



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated March 1, 2021, which reads as follows:

“A.C. No. 9045 (*Horace P. Lim v. Atty. Mariano R. Pefianco*) . - Before this Court is an administrative complaint¹ for disbarment filed by Horace P. Lim (Lim) against Atty. Mariano R. Pefianco (Atty. Pefianco) for maliciously impleading him as respondent in a labor case, and for failing to indicate the number and date of issue of his MCLE Certificates of Compliance in the Complaint and Position Paper filed before the National Labor Relations Commission (NLRC) in violation of the rule on Mandatory Continuing Legal Education (MCLE), the Lawyer’s Oath and the Code of Professional Responsibility (CPR).

Factual Antecedents:

Atty. Pefianco was the counsel of Andres Surima (Surima), caretaker of Susana Pension House, in a Complaint² for payment of retirement pay and other benefits, reinstatement, and damages filed against Lim and his mother, Loretta N. PEDIAPCO (PEDIAPCO), before the NLRC Sub-Regional Arbitration Branch VI of Iloilo City, entitled “*Andres Surima v. Loretta N. PEDIAPCO and Horace Lim*” and docketed as NLRC RAB VI Case No. 03-80082-10.³

Lim claimed that Atty. Pefianco was driven by his “corrupt motive or interest” when he maliciously impleaded him as a respondent in the said complaint.⁴ He alleged that the respondent intended to embarrass him as he was well aware that he was not associated in any way with Susana Pension House which was solely owned by his mother, PEDIAPCO. Lim averred that he should thus have not been impleaded as respondent in the labor case since he

¹ *Rollo*, pp. 1-4.

² *Id.* at 5-6.

³ *Id.*; also stated as SCRAM Case No. VI-03-5008-10 in the Complaint for Disbarment; *id.* at 1.

⁴ *Id.* at 3.

was only a lessee of the pension house and had never employed Surima in any capacity.

Lim further alleged that Atty. Pefianco was not authorized to practice law without the MCLE Certificates of Compliance. He claimed that in a separate labor case entitled "*Erlito Belleza v. Lolita Amerila and Horace Lim*" and docketed as SCRAM Case No. VI-II-50363-07, Atty. Pefianco, as counsel of the complainant, also did not indicate his MCLE compliance number in the position paper he filed therein which resulted in the dismissal of the complaint.⁵

Lim posited that Atty. Pefianco's non-compliance with the rules constitutes an unlawful and deceitful conduct. Hence, he prayed that Atty. Pefianco be disbarred for violating the Lawyer's Oath and the CPR.⁶

Respondent, on the other hand, argued that Lim purposely filed the administrative complaint to malign his reputation as a lawyer. The labor cases where he was impleaded as respondent were already passed upon by the courts. He also asserted that none of the pleadings that were filed before the Supreme Court and the Court of Appeals was expunged from the records by reason of his failure to state the number and date of issue of his MCLE Certificate of Compliance therein.⁷

Report and Recommendation of the Integrated Bar of the Philippines.

In a Report and Recommendation⁸ dated March 8, 2016, the Investigating Commissioner recommended the dismissal of the complaint for lack of sufficient proof that Lim's inclusion as respondent in the labor cases by Atty. Pefianco was malicious and unjustified. Moreover, respondent's failure to state the number and date of issue of his MCLE Certificates of Compliance in the subject pleadings is not a ground for disbarment. At most, it will only result in the dismissal of the complaint and expunction of the pleadings from the records of the case.⁹

Nonetheless, the Investigating Commissioner recommended that Atty. Pefianco be reminded to strictly comply with the MCLE requirements.¹⁰

⁵ Id. at 2.

⁶ Id.

⁷ Id. at 45-46.

⁸ Id. at 115-119.

⁹ Id. at 117-118.

¹⁰ Id. at 119.

Incidentally, the Court required the IBP to confirm the alleged demise of respondent and, if found true, to submit a certified true copy of his death certificate.¹² In a Letter¹³ dated February 19, 2020, the IBP informed the Court that it was unable to verify Atty. Pefianco's death.

Issue

Whether the administrative complaint against Atty. Pefianco be dismissed.

Our Ruling

The Court resolves to adopt the findings of the IBP and the recommendation to dismiss the administrative complaint against Atty. Pefianco for utter lack of merit.

In disbarment and suspension proceedings against lawyers, the standard of proof required is substantial evidence,¹⁴ or "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."¹⁵ The complainant has the burden of proof to duly show that the lawyer being complained of committed acts which would warrant the Court to exercise its disciplinary powers.¹⁶

Upon a thorough review of the case, the Court finds insufficient proof that Atty. Pefianco committed misconduct in violation of the Lawyer's Oath and the CPR. There is dearth of evidence to prove that respondent lawyer maliciously impleaded Lim as respondent in the labor case. Neither is there proof that he impleaded complainant as a respondent without Surima's consent nor that he instigated his client to file a complaint against Lim. Thus, in the absence of any proof or corroborating evidence on which to mount his allegations, Lim's complaint has no leg to stand on.

