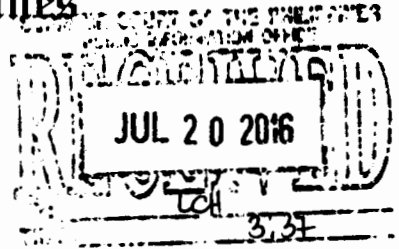




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

**SPOUSES LAMBERTO V.
 EUSTAQUIO AND GLORIA J.
 EUSTAQUIO,**

Complainants,

- versus -

ATTY. EDGAR R. NAVALES,
 Respondent.

A.C. No. 10465

Present:

SERENO, C. J.,*
 LEONARDO-DE CASTRO,
 Acting Chairperson,**
 BERSAMIN,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

Promulgated:

JUN 08 2016

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DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is a Complaint¹ dated January 16, 2010 filed by complainants spouses Lamberto V. Eustaquio and Gloria J. Eustaquio (complainants) against respondent Atty. Edgar R. Navales (respondent), praying that respondent be meted the appropriate disciplinary sanction/s for failing to pay rent and to vacate the apartment he is leasing despite demands.

The Facts

Complainants alleged that they are the owners of an apartment located at 4-D Cavite St., Barangay Paltok, SFDM, Quezon City, which they leased to respondent under a Contract of Lease² dated April 16, 2005. However, respondent violated the terms and conditions of the aforesaid contract when he failed to pay monthly rentals in the aggregate amount of ₱139,000.00 and to vacate the leased premises despite repeated oral and written demands.³ This prompted complainants to refer the matter to barangay conciliation,

* On leave.
 ** Per Special Order No. 2354 dated June 2, 2016.
¹ *Rollo*, pp. 2-4.
² *Id.* at 10-12.
³ See *id.* at 2.

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where the parties agreed on an amicable settlement, whereby respondent promised to pay complainants the amount of ₱131,000.00 on July 16, 2009 and to vacate the leased premises on July 31, 2009. Respondent eventually renege^d on his obligations under the settlement agreement, constraining complainants to file an ejectment case⁴ against him before the Metropolitan Trial Court (MeTC) of Quezon City, Branch 40 (MeTC-Br. 40), docketed as Civil Case No. 09-39689. Further, complainants filed the instant case before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP), contending that respondent miserably failed to exemplify honesty, integrity, and respect for the laws when he failed and refused to fulfil his obligations to complainants.⁵

Despite notices,⁶ respondent failed to file his Answer, to appear in the mandatory conference, and to file his position paper.

Meanwhile, the MeTC-Br. 40 promulgated a Decision⁷ dated December 8, 2009 in the ejectment case in favor of the complainants and, accordingly, ordered respondent to vacate the leased premises and to pay complainants the following amounts: (a) ₱139,000.00 representing unpaid rentals as of July 2009; (b) further rental payments of ₱8,000.00 per month starting August 17, 2009 until the actual surrender of said premises to complainants; (c) attorney's fees in the amount of ₱20,000.00; and (d) cost of suit.⁸

During the pendency of the case, respondent was appointed as an Assistant City Public Prosecutor of Quezon City.⁹

The IBP's Report and Recommendation

In a Report and Recommendation¹⁰ dated February 8, 2011, the IBP Investigating Commissioner found respondent administratively liable and, accordingly, recommended that he be meted the penalty of suspension from the practice of law for a period of six (6) months, with a stern warning that a repetition of the same shall be dealt with more severely.¹¹ It was found that respondent displayed unwarranted obstinacy in evading payment of his debts, as highlighted by his numerous promises to pay which he eventually renege^d on. In this light, the IBP Investigating Commissioner concluded that respondent violated Rules 1.01 and 1.02, Canon 1 of the Code of Professional Responsibility (CPR) and, thus, should be held administratively liable.¹²

⁴ See Complaint dated August 25, 2009; *id.* at 6-8.

⁵ See *id.* at 3. See also *id.* at 71-72.

⁶ See Order dated January 25, 2010 (*id.* at 26), Notice of Mandatory Conference dated August 6, 2010 (*id.* at 29), and Order dated September 3, 2010 (*id.* at 31).

⁷ *Id.* at 60-64. Penned by Assisting Judge Mario B. Capellan.

⁸ See *id.* at 64.

⁹ See *id.* at 71.

¹⁰ *Id.* at 71-74. Signed by Commissioner Salvador B. Hababag.

