

LAMBERT PAWNBROKERS and JEWELRY CORPORATION and LAMBERT LIM,
vs.
HELEN BINAMIRA

FACTS

Petitioner Lambert Lim (Lim) is a Malaysian national operating various businesses in Cebu and Bohol one of which is Lambert Pawnbrokers and Jewelry Corporation. Lim is married to Rhodora Binamira, daughter of Atty. Boler Binamira, Sr., (Atty. Binamira), who is also the counsel and father-in-law of respondent Helen Binamira (Helen). Lambert Pawnbrokers and Jewelry Corporation – Tagbilaran Branch hired Helen as an appraiser in July 1995 and designated her as Vault Custodian in 1996.

On September 14, 1998, Helen received a letter⁵ from Lim terminating her employment effective that same day. Lim cited business losses necessitating retrenchment as the reason for the termination.

Helen thus filed a case for illegal dismissal against petitioners docketed as NLRC RAB-VII CASE NO. 01-0003-99-B.⁶ In her Position Paper⁷ Helen alleged that she was dismissed without cause and the benefit of due process. She claimed that she was a mere casualty of the war of attrition between Lim and the Binamira family. Moreover, she claimed that there was no proof that the company was suffering from business losses.

In their Position Paper,⁸ petitioners asserted that they had no choice but to retrench respondent due to economic reverses. The corporation suffered a marked decline in profits as well as substantial and persistent increase in losses. In its Statement of Income and Expenses, its gross income for 1998 dropped from P1million toP665,000.00.

ISSUE: Whether or not Atty Binamira abused the rule on Privilege Communication

HELD:

We find no merit in petitioners assertion that Atty. Binamira gravely breached and abused the rule on privileged communication under the Rules of Court and the Code of Professional Responsibility of Lawyers when he represented Helen in the present case. Notably, this issue was never raised before the labor tribunals and was raised for the first time only on appeal. Moreover, records show that although petitioners previously employed Atty. Binamira to manage several businesses, there is no showing that they likewise engaged his professional services as a lawyer. Likewise, at the time the instant complaint was filed, Atty. Binamira was no longer under the employ of petitioners.

DELA CUEVA vs OMAGA

FACTS

Mila first met Tony, a member of the PNP when the latter was assigned as chief of police in their town in 1995. When they met, Tony was already separated from his wife Nita and their three children because of his philandering ways. So Mila did not know that Tony was married and had a family and started having relationship with him on March 8, 1995. Out of such relationship were born three children in 1996, 1998 and 2000. But despite having had three children with Tony, they did not live together in one house. Tony would just visit her in her house from time to time. She thus raised her children as a single mother.

Meanwhile, Tony learned that his wife Nita also cohabited with two different men in succession since they were separated. She had three children with her first live-in partner and one child with the second lover. So on May 31, 2007, to legally end their marriage, Tony filed a petition for declaration of nullity of his marriage to Nita alleging as ground his own psychological incapacity. This angered and prompted Nita to file a criminal complaint for bigamy and concubinage against Tony and Mila alleging that they were married and were living together as husband and wife despite the subsistence of Tony's marriage to her.

Upon receipt of the notice of the bigamy and concubinage case, Mila discovered for the first time that Tony was married so she immediately ended her relationship to Tony. But Nita still filed an administrative complaint against her on June 15, 2007 for immorality. On August 24, 2007, the investigating prosecutor dismissed the bigamy and concubinage charges.

Mila then also asked that the administrative case of immorality be dismissed. She claimed that when she first met Tony she didn't know he was married; that it was only when she received notice of the bigamy and concubinage charges that she discovered Tony's real civil status; and that upon such discovery, she immediately ended their relationship. This claim was never refuted by Nita who did not present any proof that Mila willingly entered into such relationship.

ISSUE: Whether or not respondent is guilty of immoral conduct.

