

EN BANC

[A.C. No. 12160, August 14, 2018]

**BUENAVISTA PROPERTIES, INC., COMPLAINANT, V. ATTY.
AMADO B. DELORIA, RESPONDENT.**

DECISION

PERLAS-BERNABE, J.:

This administrative case stemmed from a verified complaint^[1] dated March 4, 2005 filed by complainant Buenavista Properties, Inc. (BPI) before the Integrated Bar of the Philippines (IBP) against respondent Atty. Amado B. Deloria (Atty. Deloria) for allegedly violating multiple provisions of the Code of Professional Responsibility (CPR), which include Rules 15.01 and 15.03, Canon 15 on conflict of interest, Rule 12.02, Canon 12 on forum shopping, and Canon 17 and Rules 18.03 and 18.04, Canon 18 for failure to file the necessary pleadings on behalf of his client.

The Facts

On May 7, 1992, BPI, a corporation duly organized and existing under Philippine laws, entered into a Joint Venture Agreement^[2] (JVA) with La Savoie Development Corporation^[3] (LSDC), represented by Atty. Deloria, for the development of a parcel of land into a mixed-use commercial and residential subdivision and for the sale of the subdivided lots. BPI alleged that the plans, applications, and other documents of LSDC relative thereto were submitted to, processed, and evaluated by the Housing and Land Use Regulatory Board (HLURB) at the time when Atty. Deloria was one of its Commissioners.^[4]

LSDC then sold the subdivided lots, albeit at very low prices. Further, LSDC misrepresented^[5] itself as the owner of the lots, prompting BPI to demand that LSDC refrain from further selling them. However, LSDC disregarded BPI's demands; ^[6] hence, the latter filed a complaint^[7] against the former for termination of contract, recovery of property and damages, with prayer for the issuance of a temporary restraining order and a writ of preliminary mandatory injunction (*civil case*) before the Regional Trial Court (RTC) of Quezon City. With Atty. Deloria as counsel, LSDC filed an answer with counterclaim and a prayer for the issuance of a writ of preliminary mandatory injunction^[8] to direct BPI to execute the deeds of absolute sale and release the corresponding titles to the lot buyers. However, LSDC's application for a writ of preliminary mandatory injunction was denied.^[9]

Thereafter, the lot buyers demanded LSDC to release the titles covering the subdivided lots; in turn, LSDC demanded the same from BPI. However, BPI refused, contending that it was not a party to the transactions between LSDC and the lot buyers, and that LSDC sold the lots despite its objections. Eventually, the RTC also denied LSDC's prayer for a writ of mandatory injunction.^[10]

Subsequently, LSDC, through Atty. Deloria, filed a complaint^[11] against BPI before the HLURB to compel the latter to execute the deeds of absolute sale and deliver the titles of the subdivided lots, the same reliefs prayed for in LSDC's answer with counterclaim in the *civil case*. Meanwhile, BPI further alleged that in order to shield LSDC from liability, Atty. Deloria convinced the lot buyers that the former was responsible for the non-delivery of their titles. Thus, several lot buyers appointed^[12] him as counsel to file cases on their behalf against BPI before the HLURB.^[13]

In March 2004, however, lot buyers Spouses Corazon Flores (Corazon) and Roberto Flores (collectively, Spouses Flores), through their attorney-in-fact Mariano L. Celis,^[14] filed a criminal case for *estafa*^[15] against LSDC President Jeanne G. Menguito (Menguito), premised on the latter's misrepresentation that she was the owner of the lot that Corazon purchased. An Information^[16] was later filed before the Metropolitan Trial Court of Makati City.^[17]

Thereafter, Atty. Deloria filed several complaints^[18] for delivery of title against BPI before the HLURB on behalf of the lot buyers, which included the case entitled "*Marlon Bautista, Luisito V. Ingalia, and Wilfredo Latuja, represented by Atty. Amado B. Deloria, Attorney-in-Fact v. Buenavista Properties, Inc. and/or Josephine Conde, President*" docketed as HLURB Case No. REM-C-03-8-171.^[19]

On September 6, 2005, Corazon executed a *Sinumpaang Salaysay*^[20] stating, among others, that she was induced by a "fixer" to engage the services of Atty. Deloria as her lawyer for the purpose of filing a case against BPI before the HLURB. She also attested that although Atty. Deloria represented her before the HLURB, he neglected his duties as counsel by refusing to communicate with her and failing to file the required pleadings.^[21]

