



**Republic of the Philippines
Supreme Court
Manila**

SECOND DIVISION

**JOSEPHINE L. OROLA, MYRNA
L. OROLA, MANUEL L. OROLA,
MARY ANGELYN OROLA-
BELARGA, MARJORIE MELBA
OROLA-CALIP, and KAREN
OROLA,**

Complainants,

- versus -

ATTY. JOSEPH ADOR RAMOS,
Respondent.

A.C. No. 9860

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, *JJ.*

Promulgated:

SEP 11 2013

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RESOLUTION

PERLAS-BERNABE, *J.*:

For the Court's resolution is a disbarment complaint¹ filed against respondent Atty. Joseph Ador Ramos (respondent) for his violation of Rule 15.03, Canon 15 (Rule 15.03) of the Code of Professional Responsibility (Code) and Section 20(e), Rule 138 of the Rules of Court (Rules).

The Facts

Complainants Josephine, Myrna, Manuel, (all surnamed Orola), Mary Angelyn Orola-Belarga (Mary Angelyn), and Marjorie Melba Orola-Calip (Marjorie) are the children of the late Trinidad Laserna-Orola (Trinidad), married to Emilio Q. Orola (Emilio).²

¹ *Rollo*, pp. 1-7.

² *Id.* at 1.

Meanwhile, complainant Karen Orola (Karen) is the daughter of Maricar Alba-Orola (Maricar) and Antonio L. Orola (Antonio), the deceased brother of the above-named complainants and the son of Emilio.³

In the settlement of Trinidad's estate, pending before the Regional Trial Court of Roxas City, Branch 18 (RTC) and docketed as Special Proceeding No. V-3639, the parties were represented by the following: (a) Atty. Roy M. Villa (Atty. Villa) as counsel for and in behalf of Josephine, Myrna, Manuel, Mary Angelyn, and Marjorie (Heirs of Trinidad); (b) Atty. Ely F. Azarraga, Jr. (Atty. Azarraga) as counsel for and in behalf of Maricar, Karen, and the other heirs⁴ of the late Antonio (Heirs of Antonio), **with respondent as collaborating counsel**; and (c) Atty. Aquiliana Brotarlo as counsel for and in behalf of Emilio, the initially appointed administrator of Trinidad's estate. In the course of the proceedings, the Heirs of Trinidad and the Heirs of Antonio moved for the removal of Emilio as administrator and, in his stead, sought the appointment of the latter's son, Manuel Orola, which the RTC granted in an Order⁵ dated September 20, 2007 (RTC Order). Subsequently, or on October 10, 2007, respondent filed an Entry of Appearance as collaborating counsel for Emilio in the same case and moved for the reconsideration of the RTC Order.⁶

Due to the respondent's new engagement, complainants filed the instant disbarment complaint before the Integrated Bar of the Philippines (IBP), claiming that he violated: (a) Rule 15.03 of the Code, as he undertook to represent conflicting interests in the subject case;⁷ and (b) Section 20(e), Rule 138 of the Rules, as he breached the trust and confidence reposed upon him by his clients, the Heirs of Antonio.⁸ Complainants further claimed that while Maricar, the surviving spouse of Antonio and the mother of Karen, consented to the withdrawal of respondent's appearance, the same was obtained only on October 18, 2007, or after he had already entered his appearance for Emilio on October 10, 2007.⁹ In this accord, respondent failed to disclose such fact to all the affected heirs and, as such, was not able to obtain their written consent as required under the Rules.¹⁰

For his part, respondent refuted the abovementioned charges, contending that he never appeared as counsel for the Heirs of Trinidad or for the Heirs of Antonio. He pointed out that the records of the case readily show that the Heirs of Trinidad were represented by Atty. Villa, while the

³ Id.

⁴ See id. at 40.

⁵ Id. at 10-16. Penned by Presiding Judge Charlito F. Fantilanan.

⁶ Id. at 17-22.

⁷ Id. at 3.

⁸ Id. at 4.

⁹ Id. at 2-3.

¹⁰ Id. at 3.

