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EN BANC

[A.C. No. 9683. April 18, 2023]

COURT OF APPEALS ASSOCIATE JUSTICE APOLINARIO D. BRUSELAS, JR., *Complainant, v.* **ATTY. ELIGIO P. MALLARI,** *Respondent*.

D E C I S I O N

***PER CURIAM*:**

This concerns a Privileged Communication dated November 12, 2012,[1] sent to this Court by Associate Justice Apolinario D. Bruselas, Jr. (Justice Bruselas) of the Court of Appeals (CA), which was docketed as a regular administrative complaint.

Attached to the Privileged Communication are the photocopied clippings of an advertisement published in two national newspapers, by which Atty. Eligio P. Mallari (Atty. Mallari) challenged Justice Bruselas to a televised public debate on the topic "*The Court of Appeals SPECIAL FOURTH DIVISION OF FIVE AMENDED DECISION,*[2] *dated [February 24, 2011], in CA-GR.SP. No. 106838, penned by Justice Apolinario D. Bruselas, Jr. is VOID*."[3] Said Amended Decision[4] arose from a consignation case filed by Atty. Mallari against Philippine National Bank (PNB), in order to implement a *Deed of Promise to Sell* over certain lots located in San Fernando, Pampanga.[5] In brief, the Amended Decision reinstated PNB's notice of appeal of the trial court's decision in the consignation case,[6] which ordered PNB to accept the payment

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1 *Rollo* (Vol. I), pp. 2–3.

2 *Id*. at 335–344.

3 *Id*. at 4–5.

4 *Id*. at 335–344.

5 *Id*. at 31, 120, 179–180, 233–255, 318–321.

6 *Id*. at 343.

Supreme Court E-Library

tendered by Atty. Mallari for the lots subject of Civil Case No. Q-06-58366.[7]

Through a Resolution[8] dated June 10, 2014, this Court directed Atty. Mallari to comment on the aforementioned advertisement, and to show cause why he should not be disciplinarily dealt with for violation of the Code of Professional Responsibility.[9] On February 14, 2017, the present complaint was consolidated with IPI Nos. 17-250-CA-J to J7-255-CA-J, which are the administrative complaints filed by Atty. Mallari against Justice Bruselas and five other justices of the CA,[10] for rendering the Amended Decision in CA-G.R. SP. No. 106838.[11]

In its Resolution[12] dated February 21, 2017, this Court dismissed the complaints filed by Atty. Mallari against Justice Bruselas and the five other CA Associate Justices, on the ground that Atty. Mallari utterly failed to substantiate the allegations he hurled against them; thus:

> At least in *Umali* there were accusations, albeit also unsubstantiated, of extortion and manifest partiality. In the present case, there was none at all. Atty. Mallari merely insists that the rulings of respondent Justices were wrong.
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> . . . .
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> . . . Atty. Mallari does not even allege that respondent Justices were motivated by bad faith, fraud, dishonesty, or corruption in rendering the judgments. What he alleges is that they did so for reasons known only to them. To demonstrate, the allegations read:
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> > For **VIOLATION** of the provision of Sec. 7 (sub paragraph c), Rule VI, 2009 Internal Rules of the Court of Appeals, when instead of referring back PNB's Motion for Reconsideration of the

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[7] *Id*. at 243.

[8] *Id*. at 11.

[9] *Id*.

[10] *Id*. at 43.

[11] *Id*.

[12] *Id*. at 43–53.

Supreme Court E-Library

> CA Decision dated August 11, 2009 of [sic] to the CA FOURTH DIVISION, he **PARTICIPATED** and **C[O]NCURRED** with the promulgation of the CA "**VOID**" Amended Decision dated February 24, 2011 for reasons **KNOWN ONLY TO HIM.**
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> . . . .
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> For **VIOLATION** of the provision under Section 4, Rule 65, Rules of Court which provides the **mandatory period** of 60 days prescriptive period within which to file Petition for Certiorari under Rule 65 WHEN HE DID NOT SEE OR DID NOT LOOK into the matter that the PNB's Petition for Certiorari under Rule 65 of the Rules of Court in CA-GR SP No, 106838 is LONG PRESCRIBED Petition for Certiorari for reasons **KNOWN ONLY TO HIM.** (Emphases and underscoring in the original)

Specifically, with regard to respondent Justice Reyes, he allegedly disregarded plaintiffs' pleas for the reversion to the CA Fourth Division of PNB's Motion for Reconsideration "for reasons known only to him."

Another ground for the dismissal of these complaints is the existence of judicial remedies. In *Rodriguez v. Gatdula*, this Court held that administrative complaints against judges cannot be pursued simultaneously with judicial remedies available to persons aggrieved by the erroneous orders or judgments. Further, "it is only after the available judicial remedies have been exhausted and the appellate tribunals have spoken with finality, that the door to an inquiry into his criminal, civil, or administrative liability may be said to have opened, or closed."

It is clear and undisputed that the assailed rulings were issued in the exercise of respondents' judicial functions. In the Amended Decision, respondent Justices explained that they reconsidered their earlier Decision, because they were constrained by policy considerations to prioritize substance over procedural niceties. Assuming that respondent Justices erred in their judgment, Atty. Mallari still failed to establish that any of them was moved by fraud, dishonesty, malice, corrupt motive, improper considerations, or deliberate intent to do an injustice.

On the charge of gross dishonesty

No factual details have been provided to substantiate this charge. Atty. Mallari merely quotes a definition of "gross dishonesty" from jurisprudence.

. . . .

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We observe that the time element in the filing of these complaints is highly suspect, considering that the allegedly "void" Amended Decision was rendered way back in 2011, while these Verified Complaints were filed only on 5 December 2016, or three days after the Judicial and Bar Council had released the names of the nominees for the position of Associate Justice of this Court (vice Justice Jose P. Perez). The list included Justices Bruselas, Dimaampao, and Reyes. It was also publicly made known that Justice Tijam had applied for the position, and that he had been nominated for the position of Associate Justice (vice Justice Arturo D. Brion).

The Clerk of Court also reported that the following administrative cases have been filed by Atty. Mallari against the very same respondent Justices:

1) A.M. OCA IPI No. 11-182-CA-J (*Atty. Eligio P. Mallari v. Court of Appeals Justice Apolinario D. Bruselas, Jr., Division Clerk of Court Josefina C. Mallari, and Atty. Antonio M. Elicaño*) — DISMISSED for prematurity and lack of merit in a Resolution dated 29 November 2011

2) A.M. OCA IPI No. 12-195-CA-J (*Re: Complaint of Atty. Eligio P. Mallari against Court of Appeals Justices Rebecca de Guia-Salvador and Apolinario D. Bruselas, Jr.*) - DISMISSED for lack of showing of prima facie case in a Resolution dated 10 August 2012

3) IPI No. 13-211-CA-J (*Re: Complaint of Atty. Eligio P. Mallari against Court of Appeals Presiding Justice Andres B. Reyes, Jr. and Associate Justices Socorro B. Inting, Noel G. Tijam, Agnes R. Carpio, and Edwin Sorongon relative to CA-GR SP No. 106838*) — DISMISSED for lack of showing of prima facie case in a Resolution dated 10 June 2013.

It appears that those administrative cases were filed in connection with respondent Justices' ruling in CA-G.R. SP No. 106838.