HELD:

No. There is no doubt that engaging in sexual relations with a married man is not only a violation of the moral standards expected of employees of the judiciary but is also a desecration of the institution of marriage which is thus punishable. Indeed immorality includes not only sexual matters but any willful, flagrant or shameless conduct showing moral indifference to opinions of respectable members of the community and an inconsiderate attitude toward good order and public welfare.

However the malevolent intent that normally characterizes the act is not present when the employee is unaware that her sexual partner is actually married. This lack of awareness may extenuate the cause for the penalty.

In this case Mila did not willingly enter into an immoral sexual liaison with a married man. She had no knowledge that Tony was married when she entered into a relationship with him and that she ended their relationship as soon as she learned of his marital status. Her act of immediately distancing herself upon discovering Tony's true civil status belie just that alleged moral indifference and proves that she had no intention of flaunting the law and the high moral standards required of employees in the judiciary.

In the absence of clear and convincing evidence it would be insensitive to condemn Mila for simply being an unwed mother of three. There has been no showing that she has lived her life in a scandalous and disgraceful manner which, by any means, has affected her standing in the community

PENILLA vs. ATTY. ALCID, JR.

FACTS:

Complainant Julian Penilla entered into an agreement with Spouses Garin for the repair of his Volkswagen automobile. Despite full payment, the spouses defaulted in their obligation. Thus, complainant decided to file a case for breach of contract against the spouses where he engaged the services of respondent as counsel.

The respondent advised complainant that he would file a criminal case for estafa against said spouses. Respondent charged P30,000 as attorney's fees and P10,000 as filing fees. Respondent then filed the complaint for estafa before the Office of the City Prosecutor of

Quezon City. After the hearing, complainant paid another P1,000 to respondent as appearance fee.

Asst. City Prosecutor Fortuno later issued a resolution dismissing the estafa case against the spouses. On February 18, 2002, the motion for reconsideration filed by the respondent was denied for lack of merit. Respondent presented the option of filing a civil case for specific performance against the spouses for the refund of the money plus damages. Complainant paid an additional P10,000 to respondent which he asked for the payment of filing fees. Complainant claims that respondent never gave him any update thereafter. Following the advice he gathered from other lawyers, complainant went to the Office of the Clerk of Court of the Caloocan City Metropolitan Trial Court and Regional Trial Court (RTC). Complainant learned that a civil case for Specific Performance and Damages was filed on June 6, 2002 but was dismissed on June 13, 2002. He also found out that the filing fee was only P2,440 and not P10,000 as earlier stated by respondent.

On January 9, 2006, complainant filed before the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) the instant administrative case praying that respondent be found guilty of gross misconduct for violating the Lawyer's Oath and the Code of Professional Responsibility, and for appropriate administrative sanctions to be imposed.

In its Report and Recommendation dated September 12, 2008, the IBP-CBD recommended the suspension of respondent from the practice of law for six months "for negligence within the meaning of Canon 18 and transgression of Rule 18.04 of the Code of Professional Responsibility".

On December 11, 2008, the IBP Board of Governors issued Resolution No. XVIII-2008-646, adopting and approving the recommendation of the IBP-CBD.

ISSUE:

Whether or not Atty. Alcid's proven acts and omissions constitute gross misconduct.

HELD

Atty. Alcid, Jr. violated Canon 18 and Rules 18.03 and 18.04 of the Code of Professional Responsibility. Atty. Alcid, Jr. violated his oath under Canon 18 to "serve his client with competence and diligence" when he filed a criminal case for estafa when the facts of the case would have warranted the filing of a civil case for breach of contract. To be sure, after the complaint for estafa was dismissed, Atty. Alcid, Jr. committed another similar blunder by filing a

civil case for specific performance and damages before the RTC, when he should have filed it with the MTC due to the amount involved. Atty. Alcid, Jr. did not also apprise complainant of the status of the cases. Atty. Alcid, Jr. is not only guilty of incompetence in handling the cases. His lack of professionalism in dealing with complainant is gross and inexcusable. The legal profession dictates that it is not a mere duty, but an obligation, of a lawyer to accord the highest degree of fidelity, zeal and fervor in the protection of the client's interest. The most thorough groundwork and study must be undertaken in order to safeguard the interest of the client. Atty. Alcid, Jr. has defied and failed to perform such duty and his omission is tantamount to a desecration of the Lawyer's Oath

