

## EN BANC

[ A.C. No. 9459, January 07, 2020 ]

**RENE J. HIERRO, COMPLAINANT, VS. ATTY. PLARIDEL C. NAVA  
II, RESPONDENT.**

### DECISION

#### PER CURIAM:

This resolves the administrative complaint<sup>[1]</sup> for disbarment filed by complainant Rene J. Hierro (Hierro) against respondent Atty. Plaridel C. Nava II (Atty. Nava) of violating Canons 7.03,<sup>[2]</sup> 15.03,<sup>[3]</sup> 17,<sup>[4]</sup> 21.01<sup>[5]</sup> and 22<sup>[6]</sup> of the Code of Professional Responsibility.

#### Antecedents

Hierro filed a letter-complaint for disbarment with the Supreme Court on May 9, 2012, which was referred to the Integrated Bar of the Philippines (IBP) through a Resolution<sup>[7]</sup> dated February 13, 2013 charging Atty. Nava of violating Canons 7.03, 15.03, 17, 21.01 and 22 of the Code of Professional Responsibility through the following acts:

1. Conflict of interest on the part of Atty. Nava for acting as counsel for Annalyn Hierro (Annalyn), Hierro's spouse, in her petition with prayer for the issuance of a temporary protection order (TPO)<sup>[8]</sup> against Hierro before the Regional Trial Court (RTC) of Iloilo City when Hierro used to be a client of Atty. Nava;
2. Grossly immoral conduct for engaging in adulterous relations with Annalyn and fathering a child with her; and
3. Dereliction of duty for abandoning Hierro as the latter's counsel in a case for Grave Threats with the Municipal Trial Court in Cities, Branch 1, docketed as Criminal Case No. S-799-09 after the filing of the petition which resulted to Hierro's conviction.

#### *Respondents Position*

Atty. Nava vehemently denied the allegations against him. On the allegation of conflict of interest, Atty. Nava contends that he was compelled to sign the petition with prayer for the issuance of a TPO<sup>[9]</sup> out of exigency and for humanitarian consideration since prompt and responsive action is needed to preserve the life of Annalyn and her three young daughters: Moreover, Atty. Nava claims that his engagement was limited only to the filing of the petition and securing a TPO from the court. As soon as the TPO was issued, he withdrew as counsel for Annalyn. Furthermore, there was no confidential information in the filing of the civil action because although the narration of all criminal cases involving Hierro was included in

the petition for the issuance of a TPO, it is nonetheless based on public records and was not revealed by Hierro to Atty. Nava in confidence. Additionally, Atty. Nava avers that such disclosure is not prejudicial to the case of Hierro and is therefore not covered by the prohibition of Canon 21.01 on conflict of interest.<sup>[10]</sup>

As to the allegation of grossly immoral conduct, Atty. Nava said that such allegation is a mere afterthought and has no factual basis. As a matter of fact, the complaint for adultery filed against him was dismissed by the investigating prosecutor as the latter found the case to be without merit.<sup>[11]</sup>

Regarding the allegation of abandonment of Hierro in his Grave Threats case which led to his conviction, Atty. Nava vehemently denied such allegation saying it was Hierro who terminated his services. He also pointed out that the said case was promulgated on September 2, 2011, way before the filing of the civil case of Annalyn on October 21, 2011. This belies the claim of Hierro that Atty. Nava abandoned him after the filing of the petition against him. Besides, to negate the allegation of abandonment, Atty. Nava claims that he was the one who presented Hierro to the witness stand and was the one who conducted the direct examination until his full testimony was terminated.<sup>[12]</sup>

### **Report and Recommendation**

In his Report and Recommendation,<sup>[13]</sup> Investigating Commissioner Rommel V. Cuison (Commissioner Cuison) recommended that Atty. Nava be disbarred and his name be stricken off from the Roll of Attorneys.

On November 28, 2015, a Resolution<sup>[14]</sup> was passed by the IBP Board of Governors which adopted and approved the Report and Recommendation of Commissioner Cuison, to quote:

**RESOLUTION No. XXII-2015-95**  
**CIBD Case No. 13-3823**  
**A.C. No. 9459**  
**Rene Hierro vs. Atty. Plaridel Nava II**

*RESOLVED to ADOPT the findings of fact and recommended penalty of DISBARMENT on Atty. Plaridel Nava II by the Investigating Commissioner, considering the gravity of his offenses.*

Hence, the case was transmitted to this court for review.

