

## EN BANC

[ A.C. No. 6273, March 15, 2010 ]

**ATTY. ILUMINADA M. VAFLOR-FABROA, COMPLAINANT, VS.  
ATTY. OSCAR PAGUINTO, RESPONDENT.**

### DECISION

**CARPIO MORALES, J.:**

An Information for Estafa<sup>[1]</sup> was filed on June 21, 2001 against Atty. Iluminada M. Vaflor-Fabroa (complainant) along with others based on a joint affidavit-complaint which Atty. Oscar Paguinto (respondent) prepared and notarized. As the joint affidavit-complaint did not indicate the involvement of complainant, complainant filed a Motion to Quash the Information which the trial court granted.<sup>[2]</sup> Respondent's Motion for Reconsideration of the quashal of the Information was denied<sup>[3]</sup>

Respondent also filed six other criminal complaints against complainant for violation of Article 31 of Republic Act No. 6938 (Cooperative Code of the Philippines) before the Office of the Provincial Prosecutor, but he eventually filed a Motion to Withdraw them.<sup>[4]</sup>

On October 10, 2001, complainant, who was Chairperson of the General Mariano Alvarez Service Cooperative, Inc. (GEMASCO), received a Notice of Special General Assembly of GEMASCO on October 14, 2001 to consider the removal of four members of the Board of Directors (the Board), including her and the General Manager.<sup>[5]</sup> The notice was signed by respondent.

At the October 14, 2001 Special General Assembly presided by respondent and PNP Sr. Supt. Angelito L. Gerangco (Gerangco), who were not members of the then current Board,<sup>[6]</sup> Gerangco, complainant's predecessor, as Chair of the GEMASCO board, declared himself Chair, appointed others to replace the removed directors, and appointed respondent as Board Secretary.

On October 15, 2001, respondent and his group took over the GEMASCO office and its premises, the pumphouses, water facilities, and operations. On even date, respondent sent letter-notices to complainant and the four removed directors informing them of their removal from the Board and as members of GEMASCO, and advising them to cease and desist from further discharging the duties of their positions.<sup>[7]</sup>

Complainant thus filed on October 16, 2001 with the Cooperative Development Authority (CDA)-Calamba a complaint for annulment of the proceedings taken during the October 14, 2001 Special General Assembly.

The CDA Acting Regional Director (RD), by Resolution of February 21, 2002, declared the questioned general assembly null and void for having been conducted in violation of GEMASCO's By-Laws and the Cooperative Code of the Philippines.<sup>[8]</sup> The RD's Resolution of February 21, 2002 was later vacated for lack of jurisdiction<sup>[9]</sup> of CDA.

In her present complainant<sup>[10]</sup> against respondent for disbarment, complainant alleged that respondent:

X X X PROMOTED OR SUED A GROUNDLESS, FALSE OR UNLAWFUL SUIT, AND GAVE AID AND CONSENT TO THE SAME<sup>[11]</sup>

X X X DISOBEYED LAWS OF THE LAND, PROMOTE[D] DISRESPECT FOR LAW AND THE LEGAL PROFESSION<sup>[12]</sup>

X X X DID NOT CONDUCT HIMSELF WITH COURTESY, FAIRNESS AND CANDOR TOWARD HIS PROFESSIONAL COLLEAGUE AND ENGAGED IN HARASSING TACTICS AGAINST OPPOSING COUNSEL<sup>[13]</sup>

X X X VIOLATED CANON 19 - A LAWYER SHALL REPRESENT HIS CLIENT WITH ZEAL WITHIN THE BOUNDS OF THE LAW<sup>[14]</sup>

X X X RUINED AND DAMAGED NOT ONLY THE GEN. MARIANO ALVAREZ SERVICES COOPERATIVE, INC. (GEMASCO, INC.) BUT THE ENTIRE WATER-CONSUMING COMMUNITY AS WELL<sup>[15]</sup>

Despite the Court's grant,<sup>[16]</sup> on respondent's motion,<sup>[17]</sup> of extension of time to file Comment, respondent never filed any comment. The Court thus required him to show cause why he should not be disciplinarily dealt with,<sup>[18]</sup> but just the same he failed to comply.<sup>[19]</sup>

The Court thus referred the complaint to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.<sup>[20]</sup>

It appears that during the mandatory conference before the IBP, complainant proposed the following issues:

1. Whether or not the acts of respondent constitute violations of the Code of Professional Responsibility, particularly the following:
  - 1.1 Canon 1 - A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal [processes].
  - 1.2 Canon 8 - A lawyer shall conduct himself with courtesy, fairness, and candor toward his professional colleagues, and shall avoid harassing tactics against opposing counsel.

- 1.3 Canon 10 - A lawyer owes candor, fairness and good faith to the court.
  - 1.4 Canon 19 - A lawyer shall represent his client with zeal within the bounds of the law.
  - 1.5 Rule 12.03 - A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.
2. Whether or not the above acts of respondent constitute violations of his lawyer's oath, particularly the following:
    - 2.1 support the Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein
    - 2.2 will do no falsehood, nor consent to the doing of any in court
    - 2.3 will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same
    - 2.4 will delay no man for money or malice
  3. Whether or not the above acts of [respondent] complained of are grounds for disbarment or suspension of attorneys by the Supreme Court as provided for in Section 27, Rule 138 of the Revised Rules of Court.<sup>[21]</sup>

Respondent's counsel who represented him during the conference proposed the issue of whether, on the basis of the allegations of the complaint, misconduct was committed by respondent.<sup>[22]</sup>

After the conclusion of the conference, both parties were ordered to submit position papers.<sup>[23]</sup> Complainant filed hers,<sup>[24]</sup> but respondent, despite grant, on his motion, of extension of time, did not file any position paper.

In her Report and Recommendation,<sup>[25]</sup> Investigating Commissioner Lolita A. Quisumbing found respondent guilty of violating the Lawyer's Oath as well as Canons 1, 8, 10, and Rule 12.03 of the Code of Professional Responsibility. Noting that respondent had already been previously suspended for six months, the Commissioner recommended that respondent be suspended for two years.

The IBP Commission on Bar Discipline (CBD) Board of Governors opted for the dismissal of the complaint, however, for lack of merit.<sup>[26]</sup>

On Motion for Reconsideration,<sup>[27]</sup> the IBP-CBD Board of Governors recommended that respondent be suspended from the practice of law for six months.