The Court Administrator likewise reported that complaints filed by Atty. Mallari against two RTC judges in San Fernando, Pampanga, and another complaint against an RTC judge in Quezon City were dismissed for utter lack of merit and/or for being judicial in nature. At present, complaints filed by Atty. Mallari against five other RTC judges in the same cities are pending before the Court.[13]

The same Resolution also directed Atty. Mallari to: 1) show cause why he should not be held for contempt for non-compliance

[13] *Id*. at 48–51. Citations omitted.

Supreme Court E-Library

with the June 10, 2014 Resolution; 2) show cause why he should not be sanctioned for violation of the Lawyers' Oath and the Code of Professional Responsibility for filing unfounded administrative complaints; and 3) comply with the June 10, 2014 Resolution.[14]

After a long delay occasioned by difficulties in serving the June 10, 2014 Resolution on Atty. Mallari,[15] the Office of the Bar Confidant (OBC) received on March 27, 2017 a pleading, which hereinafter will be referred to as the March 2017 Compliance, with the following caption:

I. MOTION FOR RECONSIDERATION OF THE *EN BANC* RESOLUTION DATED FEBRUARY 21, 2017 IN IPI No. 17-250-CA-J, IPI No. 17-251-CA-J, IPI No. 17-252-CA-J, IPI No. 17-253-CA-J, IPI No. 17-254-CA-J, AND IPI No. 17-255-CA-J;

II. COMPLIANCE TO SHOW CAUSE WHY COMPLAINANT ATTY. ELIGIO P. MALLARI SHOULD NOT BE ADMINISTRATIVELY SANCTIONED FOR FILING UNFOUNDED SUITS IN VIOLATION OF THE LAWYER'S OATH AND THE CODE OF PROFESSIONAL RESPONSIBILITY;

III. COMPLIANCE TO SHOW CAUSE WHY ATTY. ELIGIO P. MALLARI SHOULD NOT BE HELD IN CONTEMPT FOR HIS FAILURE TO COMPLY WITH THE RESOLUTION DATED 10 JUNE 2014 IN A.C. NO. 9683; AND

IV. ATTY. ELIGIO P. MALLARI's COMPLIANCE OF THE RESOLUTION DATED 10 JUNE 2014.[16]

In this March 2017 Compliance, Atty. Mallari argues that the bases for his administrative complaints against the concerned CA justices are discernible from the RTC's rulings and orders, as well as the original CA decision dated August 11, 2009. He maintains that these decisions and orders show that PNB's notice of appeal and petition for certiorari against the RTC's ruling in the consignation case were filed out of time;[17] and therefore the

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[14] *Id*. at 52.

[15] *Id*. at 44.

[16] *Id*. at 104.

[17] *Id*. at 109–124.

Supreme Court E-Library

reinstatement of PNB's appeal by the concerned CA justices constitutes "clear and convincing evidence" of gross misconduct. Atty. Mallari openly admits that he challenged, not only Justice Bruselas, but also the eight other CA justices who participated in the adjudication of CA-G.R. SP No. 106838, to a public debate.[18] He argues that the debate challenge was an honest, *bona fide* move to uphold the rule of law and cleanse the judiciary of misfits, which he resorted to after the dismissal of his administrative complaints against the CA justices who ruled against him.[19]

On October 10, 2017, this Court issued a Resolution[20] denying Atty. Mallari's motion for reconsideration in IPI Nos. 17-250-CA-J to J7-255-CA-J. The Court likewise ordered the deconsolidation of the present administrative case from the aforementioned administrative complaints, and the referral of this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[21] None of the parties appeared during the mandatory conference before the IBP-Commission on Bar Discipline (IBP-CBD).[22]

On July 5, 2018, Atty. Mallari submitted a verified position paper, which reiterates the arguments in the March 2017 Compliance and further asserts that the actuations of Justice Bruselas with respect to CA-GR.SP. No. 106838 rendered him bereft of proven competence, integrity, probity and independence, which are the continuing qualifications for judges and magistrates under the Constitution.[23]

On February 18, 2020, the Investigating Commissioner of the IBP-CBD issued his Report and Recommendation[24] finding

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[18] *Id*. at 128.

[19] *Id.* at 128–129.

[20] *Id*. at 166–167.

[21] *Id*. at 166.

[22] *Id*. at 170.

[23] *Rollo* (Vol. II), pp. 853–854.

[24] *Id*. at 852–859. The Report and Recommendation was penned by Commissioner Manuel Joseph B. Ibañez III of the Integrated Bar of the Philippines, Commission on Bar Discipline, Pasig City.

Supreme Court E-Library

that the Acts of Atty. Mallari were in a violation of his duty to observe and maintain the respect due to the courts of Justice which is necessary for the orderly administration of Justice. The Investigation Commissioner recommended the suspension of Atty. Mallari from the practice of law for two years, with a stem warning that a similar offense will be dealt with more severely.[25]

The Investigating Commissioner observed that Atty. Mallari did "*not deny the accusations of disrespect, levelled against him. . . . [I]nstead of refuting the allegations and evidence against him, [he] reiterated his charges and grievances against [Justice Bruselas] and [the CA]. Instead of asserting his defense, [Atty. Mallari] submitted what [the Investigating Commissioner felt] is more of a motion for reconsideration of the decisions rendered by the [CA] and the Supreme Court in the PNB cases*."[26] While the Investigation Commissioner admitted that lawyers are allowed, and are in fact given much leeway, to criticize judges and judicial decisions, he nevertheless found that Atty. Mallari's debate challenge and accusations against the CA justices went way beyond the bounds of ethically acceptable criticism, and therefore violative of Canon 11 and Rule 11.03 of the Code of Professional Responsibility.[27] Citing jurisprudence, the IC recommended that Atty. Mallari be suspended for two (2) years.[28] On June 13, 2020, the IBP Board of Governors approved and adopted the recommendation of the Investigation Commissioner of the IBP-CBD.[29] On August 4, 2021, the complete records of the case, together with the abovementioned resolution of the IBP Board of Governors, were transmitted to this Court.

The Court approves and adopts the factual findings and recommendation of the Investigating Commissioner and the IBP Board of Governors.

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[25] *Id*. at 859.

[26] *Id*. at 854.

[27] *Id*. at 854–858.

[28] *Id*. at 858–859.

[29] *Id*. at 850–851.

Supreme Court E-Library

As noted by the Investigating Commissioner, Atty. Mallari plainly admits to writing and causing the publication in two national newspapers of a public debate challenge against an incumbent magistrate of the Court of Appeals, on the topic of the merits of a decision rendered by said magistrate. We quote *verbatim* the debate challenge as published in the November 7, 2012 edition of the *Philippine Daily Inquirer* and the November 8, 2012 edition of the *Philippine Star*:

October 29, 2012

HON. APOLINARIO D. BRUSELAS, JR.
Associate Justice
Court of Appeals
Ma. Orosa St., Ermita
Manila

SIR:

I am challenging you to a public and televised debate on the topic:

> "*The Court of Appeals' SPECIAL FOURTH DIVISION OF FIVE AMENDED DECISION, dated 24 February 2011, In CA-GR. SP. No. 106838, penned by Justice Apolinario D. Bruselas, Jr. is VOID*"

I am requesting you that you please accept my challenge to prove that your penned Amended Decision, dated 24 February 2011, is NOT VOID by your giving due course to PNB's lost appeal after you joined more than ONE (1) year ago the CA Fourth Division in dismissing on 11 August 2009 PNB's petition for certiorari.

This debate will surely redound to the benefit of the judiciary, in particular, and the Filipino people, in general.

I will pay for the television expenses upon your acceptance of the challenge.

Thank you.

Very truly yours,

[signed]
ATTY. ELIGIO P. MALLARI

Supreme Court E-Library

President & Former Commissioner,
Commission on Human Rights (CHR)[30]

Additionally, Atty. Mallari likewise admits the existence of another advertisement published in "*SunStar Issue, page 3, Tuesday, January 7, 2014, with the topic "A CHALLENGE TO NINE (9) COURT OF APPEALS JUSTICES TO A DEBATE "(ANNEX "M-2" PJ Reyes, Justices Bruselas, Jr., Dimaampao[,] Tijam, Sorongon and Inting)*."[31]

It must be underscored at the outset that Atty. Mallari's claims as to the nullity of the Amended Decision are presently unfounded, since that very issue is still pending resolution before this Court. Atty. Mallari admits that he filed a Petition for Review on Certiorari Assailing the Amended Decision before the Court, which was docketed as G.R. No. 204743.[32] Atty. Mallari admits that "*th*[is] *Judicial remedy filed by* [him] *in* [the form of a] *Petition for Review on Certiorari in G.R. No. 204743 (CA-G.R. NO. 106838)*" is still pending.[33] He likewise admits that the petition "*raises . . . . ONLY QUESTIONS of LAW*,"[34] namely:

I. WHETHER OR NOT THE ORDER/DECISION DATED 22 JANUARY 2008 BY RTC BRANCH 215, QUEZON CITY, WHICH HAS ALREADY ATTAINED FINALITY AND PARTIALLY EXECUTED, CAN STILL BE ASSAILED VIA PETITION FOR CERTIORARI.

II. WHETHER OR NOT A PETITION FOR CERTIORARI CAN BE A SUBSTITUTE FOR A LOST APPEAL.

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30 *Rollo* (Vol. I), pp. 4–5.

31 *Id*. at 113.

32 *Id*. at 108, 368, 396.

33 *Id*. at 135, 223–225.

34 *Id.* at 108. The March 2017 Compliance also mentions G.R. No. 203063, which is a Petition for Mandamus and Prohibition with Prayer for Temporary Restraining Order, also filed by Atty. Mallari, and was consolidated with G.R. No. 204743. *See Re: Complaint-Affidavit of Elvira N. Enalbes; Rebecca H. Angeles and Estelita B. Ocampo Against Former Chief Justice Teresita J. Leonardo-De Castro [Ret.], Relative to G.R. Nos. 203063 and 204743*, 845 Phil. 923 (2019) [Per J. Leonen, *En Banc*].

III. WHETHER OR NOT THE DECISION OF THE OFFICE OF THE PRESIDENT OF THE REPUBLIC OF THE PHILIPPINES WHICH ATTAINED FINALITY AND FULLY EXECUTED, THRU THE SECRETARY OF THE DEPARTMENT OF AGRARIAN REFORM (DAR), CAN BE IMPLIEDLY ASSAILED AND REVERSED BY THE JUDICIAL BRANCH OF OUR GOVERNMENT.[35]

Verily, the issue of whether the Amended Decision is valid or void has now been brought under the jurisdiction of this Court at the instance of Atty. Mallari; and it is this Court alone that is authorized by law to render a final ruling in the matter. Without such final ruling, Atty. Mallari's incessant and insistent characterization[36] of the Amended Decision as void is merely self-serving. Moreover, as explained below, challenging the *ponente* of a decision to publicly debates on the merits of the same even while it is pending review before a superior court betrays the challenger's contempt, disrespect, and distrust of both the deciding court and the reviewing court.

It bears stressing that the present debate challenge had already been brought to the attention of this Court in the previous disbarment complaint against Atty. Mallari.[37] The complainant therein alleged, *inter alia*, that

> [a]side from his own personal experience with [Atty. Mallari], [there are other cases and instances involving [Atty. Mallari] which showcased [his] propensity to deceive, his unethical behavior, and his abusive use of power as a member of the bar:
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> . . . .
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> On October 29, 2012, [Atty. Mallari] paid advertisements published in the Philippine Star and the Philippine Daily Inquirer, challenging Court of Appeals' Associate Justice Apolinario D. Bruselas, Jr. to a "public and

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[35] *Rollo* (Vol. I), pp. 108 & 224.

[36] In his March 2017 Compliance and subsequent pleadings, Atty. Mallari consistently uses the adjective "VOID" when referring to the Amended Decision. *Id*. at 106, 109, 118, 123, 132, 199, 201, 204, 211–213.

[37] *Genato v. Atty. Mallari*, 865 Phil. 247 (2019) [*Per Curiam*, *En Banc*].

Supreme Court E-Library

televised debate" in relation to an issuance in the case entitled "*PNB v. Eligio P. Mallari, et al.*"[38]

When sought for comment on the allegation, Atty. Mallari "*claimed it was his right as an officer of the court to mount such challenge because the latter issued a "VOID*" [decision and] resolution."[39] Accordingly, the Investigating Commissioner of the Committee on Integrity and Bar Discipline made the following findings in *Genato v. Atty. Mallari*,[40] which we approvingly quote:

1. Respondent [Atty. Mallari]'s published challenge to an Associate Justice of the Court of Appeals to a "public and televised debate" was an utter disregard of Section 20, Rule 138 of the Rules of Court, which reminds [Atty. Mallari] as an officer of the court:

> i. To maintain allegiance to the Republic of the Philippines and to support the Constitution and obey the laws of the Philippines;
>
> ii. To observe and maintain the respect due to the courts of justice and judicial officers.

As a lawyer, [Atty. Mallari] was put to task by the Investigating Commissioner to know that Judges and Justices from first level courts, Regional Trial Courts, Sandiganbayan, Court of Tax Appeals, Court of Appeals and the Supreme Court would decide cases based only on law and evidence, and there would be remedies and proper venues to challenge their decisions, resolutions, or orders. According to the Investigating Commissioner, this would not include challenging a Justice to a public and televised debate. Too, the Lawyer's Oath emphasized the obligation of members of the bar to "obey the laws as well as the legal orders of the duly constituted authorities." The Investigating Commissioner concluded that [Atty. Mallari] violated the following provisions of the Code of Professional Responsibility:

> Canon 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.
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> Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system
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> . . . .

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[38] *Id*. at 251–252.

[39] *Id*. at 253.

[40] *Id*.

> Canon 10 - A lawyer owes candor, fairness and good faith to the courts.
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> Rule 10.03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.
>
> Canon 11 - A lawyer shall observe and maintain the respect due to the courts and to Judicial officers and should insist on similar conduct by others.[41]

By repeatedly describing the Amended Decision as "void" despite the pendency of his own appeal from the same, and by demanding that Justice Bruselas defend the merits of said decision through a public debate, Atty. Mallari publicized his disrespect, not only to the members of the CA, but also to the very concept of appellate procedure. The Court has thoroughly perused Atty. Mallari's March 2017 Compliance and finds it to be a reiteration of his ***legal arguments*** against the Amended Decision.[42] Essentially, he uses the present case as an opportunity to raise the same exact arguments which are still pending consideration before the Court in G.R. No. 204743. Worse, he also unabashedly admits to using the debate challenge as a new opportunity to relitigate the already-dismissed administrative complaints that he filed against the CA justices:

> 2. The "**CHALLENGE TO A PUBLIC DEBATE**" against the NINE (9) CA Justices who rendered the CA "VOID" AMENDED DECISION dated February 24, 2011 and the CA "VOID" RESOLUTION Dated December 5, 2012 that AFFIRMED the CA "VOID" AMENDED DECISION dated February 24, 2011 . . . was an **HONEST AND IN** [sic]

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41 *Id*. at 253–254.

42 The first twenty-two pages of the March 2017 Compliance are devoted to Atty. Mallari's ***legal arguments*** against the validity of the Amended Decision, *Rollo* (Vol. I), pp. 104–124. To support this reiteration, Atty. Mallari also submitted the pertinent documents, including RTC orders, pleadings, and antecedent rulings of the CA, which he presents as evidence of the CA justices' bad faith and corruption. *Id*. at 233–351. The same can be said for his other submissions, such as his April 18, 2018 Manifestation/Motion (*Id*. at 177–232) and Affidavit dated December 1, 2016 (*Id*. at 368–396), both of which were rehash of his ***legal arguments*** against the Amended Decision.

Supreme Court E-Library

GOOD FAITH move by Atty. Eligio P. Mallari, the owner of Lots 3664 and 3843, TO UPHOLD THE RULE OF LAW and TO CLEANSE THE JUDICIARY OF "MISFITS", after ALL the Administrative Charges filed by him against the said NINE CA Justices were ALL DISMISSED by the Honorable Court

. . . .

3. At least, when the Honorable Court keeps on DISMISSING the VERIFIED COMPLAINTS with the attached CERTIFIED COPIES of the documents to support his allegations and charges against the HONORABLE COURT OF APPEALS JUSTICES who rendered the CA "VOID" AMENDED DECISION dated February 24, 2011 and the CA "VOID" RESOLUTION dated December 5, 2012 that AFFIRMED the CA "VOID" AMENDED DECISION dated February 24, 2011, **the Complainant Atty. Eligio P. Mallari has still another venue to ventilate the INJUSTICES and COVER-UP COMMITTED and PERPETUATED by the JUDICIARY against him, RELATIVE to the PNB's "LONG PRESCRIBED"** Petition for Certiorari in CA-G.R. SP No. 106838 and the WRONG REMEDY OF CERTIORARI for PNB had already AVAILED of an APPEAL in the RTC. but, LOST IT.[43] (Underlining supplied, emphasis and capitalization in the original)

Such use of the administrative disciplinary process for the purpose of what is essentially forum-shopping[44] is not only a flagrant mockery of legal procedure, but also an intolerable vexation upon Justice Bruselas, Jr. and his colleagues in the appellate court.

Atty. Mallari's contemptuous attitude towards the CA justices who rendered the Amended Decision is further revealed in his subsequent pleadings. Apart from painting his legal arguments as undisputed facts, he accuses the CA justices of cowardice and reckless ambition:

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[43] *Id*. at 128–129.

[44] The essence of forum-shopping lies in the vexatious reiteration of the same legal arguments and causes of action before different courts, or different divisions of a court authorized to render rulings in division. *See Coca-Cola Femsa Philippines, Inc. v. Coca-Cola Femsa Phils. MOP Manufacturing, Unit Coordinators and Supervisors Union – All Workers Alliance Trade Union*, G.R. No. 238633, November 17, 2021, [Per J. Gaerlan, Second Division] and cases cited therein.

11. DO THE CA NINE [sic] JUSTICES HAVE SOMETHING TO FEAR that they could NOT SUSTAIN their said "VOID" DECISIONS IN THE CHALLENGE [sic] PUBLIC DEBATE, and instead sought REFUGE to [sic] the Honorable Supreme Court, which in turn ordered Atty. Eligio P. Mallari to SHOW CAUSE why he should NOT be disciplinary dealt [sic] for having violated the Code of Professional Responsibility[?][45]

. . . .

15. The Respondents CA Justices are STILL NOT SATISFIED with their respective positions in the Court of Appeals, but LONGING for the HIGHER positions as Associate Justice of the Supreme Court wherein they could UNLEASHED [sic] and PERPETUATE their acts of GROSS IGNORANCE OF THE LAW, GROSS DISHONESTY and GROSS MISCONDUCT or DISPLAY their LACK of competence, integrity, probity, and independence pursuant to the provisions of Article VIII. Section 7(3) of the Constitution.[46]

Are [sic] the CA NINE (9) JUSTICES HAVE SOMETHING TO FEAR that they COULD NOT SUSTAIN their said "VOID" DECISIONS IN THE CHALLENGE PUBLIC DEBATE [sic], and instead sought REFUGE to [sic] the Honorable Supreme Court, which in turn ORDERED Atty. Eligio P. Mallari to SHOW CAUSE why he should not be disciplinar[il]y dealt with for challenging the CA NINE (9) Justices to a PUBLIC DEBATE for having violated the Code of Professional Responsibility. [sic]

Are the NINE (9) CA JUSTICES NOT covered by Professional Responsibility WHEN THEY PROMULGATED the INSUFFICIENT CA DECISION dated August 11, 2009, the CA "VOID" AMENDED DECISION dated February 24, 2011 and the CA "VOID" RESOLUTION dated December 5, 2012?

How do we explain the unusual interest that some justices exhibit when a juicy case (130.7999 HECTARES LOT 3664 AND THE 6,338 SQ. M. LOT 3843 OF THE SAN FERNANDO CADASTRE, PAMPANGA) is tossed to them for adjudication?[47] (Emphasis in the original)

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[45] *Rollo* (Vol. I), p. 132.

[46] *Id*. at 125.

[47] *Id*. at 223.

Supreme Court E-Library

Atty. Mallari further justifies the debate challenge by claiming that *"[b]ased upon the unlawful delays and developments of the cases involving Lots 3664 and 3843,* ***the availment of judicial remedies is not effective in favor of the Spouses Eligio P. Mallari and Marcelina H. Mallari*** *who have been the registered owners since May 19, 2010 (Lot 3843) under TCT No. 0422010005790 and February 16, 2012 (Lot 3664) under TCT No. 042-2012002031 . . .*"[48] Verily, Atty. Mallari's vituperative statements and presumptuous challenges against appellate judges, made not only in newspapers of general circulation, but even in pleadings before the Supreme Court, reveal his disrespect and distrust, not only to the Court of Appeals, but to the whole judiciary. While lawyers are encouraged to advocate for their causes with the utmost zeal and passion, they are nevertheless bound by law and ethics to avoid opprobrium and baseless accusations against judges and tribunals who rule against them and their clients.

Jurisprudence is replete with cases of lawyers losing sight of their ethical responsibilities to the judiciary and to society due to an obstinate and intransigent adherence to the merits of their own causes.[49] This Court reiterates that criticism and analysis of judicial rulings by lawyers must be made within ethically acceptable bounds. As officers of the court, lawyers are given the freedom, not only to air grievances against judges and magistrates, but also to analyze, dissect, and criticize judicial decisions. However, lawyers are likewise obliged to exercise these rights in the spirit of good faith, decency, and propriety, in a manner which does not degrade public confidence in the judicial system. As eloquently emphasized by jurists both here and abroad:

> To curtail the right of a lawyer to be critical of the foibles of courts and judges is to seal the lips of those in the best position to give advice and who might consider it their duty to speak disparagingly. "Under such a

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[48] *Id*. at 135.