Josephine Orola vs Ador Ramos

FACTS:

Complainants Josephine, Myrna, Manuel, (all surnamed Orola), Mary Angelyn Orola-Belarga (Mary Angelyn), and Marjorie Melba Orola-Calip (Marjorie) are the children of the late Trinidad Laserna-Orola (Trinidad), married to Emilio Q. Orola (Emilio).²

Meanwhile, complainant Karen Orola (Karen) is the daughter of Maricar Alba-Orola (Maricar) and Antonio L. Orola (Antonio), the deceased brother of the above-named complainants and the son of Emilio.³

In the settlement of Trinidad's estate, pending before the Regional Trial Court of Roxas City, Branch 18 (RTC) and docketed as Special Proceeding No. V-3639, the parties were represented by the following: (a) Atty. Roy M. Villa (Atty. Villa) as counsel for and in behalf of Josephine, Myrna, Manuel, Mary Angelyn, and Marjorie (Heirs of Trinidad); (b) Atty. Ely F. Azarraga, Jr. (Atty. Azarraga) as counsel for and in behalf of Maricar, Karen, and the other heirs⁴ of the late Antonio (Heirs of Antonio), with respondent as collaborating counsel; and (c) Atty. Aquiliana Brotarlo as counsel for and in behalf of Emilio, the initially appointed administrator of Trinidad's estate. In the course of the proceedings, the Heirs of Trinidad and the Heirs of Antonio moved for the removal of Emilio as administrator and, in his stead, sought the appointment of the latter's son, Manuel Orola, which the RTC granted in an Order⁵ dated September 20, 2007 (RTC Order). Subsequently, on October 10, 2007, respondent filed an Entry of Appearance as collaborating counsel for Emilio in the same case and moved for the reconsideration of the RTC Order.⁶

Due to the respondent's new engagement, complainants filed the instant disbarment complaint before the Integrated Bar of the Philippines (IBP), claiming that he violated: (a) Rule 15.03 of the Code, as he undertook to represent conflicting interests in the subject case;⁷ and (b) Section 20(e), Rule 138 of the Rules, as he breached the trust and confidence reposed upon him by his clients, the Heirs of Antonio.⁸ Complainants further claimed that while Maricar, the surviving spouse of Antonio and the mother of Karen, consented to the withdrawal of respondent's appearance, the same was obtained only on October 18, 2007, or after he had already entered his appearance for Emilio on October 10, 2007.⁹ In this accord, respondent failed to disclose such fact to all the affected heirs and, as such, was not able to obtain their written consent as required under the Rules.¹⁰

For his part, respondent refuted the abovementioned charges, contending that he never appeared as counsel for the Heirs of Trinidad or for the Heirs of Antonio. He pointed out that the records of the case readily show that the Heirs of Trinidad were represented by Atty. Villa, while the Heirs of Antonio were exclusively represented by Atty. Azarraga.¹¹ He averred that he only accommodated Maricar's request to temporarily appear on her behalf as their counsel of record could not attend the scheduled June 16 and July 14, 2006 hearings and that his appearances thereat were free of charge.¹² In fact, he obtained Maricar's permission for him to withdraw from the case as no further communications transpired after these two hearings. Likewise, he consulted Maricar before he undertook to represent Emilio in the same case.¹³ He added that he had no knowledge of the fact that the late Antonio had other heirs and, in this vein, asserted that no information was disclosed to him by Maricar or their counsel of record at any instance.¹⁴ Finally, he clarified that his representation for Emilio in the subject case was more of a mediator, rather than a litigator,¹⁵ and that since no settlement was forged between the parties, he formally withdrew his appearance on December 6, 2007.¹⁶ In support of his assertions, respondent submitted the affidavits of Maricar¹⁷ and Atty. Azarraga¹⁸ relative to his limited appearance and his consultation with Maricar prior to his engagement as counsel for Emilio.

