

SECOND DIVISION

[A.C. No. 9604, March 20, 2013]

**RODRIGO E. TAPAY AND ANTHONY J. RUSTIA, COMPLAINANTS,
VS. ATTY. CHARLIE L. BANCOLO AND ATTY. JANUS T. JARDER,
RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This administrative case arose from a Complaint filed by Rodrigo E. Tapay (Tapay) and Anthony J. Rustia (Rustia), both employees of the Sugar Regulatory Administration, against Atty. Charlie L. Bancolo (Atty. Bancolo) and Atty. Janus T. Jarder (Atty. Jarder) for violation of the Canons of Ethics and Professionalism, Falsification of Public Document, Gross Dishonesty, and Harassment.

The Facts

Sometime in October 2004, Tapay and Rustia received an Order dated 14 October 2004 from the Office of the Ombudsman-Visayas requiring them to file a counter-affidavit to a complaint for usurpation of authority, falsification of public document, and graft and corrupt practices filed against them by Nehimias Divinagracia, Jr. (Divinagracia), a co-employee in the Sugar Regulatory Administration. The Complaint^[1] dated 31 August 2004 was allegedly signed on behalf of Divinagracia by one Atty. Charlie L. Bancolo of the Jarder Bancolo Law Office based in Bacolod City, Negros Occidental.

When Atty. Bancolo and Rustia accidentally chanced upon each other, the latter informed Atty. Bancolo of the case filed against them before the Office of the Ombudsman. Atty. Bancolo denied that he represented Divinagracia since he had yet to meet Divinagracia in person. When Rustia showed him the Complaint, Atty. Bancolo declared that the signature appearing above his name as counsel for Divinagracia was not his. Thus, Rustia convinced Atty. Bancolo to sign an affidavit to attest to such fact. On 9 December 2004, Atty. Bancolo signed an affidavit denying his supposed signature appearing on the Complaint filed with the Office of the Ombudsman and submitted six specimen signatures for comparison. Using Atty. Bancolo's affidavit and other documentary evidence, Tapay and Rustia filed a counter-affidavit accusing Divinagracia of falsifying the signature of his alleged counsel, Atty. Bancolo.

In a Resolution dated 28 March 2005, the Office of the Ombudsman provisionally dismissed the Complaint since the falsification of the counsel's signature posed a prejudicial question to the Complaint's validity. Also, the Office of the Ombudsman ordered that separate cases for Falsification of Public Document^[2] and

Dishonesty^[3] be filed against Divinagracia, with Rustia and Atty. Bancolo as complainants.

Thereafter, Divinagracia filed his Counter-Affidavit dated 1 August 2005 denying that he falsified the signature of his former lawyer, Atty. Bancolo. Divinagracia presented as evidence an affidavit dated 1 August 2005 by Richard A. Cordero, the legal assistant of Atty. Bancolo, that the Jarder Bancolo Law Office accepted Divinagracia's case and that the Complaint filed with the Office of the Ombudsman was signed by the office secretary per Atty. Bancolo's instructions. Divinagracia asked that the Office of the Ombudsman dismiss the cases for falsification of public document and dishonesty filed against him by Rustia and Atty. Bancolo and to revive the original Complaint for various offenses that he filed against Tapay and Rustia.

In a Resolution dated 19 September 2005, the Office of the Ombudsman dismissed the criminal case for falsification of public document (OMB-V-C-05-0207-E) for insufficiency of evidence. The dispositive portion states:

WHEREFORE, the instant case is hereby DISMISSED for insufficiency of evidence, without prejudice to the re-filing by Divinagracia, Jr. of a proper complaint for violation of RA 3019 and other offenses against Rustia and Tapay.

SO ORDERED.^[4]

The administrative case for dishonesty (OMB-V-A-05-0219-E) was also dismissed for lack of substantial evidence in a Decision dated 19 September 2005.