Heirs of Antonio were exclusively represented by Atty. Azarraga.¹¹ He averred that he only accommodated Maricar's request to temporarily appear on her behalf as their counsel of record could not attend the scheduled June 16 and July 14, 2006 hearings and that his appearances thereat were free of charge.¹² In fact, he obtained Maricar's permission for him to withdraw from the case as no further communications transpired after these two hearings. Likewise, he consulted Maricar before he undertook to represent Emilio in the same case.¹³ He added that he had no knowledge of the fact that the late Antonio had other heirs and, in this vein, asserted that no information was disclosed to him by Maricar or their counsel of record at any instance.¹⁴ Finally, he clarified that his representation for Emilio in the subject case was more of a mediator, rather than a litigator,¹⁵ and that since no settlement was forged between the parties, he formally withdrew his appearance on December 6, 2007.¹⁶ In support of his assertions, respondent submitted the affidavits of Maricar¹⁷ and Atty. Azarraga¹⁸ relative to his limited appearance and his consultation with Maricar prior to his engagement as counsel for Emilio.

The Recommendation and Action of the IBP

In the Report and Recommendation¹⁹ dated September 15, 2008 submitted by IBP Investigating Commissioner Jose I. De La Rama, Jr. (Investigating Commissioner), respondent was found guilty of representing conflicting interests only with respect to Karen as the records of the case show that he never acted as counsel for the other complainants. The Investigating Commissioner observed that while respondent's withdrawal of appearance was with the express conformity of Maricar, respondent nonetheless failed to obtain the consent of Karen, who was already of age and one of the Heirs of Antonio, as mandated under Rule 15.03 of the Code.²⁰

On the other hand, the Investigating Commissioner held that there was no violation of Section 20, Rule 138 of the Rules as complainants themselves admitted that respondent "did not acquire confidential information from his former client nor did he use against the latter any knowledge obtained in the course of his previous employment."²¹ Considering that it was respondent's first offense, the Investigating Commissioner found the imposition of disbarment too harsh a penalty and,

¹¹ Id. at 39.

¹² Id.

¹³ Id. at 40-41.

¹⁴ Id. at 40.

¹⁵ Id. at 39-41.

¹⁶ Id. at 42.

¹⁷ Id. at 47.

¹⁸ Id. at 50.

¹⁹ Id. at 246-257.

²⁰ Id. at 254-255.

²¹ Id. at 254.

instead, recommended that he be severely reprimanded for his act with warning that a repetition of the same or similar acts would be dealt with more severely.²²

The IBP Board of Governors adopted and approved with modification the aforementioned report in its Resolution No. XVIII-2008-641²³ dated December 11, 2008 (Resolution No. XVIII-2008-641), finding the same to be fully supported by the evidence on record and the applicable laws and rules but imposed against respondent the penalty of six (6) months suspension from the practice of law.

Respondent's motion for reconsideration²⁴ was denied in IBP Resolution No. XX-2013-17²⁵ dated January 3, 2013.

The Issue Before the Court

The sole issue in this case is whether or not respondent is guilty of representing conflicting interests in violation of Rule 15.03 of the Code.

The Court's Ruling

The Court concurs with the IBP's finding that respondent violated Rule 15.03 of the Code, but reduced the recommended period of suspension to three (3) months.

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. (Emphasis supplied)

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.²⁶ It behooves lawyers not only to keep inviolate the

²² Id. at 257.

²³ Id. at 245.

²⁴ Id. at 258-262. Dated April 20, 2009.

²⁵ Id. at 276.

²⁶ *Quiambao v. Bamba*, A.C. No. 6708, August 25, 2005, 468 SCRA 1, 9-10. (Citation omitted)

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.²⁷ In *Hornilla v. Salunat*²⁸ (*Hornilla*), the Court explained 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.²⁹ (Emphasis supplied; citations omitted)

It must, however, be noted that a lawyer's immutable duty to a former client does not cover transactions that occurred beyond the lawyer's employment with the client. The intent of the law is to impose upon the lawyer the duty to protect the client's interests only on matters that he previously handled for the former client and not for matters that arose after the lawyer-client relationship has terminated.³⁰

Applying the above-stated principles, the Court agrees with the IBP's finding that respondent represented conflicting interests and, perforce, must be held administratively liable therefor.

Records reveal that respondent was the collaborating counsel not only for Maricar as claimed by him, but for all the Heirs of Antonio in Special Proceeding No. V-3639. In the course thereof, the Heirs of Trinidad and the Heirs of Antonio succeeded in removing Emilio as administrator for having committed acts prejudicial to their interests. Hence, when respondent proceeded to represent Emilio for the purpose of seeking his reinstatement as administrator in the same case, he clearly worked against the very interest of the Heirs of Antonio – particularly, Karen – in violation of the above-stated rule.

²⁷ Id. at 10.

²⁸ A.C. No. 5804, July 1, 2003, 405 SCRA 220.

²⁹ Id. at 223.

³⁰ *Palm v. Iledan, Jr.*, A.C. No. 8242, October 2, 2009, 602 SCRA 12, 20.