ISSUE: Whether or not respondent is guilty of representing conflicting interests in violation of Rule 15.03 of the Code.

HELD:

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. (Emphasis supplied)

Applying the above-stated principles, the Court agrees with the IBP's finding that respondent represented conflicting interests and, perforce, must be held administratively liable therefor.

Records reveal that respondent was the collaborating counsel not only for Maricar as claimed by him, but for all the Heirs of Antonio in Special

Proceeding No. V-3639. In the course thereof, the Heirs of Trinidad and the Heirs of Antonio succeeded in removing Emilio as administrator for having

committed acts prejudicial to their interests. Hence, when respondent

proceeded to represent Emilio for the purpose of seeking his reinstatement as administrator in the same case, he clearly worked against the very interest of the Heirs of Antonio – particularly, Karen – in violation of the above-stated rule."

CONFIDENTIALITY RULE.

ROSA

F.

MERCADO

vs.

ATTY. JULITO D. VITRIOLO

Facts: Rosa Mercado is seeking for the disbarment of Atty. Julito Vitriolo as he allegedly maliciously filed a criminal case for falsification of public documents against her thereby violating the attorney-client privilege. It appears that Vitriolo filed a case against complainant as she apparently made false entries in the certificate of live birth of her children. More specifically she allegedly indicated that she is married to a certain Ferdinand Fernandez when in fact her real husband is Ruben Mercado. Mercado claims that by filing the complaint the attorney-client privilege has been violated. Mercado filed a case for Vitriolo's disbarment.

Issue: Whether or not the respondent violated the rule on privileged communication between attorney-client when he filed the criminal case for falsification

Held: No. The evidence on record fails to substantiate complainants allegations. Complainant did not even specify the alleged communication disclosed by the respondents. All her claims were couched in general terms and lacked specificity. Indeed the complaint failed to attend the hearings at the IBP. Without any testimony from the complainant as to the specific confidential information allegedly divulged by respondent without her consent, it would be difficult if not impossible to determine if there was any violation of the rule on privileged communication. Such information is a crucial link in establishing a breach of the rule on privileged communication between attorney and client. It is not enough to merely assert the attorney client privilege. The burden of proving that the privilege applies is placed upon the party asserting the privilege

Anglo vs Atty.Valencia

FACTS:

Wilfredo (Anglo) filed an administrative complaint against lawyers Jose (Valencia), Jose (Ciocon), Philip (Dabao), Lily (Uy-Valencia), Josey (Dela Paz), Cris (Dionela) Raymundo (Pandan, Rodney (Rubica) and Wilfred Ramon (Penalosa), who were partners at the Valencia, Ciocon, Dabao, Valencia, Dela Paz, Dinela, Pandan Rubica Law Firm. According to him he hired the law office in two labor cases where he was the respondent, and the case was handled by Atty. Dionela. After the termination of the case, a complaint for qualified theft was filed against him and his wife by FEVE Farms, handled by the law office. Thus, Wilfredo filed a complaint against all the lawyers comprising the partnership, alleging that they violated Canon 15 of the Code of Professional Responsibility for representing conflicting interests. In their defense, the respondents admitted that they indeed operated under the name of the law office; though they operate under the name, however, they merely contribute funds every month for the maintenance of the entire office, and they are not a formal partnership. Each lawyer accepts his own case, spends for it, and fixes his and receive his own fees exclusively; they do not discuss their clientele with each other, unless they agree that a case be handled collaboratively. The labor cases were handled exclusively by Atty. Dionela and not by the entire firm; the qualified theft cases were handled by Atty. Penalosa, a new associate who had no knowledge of the labor

case as he started working there after the termination of the labor case. Atty. Dionela confirmed handling the labor cases, which he did not discuss at all with the other lawyers as the issues were simple; they did not confide any secret which could have been used in the criminal complaint against Wilfredo; the other lawyers did not even know that he was the handling counsel for the complainant even after its termination.

