

## SECOND DIVISION

[ A.C. No. 7961, March 19, 2014 ]

**ATTY. CLODUALDO C. DE JESUS, COMPLAINANT, VS. ATTY.  
ALICIA A. RISOS-VIDAL, RESPONDENT.**

### R E S O L U T I O N

**CARPIO, J.:**

#### The Case

Before the Court is a disciplinary action filed by Atty. Clodualdo C. De Jesus (De Jesus) against Atty. Alicia A. Risos-Vidal (Risos-Vidal), then Director of the Integrated Bar of the Philippines, Commission on Bar Discipline (IBP-CBD), for gross misconduct, dishonesty and gross unethical behavior.

#### The Facts

The facts, as culled from the records, are as follows:

The present administrative case stemmed from Civil Case No. 99-93873, "*Anastacia F. Torres, Plaintiff, v. Susan F. Torres, Defendant*" (civil case), where De Jesus acted as counsel for the defendant Susan F. Torres (Torres).

On 16 May 2006, the Regional Trial Court of Manila, Branch 28 (RTC) issued a decision approving the compromise agreement of the parties in the civil case. On 12 September 2007, De Jesus filed an omnibus motion (motion) to compel Torres to pay P4,000,000.00 as success fees and to sell some of Torres' properties, the certificates of title of which were still with De Jesus.

On 6 November 2007, Torres filed an administrative complaint<sup>[1]</sup> (complaint) against De Jesus before the IBP-CBD, alleging that De Jesus refused to return her certificates of title despite already paying attorney's fees amounting to P2,436,820.96.

On 7 November 2007, Risos-Vidal, then Director of IBP-CBD, issued an order<sup>[2]</sup> requiring De Jesus to answer the complaint filed by Torres.

In the meantime, Risos-Vidal became the new counsel of Torres in the civil case and she filed a comment<sup>[3]</sup> dated 7 December 2007 to De Jesus' motion. The comment stated that De Jesus already received more than what he was entitled as attorney's fees, and still he refused to return Torres' certificates of title despite the termination of his services. On 20 December 2007, De Jesus filed his manifestation/compliance in the civil case, attaching Torres' certificates of title and conditioning their release upon the payment of his success fees.

In compliance with the order of Risos-Vidal, De Jesus filed his answer<sup>[4]</sup> dated 18 January 2008 to the complaint. In his answer, De Jesus alleged that the subject matter of the complaint was sub judice because of the civil case, and Risos-Vidal took advantage of her position as Director of the IBP-CBD by actually preparing the complaint against him and by issuing an order the next day. On 6 March 2008, Torres filed her reply<sup>[5]</sup> alleging that Atty. Solomon L. Condenueno (Condenueno) prepared her complaint against De Jesus, and not Risos-Vidal.

On 10 June 2008, Atty. Anthony L. Po (Po) and Atty. Jose Paolo C. Armas (Armas) entered their appearances as counsels for Torres in the complaint against De Jesus before the IBP-CBD. On 23 June 2008, Torres, through Po and Armas, filed a supplemental and/or amended complaint<sup>[6]</sup> expounding the grounds for the complaint such as De Jesus' collecting of exorbitant attorney's fees, withholding of certificates of title and failing to file a case despite payment of his fees.

On 7 July 2008, De Jesus filed this present administrative complaint<sup>[7]</sup> before the Court accusing Risos-Vidal of gross misconduct, dishonesty and gross unethical behavior under Rule 138, Section 27 of the Rules of Court.<sup>[8]</sup> In this present administrative complaint, De Jesus alleged that Risos-Vidal actually prepared the following: (1) Torres' complaint against him; (2) reply; and (3) the supplemental and/or amended complaint, which were then filed before her IBP-CBD office. Risos-Vidal allegedly converted the issue in the civil case into an administrative complaint against him, and used Po and Armas in filing the supplemental and/or amended complaint. According to De Jesus, Risos-Vidal used her position as Director of IBP-CBD to enhance her private practice.

In a comment dated 20 October 2008,<sup>[9]</sup> Risos-Vidal denied any participation in the complaint filed against De Jesus. Risos-Vidal alleged that De Jesus failed to present evidence to support his accusations, while she attached Torres' affidavit<sup>[10]</sup> stating that: (1) Condenueno prepared her complaint against De Jesus; (2) even before retaining Risos-Vidal's services to defend her in the civil case, she already retained Condenueno to file her complaint against De Jesus; and (3) when she could no longer contact Condenueno, she asked Po, her previous lawyer, to assist her in preparing her supplemental and/or amended complaint.

In a reply dated 5 November 2008,<sup>[11]</sup> De Jesus alleged that there were similarities in contents, style and computer used between the pleadings submitted by Torres with the IBP-CBD and those filed by Risos-Vidal in the civil case. De Jesus also attacked Risos-Vidal's failure to adduce the sworn statements of Condenueno, Po and Armas to substantiate her denial. De Jesus likewise accused Torres of lying because Torres' affidavit stated that she engaged the services of Po on 18 June 2008, but Armas' acknowledgement receipt was dated 3 June 2008.

In a Resolution dated 8 December 2008,<sup>[12]</sup> the Court, through the First Division, referred this case to the IBP for investigation, report and recommendation.

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

In an Order dated 13 March 2009,<sup>[13]</sup> IBP Commissioner Salvador B. Hababag (Commissioner Hababag) stated that both De Jesus and Risos-Vidal appeared during

the mandatory conference. They agreed that admissions and stipulations shall be limited to the pleadings already filed.

In a Report and Recommendation dated 6 July 2009,<sup>[14]</sup> Commissioner Hababag recommended that the administrative complaint against Risos-Vidal be dismissed for lack of merit. He found that De Jesus had not only failed to show sufficient proof in support of his claim, but Risos-Vidal also rebutted his accusation with preponderant evidence.

In Resolution No. XIX-2010-177<sup>[15]</sup> passed on 26 February 2010, the IBP Board of Governors adopted and approved Commissioner Hababag's report and recommendation, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of 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 the complaint lacks merit, the same is hereby **DISMISSED**.

N. B. CBD Director Alicia A. Risos-Vidal stepped out of the room and took no part on the discussion of this case considering that she is the respondent in this case.

In Resolution No. XIX-2011-122<sup>[16]</sup> passed on 12 April 2011, the IBP Board of Governors likewise denied the motion for reconsideration filed by De Jesus since the Board found no cogent reason to reverse its initial findings.

Hence, De Jesus filed this petition.<sup>[17]</sup>

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

We sustain the findings and recommendations of the IBP Board of Governors.

As a rule, an attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved.<sup>[18]</sup> The burden of proof in disbarment and suspension proceedings always rests on the complainant.<sup>[19]</sup> Considering the serious consequence of disbarment or suspension of a member of the Bar, this Court has consistently held that clear preponderant evidence is necessary to justify the imposition of administrative penalty.<sup>[20]</sup> Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other.<sup>[21]</sup> Thus, not only does the burden of proof that the respondent committed the act complained of rests on complainant, but the burden is not satisfied when complainant relies on mere assumptions and suspicions as evidence.<sup>[22]</sup>

In the present case, we find that De Jesus failed to discharge the burden of proving Risos-Vidal's administrative liability by clear preponderance of evidence. Except for his allegations, De Jesus did not present any proof to substantiate his claim that