¹¹ *Id.* at 74.

¹² See *id.* at 73-74.

In a Resolution¹³ dated September 28, 2013, the IBP Board of Governors adopted and approved the aforesaid report and recommendation. Thereafter, the Court issued a Resolution¹⁴ dated September 15, 2014 adopting and approving the findings of fact, conclusions of law, and recommendations of the IBP and, accordingly, meted respondent the penalty of suspension from the practice of law for a period of six (6) months, with a stern warning that a repetition of the same shall be dealt with more severely.

As per Registry Return Card No. 957,¹⁵ respondent received the Court's order of suspension on October 16, 2014.¹⁶ Records are bereft of any showing that respondent filed a motion for reconsideration and, thus, the Court's order of suspension against him became final and executory.

Events Following the Finality of Respondent's Suspension

On September 7, 2015 and upon request from the Office of the Court Administrator (OCA), a Certification¹⁷ was issued by the MeTC of Quezon City, Branch 38 (MeTC-Br. 38) stating that respondent has been appearing before it as an Assistant City Prosecutor since September 2014 up to the present. In connection with this, the MeTC-Br. 38 wrote a letter¹⁸ dated September 8, 2015 to the Office of the Bar Confidant (OBC), inquiring about the details of respondent's suspension from the practice of law. In view of the foregoing, the OCA indorsed the matter to the OBC for appropriate action.¹⁹

Despite due notice from the Court,²⁰ respondent failed to file his comment to the aforementioned Certification issued by MeTC-Br. 38.

The OBC's Report and Recommendation

In a Report and Recommendation²¹ dated February 10, 2016, the OBC recommended that respondent be further suspended from the practice of law and from holding the position of Assistant City Prosecutor for a period of six (6) months, thus, increasing his total suspension period to one (1) year, effective immediately.²² It found that since respondent received the order of suspension against him on October 16, 2014 and did not move for its reconsideration, such order attained finality after the lapse of 15 days therefrom. As such, he should have already served his suspension. In this

¹³ See Notice of Resolution No. XX-2013-79 signed by National Secretary Nasser A. Marohomsalic; id. at 70, including dorsal portion.

¹⁴ Id. at 77-78. Signed by Division Clerk of Court Edgar O. Aricheta.

¹⁵ Id. at 77, including dorsal portion.

¹⁶ See id. at 80.

¹⁷ Id. at 82. Signed by Officer-in-Charge Marlowe T. Corrales.

¹⁸ Id. at 83.

¹⁹ See 1st Indorsement dated September 8, 2015 signed by Court Administrator Jose Midas P. Marquez; id. at 81.

²⁰ See Resolution dated October 19, 2015; id. at 85-86.

²¹ Id. at 87-88.

²² Id. at 88.

relation, the OBC ratiocinated that since respondent was holding a position which requires him to use and apply his knowledge in legal matters and practice of law, *i.e.*, Assistant City Prosecutor, he should have ceased and desisted from acting as such. However, as per the Certification dated September 7, 2015 of the MeTC-Br. 38, respondent never complied with his order of suspension. In view thereof, the OBC recommended to increase respondent's suspension from the practice of law and from holding the position of Assistant City Prosecutor for an additional period of six (6) months.²³

The Issue Before the Court

The sole issue presented for the Court's resolution is whether or not respondent should be held administratively liable.

The Court's Ruling

After due consideration, the Court sustains the findings and recommendation of the OBC and adopts the same in its entirety.

It is settled that the Court has the exclusive jurisdiction to regulate the practice of law. As such, when the Court orders a lawyer suspended from the practice of law, he must desist from performing all functions requiring the application of legal knowledge within the period of suspension. This includes desisting from holding a position in government requiring the authority to practice law.²⁴ The practice of law embraces any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training, and experience. It includes performing acts which are characteristic of the legal profession, or rendering any kind of service which requires the use in any degree of legal knowledge or skill.²⁵

In the instant case, the OBC correctly pointed out that the Court's Resolution²⁶ dated September 15, 2014 suspending respondent from the practice of law for a period of six (6) months became final and executory fifteen (15) days after respondent received a copy of the same on October 16, 2014. Thus, respondent should have already commenced serving his six (6)-month suspension. However, respondent never heeded the suspension order against him as he continued discharging his functions as an Assistant City Prosecutor for Quezon City, as evidenced by the Certification²⁷ issued by MeTC-Br. 38 stating that respondent has been appearing before it as an Assistant City Prosecutor since September 2014 up to the present.