On 29 November 2005, Tapay and Rustia filed with the Integrated Bar of the Philippines (IBP) a complaint^[5] to disbar Atty. Bancolo and Atty. Jarder, Atty. Bancolo's law partner. The complainants alleged that they were subjected to a harassment Complaint filed before the Office of the Ombudsman with the forged signature of Atty. Bancolo. Complainants stated further that the signature of Atty. Bancolo in the Complaint was not the only one that was forged. Complainants attached a Report^[6] dated 1 July 2005 by the Philippine National Police Crime Laboratory 6 which examined three other letter-complaints signed by Atty. Bancolo for other clients, allegedly close friends of Atty. Jarder. The report concluded that the questioned signatures in the letter-complaints and the submitted standard signatures of Atty. Bancolo were not written by one and the same person. Thus, complainants maintained that not only were respondents engaging in unprofessional and unethical practices, they were also involved in falsification of documents used to harass and persecute innocent people.

On 9 January 2006, complainants filed a Supplement to the Disbarment Complaint Due to Additional Information. They alleged that a certain Mary Jane Gentugao, the secretary of the Jarder Bancolo Law Office, forged the signature of Atty. Bancolo.

In their Answer dated 26 January 2006 to the disbarment complaint, respondents admitted that the criminal and administrative cases filed by Divinagracia against complainants before the Office of the Ombudsman were accepted by the Jarder Bancolo Law Office. The cases were assigned to Atty. Bancolo. Atty. Bancolo alleged

that after being informed of the assignment of the cases, he ordered his staff to prepare and draft all the necessary pleadings and documents. However, due to some minor lapses, Atty. Bancolo permitted that the pleadings and communications be signed in his name by the secretary of the law office. Respondents added that complainants filed the disbarment complaint to retaliate against them since the cases filed before the Office of the Ombudsman were meritorious and strongly supported by testimonial and documentary evidence. Respondents also denied that Mary Jane Gentugao was employed as secretary of their law office.

Tapay and Rustia filed a Reply to the Answer dated 2 March 2006. Thereafter, the parties were directed by the Commission on Bar Discipline to attend a mandatory conference scheduled on 5 May 2006. The conference was reset to 10 August 2006. On the said date, complainants were present but respondents failed to appear. The conference was reset to 25 September 2006 for the last time. Again, respondents failed to appear despite receiving notice of the conference. Complainants manifested that they were submitting their disbarment complaint based on the documents submitted to the IBP. Respondents were also deemed to have waived their right to participate in the mandatory conference. Further, both parties were directed to submit their respective position papers. On 27 October 2006, the IBP received complainants' position paper dated 18 October 2006 and respondents' position paper dated 23 October 2006.

The IBP's Report and Recommendation

On 11 April 2007, Atty. Lolita A. Quisumbing, the Investigating Commissioner of the Commission on Bar Discipline of the IBP, submitted her Report. Atty. Quisumbing found that Atty. Bancolo violated Rule 9.01 of Canon 9 of the Code of Professional Responsibility while Atty. Jarder violated Rule 1.01 of Canon 1 of the same Code. The Investigating Commissioner recommended that Atty. Bancolo be suspended for two years from the practice of law and Atty. Jarder be admonished for his failure to exercise certain responsibilities in their law firm.

In her Report and Recommendation, the Investigating Commissioner opined:

x x x. In his answer[,] respondent Atty. Charlie L. Bancolo admitted that his signature appearing in the complaint filed against complainants' Rodrigo E. Tapay and Anthony J. Rustia with the Ombudsman were signed by the secretary. He did not refute the findings that his signatures appearing in the various documents released from his office were found not to be his. Such pattern of malpractice by respondent clearly breached his obligation under Rule 9.01 of Canon 9, for a lawyer who allows a non-member to represent him is guilty of violating the aforementioned Canon. The fact that respondent was busy cannot serve as an excuse for him from signing personally. After all respondent is a member of a law firm composed of not just one (1) lawyer. The Supreme Court has ruled that this practice constitute negligence and undersigned finds the act a sign of indolence and ineptitude. Moreover, respondents ignored the notices sent by undersigned. That showed patent lack of respect to the Integrated Bar of the Philippine[s'] Commission on Bar Discipline and its proceedings. It betrays lack of courtesy and irresponsibility as lawyers.