

## SECOND DIVISION

[ A.C. No. 10677, April 18, 2016 ]

**RUDENIA L. TIBURDO, COMPLAINANT, VS. ATTY. BENIGNO M. PUNO, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

Before the Court is a complaint for disbarment filed by Rudenia L. Tiburdo (Tiburdo) against Atty. Benigno M. Puno (Atty. Puno) for gross misconduct and gross immoral conduct in accordance with Section 27, Rule 138 of the Rules of Court.

#### The Facts

The Complaint stems from Civil Case No. 2633-G for Quieting of Title, Reconveyance and Damages (the Civil Case) filed in the Regional Trial Court (RTC) of Gumaca, Quezon by Gerd Robert Marquard (Marquard) against Spouses Antonino and Imelda Macaraeg, Fr. Rodrigo F. San Pedro and Araceli Emor.<sup>[1]</sup> Atty. Puno was the counsel for Marquard.

Due to the absence of summons to one of the defendants in the Civil Case, the hearing was reset to enable the service of summons by publication.<sup>[2]</sup> At the subsequent hearing, Atty. Puno manifested that this has been duly complied with.<sup>[3]</sup> However, as Atty. Puno did not have the Affidavit of Publication to prove such manifestation, the RTC required him to present the affidavit at the next hearing.<sup>[4]</sup> Despite repeated orders from the RTC, and more than sufficient time to comply with such orders,<sup>[5]</sup> Atty. Puno failed to present the required Affidavit of Publication. Thus, the counsel for defendant moved to dismiss the case on the ground that the case has been postponed several times due to the fault of the plaintiff, which shows lack of interest.<sup>[6]</sup> The RTC denied this motion and gave Atty. Puno a final chance to comply with its orders requiring the submission of the Affidavit of Publication.<sup>[7]</sup> Unfortunately, Atty. Puno still failed to comply. Thus, on 3 June 2009, the RTC eventually dismissed the case in accordance with Section 3, Rule 17 of the Rules of Court.<sup>[8]</sup> As no action was further taken on the order dismissing the Civil Case, the dismissal attained finality on 1 July 2009.<sup>[9]</sup>

On 4 June 2010, Tiburdo filed her Complaint-Affidavit<sup>[10]</sup> for the disbarment of Atty. Puno alleging that: (1) Atty. Puno intentionally and deliberately failed to submit the Affidavit of Publication to cause great damage and prejudice to Marquard; (2) Atty. Puno failed to inform her (as the duly authorized attorney-in-fact of Marquard)<sup>[11]</sup> or Marquard of the dismissal of the Civil Case despite receipt of the order containing

such dismissal; and (3) the actuations and demeanor of Atty. Puno constituted gross misconduct and gross immoral conduct which is a ground for his disbarment in accordance with Section 27, Rule 138 of the Rules of Court.<sup>[12]</sup>

In an Order dated 4 June 2010,<sup>[13]</sup> the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) required Atty. Puno to submit his Answer within fifteen (15) days from receipt of the Order, failure of which would result in his default and the ex-parte hearing of the case. Atty. Puno failed to file his Answer. Nonetheless, Atty. Puno attended the Mandatory Conference before the Investigating Commissioner. During the Mandatory Conference, Atty. Puno clarified whether the true complainant in the case was Tiburdo or Marquard, and whether there was a possible conflict with another disbarment case against him, CBD Case No. 10-2693.<sup>[14]</sup> Atty. Donnabel Cristal Tenorio (Atty. Tenorio), counsel for Tiburdo, manifested that the true complainant was her client Tiburdo. As the parties failed to arrive at a common issue, the Mandatory Conference was terminated on 17 June 2011 and both parties were required to submit their respective verified position papers within thirty (30) days therefrom.<sup>[15]</sup> Tiburdo filed her position paper on 24 July 2011.<sup>[16]</sup> Atty. Puno, on the other hand, failed to submit his.

### **IBP Investigation, Report and Recommendation**

In the Report and Recommendation dated 30 September 2011,<sup>[17]</sup> the Investigating Commissioner found Atty. Puno guilty of gross misconduct under Section 27, Rule 138 of the Rules of Court, in connection with the express mandate of the Lawyer's Oath of obeying the legal orders of duly constituted authorities. The Investigating Commissioner reasoned:

Nonetheless, the facts presented and evidence adduced warrant a proper finding of gross misconduct. The pieces of evidence presented by the complainant clearly and convincingly proved that respondent Atty. Puno's act of continuously ignoring the direct orders of the trial court to submit the Affidavit of Publication sans satisfying explanation by Atty. Puno for his failure to do so despite repeated demands is evocative of this gross misconduct, x x x.

x x x x

Yet in spite of said directive and final Notice, the records of the case, particularly the subsequent June 3, 2009 Order of the trial court dismissing the case under Rule 17, Section 3 of the Rules of Court shows the respondent's failure to comply. This deliberate and patent non-compliance [with] the trial court's Orders is in direct violation of the Lawyer's Oath i.e. to "obey the laws as well as the legal orders of the duly constituted authorities therein."

