at 5-6.

⁸ Id. at 83-132.

⁹ Id. at 84-85.

¹⁰ Id. at 88.

filing the appeal in disregard of the possibly adverse consequences of doing so;¹¹ and that the imputation of negligence against her based on the trial judge's declaration that she submitted a false certification against forum shopping was unwarranted, because all that she did was to make superimpositions in the certification against forum shopping in order to write the correct dates as well as the notarial document number and notarial docket page number for the certification against forum shopping.

Atty. Gonzales-Alzate refutes the charge that she represented conflicting interests by explaining that: (a) she was engaged as an attorney in the May 2010 elections only by Dominic Valera (a candidate for Municipal Mayor of Bangued, Abra) and by President Aquino, neither of whom was Seares, Jr.'s political opponent;¹² (b) Carlito Turqueza used to be a political ally of Seares, Jr.;¹³ (c) she disclosed to Turqueza her having once acted as a counsel of Seares, Jr.;¹⁴ (d) Seares, Jr. did not object to her legal representation of Turqueza;¹⁵ and (e) the 2007 election protest that she handled for Seares, Jr. was unrelated to the administrative complaint that Turqueza brought against Seares, Jr. in 2010.¹⁶

Issues

To be determined are the following issues, namely:

(a) Was Atty. Gonzales-Alzate guilty of professional negligence and incompetence in her handling of Seares, Jr.'s electoral protest in the RTC?

(b) Did Atty. Gonzales-Alzate violate the prohibition against representing conflicting interests when she assisted Turqueza in his administrative case against Seares, Jr., her former client?

¹¹ Id. at 90-91

¹² Id. at 105-106.

¹³ Id. at 121.

¹⁴ Id. at 126.

¹⁵ Id. at 126-127.

¹⁶ Id. at 126.

Ruling

The severity of disbarment or suspension proceedings as the penalty for an attorney's misconduct has always moved the Court to treat the complaint with utmost caution and deliberate circumspection. We have done so because we must wield the power to disbar or suspend on the preservative rather than on the vindictive principle,¹⁷ conformably with our thinking that disbarment or suspension will be condign and appropriate only when there is a clear, convincing, and satisfactory proof of misconduct seriously affecting the professional standing and ethics of respondent attorney as an officer of the Court and as a member of the Bar.¹⁸

Guided by the foregoing tenets, we dismiss the disbarment complaint against Atty. Gonzales-Alzate.

I. Charge of professional negligence and incompetence is unfounded and devoid of substance

Seares, Jr. insists that Atty. Gonzales-Alzate's submission of a "fatally defective" petition in his election protest violated Canon 17¹⁹ and Canon 18²⁰ of the *Code of Professional Responsibility*, claiming that her attaching a "cut-and-paste" certificate of non-forum shopping to his election protest, which the trial court's decision described as "professional negligence," reflected her lack of diligence and competence as an attorney because it was fatal to his protest.

The complaint against Atty. Gonzales-Alzate is unfounded and devoid of substance.

¹⁷ *Gatmaytan, Jr. v. Ilao*, A.C. No. 6086, January 26, 2005, 449 SCRA 269, 270.

¹⁸ *Conlu v. Aredonia, Jr.*, A.C. No. 4955, September 12, 2011, 657 SCRA 367, 377.

¹⁹ Canon 17 — A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

²⁰ Canon 18 — A lawyer shall serve his client with competence and diligence.

For administrative liability under Canon 18 to attach, the negligent act of the attorney should be gross²¹ and inexcusable²² as to lead to a result that was highly prejudicial to the client's interest.²³ Accordingly, the Court has imposed administrative sanctions on a grossly negligent attorney for unreasonable failure to file a required pleading,²⁴ or for unreasonable failure to file an appeal,²⁵ especially when the failure occurred after the attorney moved for several extensions to file the pleading²⁶ and offered several excuses for his nonfeasance.²⁷ The Court has found the attendance of inexcusable negligence when an attorney resorts to a wrong remedy,²⁸ or belatedly files an appeal,²⁹ or inordinately delays the filing of a complaint,³⁰ or fails to attend scheduled court hearings.³¹ Gross misconduct on the part of an attorney is determined from the circumstances of the case, the nature of the act done and the motive that induced the attorney to commit the act.³²

Yet, a reading of the June 8, 2007 order of the RTC (Branch I) in Bangued, Abra shows that the true cause of the dismissal of Seares, Jr.'s "Petition For Protest *Ad Cautelam*" was its prematurity in light of the pendency in the Commission on Elections of his "Petition to Suspend Canvass and Proclamation."³³ The RTC cogently held that "(t)he primary objective of this petition is to pray for the issuance of a Preliminary Precaution Order xxx (but) a prayer for the issuance of the protection of ballot boxes, Books and Lists of Voters and other election paraphernalia in the recently concluded elections is well within the power of the Commission on Elections."³⁴ We see no trace of professional negligence or incompetence

²¹ Agpalo, *Legal and Judicial Ethics* (2009), p. 518.