²³ See *id.* at 87-88.

²⁴ *Lingan v. Calubaquib*, A.C. No. 5377, June 30, 2014, 727 SCRA 341, 344.

²⁵ See *Feliciano v. Bautista-Lozada*, A.C. No. 7593, March 11, 2015; citation omitted.

²⁶ *Rollo*, pp. 77-78.

²⁷ *Id.* at 82.

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Section 9 of Republic Act No. (RA) 10071,²⁸ otherwise known as the “Prosecution Service Act of 2010,” provides the powers and functions of prosecutors, to wit:

Section 9. Powers and Functions of the Provincial Prosecutor or City Prosecutor. – The provincial prosecutor or the city prosecutor shall:

(a) Be the law officer of the province or the city officer, as the case may be;

(b) Investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of penal laws and ordinances within their respective jurisdictions, and have the necessary information or complaint prepared or made and filed against the persons accused. In the conduct of such investigations he/she or any of his/her assistants shall receive the statements under oath or take oral evidence of witnesses, and for this purpose may by *subpoena* summon witnesses to appear and testify under oath before him/her, and the attendance or evidence of an absent or recalcitrant witness may be enforced by application to any trial court; and

(c) Have charge of the prosecution of all crimes, misdemeanors and violations of city or municipal ordinances in the courts at the province or city and therein discharge all the duties incident to the institution of criminal actions, subject to the provisions of the second paragraph of Section 5 hereof.

Verily, a plain reading of the foregoing provision evidently shows that the government office of Assistant City Prosecutor requires its holder to be authorized to practice law. Hence, respondent’s continuous discharge of his functions as such constitutes practice of law and, thus, a clear defiance of the Court’s order of suspension against him.

Under Section 27, Rule 138 of the Rules of Court, willful disobedience to any lawful order of a superior court and wilfully appearing as an attorney without authority to do so – acts which respondent is guilty of in this case – are grounds for disbarment or suspension from the practice of law, to wit:

Section 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. – **A member of the bar may be disbarred 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 admission to practice, or **for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully 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

²⁸ Entitled “AN ACT STRENGTHENING AND RATIONALIZING THE NATIONAL PROSECUTION SERVICE” (April 8, 2010).

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personally or through paid agents or brokers, constitutes malpractice.
(Emphases and underscoring supplied)


Anent the proper penalty to be imposed on respondent, the Court, in *Lingan v. Calubaquib*,²⁹ *Feliciano v. Bautista-Lozada*,³⁰ and *Ibana-Andrade v. Paita-Moya*,³¹ consistently imposed an additional six (6)-month suspension from the practice of law to erring lawyers who practiced law despite being earlier suspended. Under the foregoing circumstances, the Court deems it proper to mete the same penalty to respondent in addition to the earlier six (6)-month suspension already imposed on him, as recommended by the OBC. Thus, respondent's total period of suspension from the practice of law – and necessarily, from the holding the position of Assistant City Prosecutor as well – should be fixed at one (1) year.

As a final note, it must be stressed that “[d]isbarment of lawyers is a proceeding that aims to purge the law profession of unworthy members of the bar. It is intended to preserve the nobility and honor of the legal profession. While the Supreme Court has the plenary power to discipline erring lawyers through this kind of proceedings, it does so in the most vigilant manner so as not to frustrate its preservative principle. The Court, in the exercise of its sound judicial discretion, is inclined to impose a less severe punishment if, through it, the end desire of reforming the errant lawyer is possible.”³²

WHEREFORE, respondent Atty. Edgar R. Navales is found **GUILTY** of violating Section 27, Rule 138 of the Rules of Court. Accordingly, he is **SUSPENDED** from the practice of law for an additional period of six (6) months from his original six (6)-month suspension, totalling one (1) year from service of this Decision, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

Let a copy of this Decision be furnished the Office of the Bar Confidant to be appended to respondent's personal record as a member of the Bar. Likewise, let copies of the same be served on the Integrated Bar of the Philippines, the Department of Justice, and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

²⁹ Supra note 24.

³⁰ Supra note 25.

³¹ See A.C. No. 8313, July 14, 2015.

³² See *Feliciano v. Bautista-Lozada*, supra note 25, citing *Arma v. Montevilla*, 581 Phil. 1, 8 (2008).

WE CONCUR:

On Leave
MARIA LOURDES P. A. SERENO
Chief Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice