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[A.C. No. 9457; April 5, 2022]
(Formerly CBD Case No. 13-3883)

ABNER R. MANGUBAT, *Complainant*, *v.* **ATTY. REYNALDO L. HERRERA,** *Respondent*.

D E C I S I O N

PER CURIAM:

This administrative case for disbarment arose from a Complaint[1] filed against respondent Atty. Reynaldo L. Herrera *(Atty. Herrera)* charging him with violation of several provisions of the Code of Professional Responsibility *(CPR)* and the Rules of Court.

The Antecedents

The complainant, Abner Mangubat *(Abner)*, is one of the heirs of Aurelia Rellora Mangubat *(Aurelia)*, who in turn, predeceased her husband, Gaudencio Mangubat *(Gaudencio)*. The other heirs of Aurelia are: (1) Elizabeth M. Bragais *(Elizabeth)*; (2) Ruth M. Pacia *(Ruth)*; (3) Josue Mangubat *(Josue)*; (4) Ester M. Agna *(Ester)*; (5) Job Mangubat *(Job)*; and (6) Raquel M. Azada *(Raquel)*.

It was alleged in the complaint of Abner that in May 1998, Gaudencio engaged the services of Atty. Herrera to institute a complaint for revival of judgment involving a parcel of land covered by TCT No. 6337[2] against Orlando Seva *(Orlando)* and Belen Morga-Seva *(Belen)* and the Development Bank of the Philippines (DBP) docketed as Civil Case No. P-2145. In the complaint,[3] Gaudencio was identified as the complainant together with the "Heirs of Aurelia represented by Raquel Azada *(Raquel)*."

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1 *Rollo*, pp. 1-24.

2 *Id.* at 303-304.

3 *Id.* at 27-30.

Supreme Court E-Library

Atty. Herrera enumerated the heirs of Aurelia and stated that Raquel joined the Complaint "for herself and as attorney-in-fact of her co-plaintiffs."[4] Abner was also listed as a co-plaintiff. The complaint sought the revival of Civil Case No. P-279. Atty. Herrera admitted that the engagement was only at the instance of Gaudencio, in the form of a verbal agreement, and that the latter undertook to secure the special power of attorney *(SPA)* from his children. However, no SPA was presented to the trial court.[5]

On February 22, 2001, a Compromise Agreement[6] was executed between Gaudencio, represented by Atty. Herrera, Belen, and the counsel for the DBP. Belen agreed to pay the amount of ₱72,600.00 plus ₱5,000.00 as attorney's fees in exchange for the transfer of TCT No. 6337 in her favor on or before June 30, 2001.[7] After the compromise agreement was approved by the court,[8] Atty. Herrera filed a motion for execution.[9] The motion was granted and a writ of execution was issued on October 5, 2001.[10] The sheriff reported that on January 18, February 20, March 18, May 6, and June 3, all in 2002, he went to the house of Belen but failed to execute the judgment as she was not there.[11]

Incidentally, on January 31, 2002, Gaudencio died.[12] Abner went to the office of Atty. Herrera to discuss the possibility of nullifying the long overdue compromise agreement and to inform him of his father's demise.[13]

Subsequently, Abner hired Atty. Haide Gumba *(Atty. Gumba)* to represent him in the subject case.[14] On September 10, 2002,

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4 *Id.* at 27-28.

5 *Id.* at 32.

6 *Id.* at 31.

7 *Id.*

8 *Id.* at 34.

9 *Id.* at 35.

10 *Id.* at 36-37.

11 *Id.* at 39.

12 *Id.* at 38.

13 *Id.* at 6-7.

14 *Id.* at 7.

Supreme Court E-Library

Atty. Gumba filed a motion to substitute Gaudencio with Abner and prayed that the sheriff be ordered to explain why no return has been made.[15] The trial court eventually granted the substitution.[16]

On October 30, 2002, Atty. Herrera filed an "*Ex-Parte Manifestation with Motion to Hold in Custody of the Court the Award in this Case Pending the Settlement of Estate of the Late Gaudencio Mangubat*."[17] He prayed that the listed heirs be appointed as substitute plaintiffs, and that the award in the decision, once paid by the Sevas, be deposited to the clerk of court, and released to the heirs of Gaudencio.[18]

Abner, however, claimed that Atty. Herrera did not secure any authority from the heirs when he filed the motion and manifestation and even omitted Job in the enumeration of heirs.[19] Nevertheless, the trial court granted it.[20]

On December 18, 2003, two years and two months after the writ of execution was issued, Atty. Herrera filed a Compliance[21] stating that he received ₱91,280.00[22] from Belen's son.[23] On even date, a deed of conditional sale Atty. Herrera drafted was executed between one Silvestre Seva, Jr. *(Silvestre)*, who claimed to be the

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[15] *Id.* at 40-41.

[16] *Id.* at 42.

[17] *Id.* at 43-44.

[18] *Id.* at 44.

[19] *Id.* at 8, 351.

[20] Order dated November 13, 2002. Penned by Acting Judge Nilo A. Malanyaon; *id.* at 153.

[21] *Id.* at 47-48.

[22] *Id.* at 49. The amount is computed as follows:

₱72,600.00	Principal of ₱33,000.00 plus interest of 12% since August 1990 to 2000.
11,880.00	Interest earned for 3 years (2000-2003)
5,000.00	Attorney's fees
1,800.00	Interest earned for 3 years
₱91,280.00	

[23] *Rollo*, pp. 155-156.

Supreme Court E-Library

attorney-in-fact of Belen, and the Spouses Ricardo and Rosemarie Biag *(Spouses Biag)* involving 600 square meters of the 16,320 square meters covered by TCT No. 6337.[24] Atty. Herrera notarized the deed of conditional sale. However, it was only on April 7, 2005, or one year and four months after Atty. Herrera received the money that he deposited it with the clerk of court.[25]

On December 17, 2004, Atty. Herrera filed an "*Ex-Parte Motion to Designate the Clerk of Court to Draft and Execute the Deed of Sale or Conveyance in Favor of the Defendants*."[26] Noticeably, this pleading was filed before the judgment award was actually deposited with the clerk of court on April 7, 2005. In an Order[27] dated January 17, 2005, the trial court granted the motion of Atty. Herrera. This prompted Belen to file a case against Abner to compel him to surrender the owner's duplicate copy of TCT No. 6337.[28]

On the part of Atty. Herrera, he claimed that Abner filed a complaint against him, as a form of retaliation. Atty. Herrera raised the estranged relationship between Abner and Gaudencio and the Decision dated September 19, 2001 of the probate court in Special Proceedings No. P-984 disinheriting Abner from the estate of Gaudencio.[29] He also questioned the motive of Abner in filing the motion for substitution without including his siblings, implying that Abner intended to keep all the monetary award for himself.[30] Atty. Herrera nonetheless admitted filing pleadings for Gaudencio long after his death. He, however, insisted that after he received the money from Belen's son, he notified Elizabeth, Esther, Josue, and Raquel, but none of them claimed their respective

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[24] *Id.* at 57, 61, 67-68.

[25] *Id.* at 50.

[26] *Id.* at 63-64.

[27] Order dated January 17, 2005. Penned by Presiding Judge Jose C. Arcilla; *id.* at 65-66.

[28] *Id.* at 72-73.

[29] *Id.* at 70; 91; 110; 127.

[30] *Id.* at 89; 100.

Supreme Court E-Library

shares.[31] He posited that the heirs could receive their respective shares provided that they turn over the owner's duplicate copy of TCT No. 6337.[32]

Atty. Herrera also maintained that there was no conflict of interest when he drafted and notarized the deed of conditional sale for Silvestre. He pointed out that: (1) the subject of the conditional sale does not belong to Gaudencio anymore pursuant to the Decision in Civil Case No. P-279 on August 27, 1985, the judgment sought to be revived in Civil Case No. P-2145; (2) the Compromise Agreement was executed by the parties; and (3) Belen voluntarily paid the award, thus terminating the case along with their client-counsel relationship.[33]

Report and Recommendation of the IBP

On January 20, 2014, Integrated Bar of the Philippines *(IBP)* Commissioner Victor Pablo C. Trinidad *(Investigating Commissioner)* made the following recommendations:

A. **For Violation of Canon 5 involving the Duty to Keep Abreast of Legal Development** — the Commissioner finds the respondent **GUILTY** as charged and recommends that he be penalized with **DISBARMENT**, in accordance with Section 4.51 of the IBP-CBD Guidelines for imposing Lawyer Sanctions (hereinafter, "CBD Guidelines");

B. **For Violation of Rule 10.01 involving the Duty of Fidelity to the Courts** — the Commissioner finds the respondent **GUILTY** as charged and recommends that he be penalized with **DISBARMENT**, in accordance with Section 6.11 of the CBD Guidelines;

[C.] **For Violation of Section 27, Rule 138 of the Revised Rules of Court by "willfully appearing as an attorney for a party to a case without authority to do so."** — the Commissioner finds the respondent **GUILTY** as charged and recommends that he be penalized with **DISBARMENT** in accordance with the Rules;

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[31] *Id.* at 69-70; 157-160.

[32] *Id.* at 90; 100.

[33] *Id.* at 108-111; 360.

Supreme Court E-Library

[D.] **For Violation of Section 16, Rule 3 of the Revised Rules of Court** involving the duty of counsel to x x x to inform the court of the death of his client — the Commissioner finds the respondent **GUILTY** and recommends that he be penalized in accordance with the Rules;

E. **For Violation of Rule 15.03 involving the Duty to Avoid Conflict of Interest** — the Commissioner finds the respondent **GUILTY** as charged and recommends that he be penalized with **DISBARMENT**, in accordance with Section 4.31 (D) of the CBD Guidelines;

F. **For Violation of Canon 16 involving the Duty to be a Trustee of Client's Moneys and Properties; Rule 16.01 Duty of Accountability; and Rule 16.02 Duty not to Commingle Funds and Properties** — the Commissioner finds the respondent **GUILTY** as charged and recommends that he be penalized with **DISBARMENT**, in accordance with Sections 4.11 of the CBD Guidelines; and

G. **For Violation of Canon 18 involving the Duty to serve with Due Diligence; Rule 18.03 Duty not to be Negligent; and Rule 18.04 Duty to keep Client informed** — the Commissioner finds the respondent **GUILTY** as charged and recommends that he be penalized with **DISBARMENT**, in accordance with Sections 4.41 (c) of the CBD Guidelines.

The commissioner finds the presence of: (i) pattern of misconduct; (ii) multiple offenses (ii) [sic] refusal to acknowledge wrongful the nature of conduct; (iv) vulnerability of the victims who are senior citizens; and (v) the substantial experience of the respondent in the practice of law (Roll No. 28561), as **AGGRAVATING CIRCUMSTANCE** and recommends that the same be considered for the imposition of penalty based on the charges.[34]

The Investigating Commissioner found that the following acts of Atty. Herrera warrant the imposition of the supreme penalty of disbarment: (1) indicating that the heirs of Aurelia were represented in the suit by Raquel when it was not true; (2) failing to timely inform, the court about the death of Gaudencio; (3) filing of pleadings in court without authority and despite the objections

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[34] *Id.* at 462-464. (Emphases in the original; citations omitted)

of the heirs of Aurelia and Gaudencio; (4) failing to immediately remit the money he collected to the clerk of court or to the heirs; and (5) moving for the surrender of the owner's duplicate title and drafting and notarizing the deed of conditional sale in favor of a party whose interest is in conflict with that of the heirs of Aurelia and Gaudencio.

Resolutions of the IBP Board of Governors

In Resolution No. XXI-2014-792[35] dated October 11, 2014, the IBP Board of Governors adopted and approved the recommendation of the Investigating Commissioner with modification, the pertinent portion of which states:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, ***with modification****, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and for violation of Canon 5, Rule 10.01, Rule 15.03, Canon 16, Rule 16.02, Canon 18, Rules 18.03 and 18.04 of the Code of Professional Responsibility, Section 27, Rule 138 and Section 16, Rule 3 of the Revised Rules of Court, Atty. Reynaldo L. Herrera is hereby* ***SUSPENDED from the practice of law for three (3) years****.*[36]

In Resolution No. XXII-2015-68[37] dated October 28, 2015, the IBP Board of Governors denied the Motion for Reconsideration of Atty. Herrera and affirmed the Resolution No. XXI-2014-792, suspending him from the practice of law for three years.[38]

Issues

I.

Whether Atty. Herrera must be held administratively liable for indicating that the heirs of Aurelia were represented by Raquel in the complaint for revival of judgment when it was not true;

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[35] *Id.* at 438-439.

[36] *Id.* at 438. (Emphasis and italics in the original)

[37] *Id.* at 437.

[38] *Id.*

Supreme Court E-Library

II.

Whether Atty. Herrera must be held administratively liable for his failure to timely inform the court about Gaudencio's death;

III.

Whether Atty. Herrera must be held administratively liable for filing pleadings in court without authority and despite the objections of the heirs of Aurelia and Gaudencio;

IV.

Whether Atty. Herrera must be held administratively liable for failing to promptly account for the funds he received as a result of the Compromise Agreement; and

V.

Whether Atty. Herrera must be held administratively liable for failing to observe the rule on conflict of interest.

Our Ruling

After a judicious review of the records of the case, We resolve to modify the penalty recommended by the IBP Board of Governors and impose the more serious penalty of disbarment from the practice of law. We find that the repeated and brazen acts committed by Atty. Herrera violates the CPR, Canons of Professional Ethics *(CPE)*, and the Rules of Court. His acts reveal his proclivity to commit unethical and dishonest practices to the detriment of the legal profession.

Atty. Herrera must be held administratively liable for indicating that the heirs of Aurelia were represented by Raquel in the complaint for revival of judgment when it was not true.

As correctly determined by the Investigating Commissioner, Atty. Herrera failed to secure the consent and authority of all the heirs of Aurelia and committed falsehood by indicating in the pleadings that Raquel represented them when, in truth, she

did not. He did not attach the corresponding SPA to substantiate the capacity of Raquel as a representative and merely relied on Gaudencio's purported commitment to provide him one at a later time.[39]

Atty. Herrera cannot simply rely on Gaudencio's promise to secure the requisite SPA from the other heirs at a later time. As a lawyer, he should have known the required documents to be attached in the pleadings to be submitted to the trial court. Thus, Atty. Herrera misled the trial court by stating in his pleadings "Heirs of Aurelia Rellora Mangubat represented by Raquel Azada" when no such SPA accompanied the complaint, more so, with Raquel denying the purported representation. Further, Elizabeth and Abner also denied any participation in the complaint.

Even if Abner was disinherited from the estate of Gaudencio through a court judgment, this does not negate the fact that at the time the complaint for revival of judgment was instituted, he should have been impleaded and his consent should have been obtained. This must be so because the Decision[40] on the disinheritance of Abner was promulgated three years and four months after the complaint for revival of judgment was filed.

Assuming *arguendo* that Gaudencio instructed Atty. Herrera not to implead Abner due to their estranged relationship, he could still not be exonerated from any liability. Rule 19.03 of the CPR commands that "[a] lawyer shall not allow his/her client to dictate the procedure in handling the case." Being the counsel on record, Atty. Herrera is expected to be knowledgeable about substantive law and procedural rules and should not merely accede to the instructions of his client. After all, "a lawyer shall keep abreast of legal developments" as mandated by Canon 5 of the CPR.

Atty. Herrera must be held administratively liable for his failure to timely inform the court about Gaudencio's death.

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[39] *Id.* at 348-350.

[40] *Id.* at 113-127.

Supreme Court E-Library

Section 16, Rule 3 of the Rules of Court states:

SECTION 16. *Death of party; duty of counsel*. — Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and give the name and address of his legal representative or representatives.

Failure of counsel to comply with this duty shall be a ground for disciplinary action.

x x x.

Atty. Herrera failed to promptly inform the court about the death of Gaudencio who died on January 31, 2002.[41] Noticeably, it was the counsel of Abner, Atty. Gumba, who first informed the court about Gaudencio's death through the *"Motion to Substitute Plaintiff Gaudencio Mangubat and to Require the Provincial Sheriff to make Return of Execution*"[42] that she filed on September 10, 2002. It was only on October 30, 2002, or approximately nine months from the date of death of Gaudencio, that Atty. Herrera reported his death to the trial court.[43]

Atty. Herrera must be held administratively liable for filing pleadings in court without authority and despite the objections of the heirs of Aurelia and Gaudencio.

As a consequence of Atty. Herrera's failure to secure the proper authorization to represent the other heirs of Aurelia, and the subsequent death of Gaudencio, he cannot be said to have been equipped with authority to file pleadings in their behalf. He thus also violated Section 27, Rule 138 of the Rules of Court which states:

SECTION 27. *Attorneys removed or suspended by Supreme Court on what grounds*. — A member of the bar may be removed or suspended

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41 *Id.* at 38.

42 *Id.* at 40-41.

43 *Id.* at 43-44.

Supreme Court E-Library

from his office as attorney by the Supreme Court for x x x **corruptly or willfully appearing as an attorney for a party to a case without authority to do so**. x x x[44]

Here, Atty. Herrera continued to render legal services and represented Gaudencio and the heirs of Aurelia in entering into a compromise agreement without the requisite authorization. His blatant disregard of the rules on representation of parties in civil cases is revealed in the following exchanges:

COMM. TRINIDAD:
Did you not find it irregular that you signed the Compromise Agreement without the conformity of the other heirs of Aurelia?

ATTY. HERRERA:
I cannot say, Your Honor, because I just rely on the manifestations of the father [Gaudencio] that he will take [care of] everything for his children.

COMM. TRINIDAD:
Yes, counsel, but we know for a fact that these are compulsory heirs of the deceased Aurelia. So any document representing their ownership over any property must include them. And it's up to you to give the legal advise [sic] to the father.

ATTY HERRERA:
I did not see too much important [sic] on that, Your Honor, because this is just a revival of judgment.

COMM. TRINIDAD:
But this is a Compromise Agreement. It will bind them. How it can [sic] bind them if they did not agree? And now we have three heirs assailing that Compromise Agreement already. Your manifestation was on [sic] the death of Gaudencio was October 30, 2002, meaning the heirs. You omitted one of the heirs, not only Abner but Job.

ATTY. HERRERA:
Because he was then abroad, Your Honor.[45]

It is clear from the foregoing that Atty. Herrera simply brushed aside the absence of authority to represent the heirs of Aurelia as

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[44] Emphasis supplied, italics in the original.

[45] *Id.* at 350-351.

Supreme Court E-Library

he did not consider this important, although property rights of the heirs are at stake. It must be clarified that while Gaudencio may bind himself to the compromise agreement through counsel, the same cannot be said about the other heirs of Aurelia who did not give him authority to act on their behalf.

Incidentally, it is worthy to point out that it was improper for the Investigating Commissioner to rule on the validity of the compromise agreement entered into by Atty. Herrera for the heirs of Aurelia in his Report and Recommendation.[46] In this case, Our discussion is limited only to the administrative liability of Atty. Herrera for the acts complained against him. We will refrain from ruling on other substantive issues that should be properly addressed in a full-blown trial.

Atty. Herrera's unauthorized representation was compounded when he continued to represent Gaudencio after his death, without his services being retained by the heirs. Upon Gaudencio's death, his attorney-client relationship with Atty. Herrera was terminated. Since he was not retained by the remaining heirs of Gaudencio and Aurelia, he misled the trial court and breached his duty under Rule 10.01, Canon 10 of the CPR which prohibits committing "any falsehood, nor consent to the doing of any in Court; nor x x x mislead or allow the Court to be misled by any artifice."

Atty. Herrera must be held administratively liable for failing to promptly account for the funds he received as a result of the Compromise Agreement.

Atty. Herrera likewise violated Section 9, Rule 39 of the Rules of Court when he collected the proceeds of the Compromise Agreement in favor of the heirs of Aurelia and Gaudencio without authority, and took an unreasonably long time before he turned it over to the clerk of court. Section 9, Rule 39 of the Rules of Court states:

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[46] *Id.* at 453-454.