The IBP held that the law firm indeed represented the complainant, and thus violated the rule on conflict of interest. the termination of the attorney-client relationship allowed no justification for a lawyer to represent an interest adverse to that of a former client. It recommended that they be reprimanded, except for Attorney Dabao who died on January 17, 2010. The IBP Board dismissed the case with a warning against repetition of the same offence. On motion for reconsideration of the complainant, however, The Board modified the recommended penalty, recommending reprimand for all the lawyers, except Atty. Dabao, who died beforehand, and Atty. Dionela, the handling lawyer, who was recommended to be suspended for one year.

ISSUE: Whether the respondents are guilty of representing conflicting interests.

HELD:

Rule 15.03, Canon 15 and Canon 21 of the CPR provide:

CANON 15 – A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENTS.

x x x x

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.

X X X X

CANON 21 – A LAWYER SHALL PRESERVE THE CONFIDENCES AND SECRETS OF HIS CLIENT EVEN AFTER THE ATTORNEY-CLIENT RELATIONSHIP IS TERMINATED.

In *Hornilla v. Atty. Salunat*,¹ the Court explained the concept of conflict of interest in this wise:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is “whether or not in behalf of one client, it is the lawyer’s duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client.” This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will require the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is *whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof*.²

As such, a lawyer is prohibited from representing new clients whose interests oppose those of a former client in any manner, whether or not they are parties in the same action or on totally unrelated cases. The prohibition is founded on the principles of public policy and good taste.³

In this case, the Court concurs with the IBP’s conclusions that respondents represented conflicting interests and must therefore be held liable. As the records bear out, respondents’ law firm was engaged and, thus, represented complainant in the labor cases instituted against him. However, after the termination thereof, the law firm agreed to represent a new client, FEVE Farms, in the filing of a criminal case for qualified theft against complainant, its former client,

and his wife. As the Court observes, the law firm's unethical acceptance of the criminal case arose from its failure to organize and implement a system by which it would have been able to keep track of all cases assigned to its handling lawyers to the end of, among others, ensuring that every engagement it accepts stands clear of any potential conflict of interest. As an organization of individual lawyers which, albeit engaged as a collective, assigns legal work to a corresponding handling lawyer, it behooves the law firm to value coordination in deference to the conflict of interest rule. This lack of coordination, as respondents' law firm exhibited in this case, intolerably renders its clients' secrets vulnerable to undue and even adverse exposure, eroding in the balance the lawyer-client relationship's primordial ideal of unimpaired trust and confidence. Had such system been institutionalized, all of its members, Atty. Dionela included, would have been wary of the above-mentioned conflict, thereby impelling the firm to decline FEVE Farms' subsequent engagement. Thus, for this shortcoming, herein respondents, as the charged members of the law firm, ought to be administratively sanctioned. Note that the Court finds no sufficient reason as to why Atty. Dionela should suffer the greater penalty of suspension. As the Court sees it, all respondents stand in equal fault for the law firm's deficient organization for which Rule 15.03, Canon 15 and Canon 21 of the CPR had been violated. As such, all of them are meted with the same penalty of reprimand, with a stern warning that a repetition of the same or similar infraction would be dealt with more severely.

As a final point, the Court clarifies that respondents' pronounced liability is not altered by the fact that the labor cases against complainant had long been terminated. Verily, the termination of attorney-client relation provides no justification for a lawyer to represent an interest adverse to or in conflict with that of the former client. The client's confidence once reposed should not be divested by mere expiration of professional employment.⁴

WHEREFORE, respondents Attys. Jose Ma. V. Valencia, Jose Ma. J. Ciocon, Lily Uy-Valencia, Joey P. De La Paz, Cris G. Dionela, Raymundo T. Pandan, Jr., Rodney K. Rubica, and Wilfred Ramon M. Penalosa are found GUILTY of representing conflicting interests in violation of Rule

15.03, Canon 15 and Canon 21 of the Code of Professional Responsibility and are therefore REPRIMANDED for said violations, with a STERN WARNING that a repetition of the same or similar infraction would be dealt with more severely. Meanwhile, the case against Atty. Philip Dabao is DISMISSED in view of his death.

