



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

OCA CIRCULAR NO. 124-2005

**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 ONE (1) YEAR OF ATTY.
MACARIO D. ARQUILLO**

For the information and guidance of all concerned, quoted hereunder is the Decision of the Court En Banc dated August 02, 2005 in Administrative Case No. 6632, entitled "Northwestern University, Inc., and Ben A. Nicolas vs. Atty. Macario D. Arquillo", to wit:

"Representing conflicting interests is prohibited by the Code of Professional Responsibility. Unless all the affected clients' written consent is given after a full disclosure of all relevant facts, attorneys guilty of representing conflicting interests shall as a rule be sanctioned with suspension from the practice of law.

The Case and the Facts

This administrative case stems from a sworn Letter-Complaint¹ filed with the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) by Ben A. Nicolas, acting for himself and on behalf of Northwestern University, Inc. In that Letter-Complaint, Atty. Macario D. Arquillo was charged with deceit, malpractice, gross misconduct and/or violation of his oath as attorney by representing conflicting interests. The

¹ Dated March 16, 1998; rollo, pp. 2-3.

material averments of the Complaint are summarized by the IBP-CBD as follows:

"Herein [c]omplainants, Northwestern University, Inc. and Mr. Ben A. Nicolas, accuses (sic) herein [r]espondent, Atty. Macario D. Arquillo, of engaging in **conflicting interest** in a case before the National Labor Relations Commission, Regional Arbitration Branch No. 1, San Fernando, La Union.

"Complainant alleges that in a consolidated case, herein [r]espondent appeared and acted as counsels for both complainants (eight out of the eighteen complainants therein) and respondent (one of the ten respondents therein).

"In a consolidation of NLRC Cases [Nos.] 1-05-1086-97, 1-05-1087-97, 1-05-1088-97, 1-05-1091-97, 1-05-1092-97, 1-05-1097-97, 1-05-1109-97, 1-05-1196-97 ("**consolidated cases**"), herein [r]espondent appeared as counsel for *complainants therein*, Teresita A. Velasco, Gervacio A. Velasco, Mariel S. Hernando, Virginio C. Rasos, Bonifacio S. Blas, Ronald A. Daoang, Luzviminda T. Urcio and Araceli Quimoyog. **In the very same consolidated case**, [r]espondent was also the counsel of one of the respondents therein, Jose G. Castro.

"Complainants, as their evidence, submitted the *Motion to Dismiss* dated August 12, 1997 filed by Jose G. Castro, represented by his counsel, herein [r]espondent filed before the NLRC of San Fernando, La Union. Sixteen (16) days later or on August 28, 1997, [r]espondent filed a *Complainant's Consolidated Position Paper*, this time representing some of the complainants **in the very same consolidated case**.² (Citations omitted)

Respondent failed to file his Answer to the Complaint despite a June 24, 1998 Order³ of the IBP-CBD directing him to do so. Even after receiving five notices, he failed to appear in any of the scheduled hearings. Consequently, he was deemed to have waived his right to participate in the proceedings. Thereafter, the complainants were ordered to submit their verified position paper with supporting documents, after which the case was to be deemed submitted for decision.⁴ In their Manifestation⁵ dated August 30, 2004, they said that they would no longer file a position paper. They agreed to submit the case for decision on the basis of their Letter-Affidavit dated March 16, 1998, together with all the accompanying documents.

² Report of the IBP-CBD, pp. 1-2.

³ IBP-CBD Order, per Commissioner Ma. Carmina M. Alejandro-Abbas; rollo, p. 17.

⁴ IBP-CBD Order, August 18, 2004; rollo, p. 36.

⁵ Rollo, pp. 38-39.

Report and Recommendation of the IBP

In his Report,⁶ Commissioner Dennis B. Funa found respondent guilty of violating the conflict-of-interests rule under the Code of Professional Responsibility. Thus, the former recommended the latter's suspension from the practice of law for a period of six (6) months.

In Resolution No. XVI-2004-415 dated October 7, 2004, the Board of Governors of the IBP adopted the Report and Recommendation of Commissioner Funa, with the modification that the period of suspension was increased to two (2) years.

On December 12, 2004, the Resolution and the records of the case were transmitted to this Court for final action, pursuant to Section 12(b) of Rule 139-B of the Rules of Court. On January 20, 2005, respondent filed a Motion for Reconsideration to set aside Resolution No. XVI-2004-415. The IBP denied the Motion.

The Court's Ruling

We agree with the findings of the IBP Board of Governors, but reduce the recommended period of suspension to one year.

Administrative Liability of Respondent

The Code of Professional Responsibility requires lawyers to observe candor, fairness and loyalty in all their dealings and transactions with their clients.⁷ Corollary to this duty, lawyers shall not represent conflicting interests, except with all the concerned clients' written consent, given after a full disclosure of the facts.⁸

When a lawyer represents two or more opposing parties, there is a conflict of interests, the existence of which is determined by three separate tests: (1) when, in representation of one client, a lawyer is required to fight for an issue or claim, but is also duty-bound to oppose it for another client; (2) when the acceptance of the new retainer will require an attorney to perform an act that may injuriously affect the first client or, when called

⁶ Report of the IBP Investigating Commissioner, August 27, 2004.

⁷ Canon 15 of the Code of Professional Responsibility.

⁸ Rule 15.03, *id.*

upon in a new relation, to use against the first one any knowledge acquired through their professional connection; or (3) when the acceptance of a new relation would prevent the full discharge of an attorney's duty to give undivided fidelity and loyalty to the client or would invite suspicion of unfaithfulness or double dealing in the performance of that duty.⁹

In the present case, Atty. Macario D. Arquillo, as counsel for Respondent Jose C. Castro in NLRC Case Nos. I-05-1083-97 to I-05-1109-97, filed a Motion to Dismiss those cases. Shortly thereafter, a position paper was filed by Atty. Arquillo as counsel for several complainants in consolidated NLRC Case Nos. I-05-1087-97, I-05-1088-97, I-05-1091-97, I-05-1092-97, I-05-1096-97, I-05-1097-97 and I-05-1109-97. All the cases in the second set were included in the first one, for which he had filed the subject Motion to Dismiss. Furthermore, in his position paper for the complainants, Atty. Arquillo protected his other client, Respondent Jose C. Castro, in these words:

"3. More than lack of valid cause for the dismissal of complainants, respondents, except Atty. Jose C. Castro and Atty. Ernesto B. Asuncion, should be made accountable for not according complainants their right to due process."¹⁰

In his two-page Motion for Reconsideration, Atty. Arquillo claims that there was no conflict of interest in his representation of both the respondent and the complainants in the same consolidated cases, because all of them were allegedly on the same side. Attaching to the Motion the Decision of Labor Arbiter Norma C. Olegario on the consolidated NLRC cases, Atty. Arquillo theorizes that her judgment absolved Castro of personal liability for the illegal dismissal of the complainants; this fact allegedly showed that there was no conflict in the interests of all the parties concerned.

This Court does not agree. Atty. Arquillo's acts cannot be justified by the fact that, in the end, Castro was proven to be not personally liable for the claims of the dismissed employees. Having agreed to represent one of the opposing parties first, the lawyer should have known that there was an obvious conflict of interests, regardless of his alleged belief that they were all on the same side. It cannot be denied that the dismissed employees were the complainants in the same cases in which Castro was one of the respondents. Indeed, Commissioner Funa correctly enounced:

⁹ *Santos v. Beltran*, 418.SCRA 17, December 11, 2003; *Hornilla v. Salunat*, 405 SCRA 220, 223, July 1, 2003. See Agpalo, *The Code of Professional Responsibility for Lawyers*, p. 166.

¹⁰ Complainant's Position Paper signed by Atty. Macario D. Arquillo, p. 8, August 28, 1997; rollo, p. 14. Emphasis ours.

"As counsel for complainants, [r]espondent had the **duty to oppose** the *Motion to Dismiss* filed by Jose G. Castro. But under the circumstance, it would be impossible since [r]espondent is also the counsel of Jose G. Castro. And it appears that it was [r]espondent who prepared the *Motion to Dismiss*, which he should be opposing [a]s counsel of Jose G. Castro, Respondent had **the duty to prove the Complaint wrong**. But Respondent cannot do this because he is the counsel for the complainants/ **Here lies the inconsistency. The inconsistency of interests is very clear.**

"Thus it has been noted

'The attorney in that situation will not be able to pursue, with vigor and zeal, the client's claim against the other and to properly represent the latter in the unrelated action, or, if he can do so, he cannot avoid being suspected by the defeated client of disloyalty or partiality in favor of the successful client. The foregoing considerations will strongly tend to deprive the relation of attorney and client of those special elements which make it one of trust and confidence[.]' (*Legal Ethics, Agpalo, p. 230, 4th ed.; In re De la Rosa, 21 Phil. 258*)¹¹

An attorney cannot represent adverse interests. It is a hornbook doctrine grounded on public policy that a lawyer's representation of both sides of an issue is highly improper. The proscription applies when the conflicting interests arise with respect to the same general matter, however slight such conflict may be. It applies even when the attorney acts from honest intentions or in good faith.¹²

The IBP Board of Governors recommended that respondent be suspended from the practice of law for two years. Considering, however, prior rulings in cases also involving attorneys representing conflicting interests, we reduce the suspension to one (1) year.¹³

WHEREFORE, Atty. Macario D. Arquillo is found **GUILTY** of misconduct and is hereby **SUSPENDED** from the practice of law for a period of one (1) year effective upon his receipt of this Decision, with a warning that a similar infraction shall be dealt with more severely in the future.

¹¹ Report of IBP Investigating Commissioner, p. 4.

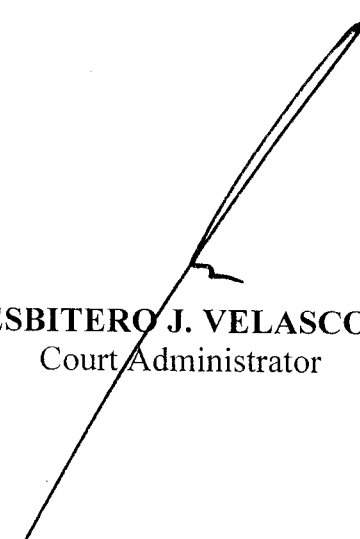
¹² *Nakpil v. Valdes*, 350 Phil. 412, March 4, 1998.

¹³ See *Santos v. Beltran*, supra; *Nakpil v. Valdes*, supra; *Tiania v. Ocampo*, 200 SCRA 472, August 12, 1991.

SO ORDERED.”

Copy of the decision was received by respondent on August 24, 2005 as shown by Registry Return Receipt No. 17236.

30 November 2005.



PRESBITERO J. VELASCO, JR.
Court Administrator

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