Supreme Court E-Library

SECTION 9. *Execution of judgments for money, how enforced*. — (a) *Immediate payment on demand*. — The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. **The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ**.

x x x x

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by law. In no case shall the executing sheriff demand that any payment by check be made payable to him.[47]

x x x x

In handling money or property belonging to clients, lawyers are reminded of their responsibility under Canon 11 of the CPE and Rule 16.02, Canon 16 of the CPR. Canon 11 of the CPE states:

Canon 11. *Dealing with trust property*

The lawyer should refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client.

Money of the client or collected for the client or other trust property coming into the possession of the lawyer should be reported and accounted for promptly and should not under any circumstances be commingled with his own or be used by him.

Meanwhile, Rule 16.02 of the CPR mandates that a "lawyer shall keep the funds of each client separate and apart from his own and those of others kept by him.

[47] Emphases supplied, italics in the original.

Supreme Court E-Library

It must be recalled that the Compromise Agreement was approved by the trial court on February 23, 2001, while Atty. Herrera filed a motion for execution[48] on September 5, 2001. The motion was later granted on September 20, 2001. Then on December 18, 2003, or almost two years and three months from the issuance of the writ of execution when he, knowing fully well that his lawyer-client relationship with Gaudencio had already ceased due to the latter's death (on January 31, 2002), filed a "Compliance" and informed the trial court that he received ₱91,280.00.[49]

Assuming that Atty. Herrera was authorized to receive the proceeds of the compromise agreement for the heirs of Aurelia and Gaudencio, he should have given it to the executing sheriff who shall then turn it over within the same day to the clerk of the court that issued the writ, in accordance with Section 9, Rule 39 of the Rules of Court. However, Atty. Herrera deposited the amount of ₱84,480.00[50] with the clerk of court only on April 7, 2005, or approximately one year and four months after he received the money.[51] Moreover, he did not inform Abner and Job about receiving the money and merely kept it at his office.[52]

Atty. Herrera must be held administratively liable for failing to observe the rule on conflict of interest when he moved for the

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[48] *Rollo*, at 35.

[49] *Id.* at 47, 458.

[50] *Id.* at 50 and 95.

The amount is computed as follows:

₱72,600.00	Principal of ₱33,000.00 plus interest of 12% since August 1990 to 2000.
11,880.00	Interest earned for 3 years (2000-2003)
(5,000.00)	LESS: Attorney's fees
(1,800.00)	LESS: Interest earned for 3 years
₱84,480.00	

[51] *Rollo*, pp. 48-50; 458.

[52] *Id.* at 353.

Supreme Court E-Library

surrender of the owner's duplicate title and drafted the deed of conditional sale in favor of a party whose interest is in conflict with the interest of the heirs of Aurelia and Gaudencio.

Rule 15.03 of the CPR states:

> A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

Atty. Herrera violated the aforementioned rule on conflict of interest when he drafted and notarized a deed of conditional sale between Silvestre, in representation of Orlando and Belen Seva, and the Spouses Biag for a portion of the land covered by TCT No. 6337.

Further, Atty. Herrera also filed an *ex-parte* motion to designate the clerk of court to draft the deed of sale or conveyance in favor of the Sevas.[53] A cursory reading of Atty. Herrera's *ex-parte* motion reveals that while he presented himself as "Counsel for the Plaintiff," he was, in truth, advocating for the interest of the opposing party, as revealed in the following statements:

> x x x x
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> 2. That the defendant's [sic] heirs failed and refused to execute a Deed of Conveyance or Deed of Sale to the defendants, despite of [sic] counsel letter sent to the heirs x x x;
>
> 3. That likewise the plaintiffs['] heirs failed and refused to turn over the owner's copy of TCT No. 6337 issued to Gaudencio Mangubat hence the undersigned counsel could not have the said title reconstituted and transfered [sic] to the defendants.[54]
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> x x x

This conduct prejudiced Abner because it prompted Spouses Biag to file a petition against him to compel him to surrender

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[53] *Id.* at 63-64.

[54] *Id.* at 63.

Supreme Court E-Library

the owner's duplicate copy of TCT No. 6337. It is the counsel of the Sevas who should have moved for the surrender of the owner's duplicate copy of the title and not Atty. Herrera because he originally represented the interest of the heirs of Aurelia and Gaudencio, albeit without authority from some of the heirs. The interest of the heirs of Aurelia and Gaudencio precludes him from representing the adverse interest of the Sevas.

A Final Note

In sum, Atty. Herrera committed the following acts: (1) indicating that the heirs of Aurelia were represented in the suit by Raquel when it was not true; (2) failing to timely inform the court about the death of Gaudencio; (3) filing pleadings in court without authority and despite the objections of the heirs of Aurelia and Gaudencio; (4) failing to immediately remit the money he collected to the clerk of court or to the heirs; (5) moving for the surrender of the owner's duplicate title and drafting and notarizing the deed of conditional sale in favor of a party whose interest is in conflict with that of the heirs of Aurelia and Gaudencio. The seriousness and gravity of these infractions cannot be denied.

It is the paramount interest of this Court to ensure that only those who possess and carry out the core values and exacting standards established to preserve the honor and integrity of the Bar are allowed to practice law. In this case, the collective conduct of Atty. Herrera tarnishes the integrity of the legal profession and is in clear disregard of his sworn duties in the Lawyer's Oath not to "delay any man's cause for money or malice" and to conduct himself "as a lawyer according to the best of [his] knowledge and discretion with all good fidelity as well to the courts as to [his] clients."

Indeed, restraint must be exercised before imposing the supreme penalty of disbarment that should be reserved only for the most serious and reprehensible acts. In *Canillo v. Angeles*,[55] We meted the penalty of disbarment on the erring lawyer who was found to have represented conflicting interests involving a common parcel

[55] 839 Phil. 494 (2018).

Supreme Court E-Library

of land and for committing other fraudulent and deceitful acts. Similarly, in *Laurel v. Delute*,[56] the erring lawyer was disbarred for selling out his client's cause in order to gain personal benefit. In both cases, We determined that the acts the erring lawyers committed rendered them unfit to continue practicing law. Atty. Herrera's collective acts are graver than in these cases.

We cannot turn a blind eye to Atty. Herrera's repeated and brazen disregard of the provisions of the CPR, CPE, Rules of Court, and the Lawyer's Oath that shows his indifference to the values a lawyer ought to live by for his continued membership in the Bar. Atty. Herrera has been a lawyer for over 43 years already.[57] At this stage of his professional career, he is expected to have a profound understanding of the duties expected of him and should demonstrate the moral fitness and probity demanded from every member of the Bar. Accordingly, We impose the penalty of disbarment.

In view of the foregoing, We modify Resolution No. XXII-2015-68 of the IBP Board of Governors by imposing the more serious penalty of disbarment from the practice of law on Atty. Herrera for violating the following: Canons 1, 5, 10, 15, 16 and 19 of the CPR; Canon 11 of the CPE; and Section 16, Rule 3, and Section 27, Rule 138 of the Rules of Court.

WHEREFORE, the assailed Resolutions of the Integrated Bar of the Philippines Board of Governors dated October 11, 2014 and October 28, 2015 in Administrative Case No. 9457 are **MODIFIED.**

Atty. Reynaldo L. Herrera is **DISBARRED** from the practice of law and his name is **ORDERED** stricken off from the Roll of Attorneys.

Let copies of this Decision be furnished to the Office of the Court Administrator for dissemination to all courts, the Office of the Bar Confidant, and the IBP for their information and guidance.

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[56] A.C. No. 12298, September 1, 2020.

[57] Atty. Herrera was admitted to the Philippine Bar on April 21, 1978 (Roll No. 28561).

Supreme Court E-Library

The Office of the Bar Confidant is **DIRECTED** to append a copy of this Decision to Atty. Herrera's personal record.

SO ORDERED.

Gesmundo, C.J., Perlas-Bernabe, Leonen, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, Dimaampao, J. Lopez, and *Kho, Jr., JJ.*, concur.

Caguioa, J., dissents, see dissenting opinion.

Marquez, J., joins the dissent of *J.* Caguioa.

DISSENTING OPINION

CAGUIOA, *J.*:

I dissent.

The *ponencia* holds respondent Atty. Reynaldo L. Herrera (respondent) administratively liable for the following acts, as found by the Investigating Commissioner:

> x x x (1) indicating that the heirs of [Aurelia Rellora Mangubat (Aurelia)] were represented in the suit by Raquel [M. Azada] when it was not true; (2) failing to timely inform the court about the death of [Gaudencio Mangubat (Gaudencio)]; (3) filing of pleadings in court without authority and despite the objections of the heirs of Aurelia and Gaudencio; (4) failing to immediately remit the money he collected to the clerk of court or to the heirs; (5) moving for the surrender of the owner's duplicate title and drafting and notarizing the deed of conditional sale in favor of a party whose interest is in conflict with that of the heirs of Aurelio and Gaudencio.[1]

I agree with the foregoing findings. Through his infractions, respondent violated the Code of Professional Responsibility, the Code of Professional Ethics, the Rules of Court, and the Lawyer's Oath.[2]

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[1] *Ponencia*, p. 5.

[2] Id. at 14.

Nevertheless, I submit that the recommended penalty by the Integrated Bar of the Philippines Board of Governors (IBP BOG) of three-year suspension from the practice of law is more appropriate than disbarment which, based on the circumstances of this case, is too harsh a penalty.

It is settled that the appropriate penalty to be imposed on an erring lawyer involves the exercise of sound judicial discretion based on the facts of the case.[3] In the exercise of this discretion, the Court is reminded that "the power to disbar must be exercised with great caution, and only in a clear case of misconduct that seriously affects the standing and character of the lawyer as an officer of the Court and as a member of the bar."[4]

Thus:

> x x x Disbarment should never be decreed where any lesser penalty could accomplish the end desired. Undoubtedly, a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair.[5]

In the instant case, while respondent was indeed found to have committed several infractions, there appears to be no explicit finding that he was motivated by any malice or fraudulent intent.

To elaborate: As regards respondent's failure to secure the consent and authority of all the heirs of Aurelia, he merely relied on Gaudencio's purported commitment to provide him a Special Power of Attorney at a later time.[6] Specifically as to his failure to implead complainant Abner R. Mangubat (complainant), respondent alleged that he was merely instructed by Gaudencio

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[3] *Parker v. De Paz*, A.C. 12638, January 15, 2020 (Unsigned Resolution).

[4] Id.

[5] *Francia v. Abdon*, 739 Phil. 299, 311-312 (2014).

[6] *Ponencia*, p. 7.

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to not implead complainant due to their estranged relationship, which even led to the latter's disinheritance.[7] As for the death of Gaudencio, while respondent did fail to timely inform the court within 30 days from such fact of death, he nevertheless informed the court of such, albeit belatedly at nine months after his death.[8] As for respondent's continued representation of Gaudencio even after his death, there is no showing that such was motivated by any ill intent. Moreover, while respondent may have failed to promptly account for the funds he received as a result of the Compromise Agreement, there was no showing that he used it for his own benefit.

While the abovementioned reasons are not sufficient to absolve respondent from liability, they should nevertheless be considered by the Court in its imposition of the penalty.

Additionally, while the Investigating Commissioner considered respondent's substantial experience in the practice of law as an aggravating circumstance,[9] I respectfully submit that the reverse is more apt — that this is respondent's first infraction in his 43 years in the legal profession[10] and should instead be considered to mitigate his liability.

Thus, I respectfully submit that sanctioning respondent with the less severe penalty of suspension than disbarment achieves the ends of the disciplinary proceeding which is to penalize an erring lawyer and to preserve the integrity of the legal profession. The suspension period of three years — as recommended by the IBP BOG — is a very long period already. I believe this already signals the gravity of respondent's misdeeds.

In view of the foregoing, I vote to suspend respondent from the practice of law for a period of three (3) years.

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7 Id. at 7-8.

8 Id. at 8.

9 Id. at 5.

10 Id. at 14.