### **The Court's Ruling**

After reviewing the records of the case, the Court finds that the recommendation of the IBP Board of Governors regarding CIBD Case No. 13-3823 is in accord with the pertinent rules and jurisprudence on bar discipline. Hence, we are inclined to adopt the said recommendation.

Canon 15 of the Code of Professional Responsibility requires lawyers to observe candor, fairness and loyalty in all their dealings and transactions with their clients. Particularly, Canon 15.03 demands that: "A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts." A conflict of interest exists when a lawyer represents inconsistent interests of two opposing parties, like when the lawyer performs an act that will

injuriously affect his first client in any matter in which he represented him, or when the lawyer uses any knowledge he previously acquired from his first client against the latter.<sup>[15]</sup> The prohibition against conflict of interest is founded on principles of public policy and good taste, inasmuch as the lawyer-client relationship is based on trust and confidence.<sup>[16]</sup> Its purpose is to ensure absolute freedom of communication between the lawyer and the client in order to enable the former to suitably represent and serve the latter's interests. Notably, it is both unethical and unacceptable for a lawyer to use any information he gains during the lawyer-client relationship against his client.<sup>[17]</sup>

In the instant case, it is undisputed that Atty. Nava became the retained counsel of Hierro in the latter's cases and also as counsel for Annalyn in the petition for the issuance of a TPO against Hierro. It must be highlighted that the petition for the issuance of a TPO contains reference to the criminal cases that were handled by Atty. Nava to demonstrate Hierro's propensity for violence in order to show supposed maltreatment of Hierro to Annalyn, to wit:

x x x x

14. [Hierro's] history of violence can be gleaned from the following criminal cases he is presently facing in court which were filed by persons, thus:

<u>Case No.</u>	<u>Crime</u>	<u>Court</u>
S-799-09	GRAVE THREATS	MTCC Br. 1
S-211-10	GRAVE THREATS	MTCC Br. 2
R189-10	GRAVE COERCION	MTCC Br. 4
S-477-10	RESISTANCE	MTCC Br. 7
444-08/445-08	FALSIFICATION	MTCC Br. 7
446-08	PERJURY	MTCC Br. 7
09-67704-67711	ESTAFA	RTC Br. 33
08-65985	ESTAFA	RTC Br. 26 <sup>[18]</sup>

Atty. Nava was the lawyer of Hierro in seven of the eight aforementioned cases. As defense counsel for Hierro, Atty. Nava advocates the innocence of his client in these cases. However, in citing these as part of the petition for the issuance of a TPO, in effect, he is implying that there is merit in these cases which is diametrically opposed to his position as defense counsel of Hierro. This clearly violates the rule against conflict of interest.

We are not convinced by Atty. Nava's defense that he accepted the engagement by Annalyn because of emergency, exigency and on temporary capacity only. As a lawyer, he should have used better judgment to foresee the possibility of conflict of interest as that is what the society expects of him. Besides, even if the filing of the TPO is an emergency which requires a swift response, he could have easily recommended another competent lawyer in his place.

As for the gross immorality charge against Atty. Nava, a thorough review of the records would show that there is merit to the said charge. In order to exculpate himself from any liability, he highlights the dismissal of the complaint for adultery against him and Annalyn by the Office of the Prosecutor. However, it must be noted that administrative cases are *sui generis* and are not affected by the result of any

civil or criminal case. They do not involve a trial of an action or a suit, being neither purely civil nor purely criminal,<sup>[19]</sup> but rather involve investigations by the Court into the conduct of its officers.<sup>[20]</sup> Therefore, the instant case, being administrative in nature, may proceed independently and is not bound by the outcome of any criminal and civil proceeding.

In disciplinary proceedings against lawyers, public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed to practice law.<sup>[21]</sup>

Besides, as pointed out by the IBP, the dismissal by the Office of the Prosecutor of the adultery case is not yet final and executory as it is still under appeal to the Office of the Secretary of Justice.

