



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

**RODRIGO E. TAPAY and  
ANTHONY J. RUSTIA,**  
Complainants,

**A.C. No. 9604**

Present:

CARPIO, *J.*, Chairperson,  
BRION,  
DEL CASTILLO,  
PEREZ, and  
PERLAS-BERNABE, *JJ.*

- versus -

**ATTY. CHARLIE L. BANCOLO and  
ATTY. JANUS T. JARDER,**  
Respondents.

Promulgated:

MAR 20 2013 *Atty. Caraballo*

x-----

**D E C I S I O N**

**CARPIO, *J.*:**

**The Case**

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

*h*

### **The Facts**

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

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

In a Resolution dated 28 March 2005, the Office of the Ombudsman provisionally dismissed the Complaint since the falsification of the counsel's signature posed a prejudicial question to the Complaint's validity. Also, the Office of the Ombudsman ordered that separate cases for Falsification of Public Document<sup>2</sup> and Dishonesty<sup>3</sup> be filed against Divinagracia, with Rustia and Atty. Bancolo as complainants.

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

<sup>1</sup> Docketed as OMB-V-C-04-0445-I and OMB-V-A-04-0429-I.

<sup>2</sup> Docketed as OMB-V-C-05-0207-E.

<sup>3</sup> Docketed as OMB-V-A-05-0219-E.

to revive the original Complaint for various offenses that he filed against Tapay and Rustia.

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

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

SO ORDERED.<sup>4</sup>

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

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

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

In their Answer dated 26 January 2006 to the disbarment complaint, respondents admitted that the criminal and administrative cases filed by Divinagracia against complainants before the Office of the Ombudsman

<sup>4</sup> IBP Records (Vol. I), p. 14.

<sup>5</sup> Docketed as CBD Case No. 05-1612.

<sup>6</sup> Sub-Office Report No. 0008-2005.

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

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

### **The IBP's Report and Recommendation**

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

In her Report and Recommendation, the Investigating Commissioner opined:

x x x. In his answer[,] respondent Atty. Charlie L. Bancolo admitted that his signature appearing in the complaint filed against complainants' Rodrigo E. Tapay and Anthony J. Rustia with the Ombudsman were signed by the secretary. He did not refute the findings that his signatures appearing in the various documents released from his

office were found not to be his. Such pattern of malpractice by respondent clearly breached his obligation under Rule 9.01 of Canon 9, for a lawyer who allows a non-member to represent him is guilty of violating the aforementioned Canon. The fact that respondent was busy cannot serve as an excuse for him from signing personally. After all respondent is a member of a law firm composed of not just one (1) lawyer. The Supreme Court has ruled that this practice constitute negligence and undersigned finds the act a sign of indolence and ineptitude. Moreover, respondents ignored the notices sent by undersigned. That showed patent lack of respect to the Integrated Bar of the Philippine[s'] Commission on Bar Discipline and its proceedings. It betrays lack of courtesy and irresponsibility as lawyers.

On the other hand, Atty. Janus T. Jarder, a senior partner of the law firm Jarder Bancolo and Associates Law Office, failed to exercise certain responsibilities over matters under the charge of his law firm. As a senior partner[,] he failed to abide to the principle of "command responsibility". x x x.

x x x x

Respondent Atty. Janus Jarder after all is a seasoned practitioner, having passed the bar in 1995 and practicing law up to the present. He holds himself out to the public as a law firm designated as Jarder Bancolo and Associates Law Office. It behooves Atty. Janus T. Jarder to exert ordinary diligence to find out what is going on in his law firm, to ensure that all lawyers in his firm act in conformity to the Code of Professional Responsibility. As a partner[,] it is his responsibility to provide efficacious control of court pleadings and other documents that carry the name of the law firm. Had he done that, he could have known the unethical practice of his law partner Atty. Charlie L. Bancolo. Respondent Atty. Janus T. Jarder failed to perform this task and is administratively liable under Canon 1, Rule 1.01 of the Code of Professional Responsibility.<sup>7</sup>

On 19 September 2007, in Resolution No. XVIII-2007-97, the Board of Governors of the IBP approved with modification the Report and Recommendation of the Investigating Commissioner. The Resolution 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, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent Atty. Bancolo's violation of Rule 9.01, Canon 9 of the Code of Professional Responsibility, Atty. Charlie L. Bancolo is hereby **SUSPENDED** from the practice of law for one (1) year.

<sup>7</sup> IBP Records (Vol. III), pp. 4-6.

However, with regard to the charge against Atty. Janus T. Jarder, the Board of Governors RESOLVED as it is hereby RESOLVED to AMEND, as it is hereby AMENDED the Recommendation of the Investigating Commissioner, and APPROVE the **DISMISSAL** of the case for lack of merit.<sup>8</sup>

Tapay and Rustia filed a Motion for Reconsideration. Likewise, Atty. Bancolo filed his Motion for Reconsideration dated 22 December 2007. Thereafter, Atty. Jarder filed his separate Consolidated Comment/Reply to Complainants' Motion for Reconsideration and Comment Filed by Complainants dated 29 January 2008.

In Resolution No. XX-2012-175 dated 9 June 2012, the IBP Board of Governors denied both complainants' and Atty. Bancolo's motions for reconsideration. The IBP Board found no cogent reason to reverse the findings of the Investigating Commissioner and affirmed Resolution No. XVIII-2007-97 dated 19 September 2007.