Finally, BPI alleged^[22] that Atty. Deloria made it appear that a certain Madelyn Hesola (Hesola) was the secretary of the President of BPI and in such capacity, received the HLURB's Notice of Decision^[23] of a judgment against BPI, by reason of which Atty. Deloria moved for the issuance of a writ of execution.^[24] However, BPI denied that Hesola was its employee, much more the secretary of its President. It likewise alleged that Atty. Deloria misquoted various provisions in the JVA in a position paper he filed before the HLURB.^[25]

In view of the foregoing, BPI prayed for the suspension or disbarment of Atty. Deloria for committing multiple violations of the CPR, to wit: (a) **Rule 1.03**,^[26] for encouraging the lot buyers to file cases against BPI in order to deflect the charges that the lot buyers have against LSDC; (b) **Rules 2.03**^[27] and **8.02**^[28] for convincing the Spouses Flores to withdraw the *estafa* case against Menguito and to appoint him as lawyer to file a case against BPI instead; (c) **Rules 1.01**^[29] and **10.02**^[30] when he resorted to lies with respect to the employment of Hesola and for misquoting the JVA in his pleadings; (d) **Rule 1.01** for inducing the lot buyers to file cases against BPI; (e) **Rules 15.01**^[31] and **15.03**^[32] for acting as counsel for LSDC and the lot buyers at the same time; (j) **Rule 12.02**^[33] for having filed two (2) cases involving the same parties, issues, facts, and reliefs; (g) **Canon 17**^[34] and **Rules 18.03**^[35] and **18.04**,^[36] **Canon 18**,^[37] for failing to file the necessary pleadings on behalf of Corazon in the HLURB case; and (h) Rule 6.03^[38] for acting

as counsel for LSDC after leaving the government service as HLURB Commissioner.
[39]

In his defense,^[40] Atty. Deloria argued that while the plans of the subdivision project of BPI were submitted to the HLURB in 1992 for evaluation, he wielded no influence to approve the said plans because the evaluation and approval of subdivision plans were vested with the Commissioner for Planning. He added that being only one of the four (4) commissioners of the HLURB, which always acted as a collegial body, he had very limited functions. Moreover, he denied that he resorted to machinations and "hoodwinked" the lot buyers into engaging him as their lawyer, explaining that he only wanted to help the fully-paid lot buyers to obtain their titles.
[41]

Atty. Deloria likewise claimed that it was the staff of LSDC who served the Notice of Decision issued by the HLURB to Hesola. Further, he asserted that Section 7 (b) of Republic Act (RA) No. 6713,^[42] otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees," which proscribed his appearance before the HLURB within one (1) year from resignation, retirement, or separation from public office, no longer applies to him, considering that he has retired as HLURB Commissioner thirteen (13) years prior to becoming LSDC's counsel.^[43]

Finally, he averred that: (a) being an artificial person incapable of experiencing physical suffering or mental anguish, BPI cannot institute this action; (b) assuming without admitting that it can do so, no resolution of the Board of Directors of BPI was passed authorizing the filing of this complaint; (c) LSDC has the authority, under the JVA, to sell lots in the subdivision project; (d) the right to the delivery of the title of a buyer who has fully paid cannot be affected by any misunderstanding or litigation between the parties to a JVA; and (e) the complaint is tainted with bad faith, considering that two (2) days before the filing of the present complaint, the President of BPI informed him of an imminent disbarment case should he fail to cause the withdrawal of the lot buyers' complaints against BPI.^[44]

The IBP's Report and Recommendation

In a Report and Recommendation^[45] dated July 20, 2016, the IBP Investigating Commissioner found Atty. Deloria administratively liable, and accordingly, recommended that he be meted the penalty of suspension from the practice of law for two (2) years.^[46]

The Investigating Commissioner found that Atty. Deloria did not violate Rules 1.03, 2.03, and 8.02 of the CPR on the ground of insufficiency of evidence. Likewise, Atty. Deloria was found not guilty of violating Rules 1.01 and 10.02 of the CPR as BPI failed to show that he had a role in the wrongful designation of Hesola or that he knowingly misquoted the JVA in a position paper he filed with the HLURB.^[47]