Moreover, the Code of Professional Responsibility clearly mandates for every lawyer to "serve his client with competence and diligence." In fact, Rule 18.04 of Canon 18 states that: "A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information." Time and time again the Supreme Court has held that "as an officer of the court, it is the duty of

an attorney to inform his client of whatever information he may have acquired which is important that the client should have knowledge of. He should notify his client of any adverse decision to enable his client to decide whether to seek an appellate review thereof. Keeping the client informed of the developments of the case will minimize misunderstanding and los[s] of trust and confidence in the attorney."<sup>[18]</sup>

While Atty. Puno failed to file any pleadings with the IBP, the Investigating Commissioner still took note of the argument raised by Atty. Puno during the Mandatory Conference - that Tiburdo was not the proper party to this disbarment case. In addressing this issue, the Investigating Commissioner held:

The respondent's query on proper standing is of no moment. "Rule 139.B, Section 1 of the Rules of Court state[s] that: Proceedings for disbarment, suspension or discipline of attorneys may be taken by the Supreme Court *motu proprio*, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person."

Correspondingly, the Supreme Court in the case of *Navarro v. Meneses III*, as reiterated in *Ilusorio-Bildner v. Lokin*, held that: "x x x The right to institute a disbarment proceeding is not confined to clients nor is it necessary that the person complaining suffered injury from the alleged wrongdoing. Disbarment proceedings are matters of public interest and the only basis for judgment is the proof or failure of proof of the charges. The evidence submitted by complainant before the Commission on Bar Discipline sufficed to sustain its resolution and recommended sanctions."

<sup>[19]</sup>

Finding Atty. Puno guilty of gross misconduct, the Investigating Commissioner made the following recommendation:

WHEREFORE, in view of the foregoing, it is respectfully recommended that Atty. Benigno M. Puno be SUSPENDED from [the] practice of law for three (3) months for gross misconduct under Rule 138, Section 27 of the Rules of Court in connection with the express mandate of the Lawyer's Oath of obeying the legal orders of the duly constituted authorities, herein Regional Trial Court of Quezon Branch 61 to file the Affidavit of Publication and of Canon 18, Rule 18.04 of the Code of Professional Responsibility for his failure to timely and immediately apprise his client of the adverse decision regarding their case.<sup>[20]</sup>

In Resolution No. XX-2012-583 dated 29 December 2012, the Board of Governors of the IBP adopted and approved, with modification, the Report and Recommendation of the Investigating Commissioner:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that Respondent violated Rule 138, Section 27 of the Rules of Court and Canon 18, Rule 18.04 of the Code of Professional Responsibility, Atty. Benigno M. Puno is hereby

ADMONISHED with Warning that repetition of the same of [sic] similar acts shall be dealt with more severely.<sup>[21]</sup>

On 22 March 2013, Atty. Puno filed a Motion for Reconsideration arguing that the IBP failed to include his defense that he was no longer the counsel of Marquard when the RTC issued the orders. He alleged that he had no more obligation to interfere in the cases:

xxx [T]he ground that the RECOMMENDATION upon which the said Resolution is based had OMITTED herein respondent's DEFENSE that he was already UNCEREMONIOUSLY REMOVED as counsel of the complainant in the several cases in one of which, the trial Court [sic] had dismissed one of the complainant's Complaint in which respondent had no more obligation to interfere in said cases in which he was already DISCHARGED from handling said case as early as April 13, 2009.<sup>[22]</sup>

To support his argument, Atty. Puno attached the letter of Tiburdo dated 13 April 2009,<sup>[23]</sup> terminating his services as counsel for Marquard. Atty. Puno also attached his Position Paper<sup>[24]</sup> for CBD Case No. 10-2586<sup>[25]</sup> where he argued, among others, that: (1) Tiburdo had no personal knowledge of the facts complained of and thus had no cause of action against him; and (2) he was already "unceremoniously, unjustifiably discharged or terminated, in an uncivilized way" before the Civil Case was dismissed.

On 2 May 2014, the Board of Governors of the IBP denied the Motion for Reconsideration of Atty. Puno and adopted the recommendation of the Investigating Commissioner suspending him from the practice of law for three (3) months:

RESOLVED, to DENY Respondent's Motion for Reconsideration, finding gross misconduct on his part. Thus, the Board hereby SET ASIDE Resolution No. XX-2012-583 dated December 29, 2012 and ADOPT and APPROVE the Report and Recommendation of the Investigating Commissioner SUSPENDING Atty. Benigno M. Puno from the practice of law for three (3) months.<sup>[26]</sup>

### **The Ruling of the Court**

The Court finds the report of the IBP in order, with modification as to the penalty.

On a preliminary note, we agree with the report of the Investigating Commissioner as to proper standing. While Tiburdo did not present any evidence to prove that she was indeed the attorney-in-fact of Marquard, this does not affect a disbarment case. We have held time and again that the right to institute disbarment proceedings is not confined to clients nor is it necessary that the complainant suffered injury from the alleged wrongdoing.<sup>[27]</sup> As explained in *Rayos-Ombac v. Rayos*:<sup>[28]</sup>

A proceeding for suspension or disbarment is not in any sense a civil action where the complainant is a plaintiff and the respondent lawyer is a defendant. Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare. They are undertaken for the purpose of preserving courts of justice from the official ministrations of persons unfit