[49] *See,* e.g.*, In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al., v. Yaptinchay*, 142 Phil. 353 (1970) [Per J. Ruiz Castro, *En Banc*]; *Zaldivar v. Sandiganhayan*, 248 Phil. 542 (1988) [*Per Curiam, En Banc*] and cases cited therein.

rule," so far as the bar is concerned, "the merits of a sitting judge may be rehearsed, but as to his demerits there must be profound silence." (State v. Circuit Court, 72 N.W. 196)

But it is the cardinal condition of all such criticism that it shall be bona fide, and shall not spill over the walls of decency and propriety. A wide chasm exists between fair criticism, on the one hand, and abuse and slander of courts and the judges thereof, on the other. Intemperate and unfair criticism is a gross violation of the duty of respect to courts. It is such a misconduct that subjects a lawyer to disciplinary action.[50]

Further in *Bradley v. Fisher*,[51] the U.S. Supreme Court held:

Controversies involving not merely great pecuniary interests, but the liberty and character of the parties, and consequently exciting the deepest feelings, are being constantly determined in those courts, in which there is great conflict in the evidence and great doubt as to the law which should govern their decision. It is this class of cases which impose upon the judge the severest labor, and often create in his mind a painful sense of responsibility. Yet it is precisely in this class of cases that the losing party feels most keenly the decision against him, and most readily accepts anything but the soundness of the decision in explanation of the action of the judge. Just in proportion to the strength of his convictions of the correctness of his own view of the case is he apt to complain of the judgment against him, and from complaints of the judgment to pass to the ascription of improper motives to the judge. When the controversy involves questions affecting large amounts of property or relates to a matter of general public concern, or touches the interests of numerous parties, the disappointment occasioned by an adverse decision, often finds vent in imputations of this character, and from the imperfection of human nature this is hardly a subject of wonder. If civil actions [or debate challenges] could be maintained in such cases against the judge, because the losing party should see fit to allege in his complaint that the acts of the judge were done with partiality, or maliciously, or corruptly, the protection essential to judicial independence would be entirely swept away. Few persons sufficiently irritated to institute an action against a judge for his judicial acts would hesitate to ascribe any character to the acts which would be essential to the maintenance of the action.[52]

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[50] *In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al. v. Yaptinchay, id.* at 582.

[51] 80 US. 335, 348 (1871).

[52] *Id*.

Supreme Court E-Library

At this point, it must be reiterated that Atty. Mallari's accusations of bad faith, corruption, and intentional rendition of an unjust decision against Justice Bruselas and the other CA justices have been found utterly baseless in this Court's February 21, 2017 Resolution. As pointed out therein, Atty. Mallari presents ***no proof whatsoever*** that the issuance of the Amended Decision was tainted with bad faith or corrupt motives. Rather, Atty. Mallari wants this Court to imply such bad faith and corruption from the fact that the Amended Decision was contrary to previous rulings in other related cases involving the same disputed property, which, incidentally, were mostly favorable to him. However, basic is the rule that allegations of bad faith and corruption must be proven by clear and convincing evidence.[53] Judges and magistrates cannot be held administratively liable for the mere act of rendering a decision which is unfavorable to the complaining party.[54] The imposition of disciplinary measures against judges and magistrates must be based on actual proof of negligence or misconduct, not mere insinuations and extrapolations.[55]

In view of the foregoing findings, we find that Atty. Mallari's public debate challenge against Justice Bruselas violates Rule

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[53] *Jacob v. Villaseran Maintenance Service Corp*., G.R. No. 243951, January 20, 2021 [Per Lazaro-Javier, Second Division]; *Ganancial v. Cabugao*, 876 Phil. 1, 22 (2020) [Per J. Hernando, Second Division]; *Philippine National Oil Company-Energy Development Corp., et al. v. Buenviaje*, 788 Phil. 508, 542 (2016) [Per J. Jardeleza, Third Divison]; *Negros Grace Pharmacy, Inc. v. Judge Hilario*, 461 Phil. 843, 850–851 (2003) [Per J. Sandoval Gutierrez, Third Division].

[54] Judicial officers cannot be subjected to administrative disciplinary actions for their performance of duty in good faith. *Morales v. Justice Real-Dimagiba, et al.*, 797 Phil. 97, 104 (2016) [Per J. Perez, *En Banc*]; *Castro v. Judge Mangrobang*, 784 Phil. 267, 287 (2016) [Per J. Leonardo-De Castro, First Division]; *Re: Letter of Lucena B. Rallos*, relative to the Resolution(s) issued in CA-G.R. SP No. 06676, 723 Phil. 1, 17–18 (2013) [Per J. Bersamin, *En Banc*]; *Atty. Flores v. Hon. Abesamis*, 341 Phil. 299, 313–314 (1997) [Per J. Narvasa, *En Banc*].

[55] *Atoc v. Camello, et al*., 801 Phil. 207, 215 (2016) [Per J. Perez, *En Banc*]; *Re: Verified Complaint dated 17 Nov. 2014 of Khanna against Justice Delos Santos, et al.*, 801 Phil. 194, 205 (2016) [Per J. Perez, *En Banc*]; *Canson v. Justice Garchitorena*, 370 Phil. 287, 307 (1999) [Per J. Ynares-Santiago, First Division].

138, Section 20(b)[56] of the Rules of Court, as amended, as well as Canons 1,[57] 10,[58] and 11,[59] and Rules 1.02,[60] 10.03,[61] and 11.03[62] of the Code of Professional Responsibility.

Furthermore, by publishing, in ***two*** newspapers of general circulation, a debate challenge which contains statements regarding—and if accepted, would necessarily involve a public discussion of—the merits of a pending case, Atty. Mallari likewise violated the *sub judice* rule, as embodied in Canon 13, Rule 13.02 of the Code of Professional Responsibility.[63] In the published advertisements which he personally signed, Atty. Mallari openly challenged Justice Bruselas "*to prove that your penned Amended Decision, dated [February 24, 2011], is NOT VOID by your giving due course to PNB's lost appeal after you joined more than ONE (1) year ago the CA Fourth Division in dismissing on [August 11, 2009] PNB's petition for certiorari.*"[64] The debate

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[56] SECTION 20. *Duties of attorneys*. — It is the duty of an attorney: (b) To observe and maintain the respect due to the courts of justice and judicial officers;

[57] CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW OF AND LEGAL PROCESSES.

[58] CANON 10 - A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

[59] CANON 11 - A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

[60] Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

[61] Rule 10.03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

[62] Rule 11.03 - A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

[63] CANON 13 - A LAWYER SHALL RELY UPON THE MERITS OF HIS CAUSE AND REFRAIN FROM ANY IMPROPRIETY WHICH TENDS TO INFLUENCE, OR GIVES THE APPEARANCE OF INFLUENCING THE COURT. Rule 13.02 - A lawyer shall not make public statements in the media regarding a pending case tending to arouse public opinion for or against a party.

[64] *Rollo* (Vol. I), pp. 4–5.

Supreme Court E-Library

challenge, which explicitly identifies PNB as the opposing party and describes its remedy as a "lost appeal", is clearly calculated to arouse public opinion for Atty. Mallari and against PNB. Even as Atty. Mallari admits to have a pending challenge against the Amended Decision, he likewise admits to circulating copies of the said decision, as well the arguments he interposed, to other lawyers:

> 11. *The copies of the CA "VOID" AMENDED DECISION dated February 24, 2011 and the CA "VOID" RESOLUTION dated December 5, 2012, that AFFIRMED the CA "VOID" AMENDED DECISION dated February 24, 2011, with the attached documents/decisions/ resolutions/orders and JUSTIFICATIONS" why they are "VOID" had been CIRCULATED/DISSEMINATED to ALMOST all the Members of the Bar*, and maybe they are, like the Complainant Atty. Eligio P. Mallari are WAITING for the Respondents CA Justices' "REASONS ONLY KNOWN TO THEM" when they rendered the CA "VOID" AMENDED DECISION dated February 24, 2011 and the CA "VOID" RESOLUTION dated December 5, 2012.[65]

As adverted to earlier, Atty. Mallari willingly admits that he advertised the debate challenge with the intention of publicizing his grievances against the magistrates who rendered the Amended Decision against him after 37 years of litigation.[66] This Court understands Atty. Mallari's frustrations regarding the long pendency of his case before the primary and appellate courts. Likewise, this Court shares his laudable and lofty goal of ensuring that all who sit on the bench to dispense justice possess the requisite probity, integrity, and independence which comprise the bedrock of a just, reliable, and predictable judicial dispute resolution system. However, as a member of the bar, his actuations on such frustrations and goals must be made within the acceptable bounds of the lawyer's ethical code. Even as they embark on legal and moral crusades, lawyers must never lose sight of their ethical responsibilities as ***officers of the court and exemplars of the legal system***.

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[65] *Id*. at 122.

[66] *Id*. at 219–226.

Supreme Court E-Library

As regards the sanction imposable on Atty. Mallari, jurisprudence involving published manifestations of disrespect and vitriol towards judges by lawyers consistently impose the penalties of suspension or reprimand. More serious cases have merited suspension, with the duration thereof dependent upon the attendant circumstances.[67] However, we note that Atty. Mallari has already been stricken from the Roll of Attorneys pursuant to our 2019 ruling in *Genato v. Atty. Mallari*[68] (Genato). As mentioned earlier, the debate challenge against Justice Bruselas formed part of the bases for his disbarment therein:

> A lawyer must respect the
> duly constituted authority
>
> It is a lawyer's sworn duty to maintain a respectful attitude towards the courts. There is, thus, no rhyme or reason for [Atty. Mallari]'s reprehensible and arrogant behavior in challenging a Justice of the Court of Appeals to a public debate. Even assuming that the decision rendered by a magistrate is, according to the losing lawyer, erroneous and completely devoid of basis in law, evidence, and jurisprudence, a person, let alone a lawyer, should not act contemptuously by challenging the judge or justice concerned to a public debate that would unavoidably expose him or her and the entire Judiciary which he or she represents, to public ridicule and mockery.
>
> A lawyer must foster respect for the courts and its officers. A lawyer must not sow hate or disrespect against the court and its members. He or she must be at the forefront in upholding its dignity. A lawyer, more than

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[67] *Ramos v. Lazo*, 883 Phil. 318, 333 (2020) [Per J. Gaerlan, Third division]; *Canete v. Puti*, 859 Phil. 29, 39–40 (2019) [Per J. Caguioa, Second Division] and cases cited therein; *Ret. Judge Alpajora v. Atty. Calayan*, 823 Phil. 93, 114–115 (2018) [Per J. Gesmundo, *En Banc*]; *Pantanosas, Jr. v. Pamatong*, 787 Phil. 86, 99–100 (2016) [Per J. Caguioa, *En Banc*]; *Madrid v. Dealca*, 742 Phil. 514, 530 (2014) [Per J. Bersamin, *En Banc*]; *Baculi v. Battung*, 674 Phil. 1, 9–10 (2011) [Per J. Brion, Second Division]; *Re: Bagabuyo*, 561 Phil. 325, 340–341 (2007) [Per J. Azcuna, *En Banc*]; *Lacurom v. Jacoba*, 519 Phil. 195, 210–211 (2006) [Per J. Carpio, Third Division]; *Sangalang v. Intermediate Appellate Court*, 25 Phil. 730 (1989) [Per J. Sarmiento, *En Banc*]; *In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al. v. Yaptinchay*, 142 Phil. 353, 392 (1970) [Per J. Ruiz Castro, *En Banc*].

[68] 865 Phil. 247 [*Per Curiam*, *En Banc*].

Supreme Court E-Library

anyone, must know that there are proper venues for grievances against a magistrate or his or her decision or orders, which are sanctioned by law. Debate, a public one at that, is not one of these remedies.

By provoking a sitting Justice of the Court of Appeals to a debate, [Atty. Mallari] violated his basic obligation under the Rules of Court to obey the laws of the Philippines, and to observe and maintain the respect due to the courts of justice and judicial officers. He also transgressed Rule 11.05, Canon II of the Code of Professional Responsibility...[69]

. . . .

The power to disbar is always exercised with great caution and only for the most imperative reasons or in cases of clear misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar. The Court has to ask itself whenever this remedy is considered — Do the transgressions of the erring lawyer justify his or her disbarment? What circumstances in the erring lawyer's life can we draw upon to avoid disbarment as an outcome? Would the legal profession be better off without this erring lawyer in the Roll of Attorneys, and would others be deterred from following the erring lawyer's type of practice?

Here, the Court has considered these questions and more. *We have found out that [Atty. Mallari] has demonstrated an utter lack of regard for the law, the rules, and the courts by his repeated transgressions, disobedience to court issuances, and arrogant behavior towards not just a sitting Justice of the Court of Appeals but several of them whose names are not recorded here, those other judges and justices who have been the subject of his vituperative style of practicing law.*

In fact, [Atty. Mallari] was previously suspended for employing dilatory tactics in the enforcement of the decision in Mallari v. GSIS and Provincial Sheriff of Pampanga. By his actions, [Atty. Mallari] had definitely shown to have fallen below the bar set for the legal profession. The Court has repeatedly stressed the importance of integrity and good character as part of a lawyer's equipment in the practice of his profession, because the practice of law is a sacred and noble profession. We do not want this profession to become the subject of ill-will by the public and source of public disrepute.[70]

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[69] *Id*. at 259.

[70] *Id*. at 260–261.

To cap it all, [Atty. Mallari] has not shown any bit of remorse for his conduct prejudicial to the best interests of the legal profession. He has not seen the errors of his ways, and this is the most troubling occasion for the present case. He is and has been incapable of reform.

. . . .

To repeat, [Atty. Mallari] has repeatedly and deliberately caused a mockery of the judicial profession by his constant transgressions enough to justify a penalty graver than the six-month suspension recommended by the IBP Board of Governors. For, [Atty. Mallari]'s serious administrative offenses, he deserves the ultimate penalty of disbarment. His name should be stricken from the Roll of Attorneys.[71] (Emphasis supplied, citations omitted)

Bar discipline proceedings are not punitive in nature.[72] Rather, they are a public welfare measure, in that they are meant to protect the public from persons who are ethically unfit to be part of the legal profession.[73] Bar discipline measures likewise protect not only the courts, but the legal system as a whole, by ensuring that the officers of the courts and duly-authorized advocates of the public are competent, honorable, and reliable.[74] Thus, bar discipline proceedings are in essence, an examination of one's fitness to practice law,[75] and an investigation into the character

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[71] *Id.* at 261–262.

[72] *Office of the Court Administrator v. Judge Yu,* 800 Phil. 307, 418 (2016) [*Per Curiam, En Banc*]; *Natanauan v. Tolentino*, 797 Phil. 76, 89 (2016) [Per J. Jardeleza, *En Banc*]; *Valencia v. Antiniw*, 579 Phil. 1, 12 (2008) [Per J. Leonardo-De Castro, *En Banc*]; *Ong v. Unto*, 426 Phil. 531, 539 (2002) [Per J. Puno, First Division]; *Noriega v. Sison*, 210 Phil. 236, 240 (1983) [Per J. Guerrero, Second Division].

[73] *Yap-Paras v. Atty. Paras*, 551 Phil. 338, 344 (2007) [Per J. Garcia, Special Third Division]; *Cojuangco, Jr. v. Atty. Palma*, 501 Phil. 1, 7–8 (2005) [Per Curiam, *En Banc*]; *Pimentel, Jr. v. Atty. Llorente*, 393 Phil. 544, 551–552 (2000) [Per J. Mendoza, Second Division].

[74] *Noriega v. Sison*, 210 Phil. 236, 60 (1983) [Per J. Guerrero, Second Division].

[75] *Office of the Court Administrator v. Judge Yu*, 800 Phil. 307, 418 (2016) [*Per Curiam*, *En Banc*]; *Villatuya v. Atty. Tabalingcos*, 690 Phil. 381, 395 (2012) [*Per Curiam, En Banc*]; *Cojuangco, Jr. v. Palma*, 501 Phil. 1, 7–8 (2004) [*Per Curiam, En Banc*]; *In the Matter of the Admission to the Bar of Argosino*, 316

Supreme Court E-Library

of a lawyer, as well as his or her misconduct.[76] Due to their non-punitive nature, disbarments and other bar discipline sanctions are not considered *punishments* for purposes of the double jeopardy clause.[77] Settled is the rule that the double jeopardy principle does not apply to bar discipline cases.[78]

Thus, while jurisprudence instructs that disbarment can no longer be imposed on an already-disbarred lawyer,[79] it also teaches that the Supreme Court retains disciplinary jurisdiction over already-disbarred lawyers, for acts committed during the subsistence of their membership in the bar.[80] This Court retains

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Phil. 43, 46 (1995) [Per J. Feliciano, *En Banc*]; *citing In re Rouss*, 221 N.Y. 81, 116 N.E. 782 (1917): *Cuyugan-Lizaso v. Atty. Amante*, 275 Phil. 1, 11 (1991) [*Per Curiam, En Banc*].

[76] *Dagala v. Atty. Quesada, Jr. et al.* 722 Phil 447, 457–458 (2013) [Per J. Perlas-Bernabe, Second Division]; *Sambajon v. Atty. Suing*, 534 Phil. 84, 101 (2006) [Per J. Carpio Morales, Third Division]; *In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al., v. Yaptinchay*, 142 Phil. 353, 371 (1970) [Per J. Ruiz Castro, *En Banc*].

[77] *In the Matter of Caranchini*, 160 F.3d 420 (1998); *People v. Artman*, 553 N.W.2d 673 (1996); *People v. Marmon*, 903 P.2d 651 (1995); *Office of the Disciplinary Counsel v. Campbell*, 345 A.2d 616 (1975).

[78] *Guevarra-Castil v. Trinidad*, A.C. No. 10294, July 12, 2022 [*Per Curiam, En Banc*]; *AA Total Learning Center for Young Achievers, Inc. v. Caronan*, 872 Phil. 564, 575–576 (2020) [Per J. Hernando, *En Banc*]; *Office of the Court Administrator v. Atty. Liangco*, 678 Phil. 305, 323–324 (2011) [*Per Curiam, En Banc*]; *Pimentel, Jr. v. Llorente*, 393 Phil. 544, 551–552 (2000) [Per J. Mendoza, Second Division], *citing Pangan v. Ramos*, 194 Phil. 1 (1981) [Per J. De Castro, Second Division]; *In re Del Rosario*, 52 Phil. 399 (1928) [Per J. Malcolm, *En Banc*]; *De Jesus-Paras v. Vailoces*, 111 Phil. 569, 570 (1961) [Per J. Bautista Angelo, *En Banc*].

[79] *Yuhico v. Gutierrez*, 650 Phil. 225, 231 (2010) [*Per Curiam, En Banc*]. While there is no "double disbarment" in this jurisdiction, this rule assumes that the erring lawyer has not been previously reinstated to the bar after the first disbarment. *See Prudential Bank v. Grecia*, 270 Phil. 444, 448 (1990) [Per *Curiam, En Banc*] and *Fernandez v. Atty. Grecia*, 295 Phil. 428, 437–438 (1993) [*Per Curiam, En Banc*], where the lawyer was disbarred, readmitted to the Bar, and then disbarred again for an infraction committed after his readmission to the Bar.

[80] *Re: Order Dated October 27, 2016 Issued by Branch 137, Regional Trial Court, Makati City, in Criminal Case No. 14-765 v. Atty. Ramon*, 882 Phil. 45,

Supreme Court E-Library

jurisdiction over suspended or disbarred lawyers insofar as "*[a] judgment of suspension or disbarment is always subject to change or modification by the court*," which may downgrade a penalty of disbarment to one of suspension, lift a suspension, reinstate a disbarred lawyer,[81] or order such disbarred lawyer to pay a fine.[82] This continuing jurisdiction over interdicted or disbarred lawyers is based on the Supreme Court's constitutional power to promulgate rules and regulations concerning admission to the practice of law.[83]

Consequently, while a disbarred lawyer may no longer serve a subsequent suspension,[84] such penalty may nevertheless be imposed for the sole purpose of recording the same in the disbarred lawyer's personal file in the Office of the Bar Confidant,[85] which will then be taken into consideration if and when the disbarred

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50 (2020) [Per J. Lopez, *En Banc*]; *Valmonte v. Atty. Quesada*, 867 Phil. 247, 252 (2019) [Per J. Hernando, Second Division]; *Domingo v. Revilla, Jr*., 835 Phil. 1, 3 (2018) [*Per Curiam, En Banc*]; *Punla, et al. v. Atty. Maravilla-Ona*, 816 Phil. 776, 783 (2017) [*Per Curiam, En Banc*].

81 Ruben E. Agpalo, LEGAL AND JUDICIAL ETHICS 574 (2020), *citing Gabriel de Bumanglag v. Bumanglag*, 165 Phil. 716 (1976) [Per J. Teehankee, First Division] and *In re Cunanan*, 94 Phil. 534 (1954) [Per J. Diokno, *En Banc*].

82 *Re: Order Dated October 27, 2016 Issued by Branch 137, Regional Trial Court, Makati City, in Criminal Case No. 14-765 v. Atty. Ramon, 882 Phil. 45, 50 (2020) [Per J. Lopez, En Banc] & Valmonte v. Atty. Ouesada Jr*., 867 Phil. 247, 252 (2019) [Per J. Hernando, Second Division].