Further, Atty. Pefianco's failure to state in his pleadings the number and date of issue of his MCLE Certificates of Compliance is not a ground for disbarment; neither was his failure deliberate or unjustified. He clearly stated in the subject pleadings that he was still waiting for the issuance of his certificates for MCLE Compliance Nos. II (10-22 & 23-09) and III (2-9 to 12-10). Such disclosure shows that he did not intentionally violate the rules. Contrary to Lim's claim, Atty. Pefianco's honest declaration in the subject pleadings demonstrated his faithful observance of the rules, *i.e.*, to state the counsel's MCLE Certificate of Compliance or Certificate of Exemption in the pleadings he/she signed under Bar Matter No. 1922 (BM 1922) dated June 3, 2008.

¹² Id. at 139.

¹³ Id. at 142.

¹⁴ *Tablizo v. Golangco*, A.C. No. 10636, October 12, 2020.

¹⁵ Section 5, Rule 133, Rules of Court.

¹⁶ *Armilla-Calderon v. Lapore*, A.C. No. 10619, September 2, 2020

In any event, prior to the amendment of BM 1922 on January 14, 2014, willful failure to indicate the number and date of issuance of MCLE Certificates of Compliance does not warrant the imposition of any administrative sanction.

BM 1922, issued on June 3, 2008, requires a lawyer to indicate the number and date of issue of his or her MCLE Certificate of Compliance or Certificate of Exemption in a pleading filed before the court or quasi-judicial body. Non-disclosure of the required information "will result in the dismissal of the case and the expunction of the pleadings from the records."¹⁷

It was only after the Court amended BM 1922 on January 14, 2014 that We have imposed administrative sanctions upon a lawyer who failed to observe the rules on disclosure of current MCLE compliance/exemption number and date of issue in the pleadings in this wise:

(a) AMEND the June 3, 2008 resolution by repealing the phrase "Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records" and replacing it with "Failure to disclose the required information would subject the counsel to appropriate penalty and disciplinary action"; and

(b) PRESCRIBE the following rules for non-disclosure of current MCLE compliance/exemption number in the pleadings:

(i) The lawyer shall be imposed a fine of ₱2,000.00 for the first offense, ₱3,000.00 for the second offense and ₱4,000.00 for the third offense;

(ii) In addition to the fine, counsel may be listed as a delinquent member of the Bar pursuant to Section 2, Rule 13 of Bar Matter No. 850 and its implementing rules and regulations; and

(iii) The non-compliant lawyer shall be discharged from the case and the client/s shall be allowed to secure the services of a new counsel with the concomitant right to demand the return of fees already paid to the non-compliant lawyer.¹⁸

Records show that Atty. Pefianco filed the subject pleadings on March 9, 2010 and May 12, 2010, respectively. Hence, his supposed failure to observe the abovementioned rules would have only resulted in the dismissal of the case filed against Lim and Pediapeco, and the expunction of the pleadings from the records, at the expense of his client Surima.

All told, the Court resolves to dismiss the administrative complaint against Atty. Pefianco for insufficiency of evidence. Indeed, We will impose disciplinary sanctions on lawyers who are found to have violated their

¹⁷ BM No. 1922 dated June 3, 2008.

¹⁸ See *Turla v. Caringal*, A.C. No. 11641, March 12, 2019.

Lawyers Oath and the CPR.¹⁹ However, the Court will also not falter to extend its protective arm to lawyers if the accusations against them are not duly proven.²⁰

WHEREFORE, the complaint for disbarment filed against respondent Atty. Mariano R. Pefianco is **DISMISSED** for lack of factual and legal merit. The case is considered **CLOSED and TERMINATED**.

SO ORDERED.”

By authority of the Court:

Mis DDC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *8/11/21*

Mr. Horace P. Lim
Complainant
T.A. Fornier St., San Jose
5700 Antique

PUBLIC INFORMATION OFFICE
Supreme Court, Manila
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Atty. Mariano R. Pefianco
Respondent
Principe St., San Jose
5700 Antique

LIBRARY SERVICES
Supreme Court, Manila

Atty. Roland B. Inting
National Secretary
INTEGRATED BAR OF THE PHILIPPINES
Dona Julia Vargas Avenue
Ortigas Center, 1600 Pasig City

Atty. Rosita M. Requillas-Nacional
Deputy Clerk of Court & Bar Confidant
OFFICE OF THE BAR CONFIDANT
Supreme Court, Manila

Atty. Randall C. Tabayoyong
Director for Bar Discipline
INTEGRATED BAR OF THE PHILIPPINES
Dona Julia Vargas Avenue
Ortigas Center, 1600 Pasig City

JUDICIAL & BAR COUNCIL
Supreme Court, Manila

PHILIPPINE JUDICIAL ACADEMY
research_philja@yahoo.com
Supreme Court, Manila

A.C. No. 9045

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¹⁹ *Guanzon v. Dojillo*, A.C. No. 9850, August 6, 2018.

²⁰ *Id.*