Let a copy of this Resolution be furnished the Office of the Bar Confidant, to be appended to respondents' personal records as attorneys. Further, let copies of this Resolution be furnished 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.

Regala vs. Sandiganbayan

FACTS:

PCGG want to build up their case against Eduardo Coujuanco for the anomalies in the COCO LEVY FUNDS. PCGG wants petitioners divulge that Cojuangco indeed was a client of their firm, as well as other information regarding Cojuangco.

Issue: Can the PCGG compel petitioners to divulge its client's name?

Held: NO.

As a matter of public policy, a client's identity should not be shrouded in mystery. The general is that a lawyer may not invoke the privilege and refuse to divulge the name or identity of his client.

1) the court has a right to know that the client whose privileged information is sought to be protected is flesh and blood.

- 2) the privilege begins to exist only after the attorney-client relationship has been established. The attorney-client privilege does not attach until there is a client.
- 3) the privilege generally pertains to the subject matter of the relationship.

Finally, due process considerations require that the opposing party should, as a general rule, know his adversary. "A party suing or sued is entitled to know who his opponent is." He cannot be obliged to grope in the dark against unknown forces.

Except:

- 1) Client identity is privileged where a strong probability exists that revealing the client's name would implicate that client in the very activity for which he sought the lawyer's advice.
 - 2) Where disclosure would open the client to civil liability, his identity is privileged.
 - 3) Where the government's lawyers have no case against an attorney's client unless, by revealing the client's name, the said name would furnish the only link that would form the chain of testimony necessary to convict an individual of a crime, the client's name is privileged.
- That client identity is privileged in those instances where a strong probability exists that the disclosure of the client's identity would implicate the client in the very criminal activity for which the lawyer's legal advice was obtained.

CONFLICT OF INTEREST

BUN SIONG YAO vs. ATTY. LEONARDO A. AURELIO

FACTS: The complainant alleged that since 1987 he retained the services of respondent as his personal lawyer; that respondent is a stockholder and the retained counsel of Solar Farms & Livelihood Corporation and Solar Textile Finishing Corporation of which complainant is a majority stockholder; that complainant purchased several parcels of land using his personal funds but were registered in the name of the corporations upon the advice of respondent; that respondent, who was also the brother in-law of complainant's wife, had in 1999 a disagreement with the latter and thereafter respondent demanded the return of his investment in the corporations but when complainant refused to pay, he filed eight charges for estafa and falsification of commercial documents against the complainant and his wife and the other officers of the corporation; that respondent also filed a complaint against complainant for alleged non-compliance with the reportorial requirements of the Securities and Exchange Commission (SEC) with the Office of the City Prosecutor of Mandaluyong City and another complaint with the Office of the City Prosecutor of Malabon City for alleged violation of Section 75 of the Corporation Code; that respondent also filed a similar complaint before the Office of the City Prosecutor of San Jose Del Monte, Bulacan.

Complainant alleged that the series of suits filed against him and his wife is a form of harassment and constitutes an abuse of the confidential information which respondent obtained by virtue of his employment as counsel. Complainant argued that respondent is guilty of representing conflicting interests when he filed several suits not only against the complainant and the other officers of the corporation, but also against the two corporations of which he is both a stockholder and retained counsel.

Respondent claimed that he handled several labor cases in behalf of Solar Textile Finishing Corporation; that the funds used to purchase several parcels of land were not the personal funds of complainant but pertain to Solar Farms & Livelihood Corporation; that since 1999 he was no longer the counsel for complainant or Solar Textile Finishing Corporation; that he never used any confidential information in pursuing the criminal cases he filed but only used those information which he obtained by virtue of his being a stockholder. He further alleged that his requests for copies of the financial statements were ignored by the complainant and his wife hence he was constrained to file criminal complaints for estafa thru concealment of documents; that when he was furnished copies of the financial statements, he discovered that several parcels of land were not included in the balance sheet of the corporations; that the financial statements indicated that the corporations suffered losses when in fact it paid cash dividends to its stockholders, hence, he filed additional complaints for falsification of commercial documents and violation of reportorial requirements of the SEC.

On July 19, 2005, the Investigating Commissioner² submitted a Report and Recommendation³ finding that from 1987 up to 1999, respondent had been the personal lawyer of the complainant and incorporator and counsel of Solar Farms & Livelihood Corporation. However, in 1999 complainant discontinued availing of the services of respondent in view of the admission of his (complainant's) son to the bar; he also discontinued paying dividends to respondent and even concealed from him the corporations' financial statements which compelled the respondent to file the multiple criminal and civil cases in the exercise of his rights as a stockholder. The investigating commissioner further noted that respondent is guilty of forum shopping when he filed identical charges against the complainant before the Office of the City Prosecutor of Malabon City and in the Office of the City Prosecutor of San Jose del Monte, Bulacan. It was also observed that respondent was remiss in his duty as counsel and incorporator of both corporations for failing to advise the officers of the corporation, which he was incidentally a member of the Board of Directors, to comply with the reportorial requirements of the SEC and the Bureau of Internal Revenue. Instead, he filed cases against his clients, thereby representing conflicting interests.

ISSUE: Whether or not respondent has violated the CPR.

HELD: We agree with the findings and recommendation of the IBP. We find that the professional relationship between the complainant and the respondent is more extensive than his protestations that he only handled isolated labor cases for the complainant's corporations. Aside from being the brother-in-law of complainant's wife, it appears that even before the inception of the companies, respondent was already providing legal services to the complainant.

It appears that the parties' relationship was not just professional, but they are also related by affinity. The disagreement between complainant's wife and the respondent affected their professional relationship. Complainant's refusal to disclose certain financial records prompted respondent to retaliate by filing several suits.

The long-established rule is that an attorney is not permitted to disclose communications made to him in his professional character by a client, unless the latter consents. This obligation to preserve the confidences and secrets of a client arises at the inception of their relationship. The protection given to the client is perpetual and does not cease with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client.

Notwithstanding the veracity of his allegations, respondent's act of filing multiple suits on similar causes of action in different venues constitutes forum-shopping, as correctly found by the investigating commissioner. This highlights his motives rather than his cause of action. Respondent took advantage of his being a lawyer in order to get back at the complainant. In doing so, he has inevitably utilized information he has obtained from his dealings with complainant and complainant's companies for his own end. Lawyers must conduct themselves, especially in their dealings with their clients and the public at large, with honesty and integrity in a manner beyond reproach.⁸ Lawyers cannot be allowed to exploit their profession for the purpose of exacting vengeance or as a tool for instigating hostility against any person—most especially against a client or former client.

In sum, we find that respondent's actuations amount to a breach of his duty to uphold good faith and fairness, sufficient to warrant the imposition of disciplinary sanction against him. WHEREFORE, respondent Atty. Leonardo A. Aurelio is ordered **SUSPENDED** from the practice of law for a period of **SIX (6) MONTHS** effective upon receipt of this Decision.

DARIA O. DAGING, v. ATTY. RIZ TINGALON L. DAVIS,

FACTS:

Daria owns and operates the Nashville Country Music Lounge in Baguio City from a space leased from Benjie (Pinlac). She then received a Retainer Proposal from the Davis & Sabling Law Office of which Atty. Riz (Davis) is one of the partners, which resulted in the signing of a