Respondent's justification that no confidential information was relayed to him cannot fully exculpate him for the charges against him since the rule on conflict of interests, as enunciated in *Hornilla*, 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. That respondent's previous appearances for and in behalf of the Heirs of Antonio was only a friendly accommodation cannot equally be given any credence since the aforesaid rule holds even if the inconsistency is remote or merely probable or even if the lawyer has acted in good faith and with no intention to represent conflicting interests.³¹

Neither can respondent's asseveration that his engagement by Emilio was more of a mediator than a litigator and for the purpose of forging a settlement among the family members render the rule inoperative. In fact, even on that assertion, his conduct is likewise improper since Rule 15.04,³² Canon 15 of the Code similarly requires the lawyer to obtain the written consent of all concerned before he may act as mediator, conciliator or arbitrator in settling disputes. Irrefragably, respondent failed in this respect as the records show that respondent was remiss in his duty to make a full disclosure of his impending engagement as Emilio's counsel to all the Heirs of Antonio – particularly, Karen – and equally secure their express written consent before consummating the same. Besides, it must be pointed out that a lawyer who acts as such in settling a dispute cannot represent any of the parties to it.³³ Accordingly, for respondent's violation of the aforestated rules, disciplinary sanction is warranted.

In this case, the penalty recommended by the Investigating Commissioner was increased from severe reprimand to a suspension of six (6) months by the IBP Board of Governors in its Resolution No. XVIII-2008-641. However, the Court observes that the said resolution is bereft of any explanation showing the bases of the IBP Board of Governors' modification; as such, it contravened Section 12(a), Rule 139-B of the Rules which specifically mandates that "[t]he decision of the Board upon such review shall be in writing and shall clearly and distinctly state the facts and the reasons on which it is based."³⁴ Verily, the Court looks with disfavor the change in the recommended penalty without any ample justification therefor. To this end, the Court is wont to remind the IBP Board of Governors of the

³¹ *Heirs of Falame v. Baguio*, A.C. No. 6876, March 7, 2008, 548 SCRA 1, 12-13.

³² Rule 15.04 - A lawyer may, with the written consent of all concerned, act as mediator, conciliator or arbitrator in settling disputes.

³³ *Lim, Jr. v. Villarosa*, A.C. No. 5303, June 15, 2006, 490 SCRA 494, 513.

³⁴ SEC. 12. *Review and decision by the Board of Governors.* – (a) Every case heard by an investigator shall be reviewed by the IBP Board of Governors upon the record and evidence transmitted to it by the Investigator with his report. The decision of the Board upon such review shall be in writing and shall clearly and distinctly state the facts and the reasons on which it is based. It shall be promulgated within a period not exceeding thirty (30) days from the next meeting of the Board following the submittal of the Investigator's report.

importance of the requirement to announce in plain terms its legal reasoning, since the requirement that its decision in disciplinary proceedings must state the facts and the reasons on which the same is based is akin to what is required of courts in promulgating their decisions. The reasons for handing down a penalty occupy no lesser station than any other portion of the *ratio*.³⁵

In the foregoing light, the Court finds the penalty of suspension from the practice of law for a period of three (3) months to be more appropriate taking into consideration the following factors: first, respondent is a first time offender; second, it is undisputed that respondent merely accommodated Maricar's request out of *gratis* to temporarily represent her only during the June 16 and July 14, 2006 hearings due to her lawyer's unavailability; third, it is likewise undisputed that respondent had no knowledge that the late Antonio had any other heirs aside from Maricar whose consent he actually acquired (albeit shortly after his first appearance as counsel for and in behalf of Emilio), hence, it can be said that he acted in good faith; and fourth, complainants admit that respondent did not acquire confidential information from the Heirs of Antonio nor did he use against them any knowledge obtained in the course of his previous employment, hence, the said heirs were not in any manner prejudiced by his subsequent engagement with Emilio. Notably, in *Ilusorio-Bildner v. Lokin, Jr.*,³⁶ the Court similarly imposed the penalty of suspension from the practice of law for a period of three months to the counsel therein who represented parties whose interests are hostile to his other clients in another case.

WHEREFORE, respondent Atty. Joseph Ador Ramos 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 three (3) months, with **WARNING** that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.


ESTELA M. PERLAS-BERNABE

Associate Justice

WE CONCUR:



ANTONIO T. CARPIO


Associate Justice

Chairperson

³⁵ *Quiambao v. Bamba*, supra note 26, at 15-16.

³⁶ See A.C. No. 6554, December 14, 2005, 477 SCRA 634, 647.


ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice