

## EN BANC

**[ A.C. No. 8869 [Formerly CBD Case No. 17-5382],  
June 25, 2019 ]**

**RADIAL GOLDEN MARINE SERVICES CORPORATION,  
COMPLAINANT, VS. ATTY. MICHAEL M. CABUGOY, RESPONDENT.**

### RESOLUTION

#### PER CURIAM:

For resolution is a Complaint<sup>[1]</sup> for disciplinary action dated January 12, 2011 filed by Radial Golden Marine Services Corporation's officers, stockholders and employees, as represented by Eugene R. Avenido, President-Stockholder of Radial, *et al.* (*complainants*) against respondent Atty. Michael M. Cabugoy (*Atty. Cabugoy*) for gross misconduct and ignorance of the law.

The antecedent facts are as follows:

Complainants alleged that during the annual general meeting of Radial Golden Marine Services Corporation, Atty. Cabugoy, together with a certain Sheila Masacote and Virgilo Añonuevo, entered into the office premises of Radial Golden Marine Services, and claimed that they are stockholders of Radial. Complainants alleged that Atty. Cabugoy and his group insisted on attending the stockholders' meeting and participate in the election despite not being stockholders of Radial. They further alleged that Atty. Cabugoy ordered that the meeting be stopped, and even declared the proceedings to be illegal, causing disruption of the stockholders' meeting, and thus, prevented the stockholders from deliberating on the dividends and the election of the board of directors of Radial.

In a Resolution<sup>[2]</sup> dated February 7, 2011, the Court required Atty. Cabugoy to comment on the allegations against him.

On August 31, 2011, the Court issued another Resolution<sup>[3]</sup> requiring Atty. Cabugoy to show cause as to why he should not be held in contempt, or disciplinary dealt with, for his failure to comply with the Resolution dated February 7, 2011 to file his Comment. Atty. Cabugoy was, likewise, required to comply with the submission of his comment within ten (10) days from notice of the Resolution.

On July 25, 2016, in light of the inability of the Court to determine if the Resolution dated August 31, 2011 was received by Atty. Cabugoy, since the pertinent registry receipt was already disposed for condemnation by the postmaster, Deputy Clerk of Court and the Bar Confidant, Atty. Ma. Cristina B. Layusa, recommended that Resolution dated August 31, 2011 be resent to Atty. Cabugoy.<sup>[4]</sup>

In a Resolution<sup>[5]</sup> dated September 7, 2016, the Third Division of the Court resolved

to resend the Resolution dated August 31, 2011 to Atty. Cabugoy, and directed compliance thereto.

In the Status Report<sup>[6]</sup> dated February 22, 2017, Atty. Amor P. Entila, SC Assistant Chief of Office, Office of the Bar Confidant, manifested that the Court's Resolution dated September 7, 2016 was received by Atty. Cabugoy on November 28, 2016 as per Court's Return Card No. 42136, and the period for Atty. Cabugoy to comply with the Court's directive has already expired on December 8, 2016.

Thus, in a Resolution<sup>[7]</sup> dated March 29, 2017, the Court resolved to deem as waived the filing of comment of Atty. Cabugoy on the complaint for disbarment against him, and referred the instant case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

In compliance, the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) issued a Notice of Mandatory Conference<sup>[8]</sup> dated September 15, 2017, which required the parties to appear on October 23, 2017 and submit their respective mandatory conference briefs.

On October 23, 2017, the mandatory conference was conducted, but neither of the parties appeared, nor did they submit their respective mandatory conference briefs. Records indicate that the Notice of Mandatory Conference was not delivered to complainants and was returned to the IBP with the annotation "moved out."

Despite the non-appearance of the parties and non-submission of the pertinent pleadings, the IBP-CBD, being duty-bound to comply with the Court's directive, submitted its report and recommendation based on available records and documents.

In its Report and Recommendation<sup>[9]</sup> dated October 30, 2017, the IBP-CBD recommended that Atty. Cabugoy be suspended from the practice of law for a period of one (1) year and six (6) months. The IBP-CBD found that despite the failure of the complainants to further substantiate its allegations against Atty. Cabugoy, it still found sufficient evidence to recommend disciplinary action against the latter, more so, considering Atty. Cabugoy's failure to attend the mandatory conference despite notice.

In a Resolution<sup>[10]</sup> dated May 19, 2018, the Board of Governors of the IBP adopted the findings of the IBP-CBD with modification to reduce the recommended penalty. Instead of suspension from the practice of law for one (1) year and six (6) months, it recommended instead to impose the penalty of suspension for a period of one (1) year only and a fine of Fifteen Thousand Pesos (P15,000.00) for ignoring the Orders, Processes and Directives of the IBP-CBD.

## **RULING**

In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. For the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and