



Republic of the Philippines  
Supreme Court  
Office of the Court Administrator  
Manila

**OCA CIRCULAR NO. 11-2005**

**TO : THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC ATTORNEY'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES**

**SUBJECT : SUSPENSION FROM THE PRACTICE OF LAW FOR SIX (6) MONTHS OF ATTY. EUGENIO V. VILLANUEVA, JR.**

For the information and guidance of all concerned, quoted hereunder is the Resolution of the First Division dated July 23, 2004 in Administrative Case No. 1954, entitled "Napoleon R. Gonzaga, et al. vs. Atty. Eugenio V. Villanueva, Jr., to wit:

"For final resolution by this Court in this case is the complaint for disbarment filed by complainants Napoleon R. Gonzaga and Ricardo R. Gonzaga against respondent Atty. Eugenio V. Villanueva, Jr. The grounds alleged therein are deceit, malpractice, gross misconduct, and violation of oath of office.

At the outset, we note that this is a 25-year-old case, having been filed by the complainants as early as 6 October 1978. In March 1979, this Court referred it to the Office of the Solicitor General (OSG) for investigation, report, and recommendation.<sup>1</sup> The case remained pending before the OSG for several years. The parties submitted their pleadings and manifestations. Motions for postponement were attributed mostly to the ill health of both respondent<sup>2</sup> and complainant Napoleon Gonzaga.<sup>3</sup> The latter even went at some time to the United States of America (USA) for medical treatment. In July 1986, Assistant Solicitor General Zoilo Andin directed the parties to manifest whether they were still interested in pursuing the case which had been lying dormant for sometime.<sup>4</sup> The complainants manifested in the affirmative and

<sup>1</sup> Rollo, vol. 1, 109.

<sup>2</sup> *Id.*, vol. 4, 26, 34, 47, 54, 56-57.

<sup>3</sup> *Id.*, vol. 4, 24.

<sup>4</sup> *Id.*, vol. 4, 1.

moved that the hearing be set sometime in November 1986.<sup>5</sup> As to what transpired thereafter until 1991 is not extant from the records.

In 1991, the case was forwarded to the Integrated Bar (IBP) of the Philippines for continuation of the hearings.<sup>6</sup> At that time, the respondent was already residing in the USA.<sup>7</sup> Again, motions for postponements due to various reasons, including the failing health of the parties, were filed.

The complainants claimed that they did not pursue the case for sometime because of Christian charity. They wanted to give the respondent a chance to have a complete medical treatment.<sup>8</sup> For his part, the respondent alleged that it was complainants' gross negligence and patent lack of interest that caused the delay in the proceedings.<sup>9</sup>

On 9 November 1998, because of the length of time that the case has been pending, Commissioner Agustinus V. Gonzaga of the IBP Commission on Bar Discipline directed the parties to manifest whether they were still willing to continue with the case.<sup>10</sup>

In the *interim*, both complainants died; hence, their counsel manifested to just make a formal offer of exhibits and rest their case.<sup>11</sup> On the other hand, the respondent failed to confer with his counsel for years, and his whereabouts were not known. Thus, his counsel, the Ponce, Enrile, Reyes and Manalastas Law Office, withdrew its representation in the case.<sup>12</sup> That was the last of what was heard from the respondent and his counsel.

After twelve years that the case was in its office, the IBP finally issued a resolution on the case in September 2003.

Now, this Court shall end this 25-year-old dispute.

In the verified complaint filed before this Court on 6 October 1978, the complainants alleged that on 30 July 1977, their parents were brutally murdered at Forbes Park, Makati, Rizal (now Makati City). Immediately after the incident, their sister who was wounded, was confined at the Makati Medical Center. Respondent Atty. Eugenio Villanueva, Jr., came to the Makati Medical Center, ostensibly to condole with them. At that time, the murder of their parents was under investigation by the Makati police. Representing himself to be a relative, the respondent volunteered his assistance in the criminal investigation by accompanying the complainants to the Makati Police Department. Feeling grateful of respondent's

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<sup>5</sup> *Id.*, vol. 4, 6.

<sup>6</sup> *Id.*, vol. 5, 1.

<sup>7</sup> *Id.*, vol. 5, 6.

<sup>8</sup> *Id.*, vol. 5, 149-150.

<sup>9</sup> *Id.*, vol. 5, 165-167.

<sup>10</sup> *Id.*, vol. 6, 1.

<sup>11</sup> Rollo, vol. 6, 12-13.

<sup>12</sup> *Id.*, vol. 6, 18-20.

apparent solicitude, the complainants decided to formally request the former's services as legal counsel in the criminal case.

On the afternoon of 1 August 1977, while the complainants were busy attending to many people inside the San Antonio Church in Forbes Park, Makati, for the *misa requiem*, the respondent came and handed them a half-page piece of paper for their signatures and told them that it was his authority to appear in the criminal case. Without scrutinizing the contents of the half-page paper and trusting respondent's integrity, the complainants hurriedly signed the piece of paper so they could continue to arrange for the *misa requiem*.

On 2 August 1977, upon their arrival in Bacolod City, and even before the burial of their parents, the complainants hired the services of Atty. William Mirano to institute in court the intestate proceedings on the estate of their deceased parents. Three days after, Atty. Mirano filed the corresponding petition before the then Court of First Instance of Negros Occidental. The petition was docketed as Special Proceedings No. 13298.

Several days after, the respondent filed a similar petition without complainants' knowledge and consent and despite knowledge of the filing of the petition by Atty. Mirano. The petition contained egregious errors particularly on the ages and residences of the heirs. It was signed and verified by the respondent himself. Not one of the heirs signed the petition.

The complainants then confronted the respondent about the filing of the second petition. To their shock, surprise, and disbelief, the respondent showed them the authority dated 1 August 1977. With grave abuse of their trust and confidence, he caused the insertion on the half-page piece of paper his authority to represent them in the intestate proceedings. The document was purportedly notarized by Atty. Crisanto P. Realubin even if they never appeared before him.

At first, the respondent blamed his secretary for making the insertion. However, when the story sounded incredible, he declared that "as a smart lawyer he thought of things ahead of time."

In order not to embarrass the respondent, the complainants made it clear to the former that his authority in the intestate case would only be to help their counsel of record secure the order appointing them as co-special administrators.

On 10 August 1977, Judge Oscar Victoriano of the intestate court appointed the complainants as co-special administrators. Despite such appointment and the termination of his authority to represent them, the respondent stubbornly insisted in appearing in

the intestate proceedings.<sup>13</sup> This compelled the complainants to file a motion for the termination of his services in the intestate court.<sup>14</sup>

On 2 January 1979, the respondent simultaneously filed with this Court both his Answer and a motion to dismiss. In his Answer, the respondent declared that he represented the complainants in the criminal case of their parents and in the intestate proceedings by virtue of an oral authority which was put in writing on 1 August 1977. The document conferring him authority was not written on a half-page paper but on a long, legal size bond paper. The National Bureau of Investigation (NBI) found the document to be genuine, authentic, and without any alteration or addition, as lines 1 to 18 were typed only in one setting. He denied complainants' allegation of being an ambulance chaser. On the contrary, the complainants sought for his services on 30 July 1977, aware that the three killers of their parents were highly connected and that the respondent was the lawyer of their parents in several cases in the lower courts and the Supreme Court since 1967 until 1976. Complainants' Joint Manifestation<sup>15</sup> dated 9 August 1977 praying for their appointment as co-administrators, which was granted by the court on 10 August 1977,<sup>16</sup> confirmed his authority to appear before the intestate court. Further, during the hearing on 30 September 1977, the complainants admitted that the respondent was authorized to appear as private prosecutor in the criminal case in Pasig City and to file administration proceedings.

Anent the notarization of the 1 August 1977 document the respondent alleged that the complainants appeared before Atty. Realubin for the acknowledgment of that document, and that any irregularity on the notarial register is the responsibility of the notary public and could not destroy the authenticity of the document.<sup>17</sup>

In his Report and Recommendation<sup>18</sup> dated 9 September 2003, IBP's Investigating Commissioner Atty. Leland R. Villadolid, Jr., concluded that the respondent employed deceit to cause complainants to sign the authority dated 1 August 1977. In addition, the respondent's continued appearance in the intestate court in spite of the express revocation of his authority to appear therein is unbecoming a member of the Bar. He, thus, recommended that the respondent be suspended for a period of at least two years and be imposed a fine of at least ₱5,000 with a warning that a repetition of a similar act in the future will be severely dealt with.

