

FIRST DIVISION

[A.C. No. 10451, February 04, 2015]

**SPOUSES WILLIE AND AMELIA UMAGUING, COMPLAINANTS, VS.
ATTY. WALLEN R. DE VERA, RESPONDENT.**

DECISION

PERLAS-BERNABE, J.:

This administrative case stemmed from a Complaint^[1] for the alleged betrayal of trust, incompetence, and gross misconduct of respondent Atty. Wallen R. De Vera (Atty. De Vera) in his handling of the election protest case involving the candidacy of Mariecris Umaguining (Umaguining), daughter of Sps. Willie and Amelia Umaguining (complainants), for the Sangguniang Kabataan (SK) Elections, instituted before the Metropolitan Trial Court of Quezon City, Branch 36 (MeTC), docketed as ELEC. CASE No. 07-1279.^[2]

The Facts

As alleged in the Complaint, Umaguining ran for the position of SK Chairman in the SK Elections for the year 2007 but lost to her rival Jose Gabriel Bungag by one (1) vote.^[3] Because of this, complainants lodged an election protest and enlisted the services of Atty. De Vera. On November 7, 2007, complainants were asked by Atty. De Vera to pay his acceptance fee of P30,000.00, plus various court appearance fees and miscellaneous expenses in the amount of P30,000.00.^[4] According to the complainants, Atty. De Vera had more than enough time to prepare and file the case but the former moved at a glacial pace and only took action when the November 8, 2008 deadline was looming.^[5] Atty. De Vera then rushed the preparation of the necessary documents and attachments for the election protest. Two (2) of these attachments are the Affidavits^[6] of material witnesses Mark Anthony Lachica (Lachica) and Angela Almera (Almera), which was personally prepared by Atty. De Vera. At the time that the aforesaid affidavits were needed to be signed by Lachica and Almera, they were unfortunately unavailable. To remedy this, Atty. De Vera allegedly instructed Abeth Lalong-Isip (Lalong-Isip) and Hendricson Fielding (Fielding) to look for the nearest kin or relatives of Lachica and Almera and ask them to sign over the names.^[7] The signing over of Lachica's and Almera's names were done by Christina Papin (Papin) and Elsa Almera-Almacen, respectively. Atty. De Vera then had all the documents notarized before one Atty. Donato Manguiat (Atty. Manguiat).^[8]

Later, however, Lachica discovered the falsification and immediately disowned the signature affixed in the affidavit and submitted his own Affidavit,^[9] declaring that he did not authorize Papin to sign the document on his behalf. Lachica's affidavit was presented to the MeTC and drew the ire of Presiding Judge Edgardo Belosillo (Judge Belosillo), who ruled that the affidavits filed by Atty. De Vera were falsified.

Judge Belosillo pointed out that while Atty. De Vera filed a pleading to rectify this error (*i.e.*, an Answer to Counterclaim with Omnibus Motion,^[10] seeking, among others, the withdrawal of Lachica's and Almera's affidavits), it was observed that such was a mere flimsy excuse since Atty. De Vera had ample amount of time to have the affidavits personally signed by the affiants but still hastily filed the election protest with full knowledge that the affidavits at hand were falsified.^[11]

In further breach of his oath as a lawyer, the complainants pointed out that Atty. De Vera did not appear before the MeTC, although promptly notified, for a certain December 11, 2007 hearing; and did not offer any explanation as to why he was not able to attend.^[12]

The complainants then confronted Atty. De Vera and asked for an explanation regarding his non-appearance in the court. Atty. De Vera explained that he was hesitant in handling the particular case because of the alleged favoritism of Judge Belosillo. According to Atty. De Vera, Judge Belosillo received P60,000.00 from the defense counsel, Atty. Carmelo Culvera, in order to acquire a favorable decision for his client. Atty. De Vera averred that he would only appear for the case if the complainants would give him P80,000.00, which he would in turn, give to Judge Belosillo to secure a favorable decision for Umaguing.^[13]

On December 12, 2007, for lack of trust and confidence in the integrity and competency of Atty. De Vera, as well as his breach of fiduciary relations, the complainants asked the former to withdraw as their counsel and to reimburse them the P60,000.00 in excessive fees he collected from them, considering that he only appeared twice for the case.^[14]

In view of the foregoing, complainants sought Atty. De Vera's disbarment.^[15]

In his Counter-Affidavit,^[16] Atty. De Vera vehemently denied all the accusations lodged against him by complainants. He averred that he merely prepared the essential documents for election protest based on the statements of his clients.^[17] Atty. De Vera then explained that the signing of Lachica's falsified Affidavit was done without his knowledge and likewise stated that it was Christina Papin who should be indicted and charged with the corresponding criminal offense. He added that he actually sought to rectify his mistakes by filing the aforementioned Answer to Counterclaim with Omnibus Motion in order to withdraw the affidavits of Lachica and Almera. As he supposedly felt that he could no longer serve complainants with his loyalty and devotion in view of the aforementioned signing incident, Atty. De Vera then withdrew from the case.^[18] To add, he pointed out that along with his Formal Notice of Withdrawal of Counsel, complainants executed a document entitled "Release Waiver & Discharge,"^[19] which, to him, discharges him and his law firm from all causes of action that complainants may have against him, including the instant administrative case.

After the conduct of the mandatory conference/hearing before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline, the matter was submitted for report and recommendation.

The Report and Recommendation of the IBP

In a Report and Recommendation^[20] dated December 5, 2009, the IBP Commissioner found the administrative action to be impressed with merit, and thus recommended that Atty. De Vera be suspended from the practice of law for a period of two (2) months.^[21]

While no sufficient evidence was found to support the allegation that Atty. De Vera participated in the falsification of Lachica's affidavit, the IBP Commissioner ruled oppositely with respect to the falsification of Almera's affidavit, to which issue Atty. De Vera deliberately omitted to comment on. The Investigating Commissioner pointed out that the testimony of Elsa Almera-Almacen, Almera's sister – attesting that Lalong-Isip approached her and asked if she could sign the affidavit, and her vivid recollection that Atty. De Vera was present during its signing, and that Lalong-Isip declared to Atty. De Vera that she was not Almera – was found to be credible as it was too straightforward and hard to ignore.^[22] It was also observed that the backdrop in which the allegations were made, *i.e.*, that the signing of the affidavits was done on November 7, 2007, or one day before the deadline for the filing of the election protest, showed that Atty. De Vera was really pressed for time and, hence, his resort to the odious act of advising his client's campaigners Lalong-Isip and Fielding to look for kin and relatives of the affiants for and in their behalf in his earnest desire to beat the deadline set for the filing of the election protest.^[23] To this, the IBP Investigating Commissioner remarked that the lawyer's first duty is not to his client but to the administration of justice, and therefore, his conduct ought to and must always be scrupulously observant of the law and ethics of the profession.^[24]

In a Resolution^[25] dated December 14, 2012, the Board of Governors of the IBP resolved to adopt the findings of the IBP Commissioner. Hence, for knowingly submitting a falsified document in court, a two (2) month suspension was imposed against Atty. De Vera.

On reconsideration,^[26] however, the IBP Board of Governors issued a Resolution^[27] dated February 11, 2014, affirming with modification their December 14, 2012 Resolution, decreasing the period of suspension from two (2) months to one (1) month.

The Issue Before the Court

The sole issue in this case is whether or not Atty. De Vera should be held administratively liable.

The Court's Ruling

The Court adopts and approves the findings of the IBP, as the same were duly substantiated by the records. However, the Court finds it apt to increase the period of suspension to six (6) months.

Fundamental is the rule that in his dealings with his client and with the courts, every lawyer is expected to be honest, imbued with integrity, and trustworthy. These expectations, though high and demanding, are the professional and ethical burdens of every member of the Philippine Bar, for they have been given full expression in

the Lawyer's Oath that every lawyer of this country has taken upon admission as a *bona fide* member of the Law Profession, thus:[28]

I, _____, do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; **I will do no falsehood, nor consent to the doing of any in court**; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same. I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients; and I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion. So help me God.[29] (Emphasis and underscoring supplied)

The Lawyer's Oath enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients. Every lawyer is a servant of the law, and has to observe and maintain the rule of law as well as be an exemplar worthy of emulation by others. It is by no means a coincidence, therefore, that the core values of honesty, integrity, and trustworthiness are emphatically reiterated by the Code of Professional Responsibility.[30] In this light, Rule 10.01, Canon 10 of the Code of Professional Responsibility provides that "[a] lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice."

After an assiduous examination of the records, the Court finds itself in complete agreement with the IBP Investigating Commissioner, who was affirmed by the IBP Board of Governors, in holding that Atty. De Vera sanctioned the submission of a falsified affidavit, *i.e.*, Almera's affidavit, before the court in his desire to beat the November 8, 2008 deadline for filing the election protest of Umaguig. To this, the Court is wont to sustain the IBP Investigating Commissioner's appreciation of Elsa Almera-Almacen's credibility as a witness given that nothing appears on record to seriously belie the same, and in recognition too of the fact that the IBP and its officers are in the best position to assess the witness's credibility during disciplinary proceedings, as they – similar to trial courts – are given the opportunity to first-hand observe their demeanor and comportment. The assertion that Atty. De Vera authorized the falsification of Almera's affidavit is rendered more believable by the absence of Atty. De Vera's comment on the same. In fact, in his Motion for Reconsideration of the IBP Board of Governors' Resolution dated December 14, 2012, no specific denial was proffered by Atty. De Vera on this score. Instead, he only asserted that he was not the one who notarized the subject affidavits but another notary public, who he does not even know or has seen in his entire life,[31] and that he had no knowledge of the falsification of the impugned documents, much less of the participation in using the same.[32] Unfortunately for Atty. De Vera, the Court views the same to be a mere general denial which cannot overcome Elsa Almera-Almacen's positive testimony that he indeed participated in the procurement of her signature and the signing of the affidavit, all in support of the claim of