### **The Court's Ruling**

After a careful review of the records of the case, we agree with the findings and recommendation of the IBP Board and find reasonable grounds to hold respondent Atty. Bancolo administratively liable.

Atty. Bancolo admitted that the Complaint he filed for a former client before the Office of the Ombudsman was signed in his name by a secretary of his law office. Clearly, this is a violation of Rule 9.01 of Canon 9 of the Code of Professional Responsibility, which provides:

#### **CANON 9**

A LAWYER SHALL NOT, DIRECTLY OR INDIRECTLY, ASSIST IN THE UNAUTHORIZED PRACTICE OF LAW.

*Rule 9.01* - A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.

This rule was clearly explained in the case of *Cambaliza v. Cristal-Tenorio*,<sup>9</sup> where we held:

The lawyer's duty to prevent, or at the very least not to assist in, the unauthorized practice of law is founded on public interest and policy. Public policy requires that the practice of law be limited to those

<sup>8</sup> Id. at 1.

<sup>9</sup> 478 Phil. 378, 389 (2004).

individuals found duly qualified in education and character. The permissive right conferred on the lawyer is an individual and limited privilege subject to withdrawal if he fails to maintain proper standards of moral and professional conduct. The purpose is to protect the public, the court, the client, and the bar from the incompetence or dishonesty of those unlicensed to practice law and not subject to the disciplinary control of the Court. It devolves upon a lawyer to see that this purpose is attained. Thus, the canons and ethics of the profession enjoin him not to permit his professional services or his name to be used in aid of, or to make possible the unauthorized practice of law by, any agency, personal or corporate. And, the law makes it a misbehavior on his part, subject to disciplinary action, to aid a layman in the unauthorized practice of law.

In *Republic v. Kenrick Development Corporation*,<sup>10</sup> we held that the preparation and signing of a pleading constitute legal work involving the practice of law which is reserved exclusively for members of the legal profession. Atty. Bancolo's authority and duty to sign a pleading are personal to him. Although he may delegate the signing of a pleading to another lawyer, he may not delegate it to a non-lawyer. Further, under the Rules of Court, counsel's signature serves as a certification that (1) he has read the pleading; (2) to the best of his knowledge, information and belief there is good ground to support it; and (3) it is not interposed for delay.<sup>11</sup> Thus, by affixing one's signature to a pleading, it is counsel alone who has the responsibility to certify to these matters and give legal effect to the document.

In his Motion for Reconsideration dated 22 December 2007, Atty. Bancolo wants us to believe that he was a victim of circumstances or of manipulated events because of his unconditional trust and confidence in his former law partner, Atty. Jarder. However, Atty. Bancolo did not take any steps to rectify the situation, save for the affidavit he gave to Rustia denying his signature to the Complaint filed before the Office of the Ombudsman. Atty. Bancolo had an opportunity to maintain his innocence when he filed with the IBP his Joint Answer (with Atty. Jarder) dated 26 January 2006. Atty. Bancolo, however, admitted that prior to the preparation of the Joint Answer, Atty. Jarder threatened to file a disbarment case against him if he did not cooperate. Thus, he was constrained to allow Atty. Jarder to prepare the Joint Answer. Atty. Bancolo simply signed the verification without seeing the contents of the Joint Answer.

In the Answer, Atty. Bancolo categorically stated that because of some minor lapses, the communications and pleadings filed against Tapay and Rustia were signed by his secretary, albeit with his tolerance. Undoubtedly, Atty. Bancolo violated the Code of Professional Responsibility by allowing a non-lawyer to affix his signature to a pleading.

<sup>10</sup> 529 Phil. 876 (2006).

<sup>11</sup> RULES OF COURT, Rule 7, Section 3.

This violation is an act of falsehood which is a ground for disciplinary action.

The complainants did not present any evidence that Atty. Jarder was directly involved, had knowledge of, or even participated in the wrongful practice of Atty. Bancolo in allowing or tolerating his secretary to sign pleadings for him. Thus, we agree with the finding of the IBP Board that Atty. Jarder is not administratively liable.

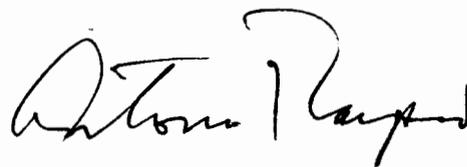
In sum, we find that the suspension of Atty. Bancolo from the practice of law for one year is warranted. We also find proper the dismissal of the case against Atty. Jarder.

**WHEREFORE**, we **DISMISS** the complaint against Atty. Janus T. Jarder for lack of merit.

We find respondent Atty. Charlie L. Bancolo administratively liable for violating Rule 9.01 of Canon 9 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for one year effective upon finality of this Decision. He is warned that a repetition of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this Decision be attached to respondent Atty. Charlie L. Bancolo's record in this Court as attorney. Further, let copies of this Decision be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

**SO ORDERED.**



**ANTONIO T. CARPIO**  
Associate Justice

**WE CONCUR:**



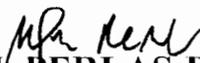
**ARTURO D. BRION**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**JOSE PORTUGAL PEREZ**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice