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person holding that office, in a *de jure* capacity, is Benipayo. The COMELEC *en banc,* in COMELEC Resolution No. 3300, approved the transfer or reassignment of COMELEC personnel during the election period. Thus, Benipayo's order reassigning petitioner from the EID to the Law Department does not violate Section 261 (h) of the Omnibus Election Code. For the same reason, Benipayo's order designating Cinco Officer-in-Charge of the EID is legally unassailable.

Fifth Issue: Legality of Disbursements to Respondents

Based on the foregoing discussion, respondent Gideon C. De Guzman, Officer-in-Charge of the Finance Services Department of the Commission on Elections, did not act in excess of jurisdiction in paying the salaries and other emoluments of Benipayo, Borra, Tuason and Cinco.

WHEREFORE, the petition is dismissed for lack of merit. Costs against petitioner.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Kapunan, Mendoza, Panganiban, Quisumbing, Ynares-Santiago, De Leon, Jr., and *Sandoval-Gutierrez, JJ.,* concur.

Puno and Vitug, JJ., on official leave.

THIRD DIVISION

[A.C. No. 4346. April 3, 2002]

ERLINDA ABRAGAN, MILA GINA JAVIER, REYNALDO MERCADO, PATERNO TORRES, BENIGNA ANTIBO, ELEISER SALVADOR, EDNA SAPON, JULIANA CUENCA, ESPERANZA

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BUENAFE, VICENTE BARNAGA, MARTHA SAPON, JOSEFINA OPEÑA, PUREZA WABE, RONULFO LOPEZ, DOMINADOR HERNANDEZ, FELIPA EMBATE, ROQUE CATIIL, JERRY SAPON, CONCEPCION MATANOG, and PABLO SALOMON, *complainants, vs.* **Atty. MAXIMO G. RODRIGUEZ,** *respondent.*

SYNOPSIS

Complainants asked the Supreme Court to disbar the respondent for alleged illegal and unethical acts and violation of Rule 15.03 of Canon 15 of the Code of Professional Responsibility relative to Civil Case No. 11204, a complaint for Forcible Entry With Petition for a Writ of Preliminary Injunction and Damages. Respondent is the complainants' counsel in the aforesaid case. In the same civil case, complainants subsequently filed an indirect contempt case. Much to the dismay, damage and prejudice of the complainants, the respondent agreed to represent the adverse parties in the indirect contempt proceedings.

The Supreme Court held that the respondent fell short of the integrity and good moral character required from all lawyers. His divided loyalty constituted malpractice for which he may be suspended. The respondent clearly violated Rule 15.03 of Canon 15 of the Code of Professional Responsibility which provides that "a lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts." Respondent should have evaluated the situation first before agreeing to be the counsel for the defendants in the indirect contempt proceedings. Attorneys owe undivided allegiance to their clients, and should at all times weigh their actions, especially in their dealings with the latter and the public at large. They must conduct themselves beyond reproach at all times. The Court will not tolerate any departure from the "straight and narrow" path demanded by the ethics of the legal profession. Because of his divided allegiance, respondent has eroded, rather than enhanced, the public perception of the legal profession.

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SYLLABUS

1. **LEGAL ETHICS; ATTORNEYS; SHOULD REFRAIN FROM DOING ANYTHING THAT MIGHT TEND TO LESSEN THE CONFIDENCE IN THE FIDELITY, HONESTY AND INTEGRITY OF THEIR PROFESSION; CASE AT BAR.**— At the outset, we agree with Commissioner Navarro's conclusion that apart from their allegations in their various pleadings, petitioners did not proffer any proof tending to show that respondent had sold to other persons several rights over the land in question; and that he had induced the former counsel for petitioners, Atty. Salva Jr., to withdraw the indirect contempt case that they had filed. Neither did the IBP find anything wrong as regards the 8,000 square meters awarded to respondent as payment for his legal services. Petitioners' bare assertions, without any proof to back them up, would not justify the imposition of a penalty on respondent. Having said that, we find, however, that respondent falls short of the integrity and good moral character required from all lawyers. They are expected to uphold the dignity of the legal profession at all times. The trust and confidence clients repose in them require a high standard and appreciation of the latter's duty to the former, the legal profession, the courts and the public. Indeed, the bar must maintain a high standard of legal proficiency as well as of honesty and fair dealings. To this end, lawyers should refrain from doing anything that might tend to lessen the confidence of the public in the fidelity, honesty and integrity of their profession.

2. **ID.; ID.; RULE 15.03 OF CANON 15 OF THE CODE OF PROFESSIONAL RESPONSIBILITY; VIOLATED WHERE LAWYER REPRESENTS CONFLICTING INTEREST.**— In the present case, respondent clearly violated Rule 15.03 of Canon 15 of the Code of Professional Responsibility, which provides that "a lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts." The Court explained in *Buted v. Hernando:* "*[A] lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.*" "The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidence forbids also the subsequent *acceptance of*

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retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed."

3. ID.; ID.; OWE UNDIVIDED ALLEGIANCE TO THEIR CLIENTS; MUST CONDUCT THEMSELVES BEYOND REPROACH AT ALL TIMES.— In the case at bar, petitioners were the same complainants in the indirect contempt case and in the Complaint for forcible entry in Civil Case No. 11204. Respondent should have evaluated the situation first before agreeing to be counsel for the defendants in the indirect contempt proceedings. Attorneys owe undivided allegiance to their clients, and should at all times weigh their actions, especially in their dealings with the latter and the public at large. They must conduct themselves beyond reproach at all times.

4. ID.; ID.; MUST AVOID THE APPEARANCE OF TREACHERY AND DOUBLE DEALING.— The Court will not tolerate any departure from the "straight and narrow" path demanded by the ethics of the legal profession. In *Hilado v. David*, which we quote below, the Court advised lawyers to be like Caesar's wife — to be pure *and* to appear to be so. "This stern rule is designed not alone to prevent the dishonest practitioner from fraudulent conduct, but as well as to protect the honest lawyer from unfounded suspicion of unprofessional practice. It is founded on principles of public policy, on good taste. As has been said in another case, the question is not necessarily one of the rights of the parties, but as to whether the attorney has adhered to proper professional standard. With these thoughts in mind, it behooves attorneys, like Caesar's wife, not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing. Only thus can litigants be encouraged to entrust their secrets to their attorneys which is of paramount importance in the administration of justice."

5. ID.; ID.; DIVIDED LOYALTY CONSTITUTES MALPRACTICE; PENALTY.— Because of his divided allegiance, respondent has eroded, rather than enhanced, the public perception of the legal profession. His divided loyalty constitutes malpractice for which he may be suspended, following Section 27, Rule 138 of the Rules of Court, which provides: "SEC. 27. *Disbarment or suspension of Attorneys by Supreme Court, grounds*

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therefor.— Any member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a wilful disobedience appearing as an attorney for a party to a case without authority so to do. x x x." Complainants ask that respondent be disbarred. We find however that suspension of six (6) months from the practice of law, as recommended by Commissioner Navarro, is sufficient to discipline respondent. A survey of cases involving conflicting interests on the part of counsel reveals that the Court has imposed on erring attorneys either a reprimand, or a suspension from the practice of law from five (5) months to as high as two (2) years.

APPEARANCES OF COUNSEL

Roland B. Inting counsel for complainants.

D E C I S I O N

PANGANIBAN, *J.*:

Lawyers violate their oath of office when they represent conflicting interests. They taint not only their own professional practice, but the entire legal profession itself.

The Case and the Facts

Before us is a verified Petition[1] praying for the disbarment of Atty. Maximo G. Rodriguez because of alleged illegal and unethical acts. The Petition relevantly reads as follows:

"2. That sometime in 1986, the petitioners hired the services of the respondent and the latter, represented the former in the case entitled *PABLO SALOMON et al vs. RICARDO DACALUZ et al.*, before the Municipal Trial Court in Cities, Cagayan de Oro City, Branch 3

[1] *Rollo*, pp. 1-6.

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docketed as Civil Case No. 11204, for Forcible Entry with Petition for a Writ of Preliminary Injunction and Damages, [and] a Certified True and Correct Copy of the COMPLAINT by Clerk of Court III Gerardo B. Ucat of the said Court, is herewith attached to the original of this PETITION, while photocopies of the same are also attached to the duplicate copies of this same Petition and marked as Annex 'A' hereof;

"3. That after the Case No. 11204 was finally won, and a Writ of Execution was issued by the Honorable Municipal Trial Court in Cities of Cagayan de Oro City, Branch 3, the same respondent lawyer represented the petitioners herein;

"4. That when respondent counsel disturbed the association (Cagayan de Oro Landless Residents Association, Inc.), to which all the complainants belong, by surreptitiously selling some rights to other persons without the consent of the petitioners herein, they decided to sever their client-lawyer relationship;

"5. That in fact, the National Bureau of Investigation of Cagayan de Oro City, is presently undertaking an investigation on the illegal activities of Atty. Maximo Rodriguez pertaining to his express involvement in the illegal and unauthorized apportionment, assignment and sale of parcels of land subject to the Case No. 11204, where he represented the poor landless claimants of Cagayan de Oro City, which include your petitioners in this case;

"6. That petitioners herein later filed an indirect contempt charge under Civil Case No. 11204 against Sheriff Fernando Loncion *et al.*, on August 2, 1991 engaging the services of Atty. LORETO O. SALVA, SR., an alleged former student of law of Atty. Maximo Rodriguez, [and a] certified true and correct copy of the complaint thereat consisting of four (4) pages is herewith attached and photocopies of which are also attached to the duplicates hereof, and correspondingly marked as their Annex 'B';

"7. That respondent lawyer, Atty. Maximo Rodriguez, (in the Indirect Contempt Case under the same Civil Case No. 11204,) REPRESENTED and actively took up the defense of FERNANDO LONCION *et al.* much to the dismay, damage and prejudice of the herein petitioners, [and] a copy of Atty. Rodriguez's Answer, which is also certified true and correct by Clerk of Court III Gerardo Ucat of Branch 3 of MTCC - Cagayan de Oro City, consisting of three (3) pages, is attached to the original of this Petition, while photocopies

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of the same are attached to the other copies hereof and accordingly marked as Annex 'C';

"8. That the records will bear the petitioners out that their counsel, Atty. SALVA SR. later on withdrew the case of Indirect Contempt upon the suggestion of Atty. Maximo Rodriguez; and instead, filed the Motion for the Issuance of an *Alias* Writ of Execution;

"9. That on January 12, 1993, the herein respondent, without consulting the herein Petitioners who are all poor and ignorant of court procedures and the law, filed in behalf of the plaintiffs (which include the herein Petitioners) in Civil Case No. 11204, a Motion to Withdraw Plaintiffs' Exhibits, [and] a certified true and correct copy of said Motion by Mr. Gerardo Ucat of MTCC Branch 3, Cagayan de Oro City is herewith attached to the original of this Petition, while photocopies of the same are also attached to the rest of the copies of this same Petition, and are correspondingly marked as their Annex 'D'.

"10. That the illegal and unethical actions of Atty. Maximo Rodriguez are most obnoxious, condemnable, and highly immoral, to say the least, more so if we consider his social standing and ascendancy in the community of Cagayan de Oro City;

"11. That the records of Civil Case No. 11204 which are voluminous will bear the petitioners' allegations against the herein respondent, who, after representing them initially, then transferring allegiance and services to the adverse parties (Lonchion, Palacio and NHA Manager), came back to represent the herein petitioners without any regard [for] the rules of law and the Canons of Professional Ethics, which is highly contemptible and a clear violation of his oath as a lawyer and an officer of the courts of law;

"12. That these acts are only those that records will bear, because outside of the court records, respondent, without regard [for] *delicadeza*, fair play and the rule of law, has assigned, apportioned and sold parcels of land[,] subject matter in Civil Case No. 11204 which legally have been pronounced and decided to be in the possession of the plaintiffs in Civil Case No. 11204, who are partly the petitioners herein. Thus, they cannot yet enjoy the fruits of the tedious and protracted legal battle because of respondent's illegal acts, which have instilled fear among the plaintiffs and the petitioners herein;

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"13. That respondent lawyer even represented ERLINDA ABRAGAN, one of the herein petitioners, in a later proceedings in Civil Case No. 11204 wherein the apportionment of parcels of land was erroneously, unprocedurally and illegally submitted to a commissioner, and that ERLINDA ABRAGAN, after winning in the said Civil Case was later on dispossessed of her rights by respondent counsel's maneuver, after the decision (in Civil Case No. 11208) became final executory;

"14. That to make matters worse, respondent Atty. Rodriguez eventually fenced an area consisting of about 10, 200 square meters within Lot No. 1982[,] the subject matter in Civil Case No. 11204 without the consent of the herein petitioners. He even openly and publicly proclaimed his possession and ownership thereof, which fact is again and also under NBI investigation;

"15. That all the foregoing acts of respondent lawyer plus his continuing and ongoing illegal and unethical maneuvers have deprived the herein petitioners of their vested rights to possess and eventually own the land they have for decades possessed, and declared as such by final judgment in Civil Case No. 11204."

In his Comment,[2] respondent flatly denied the accusations of petitioners. He explained that the withdrawal of the exhibits, having been approved by the trial court, was not "illegal, obnoxious, undesirable and highly immoral." He added that he took over the 8,000 square meters of land only after it had been given to him as attorney's fees. In his words:

"14. Respondent ADMITS that he fenced an area of about 8,000 sq. [m]. after the association had awarded the same as attorney's fees in Civil Case Number 11204, the dismissal of the appeal by the NHA, the successful handling of three (3) cases in the SUPREME COURT, the pending case of QUIETING OF TITLE filed by the NHA, and for the pending reconveyance case, Civil Case No. 93-573, *supra*. These area of 8,000 sq. [m]., was awarded as attorney's fees, which [were] supposed to be ten percent of the 22 hectares, Lot No. 1982, the subject matter of Civil Case No. 11204, but the association and its members were able to take actual possession by judgment of the courts only o[f] the twelve (12) hectares. [This] area consisting of

[2] *Ibid.*, pp. 46-57.

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8,000 sq. [m]., and consisting of two (2) lots [was] fenced by the respondent to prevent squatters from entering the area. The rights of possession and ownership o[f] this area by the respondent depends upon the outcome of Civil Case No. 93-573, *supra*, for reconveyance of title by the association and its members *versus* the NHA, *et. al.* If it is true that this is under investigation by the NBI, then why, not wait and submit the investigation of the NHA, instead of filing this unwarranted, false and fabricated charge based on preposterous and ridiculous charges without any proof whatsoever, except the vile [language] of an irresponsible lawyer."[3]

Thereafter, petitioners filed a Reply[4] in which they reiterated their allegations against respondent and added that the latter likewise violated Rule 15.03 of the Code of Professional Responsibility. The Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and/or decision.[5]

Report of the Investigating Commissioner

In her Report and Recommendation dated January 23, 2001, Investigating IBP Commissioner Lydia A. Navarro recommended that respondent be suspended from the practice of law for six (6) months for violation of Rule 15.03 of Canon 15 of the Code of Professional Responsibility. Her report reads in part as follows:

"From the facts obtaining, it is apparent that respondent represented conflicting interest considering that the complainants were the same plaintiffs in both cases and were duly specified in the pleadings particularly in the caption of the cases. Under the said predicament even if complainants were excluded as members of the Association represented by the respondent; the latter should have first secured complainants' written consent before representing defendants in the Indirect Contempt case particularly Macario Palacio, president of the Association, or inhibited himself.

"It is very unfortunate that in his desire to render service to his client, respondent overlooked the fact that he already violated Rule

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[3] *Id.*, pp. 53-54.

[4] *Id.*, p. 81.

[5] Resolution dated December 4, 1995; *id.*, p. 100.

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15.03 of [C]anon 15 of the Code of Professional Responsibility, to wit:

> 'Rule 15.03 — A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.'

"We have no alternative but to abide by the rules."[6]

IBP Board of Governors' Resolution

Upholding the above-quoted Report, the Board of Governors of the Integrated Bar of the Philippines recommended *via* its May 26, 2001 Resolution that respondent be suspended from the practice of law for two (2) months for violation of Rule 15.03 of Canon 15 of the Code of Professional Responsibility.

This Court's Ruling

We agree with the findings and the recommendation of the IBP Board of Governors, but hold that the penalty should be six-month suspension as recommended by the investigating commissioner.

Administrative Liability of Respondent

At the outset, we agree with Commissioner Navarro's conclusion that apart from their allegations in their various pleadings, petitioners did not proffer any proof tending to show that respondent had sold to other persons several rights over the land in question; and that he had induced the former counsel for petitioners, Atty. Salva Jr., to withdraw the indirect contempt case that they had filed. Neither did the IBP find anything wrong as regards the 8,000 square meters awarded to respondent as payment for his legal services. Petitioners' bare assertions, without any proof to back them up, would not justify the imposition of a penalty on respondent.

Having said that, we find, however, that respondent falls short of the integrity and good moral character required from

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[6] Report and Recommendation filed on June 7, 2001, pp. 7-8.

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all lawyers. They are expected to uphold the dignity of the legal profession at all times. The trust and confidence clients repose in them require a high standard and appreciation of the latter's duty to the former, the legal profession, the courts and the public. Indeed, the bar must maintain a high standard of legal proficiency as well as of honesty and fair dealings. To this end, lawyers should refrain from doing anything that might tend to lessen the confidence of the public in the fidelity, honesty and integrity of their profession.[7]

In the present case, respondent clearly violated Rule 15.03 of Canon 15 of the Code of Professional Responsibility, which provides that "a lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts."

The Court explained in *Buted v. Hernando:*[8]

"*[A] lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose.*

"The obligation to represent the client with undivided fidelity and not to divulge his secrets or confidence forbids also the subsequent *acceptance of retainers or employment from others in matters adversely affecting any interest of the client with respect to which confidence has been reposed.*"[9] (Italics in the original)

In the case at bar, petitioners were the same complainants in the indirect contempt case and in the Complaint for forcible entry in Civil Case No. 11204.[10] Respondent should have evaluated the situation first before agreeing to be counsel for the defendants in the indirect contempt proceedings. Attorneys owe undivided allegiance to their clients, and should at all times

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[7] *Marcelo v. Javier Sr.*, 214 SCRA 1, 12-13, September 18, 1992; *Fernandez v. Grecia,* 223 SCRA 425, 434, June 17, 1993.

[8] 203 SCRA 1, October 17, 1991.

[9] *Ibid.*, p. 5, *per curiam.*

[10] *Rollo*, p. 9.

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weigh their actions, especially in their dealings with the latter and the public at large. They must conduct themselves beyond reproach at all times.

The Court will not tolerate any departure from the "straight and narrow" path demanded by the ethics of the legal profession.

In *Hilado v. David*,[11] which we quote below, the Court advised lawyers to be like Caesar's wife — to be pure *and* to appear to be so.

"This stern rule is designed not alone to prevent the dishonest practitioner from fraudulent conduct, but as well as to protect the honest lawyer from unfounded suspicion of unprofessional practice. It is founded on principles of public policy, on good taste. As has been said in another case, the question is not necessarily one of the rights of the parties, but as to whether the attorney has adhered to proper professional standard. With these thoughts in mind, it behooves attorneys, like Caesar's wife, not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing. Only thus can litigants be encouraged to entrust their secrets to their attorneys which is of paramount importance in the administration of justice."

Because of his divided allegiance, respondent has eroded, rather than enhanced, the public perception of the legal profession. His divided loyalty constitutes malpractice for which he may be suspended, following Section 27, Rule 138 of the Rules of Court, which provides:

"SEC. 27. *Disbarment or suspension of Attorneys by Supreme Court, grounds therefor.* — Any member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a wilful disobedience appearing as an attorney for a party to a case without authority so to do. x x x."

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[11] 84 Phil. 571, 578-579, September 21, 1949, per Tuason, *J.*

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Complainants ask that respondent be disbarred. We find however that suspension of six (6) months from the practice of law, as recommended by Commissioner Navarro, is sufficient to discipline respondent.

A survey of cases involving conflicting interests on the part of counsel reveals that the Court has imposed on erring attorneys[12] either a reprimand, or a suspension from the practice of law from five (5) months[13] to as high as two (2) years.[14]

WHEREFORE, Maximo G. Rodriguez is found guilty of violating Rule 15.03 of Canon 15 of the Code of Professional Responsibility and is hereby *SUSPENDED* for six (6) months from the practice of law, effective upon his receipt of this Decision. He is warned that a repetition of the same or similar acts will be dealt with more severely.

Let copies of this Decision be entered in the record of respondent as attorney and served on the IBP, as well as on the Court Administrator who shall circulate it to all courts for their information and guidance.

SO ORDERED.

Melo (Chairman), Sandoval-Gutierrez, and *Carpio, JJ.,* concur.

Vitug, J., abroad on official business.

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[12] See *Nombrado v. Hernandez*, 26 SCRA 13, November 25, 1968; *San Jose v. Cruz*, 57 Phil. 792, February 4, 1933.

[13] *Buted v. Hernando, supra.*

[14] See *Vda. De Alisbo v. Jalandoon Sr.*, 199 SCRA 321, July 31, 1991; *Bautista v. Barrios*, 9 SCRA 695, December 21, 1963; *Natan v. Capule*, 91 Phil. 640, July 23, 1952; *Cantorne v. Ducosin*, 57 Phil. 24, August 9, 1932.