

## EN BANC

[ A.C. No. 5285, August 14, 2019 ]

**JUDGE NIMFA P. SITACA, COMPLAINANT, VS. ATTY. DIEGO M. PALOMARES, JR., RESPONDENT.**

### DECISION

#### PER CURIAM:

#### The Charge

By Complaint Affidavit<sup>[1]</sup> dated April 5, 2000, Hon. Nimfa P. Sitaca<sup>\*\*\*</sup>, Acting Presiding Judge of the Regional Trial Court (RTC) - Branch 35, Ozamiz City charged respondent Atty. Diego M. Palomares, Jr. before the Integrated Bar of the Philippines (IBP) with falsification/disbarment/discipline. She essentially alleged:

In September 1997, Criminal Case No. RTC-1503 entitled "*People of the Philippines v. Dunhill Palomares*", for murder, got raffled to RTC-Branch 35, Ozamiz City, of which she is the Presiding Judge. Accused Dunhill Palomares was represented by his father, herein respondent Atty. Diego M. Palomares, Jr., as counsel of record.

Thereafter, Branch Clerk of Court Atty. Roy Murallon reported to her that respondent was present in the court for the purpose of securing approval of the bail bond for his son's temporary release. The bail bond in the amount of P200,000.00 was accompanied by the order of release signed by Atty. Glenn Peter Baldado, Branch Clerk of Court of the RTC-Branch 18, Cagayan de Oro City. Atty. Murallon presented to her the bail bond itself bearing the signature of Hon. Nazar Chavez, Presiding Judge of RTC-Branch 18. At that time, accused Dunhill Palomares was detained at the Cagayan de Oro City jail.

She approved the order of release and the bail bond itself after she saw the signature of Judge Chavez thereon.

Not long after, however, Atty. Murallon informed her of a letter he received from Atty. Baldado advising that the supposed bail bond was actually inexistent and the Branch 18 never processed it.

In his Comment<sup>[2]</sup> dated September 19, 2000, respondent basically countered:

When his son was allowed to post bail in the amount of P200,000.00, he sought help from his client Bentley House International Corporation (BHIC) through its Chief Executive Officer Jonathon Bentley Stevenz and Operations Manager Cristina Romarate for the purpose of facilitating his son's temporary release from detention. For this purpose, BHIC referred him to one William Guialani. He and Guialani talked about the matter. Then Guialani proceeded to secure the bail bond for his son's temporary release. The bail bond which Guialani was able to secure carried the

signature of Judge Chavez. It was also accompanied by the release order signed by Atty. Baldado. His BHIC clients were able to get hold of these documents which they turned over to him.<sup>[3]</sup>

Atty. Murallon ought to have been in the best position to inquire whether or not the bail bond and the release order were authentic. As it was, however, Atty. Murallon never mentioned any irregularity about these documents nor inquired about their authenticity.

He never had a hand in the production of the alleged spurious bail bond because he could easily secure one from other insurance companies, which happened to be his clients, too.<sup>[4]</sup>

In her reply, Judge Sitaca took notice of respondent's convenient imputation of liability on innocent third parties like her and Atty. Murallon.<sup>[5]</sup>

On March 19, 2003, the Court referred the case to the IBP Commission on Bar Discipline (IBP-CBD) for investigation.<sup>[6]</sup>

### **IBP Commissioner's Report and Recommendation**

Under her Report and Recommendation dated July 24, 2003,<sup>[7]</sup> Investigating IBP Commissioner Milagros V. San Juan found respondent liable for violation of Canon 10, Rule 10.01 of the Code of Professional Responsibility<sup>[8]</sup> (CPR) and recommended his suspension from the practice of law for eighteen (18) months.

Commissioner San Juan keenly noted: (a) the circumstances by which respondent supposedly secured Guialani's services were suspect. For although claiming to be capable of securing the bail bond himself through his so called insurance company clients, why did he still opt to avail of the services of Guialani whom he did not know from Adam; (b) it was very much convenient for respondent to cast all the blame on Guialani, albeit it was he himself (respondent) who submitted and used the falsified documents for the purpose of securing temporary release of his son; (c) as a lawyer, respondent should have verified with Branch 18 the veracity of the documents.<sup>[9]</sup>

### **IBP Board of Governors' Resolution**

By Resolution No. XVI-2003-81 dated August 30, 2003, the IBP Board of Governors resolved to adopt and approve the Report and Recommendation of IBP-CBD.<sup>[10]</sup>

### **The Court's Ruling (Third Division)**

Under Decision dated April 14, 2004,<sup>[11]</sup> the Court noted that the prescribed procedure pertaining to the investigation of administrative complaints was not complied with here, viz:

"SEC. 3. Duties of the National Grievance Investigator. - The National Grievance Investigators shall investigate all complaints against members of the Integrated Bar referred to them by the IBP Board of Governors.

"xxx xxx xxx

"SEC. 5. Service or dismissal. - if the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished the complainant and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complaint.

"No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same.

"xxx xxx xxx

"SEC. 8. Investigation. - Upon joinder of issues or upon failure of the respondent to answer, the Investigator shall, with deliberate speed, proceed with the investigation of the case. He shall have the power to issue subpoenas and administer oaths. The respondent shall be given full opportunity to defend himself, to present witnesses on his behalf and be heard by himself and counsel. However, if upon reasonable notice, the respondent fails to appear, the investigation shall proceed ex parte.

"The Investigator shall terminate the investigation within three (3) months from the date of its commencement, unless extended for good cause by the Board of Governors upon prior application.

"Willful failure to (sic) refusal to obey a subpoena or any other lawful order issued by the Investigator shall be dealt with as for indirect contempt of court. The corresponding charge shall be filed by the Investigator before the IBP Board of Governors which shall require the alleged contemnor to show cause within ten (10) days from notice. The IBP Board of Governors may thereafter conduct hearings, if necessary, in accordance with the procedure set forth in this Rule for hearings before the Investigator. Such hearing shall as far as practicable be terminated within fifteen (15) days from its commencement. Thereafter, the IBP Board of Governors shall within a like period of fifteen (15) days issue a resolution setting forth its findings and recommendations, which shall forthwith be transmitted to the Supreme Court for final action and is warranted, the imposition of penalty."

Hence, the Court resolved to remand the case to the IBP for further proceedings, viz:

WHEREFORE, the instant administrative case is REMANDED to the Integrated Bar of the Philippines for further proceedings; it is also directed to act on this referral with dispatch.

SO ORDERED.

### **The Proceedings before the IBP-CBD**

After receiving back the case records, the IBP-CBD set the case for hearing on several dates. Judge Sitaca, however, did not attend a single hearing. In her Letter dated June 22, 2007, complainant manifested that she was submitting the case on the basis of the records. On the other hand, respondent moved to dismiss the case for alleged lack of evidence to support the charges against him. At any rate, as alleged proof of his innocence, he stuck to the affidavits of Stevenz and Romarate on how Guialani came into the picture.<sup>[12]</sup>

The IBP-CBD denied respondent's motion to dismiss and resolved the case based on the evidence on record thus far adduced on record.

### **IBP Commissioner's Amended Report and Recommendation**

In its Amended Report and Recommendation dated March 27, 2009,<sup>[13]</sup> Investigating Commissioner Jose dela Rama, Jr. came out with the following factual findings:

**First**, as counsel of record for his son Dunhill Palomares, respondent knew there were no bail proceedings in his son's murder case. Consequently, respondent cannot deny the spurious character of the bail bond in question, let alone, feign ignorance thereof since it was his son who actually benefited from it.<sup>[14]</sup>

**Second**, respondent failed to present copy of the "Petition for Approval of Bond" or the "Order" approving the bail bond supposedly issued by Branch 18.<sup>[15]</sup>

**Third**, when he sought Guialani's assistance in processing the bail bond, he himself was presumed to have furnished the required documents to Guialani otherwise the latter would not have been able to possibly secure the bail bond, much less the release order.<sup>[16]</sup>

In sum, the IBP-CBD recommended:

**WHEREFORE**, in view of the foregoing, it is most respectfully recommended to the Board of Governors that its earlier Resolution No. XVI-2003-81 be reiterated and that respondent ATTY. DIEGO M. PALOMARES be SUSPENDED from the practice of law for a period of eighteen (18) months.

### **IBP Board of Governors' Resolution**

By Resolution No. XIX-2011-188 dated May, 14, 2011,<sup>[17]</sup> the IBP Board of Governors resolved to adopt and approve the IBP-CBD's findings but recommended to increase respondent's suspension from the practice of law from eighteen (18) months to three (3) years.

In its Resolution dated February 11, 2014, the IBP Board of Governors denied

respondent's motion for reconsideration.<sup>[18]</sup>

### **Ruling**

Despite respondent's vigorous disclaimer of any participation in the procurement of the falsified bail bond and release order, the combination of all the circumstances on record is such as to produce the indubitable conclusion that it was respondent, no other, who conceptualized, planned, and implemented the falsified bail bond and release order for his son's temporary release. Consider:

**First.** He was the counsel of record for his son who was charged with murder, a non-bailable offense, docketed as Criminal Case No. RTC-1503.

**Second.** As such, he knew there was no petition for bail at all, much less any hearing thereon, nor an order granting or fixing the amount thereof at P200,000.00. But despite his knowledge of these attendant circumstances, he personally went to present to Branch Clerk of Court Atty. Murallon the supposed bail bond and release order with the end in view of securing his son's temporary liberty. More than anyone else, it was he who knew these documents were falsified and did not legally exist.

He cannot feign ignorance of these spurious documents. He may deny all he wants but being his son's counsel of record speaks volumes of his familiarity with the proceedings that actually took place therein including those which did not take place at all. He may deny being the conceptor, inventor, implementor or brains behind the whole scheme, but he has only himself to fool.

In any event, his vehement denial only further exposes to all and sundry his wicked tendencies and unworthiness to continue being a member of the Philippine Bar.

He may have thought of putting into the picture a fall guy named "Guialani" whom he said processed the falsified court issuances. But does this person really exist? What is his expertise in processing bail bonds? What did he do to be able to come out with a falsified bail bond and release order? What is BHIC's connection to Guialani? True, in their respective affidavits, Cristina Romarate (an alleged BHIC stockholder) and BHIC CEO Jonathan Stevens stated they introduced respondent to Guialani. But these affidavits did not shed light on Guialani's true identity and actual participation in the procurement of the falsified bail bond and release order.

It was indeed convenient for respondent to point to Guialani as the procurer of the falsified court documents. It was also convenient for the BHIC officers to corroborate respondent's claim that the falsified court issuances were procured by a certain Guialani. But these statements are all self-serving. The rock bottom is this: there is no proof Guialani really exists. Besides, if indeed respondent had no hand in the procurement of the falsified court issuances, it would have been right for him to promptly file an action against Guialani. But he never did.

**Third.** Respondent unabashedly turned the table on the persons accusing him of falsifying the bail bond and release order. If this is not moral depravity, what is? Like seasoned criminals who resort to victim blaming, respondent conveniently pointed fingers at Judge Sitaca and her branch clerk of court when he himself clearly appears to be the mastermind of the vicious scheme.