On the other hand, to prove the charge of grossly immoral conduct, Annalyn admitted to maintaining adulterous relations with Atty. Nava. It must be emphasized that Annalyn's admission is not the only piece of evidence pointing to such fact. In her judicial affidavit, Atty. Nava's wife, Cecilia Lim-Nava, stated under oath that Atty. Nava admitted having an affair with Annalyn and that he fathered a child with her. Furthermore, the record of the criminal proceedings for the crime of adultery included the affidavits of Mercedes Nava (Mercedes) and Joy Legarda who confirmed the extramarital affair of Atty. Nava and Annalyn. In fact, in Mercedes' affidavit, she categorically stated that she witnessed the affectionate and intimate gestures between Atty. Nava and Annalyn. Aside from that, she testified that she would bring Annalyn to the office of Atty. Nava to make love, to wit:

x x x x

9. After that, Rene Hierro and I went directly to their house in Providence and when we reached there, we had lunch there at the house of the spouses and after that we left, and while on board the vehicle, Atty. Nava texted to bring Annalyn Hierro to his office which was on top of the Supermarket. When we reached his office, Annalyn Hierro and Atty. Plaridel Nava made love as they missed each other and after that, Atty. Nava gave instruction to Annalyn that she will be the only beneficiary and not to include the children so that there will be no problem.<sup>[22]</sup>  
(Underscoring supplied)

Immoral conduct, or immorality, is that which is so willful, flagrant, or shameless as to show indifference to the opinion of good and respectable members of the community. As a basis of disciplinary action, such immoral conduct, or immorality must be so corrupt as to virtually constitute a criminal act or so unprincipled as to be reprehensible to a high degree or committed under such scandalous or revolting circumstances as to shock the common sense of decency.<sup>[23]</sup>

Time and again, the Court has pointed out that when the integrity or morality of a member of the bar is challenged, it is not enough that he/she denies the charge, for he/she must meet the issue and overcome the evidence presented on the charge. He/she must present proof that he/she still maintains the degree of integrity and morality expected of him/her at all times.<sup>[24]</sup> Atty. Nava failed in this regard.

In keeping with the high standards of morality imposed upon every lawyer, Atty. Nava should have desisted from the illicit relationship with Annalyn not only for the

reason that she is married, but also because her husband was his client. His act of involving himself in sexual relations with the wife of his client definitely transgressed the clearly-defined bounds of decency and morality. These circumstances were more than sufficient to establish the charge of gross immorality.

"Indeed, any lawyer guilty of gross misconduct should be suspended or disbarred even if the misconduct relates to his or her personal life for as long as the misconduct evinces his or her lack of moral character, honesty, probity or good demeanor. Every lawyer is expected to be honorable and reliable at all times, for a person who cannot abide by the laws in his private life cannot be expected to do so in his professional dealings."<sup>[25]</sup>

In view of the foregoing, Atty. Nava's immoral conduct violated Rule 7.03 of the Code of Professional Responsibility.

**WHEREFORE**, the Court finds and declares respondent Atty. Plaridel C. Nava II **GUILTY** of conflict of interest and gross immorality in violation of Rule 15.03 and Rule 7.03 of the Code of Professional Responsibility, respectively; **DISBARS** him from the practice of law effective upon receipt of this Decision; and **ORDERS** his name be stricken off from the Roll of Attorneys.

Let a copy of this Decision be attached to Atty. Nava's personal record in the Office of the Bar Confidant.

Furnish a copy of this Decision to the Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for dissemination to all courts of the Philippines.

**SO ORDERED.**

*Peralta (C.J.), Caguioa, Gesmundo, J. Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, and Delos Santos, JJ., concur.*

*Leonen, J., see separate concurring opinion.*

*Perlas-Bernabe, and Lopez, JJ., on official leave.*

*A. Reyes, Jr., J., on official business.*

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NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on January 7, 2020 a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on August 5, 2020 at 1:40 p.m.

Very truly yours,

**(Sgd.) EDGAR O.  
ARICHETA**  
Clerk of Court

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<sup>[1]</sup> *Rollo*, pp. 2-3.