However, the Investigating Commissioner found Atty. Deloria *guilty* of violating Rules 15.01 and 15.03 of the CPR for representing conflicting interests. Records show that on March 30, 2004, Corazon filed the *estafa* case against Menguito, President of LSDC, whose lawyer was Atty. Deloria. The basis for the *estafa* charges was Menguito's misrepresentation that she was the owner of the lot Corazon purchased. Thereafter, or on June 15, 2004, Atty. Deloria, *on behalf of Corazon*, filed a

complaint for delivery of title with the HLURB against BPI with LSDC as third-party respondent. Thus, Atty. Deloria simultaneously represented LSDC President Menguito and Corazon, a lot buyer, who had conflicting interests. Likewise, he represented several lot buyers as complainants in the HLURB case against BPI while also representing LSDC as third-party respondent therein. The Investigating Commissioner noted that Atty. Deloria failed to show that he obtained the written consent of the parties concerned.^[48]

Similarly, the Investigating Commissioner found Atty. Deloria liable for violating Rule 12.02 of the CPR on forum shopping, having prayed in its answer with counterclaim with prayer for the issuance of a writ of preliminary mandatory injunction in the *civil* case before the RTC that BPI be directed to execute the deeds of absolute sale and deliver the titles covering the subdivided lots, and thereafter, when the prayer for injunction was denied, filed a complaint before the HLURB praying for the same reliefs. In fact, the HLURB eventually dismissed the complaint filed before it on the ground of *litis pendentia*, finding the presence of all the elements therefor.^[49]

Finally, Atty. Deloria was also found to have violated Canon 17 and Rules 18.03 and 18.04, Canon 18 of the CPR for his failure to file the necessary pleadings for his client and to inform and communicate with her, as attested to by Corazon in her *Sinumpaang Salaysay*.^[50]

As regards the alleged violation of Rule 6.03 of the CPR, the Investigating Commissioner found no violation thereof, as the proscription under Section 7 (b) of RA 6713 prohibiting a former public officer from engaging in certain transactions applies only for a period of one (1) year after his/her resignation, retirement, or separation from office. As Atty. Deloria was engaged as LSDC's counsel thirteen (13) years after his retirement from HLURB, the prohibition no longer applies to him. Moreover, BPI failed to prove that Atty. Deloria intervened in any of the transactions where LSDC was involved during his stint as HLURB Commissioner.^[51]

Parenthetically, as regards BPI's standing to institute the present case, the Investigating Commissioner noted that a corporate entity may institute disbarment proceedings,^[52] as in this case.

In a Resolution^[53] dated June 17, 2017, the IBP Board of Governors adopted the aforesaid report and recommendation.^[54]

The Issue Before the Court

The essential issue in this case is whether or not grounds exist to hold Atty. Deloria administratively liable for any violations of the CPR.

The Court's Ruling

After a punctilious review of the records, the Court concurs with the conclusion of the IBP Board of Governors that Atty. Deloria should be held administratively liable in this case.

Atty. Deloria represented conflicting interests

Rules 15.01 and 15.03, Canon 15 of the CPR state:

CANON 15 - x x x

Rule 15.01 – A lawyer, in conferring with a prospective client, shall ascertain as soon as practicable whether the matter would involve a conflict with another client or his own interest, and if so, shall forthwith inform the prospective client.

x x x x

Rule 15.03 – A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

In *Hornilla v. Salunat*,^[55] the Court explained the test to determine conflict of interest, to wit:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client." This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interest if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. **Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double-dealing in the performance thereof.**^[56]

"The rule against conflict of interest also 'prohibits a lawyer from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases,' since *the representation of opposing clients, even in unrelated cases, 'is tantamount to representing conflicting interests or, at the very least, invites suspicion of double-dealing* which the Court cannot allow."^[57] Moreover, the requirement under Rule 15.03 is quite clear. A lawyer must secure the *written consent* of all concerned parties after a full disclosure of the facts;^[58] failure to do so would subject him to disciplinary action^[59] as he would be found guilty of representing conflicting interests.^[60]

In this case, Atty. Deloria represented Menguito, the President of LSDC, in the criminal case for *estafa* that the Spouses Flores filed against her. Subsequently, however, Atty. Deloria filed a complaint^[61] for delivery of title against BPI *on behalf of Corazon* before the HLURB. As such, Atty. Deloria simultaneously represented Menguito and Corazon despite their conflicting interests, considering that Corazon's *estafa* case against Menguito was premised on the latter's and LSDC's alleged misrepresentation^[62] of ownership over the lots sold and LSDC's eventual failure to deliver the title.^[63] It must be stressed that it was LSDC that obligated itself to