In its Resolution No. XVI-2003-171 of 27 September 2003, the IBP Board of Governors approved and adopted Commissioner Villadolid, Jr.'s Report and Recommendation, with the modification

<sup>13</sup> Exhibit "H", Rollo, vol. 1, 12-14.

<sup>14</sup> Exh. "I," Rollo, vol. 1, 15-16.

<sup>15</sup> Exh. "F," Rollo, vol. 1, 90.

<sup>16</sup> Exh. "I," Rollo, 1, 91.

<sup>17</sup> Roll, vol. 1, 65.

<sup>18</sup> Rollo, unpaginated.

consisting in the reduction of the recommended penalty of suspension from the practice of law from two years to six months.

The core issues are (1) whether the respondent employed deceit in obtaining the signatures of the complainants on the document giving him authority to file the petition for the administration of the intestate estate of their deceased parents; and (2) whether respondent's continued appearance in the intestate proceedings after the appointment of the complainants as special co-administrators was improper.

This Court resolves both issues in the affirmative.

Undisputed is the existence of a contract for legal services between the respondent and the complainants, as evidenced by their written agreement dated 1 August 1977<sup>19</sup> wherein the latter authorized the former to represent them in the criminal case and the intestate proceedings of their parents. This document was prepared by the respondent and presented to the complainants in the church while they were preparing for the *requiem* mass two days after their parents were brutally murdered.<sup>20</sup> Trusting that the respondent, who was the counsel of their parents in many cases, would be true to their agreement that he was to represent them in the criminal case only, the complainants signed the document without scrutinizing it.<sup>21</sup> But it turned out that the document contained respondent's authority to also appear in the intestate proceedings.

That the complainants never intended to authorize the respondent to represent them in the intestate proceedings can be deduced from the following circumstances:

1. On 2 August 1977, a day after the signing of the questioned authority in favor of the respondent, the complainants engaged the services of Atty. Mirano to file the petition for the administration and settlement of the intestate estate of their parents;
2. Atty. Mirano filed the petition on 5 August 1977;<sup>22</sup>
3. The petition filed by Atty. Mirano was signed by all the heirs;
4. The petition filed by the respondent was signed by him alone and contained glaring errors on the ages and respective residences of the heirs;<sup>23</sup>
5. The complainants did not appear before notary public Atty. Crisanto P. Realubin for the acknowledgment of the 1 August 1977 document; and

<sup>19</sup> Exh. "J," Rollo, vol. 1, 79.

<sup>20</sup> Pars. F and G of the Complaint, 2; Rollo, vol. 1, 2.

<sup>21</sup> Par. G of the Complaint, 2; Rollo, vol. 1, 2.

<sup>22</sup> Par. H, Complaint, 2-3; Rollo, vol. 1, 2-3.

<sup>23</sup> Exh. "C-3," Rollo, vol. 1, 8.

6. Atty. Crisanto P. Realubin was suspended for six months for falsely certifying that the complainants personally appeared before him and acknowledged to him that the document was their free and voluntary act and deed.<sup>24</sup>

The failure of the complainants to examine the document closely is justified by the following attending circumstances: (1) it was presented to them for their signing at the church when they were busy preparing for the *misa requiem*; (2) they were still emotionally shocked by the brutal killing of their parents two days earlier; (4) they were busy with the investigation of the murder; (5) they had to attend to the wake activities of their deceased parents; and (6) finally, they trusted that the respondent would reflect in the document their agreement that he would represent them only in the criminal case.

To avoid embarrassing the respondent after learning of the actual content of the 1 August 1977 document, the complainants executed a document giving the former authority to appear in the intestate case until they shall have been appointed as co-administrators of the estate of their deceased parents.<sup>25</sup> But, even after the appointment of the complainants as co-administrators and the termination by them of respondent's services,<sup>26</sup> the respondent continued to appear in the intestate proceedings.<sup>27</sup>

It must be pointed out that the relation of attorney-client may be terminated by (1) the act of the client; (2) the act of the attorney; (3) the death of the client; (4) the death of the attorney; or (5) the accomplishment of the purpose for which it was created.<sup>28</sup> Ordinarily, the attorney-client relation is ended by the completion of the specific task for which the attorney was employed. In this case, the attorney-client relationship between the complainants and the respondent was terminated by the complainants upon their appointment as special co-administrators of the estate of their deceased parents.

Notably, the difference between the revocation of the authority by the act of the client and by the act of the attorney is that the first may be done at any time with or without cause, whereas the second can be made only with the client's written consent or for justified cause.<sup>29</sup>

Evidently, respondent's obstinate refusal to withdraw from the intestate proceedings was improper. Since his unauthorized appearance was willful, he could have been cited in contempt as an

<sup>24</sup> *Gonzaga v. Realubin*, 312 Phil. 381 (1995).

<sup>25</sup> Exh. "E-1," Rollo, vol. 1, 11.

<sup>26</sup> Exh. "E," Rollo, vol. 1, 11.

<sup>27</sup> Par. N, Complaint, 4; Rollo, vol. 1, 4.

<sup>28</sup> RUBEN E. AGPALO, *LEGAL ETHICS* 275-286 (6<sup>th</sup> ed. 1997).

<sup>29</sup> Sec. 26, Rule 138, Rules of Court; *see also* *Aro v. Nañaawa*, 137 Phil 745, 762 (1969).

officer of the court who has misbehaved in his official transactions.<sup>30</sup> In addition, he may be disciplined for professional misconduct.

A lawyer may be disbarred or suspended for any violation of his oath, a patent disregard of his duties, or an odious deportment unbecoming an attorney. Among the grounds enumerated in Section 27, Rule 138 of the Rules of Court are deceit; malpractice; gross misconduct in office; grossly immoral conduct; conviction of a crime involving moral turpitude; any violation of the oath which he is required to take before admission to the practice of law; willful disobedience of any lawful order of a superior court; corrupt or willful appearance as an attorney for a party to a case without authority to do so. The grounds are not preclusive in nature even as they are broad enough as to cover practically any kind of impropriety that a lawyer does or commits in his professional career or in his private life. A lawyer must at no time be wanting in probity and moral fiber which are not only conditions precedent to his entrance to the Bar but are likewise essential demands for his continued membership therein.<sup>31</sup>

However, the power to disbar must be exercised with great caution, and must be used only in a clear case of misconduct that seriously affects the standing and character of the lawyer as an officer of the court and member of the Bar. Disbarment should never be decreed where any lesser penalty, such as temporary suspension, would accomplish the end desired.<sup>32</sup>

We hold that the recommended penalty of suspension from the practice of law for a period of six months by the IBP Board of Governors is adequate and commensurate to the offense.

**ACCORDINGLY**, the Court resolved to **SUSPEND** respondent Atty. Eugenio V. Villanueva, Jr., from the practice of law for a period of six (6) months effective upon service on him of a copy of this Resolution, with a **WARNING** that a repetition of the same acts subject of the complaint in this case or of similar acts will be dealt with more severely.

Let copies of this Resolution be spread on the personal record of respondent in this Court and furnished the Office of the Court Administrator for distribution to all courts in the Philippines and the Integrated Bar of the Philippines for its information and guidance.

**SO ORDERED.**"

<sup>30</sup> Sec. 21, Rule 138 of the Rules of Court.

<sup>31</sup> *Tucay v. Tucay*, 376 Phil. 336-340 (1999).

<sup>32</sup> *Resurreccion v. Sayson*, 360 Phil. 313, 321 (1998).

Copy of the resolution was received by respondent on August 5, 2004, as shown by Registry Return Receipt No. 1980. Respondent's extension of time to file motion for reconsideration was denied on October 20, 2004.

31 January 2005.

**PRESBITERO J. VELASCO, JR.**  
Court Administrator