²² See *Pangasinan Electric Cooperative I (PANELCO I) v. Montemayor*, A.C. No. 5739, September 12, 2007, 533 SCRA 1, 9; *Dizon v. Laurente*, A.C. No. 6597, September 23, 2005, 470 SCRA 595, 601.

²³ Agpalo, *supra*, note 22, citing *In re Atty. C.T. Oliva*, 103 Phil 312 (1958).

²⁴ *Conlu v. Aredonia, Jr.*, *supra*; *Heirs of Tiburcio F. Ballesteros, Sr. v. Apiag*, A.C. No. 5760, September 30, 2005, 471 SCRA 111.

²⁵ *Abiero v. Juanino*, A.C. No. 5302, February 18, 2005, 452 SCRA 1.

²⁶ *Galen v. Paguirigan*, A.C. No. 5558, March 7, 2002, 378 SCRA 527.

²⁷ *Adecera v. Akut*, A.C. No. 4809, May 3, 2006, 489 SCRA 1.

²⁸ *Garcia v. Bala*, A.C. No. 5039, November 25, 2005, 476 SCRA 85; *Dizon v. Laurente*, A.C. No. 6597, September 23, 2005, 470 SCRA 595.

²⁹ *Cheng v. Agravante*, A.C. No. 6183, March 23, 2004, 426 SCRA 42.

³⁰ *Schulz v. Flores*, A.C. No. 4219, December 8, 2003, 417 SCRA 159.

³¹ *Santeco v. Avance*, A.C. No. 5834, December 11, 2003, 418 SCRA 6.

³² Agpalo, *supra* at 520.

³³ *Rollo*, p. 28.

³⁴ *Id.*

on the part of Atty. Gonzales-Alzate in her handling of Seares, Jr.'s protest, especially because she even filed in his behalf a "Motion for Reconsideration,"³⁵ a "Comment on the Court's Dismissal of the Protest *Ad Cautelam*"³⁶ and a "Motion to Withdraw Cash Deposit."³⁷ Besides, her explanation that it was Seares, Jr. himself who decided not to pursue the appeal and who instead requested her to move for the withdrawal of his cash deposit was very plausible.

Also, we cannot find Atty. Gonzales-Alzate professionally negligent in respect of the filing and eventual dismissal of the subsequent "Petition for Protest." The verification and certification against forum shopping attached to the petition contained handwritten superimpositions by Atty. Gonzales-Alzate, but such superimpositions were apparently made only to reflect the corrections of the dates of subscription and the notarial document number and docket number for the verification and certification. If that was all there was to the superimpositions, then there was nothing to support the trial judge's observation that the "cut and paste" method in preparing the verification and certification for non-forum shopping constituted "professional negligence" that proved fatal to her client's protest.³⁸ As a matter of policy, a court-bound document or paper prepared in a slipshod manner affects only the form but not the substance of the submission. Such slipshod preparation, even assuming it to be true, would not deserve administrative censure. Not letting form prevail over substance still remains to be the judicial ideal.

The foregoing notwithstanding, we doubt the sincerity of the charge of professional negligence and incompetence. Had Seares, Jr. been prejudiced by Atty. Gonzales-Alzate's negligent and incompetent handling of his election protest, we wonder why he would denounce her only after

³⁵ Id. at 141-145.

³⁶ Id. at 148-152.

³⁷ Id. at 153.

³⁸ Id. at 39-43.

nearly five years have passed. The motivation for the charge becomes suspect, and the charge is thereby weakened all the more.

II. Charge of representing conflicting interests is bereft of merit

Seares, Jr. next charges Gonzales-Alzate with violating Canon 15 of the *Code of Professional Responsibility* for supposedly representing conflicting interests when she took on the administrative complaint that Turqueza brought against Seares, Jr.

The charge of Seares, Jr. is bereft of merit.

Canon 15 of the *Code of Professional Responsibility* prohibits an attorney from representing a party in a controversy that is either directly or indirectly related to the subject matter of a previous litigation involving another client. Relevantly, Rule 15.01, Rule 15.02 and Rule 15.03 provide:

Rule 15.01—A lawyer, in conferring with a prospective client, shall ascertain as soon as practicable whether the matter would involve a conflict with another client or his own interest, and if so, shall forthwith inform the prospective client.

Rule 15.02—A lawyer shall be bound by the rule on privilege communication in respect of matters disclosed to him by a prospective client.

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.

Atty. Gonzales-Alzate's legal representation of Turqueza neither resulted in her betrayal of the fidelity and loyalty she owed to Seares, Jr. as his former attorney, nor invited the suspicion of unfaithfulness or double dealing while she was performing her duties as an attorney.³⁹ Representing conflicting interests would occur only where the attorney's new engagement

³⁹ *Frias v. Lozada*, A.C. No. 6656, December 13, 2005, 477 SCRA 393, 400.

would require her to use against a former client any confidential information gained from the previous professional relation.⁴⁰ The prohibition did not cover a situation where the subject matter of the present engagement was totally unrelated to the previous engagement of the attorney.⁴¹ To constitute the violation, the attorney should be shown to intentionally use against the former client the confidential information acquired by her during the previous employment.⁴² But a mere allegation of professional misconduct would not suffice to establish the charge, because accusation was not synonymous with guilt.⁴³

As it turned out, the charge of representing conflicting interests leveled against Atty. Gonzales-Alzate was imaginary. The charge was immediately unworthy of serious consideration because it was clear from the start that Atty. Gonzales-Alzate did not take advantage of her previous engagement by Seares, Jr. in her legal representation of Turqueza in the latter's administrative charge against Seares, Jr. There was no indication whatsoever of her having gained any confidential information during her previous engagement by Seares, Jr. that could be used against Seares, Jr. Her engagement by Seares, Jr. related only to the election protest in 2007, but Turqueza's complaint involved Seares, Jr.'s supposedly unlawful interference in ousting Turqueza as the president of the Liga ng mga Barangay of Dolores, Abra in 2010. There is no question that both charges were entirely foreign to one another.

Moreover, the prohibition against representing conflicting interests further necessitated identity of the parties or interests involved in the previous and present engagements. But such identity was not true here. The adverse party in Seares, Jr.'s election protest in 2007 was Albert Z. Guzman, the newly-elected Municipal Mayor of Dolores, Abra, who was not involved in Turqueza's administrative complaint against Seares, Jr. In fact, Turqueza

⁴⁰ *Lim-Santiago v. Sagucio*, A.C. No. 6705, March 31, 2006, 486 SCRA 10, 22.

⁴¹ *Pormento, Sr. v. Pontevedra*, A.C. No. 5128, March 31, 2005, 454 SCRA 167, 177.

⁴² *Id.*

⁴³ *Boyboy v. Yabut, Jr.*, A.C. No. 5225, April 29, 2003, 401 SCRA 622, 627.

was not even a mayoral candidate in Dolores, Abra in the elections held in 2007 and in 2010. The allegation by Seares, Jr. that Atty. Gonzales-Alzate represented his political opponent was not even true because Turqueza was Seares, Jr.'s political ally, as Atty. Gonzales-Alzate stated.

It is notable, too, that Seares, Jr. expressly agreed to Atty. Gonzales-Alzate's legal representation of Turqueza in the latter's administrative case against Seares, Jr. This is borne out by the affidavit of Turqueza that Atty. Gonzales-Alzate submitted,⁴⁴ the relevant portion of which follows:

x x x x

6. When Mayor Robert Victor Seares arrived, he was with a black shirt and jeans and the Vice Governor started the conference asking us if there is a possibility of amicable settlement. Atty. Ma. Saniata Liwliwa Gonzales-Alzate first talked and she raised the fact that in 2007 Mayor Robert Victor Seares was her client in an election protest and she even said how she represented him, and Mayor Seares said "*wen Attorney* (yes Attorney) and the Atty. Gonzales-Alzate said to all of us in the said room that she was before the lawyer of Jr. Seares (Mayor Robert Victor Seares) and now if Jr. will not oppose it, she will be representing me in the said administrative case and this time, she will now be a lawyer against Jr. Seares. The said lawyer was even smiling when she said that and Jr. Seares (Mayor Robert Victor Seares) was normally giggling and smiling and said "*wen attorney, awan ti kuak dita, iyabogaduam latta a, isuna lang a ni kapitan no nya paylang ti kayatna, nayted la ngarud sueldo nan*" (Yes, attorney, I have no concern with that, you lawyer for him if that is so, I don't know what the (barangay) captain would still want, his salary was already released to him.) xxx.

x x x x

The Court emphasizes that an attorney enjoys the presumption of innocence, and whoever initiates administrative proceedings against the attorney bears the burden of proof to establish the allegation of professional misconduct.⁴⁵ When the complainant fails to discharge the burden of proof, the Court has no alternative but to dismiss the charge and absolve the attorney.

⁴⁴ Rollo, pp. 252-254.

⁴⁵ *Rodica v. Lazaro*, A.C. No. 9259, August 23, 2012; *Aba v. De Guzman, Jr.*, A.C. No. 7649, December 14, 2011, 662 SCRA 361, 371.

We find that the administrative complaint against Atty. Gonzales-Alzate was nothing but an attempt to vex, harass and humiliate her as well as to get even with her for representing Turqueza against Seares, Jr. Such an ill-motivated bid to disbar Atty. Gonzales-Alzate trifles with the Court's esteem for the members of the Bar who form one of the solid pillars of Justice in our land. We cannot tolerate it because attorneys are officers of the Court who are placed under our supervision and control due to the law imposing upon them peculiar duties, responsibilities and liabilities.⁴⁶ We exist in a symbiotic environment with them where their duty to defend the courts is reciprocated by our shielding them from vindictive individuals who are deterred by nothing just to strip them of their privilege to practice law.

In *De Leon v. Castelo*,⁴⁷ we underscored the need to shield attorneys as officers of the Court from the mindless assaults intended to vex or harass them in their performance of duty, stating:

According to Justice Cardozo, “xxx the fair fame of a lawyer, however innocent of wrong, is at the mercy of the tongue of ignorance or malice. Reputation in such a calling is a plant of tender growth, and its bloom, once lost, is not easily restored.”

A lawyer's reputation is, indeed, a very fragile object. The Court, whose officer every lawyer is, must shield such fragility from mindless assault by the unscrupulous and the malicious. It can do so, firstly, by quickly cutting down any patently frivolous complaint against a lawyer; and, secondly, by demanding good faith from whoever brings any accusation of unethical conduct. A Bar that is insulated from intimidation and harassment is encouraged to be courageous and fearless, which can then best contribute to the efficient delivery and proper administration of justice.⁴⁸

In *Lim v. Antonio*,⁴⁹ we censured the complainant because revenge and bad faith had motivated him into filing a baseless complaint against an attorney, stressing:

⁴⁶ *Garcia v. Lopez*, A.C. No. 6422, August 28, 2007, 531 SCRA 265, 268.

⁴⁷ A.C. No. 8620, January 12, 2011, 639 SCRA 237.

⁴⁸ *Id.* at 252.

⁴⁹ A.C. No. 1092, October 27, 1983, 125 SCRA 273.

The dignity and honor of the profession require that acts unworthy of membership in the bar should be visited with the appropriate penalty. The charge against respondent is of a serious character. If in fact there was such a violation of the law as charged, he should be duly penalized. It is quite clear, however, that the complaint is unfounded. It was the product of ill-will, the desire of complainant to avenge himself. It certainly was not made in good faith. If it were so, its dismissal would have sufficed. To repeat, such is not the case. As the Report made clear, the complaint arose from a feeling of resentment, even of hate. To allow complainant to trifle with the Court, to make use of the judicial process as an instrument of retaliation, would be a reflection on the rule of law. He should be held to strict accountability, considering that this is his second attempt. Such stubbornness, compounds the gravity of his offense. He appears to be incorrigible. At the very least, therefore, he should be censured.⁵⁰

We have often demonstrated our genuine concern for the members of the Bar, especially those who stand before our courts as ethical advocates of their clients' causes. We definitely do not tolerate unwarranted and malicious assaults against their honor and reputation. The Court issued a stern warning to the complainant attorney in *Dela Victoria v. Orig-Maloloy-on*⁵¹ for filing an unfounded complaint against a clerk of court, and found the complainant attorney in contempt of court and deserving of a ₱2,000.00 fine. But a stiffer penalty of ₱5,000.00 was imposed on the complainant attorneys in *Prieto v. Corpuz*⁵² and *Arnado v. Suarin*⁵³ because their complaints against a judge and a court sheriff, respectively, were found to be baseless.

Considering the circumstances attendant here, the Court deems it sufficient for now to merely admonish Seares, Jr., but sternly warns him that he shall be dealt with more severely should he commit a similar act against a member of the Bar.

WHEREFORE, the Court **DISMISSES** the administrative complaint against Atty. Saniata Liwliwa V. Gonzales-Alzate for utter lack of merit; and **ADMONISHES** Robert Victor G. Seares, Jr. for filing the malicious

⁵⁰ Id. at 277.


⁵¹ A.M. No.P-07-2343, August 14, 2007, 530 SCRA 1.

⁵² A.C. No. 6517, December 6, 2006, 510 SCRA 1.

⁵³ A.M. No.P-05-2059, August 19, 2005, 467 SCRA 402.


complaint, **WITH STERN WARNING** that a repetition shall be dealt with more severely as indirect contempt of the Court.

SO ORDERED.




LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



BIENVENIDO L. REYES
Associate Justice