83 CONSTITUTION, Article VIII, Section 5(5); *In re Cunanan*, 94 Phil. 534 (1954) [Per J. Diokno, *En Banc*]; *In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al. v. Yaptinchay*, 142 Phil. 353, 387 (1970) [Per J. Ruiz Castro, *En Banc*]; *In re Edillon*, 174 Phil. 55 (1978). *See also* Ruben E. Agpalo, LEGAL AND JUDICIAL ETHICS 575 (2020).

84 *Paras v. Paras*, 807 Phil. 153, 163 (2017) [Per J. Perlas-Bernabe, First Division]; *Sanchez v. Torres*, 748 Phil. 18, 24 (2014) [*Per Curiam, En Banc*].

85 *Rico v. Madrazo, Jr., & Dumlao, Jr. v. Camacho*, 864 Phil. 1, 17–18 (2019) [Per J. Peralta, *En Banc*]; *citing Dumlao, Jr. v. Camacho*, 839 Phil. 509, 528 (2018) [Per J. Gcsmundo, *En Banc*].

Supreme Court E-Library

lawyer applies for reinstatement.[86] However, such imposition of the unservable penalty for recording purposes presupposes the commission of an infraction distinct and separate from that which the lawyer was previously disbarred.[87] Thus, in *Pabalan v. Atty. Salva*[88] (*Pabalan*), this Court dismissed a disbarment complaint which was based on the same act as a previous disbarment complaint for which the lawyer had already been sanctioned, thus:

> In his Answer in the instant case, Salva raised forum shopping as an affirmative defense. This, along with Pabalan's manifestation, should have been enough to alert the IBP. Indeed, the IBP should have already dismissed the instant disbarment complaint because the same grounds raised by Pabalan were already contained in her Sinumpaang Salaysay as a witness in CBD Case No. 09-2382. The instant complaint even contains the same annexes as those attached to her Sinumpaang Salaysay. While Pabalan's allegations were only part of the many other allegations raised by Benito in CBD Case No. 09-2382, Salva was able to address Pabalan's allegations in his Answer therein. In fact, he even devoted the last few pages of said Answer as a Reply to Pabalan's Sinumpaang Salaysay.
>
> . . . .
>
> Hence, **except for the charge of entering into an agreement with a non-lawyer for the sharing of attorney's fees, all the charges raised against respondent are found to have no factual and legal basis.**
>
> As gleaned from [the abovequoted findings in the previous disbarment case], the IBP had already considered the allegations of Pabalan against Salva when it ruled on the disbarment complaint filed by Benito in CBD Case No. 09-2382. To repeat, the allegations of Pabalan in CBD Case No. 09-2382 and in the instant case are the same. Still, the IBP adopted and approved on June 21, 2013 the Report and Recommendation of the Investigating Commissioner, without even acknowledging its earlier ruling in CBD Case No. 09-2382.[89] (Emphasis in the original)

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86 *Valmonte v. Atty. Quesada*, 867 Phil. 247, 252 (2019) [Per J. Hernando, Second Division]; *Rico v. Madrazo, Jr. v. Camacho, id.*; *Dumlao, Jr. v. Camacho, id*.

87 *Sanchez v. Torres*, 748 Phil. 18, 24 (2014) [*Per Curiam, En Banc*]; *Rico v. Madrazo, Jr. & Dumlao, Jr. v. Camacho, id.*

88 850 Phil. 13 (2019) [Per J. Caguioa, Second Division].

89 *Id*. at 19–21.

Supreme Court E-Library

As applied to Atty. Mallari, on one hand, the debate challenge against Justice Bruselas was only one of several ethically suspect acts which contributed to his disbarment in *Genato*.[90] Likewise, Justice Bruselas and the other CA justices had no participation therein, either as parties or witnesses. Furthermore, the pleadings and evidence submitted in the present case involved certain aspects of the debate challenge which were not fully considered in *Genato*: aspects which hereby illume the full extent of Atty. Mallari's transgression of the Code of Professional Responsibility in relation to the said act. Jurisprudence also supports the proposition that a single act may result in the violation of multiple laws, or of multiple provisions of the same law or rules.[91]

On the other hand, noteworthy is the fact that Atty. Mallari invoked the same the defense in both *Genato* and in the case at bar. Justice Bruselas's non-participation in *Genato* is likewise immaterial since disbarment is solely an inquiry into the lawyer's fitness to practice law and does not involve the grant of reliefs to the complaining party.[92] Crucially, as discussed in the abovequoted excerpts from *Genato*, the fact remains that Atty. Mallari has already been sanctioned for issuing the debate challenge against Justice Bruselas.

In view of the foregoing circumstances, considering the ruling in *Pabalan*, it is our considered opinion that the present complaint

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[90] Aside from issuing the debate challenge, Atty. Mallari was also found guilty of disregarding a possession writ and delaying the implementation, thereof by filing numerous dilatory appeals and petitions. *Genato v. Atty. Mallari*, 865 Phil. 247 (2019) [*Per Curiam, En Banc*].

[91] Well settled is the rule that a single act may offend against two or more distinct and related provisions of law, or that the same act may give rise to criminal as well as administrative liability. As such, they may be prosecuted simultaneously or one after another, so long as they do not place the accused in double jeopardy of being punished for the same offense. *Kare v. Tumaliuan*, 864 Phil. 791, 799 (2019) [Per J. Peralta, Third Division]. *See also* Separate Opinion of Leonen, *J.* in *Punla, et al. v. Atty. Maravilla-Ona*, 816 Phil. 776, 787–788 (2017) [*Per Curiam, En Banc*].

[92] *Ret. Judge Alpajora v. Atty. Calayan*, 823 Phil. 93, 108 (2018) [Per J. Gesmundo, *En Banc*]; *Atty. Yumul-Espina v. Atty. Tabaquero*, 795 Phil. 653, 659 (2016) [Per J. Jardeleza, Third Division].

Supreme Court E-Library

should be dismissed on the sole ground that the unethical acts subject thereof have already been passed upon and considered as grounds for Atty. Mallari's disbarment in a previous case. However, bearing in mind the gravity of Atty. Mallari's offense[93] and the public welfare purpose of bar discipline cases, in the exercise of its *sui generis* prerogatives regarding bar membership,[94] this Court nevertheless rules that the present decision must be made part of Atty. Mallari's disciplinary record, for consideration in case he applies for reinstatement to the Roll of Attorneys, and to apprise the bench, the bar, and all other concerned parties, of the full ethical implications of his public vituperations against the Justice Bruselas and his colleagues in the appellate court.

ACCORDINGLY, the present complaint is hereby **DISMISSED**, in view of the circumstances of Eligio P. Mallari's disbarment in the case of *Antonio X. Genato v. Atty. Eligio P. Mallari.*

Let a copy of this Decision be furnished the Office of the Bar Confidant, to be appended to Eligio P. Mallari's personal record. Likewise, let copies of the same be served on the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country, for their information and guidance.

SO ORDERED.

Gesmundo, C.J., *Leonen, Caguioa, Hernando, Lazaro-Javier, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Kho, Jr.,* and *Singh, JJ.*, concur.

Inting, *Dimaampao*, and *Marquez*, *JJ.*, no part.

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[93] Cf. the offense and the sanction *In the Matter of the Proceedings for Disciplinary Action Against Atty. Almacen, et al. v. Yaptinchay*, 142 Phil. 353, 390 (1970) [Per J. Ruiz Castro, *En Banc*].

[94] *Id*.