Retainer Agreement with the law office on March 7, 2005. For failure to pay her rentals, Benjie terminated the lease. Benjie, together with Novie (Balageo) and Riz then proceeded to the bar, inventoried the equipments therein, and informed Daria that Novie will take over the operation of the bar. According to Daria, Atty. Riz acted as business manager of the bar which they renamed as Amarillo Music Bar. Daria then filed an ejectment case against Benjie and Novie before Municipal Trial Court in Cities (MTCC), with the law office as her counsel as their Retainer Agreement was still subsisting. However, Atty. Riz appeared as counsel for Novie in the case, and filed in her behalf, an Answer with Opposition to the Prayer for Issuance Of A Writ Of Preliminary Injunction. It was then that she filed the administrative case against Atty. Riz. In his Comment, he denied participating in the takeover of Daria's business or acting as business manager thereof. Benjie informed him that the Daria's business was terminated and turned over to Novie, and he allowed one of his staff to accompany them in the inventory of equipment. He insisted it was Atty. Amos Sabling who initiated the Retainer proposal as well as who Daria consulted with her business. He never gained any information or knowledge about Daria's business. He admitted having represented Novie but denied taking advantage of the Retainer Agreement between the law office and Daria. He subsequently withdrew his appearance in the case and the case was subsequently dismissed for lack of jurisdiction.

The Investigating Commissioner recommended that Riz be suspended from the practice of law for one year, for betrayal of his client's trust and for misuse of information gained from his client to the disadvantage of Daria and the advantage of another. The IBP Board initially approved the recommendation of the Investigating Commissioner but modified it to six months suspension upon motion of Atty. Riz.

ISSUE: Whether or not there is conflict of interest

HELD

It is undisputed that complainant entered into a Retainer Agreement dated March 7, 2005 with respondent's law firm. This agreement was signed by the respondent and attached to the rollo of this case. And during the subsistence of said Retainer Agreement, respondent represented and defended Balageo, who was impleaded as one of the defendants in the ejectment case complainant filed before the MTCC of Baguio City. In fact, respondent filed on behalf of said Balageo an Answer with Opposition to the Prayer for the Issuance of a Writ of Preliminary Injunction dated July 11, 2005. It was only on August 26, 2005 when respondent withdrew his appearance for Balageo.

Based on the established facts, it is indubitable that respondent transgressed Rule 15.03 of Canon 15 of the Code of Professional Responsibility. It provides:

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.

“A lawyer may not, without being guilty of professional misconduct, act as counsel for a person whose interest conflicts with that of his present or former client.”[1] The prohibition against representing conflicting interests is absolute and the rule applies even if the lawyer has acted in good faith and with no intention to represent conflicting interests[2]. In *Quiambao v. Atty. Bamba*,[3] this Court emphasized that lawyers are expected not only to keep inviolate the client’s confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice[4].

Respondent argues that while complainant is a client of Davis & Sabling Law office, her case is actually handled only by his partner Atty. Sabling. He was not privy to any transaction between Atty. Sabling and complainant and has no knowledge of any information or legal matter complainant entrusted or confided to his law partner. He thus inveigles that he could not have taken advantage of an information obtained by his law firm by virtue of the Retainer Agreement.

We are not impressed. In *Hilado v. David*[5], reiterated in *Gonzales v. Atty. Cabucana, Jr.*,[6] this Court held that a lawyer who takes up the cause of the adversary of the party who has engaged the services of his law firm brings the law profession into public disrepute and suspicion and undermines the integrity of justice. Thus, respondent’s argument that he never took advantage of any information acquired by his law firm in the course of its professional dealings with the complainant, even assuming it to be true, is of no moment. Undeniably aware of the fact that complainant is a client of his law firm, respondent should have immediately informed both the complainant and Balageo that he, as well as the other members of his law firm, cannot represent any of them in their legal tussle; otherwise, they would be representing conflicting interests and violate the Code of Professional Responsibility. Indeed, respondent could have simply advised both complainant and Balageo to instead engage the services of another lawyer.

The penalty for representing conflicting interests may either be reprimand or suspension from the practice of law ranging from six months to two years.[7] We thus adopt the recommendation of the IBP Board of Governors.

WHEREFORE, the Court ADOPTS and AFFIRMS the January 15, 2012 Resolution of the Integrated Bar of the Philippines Board of Governors. Atty. Riz Tingalon L. Davis is found GUILTY of violating Rule 15.03, Canon 15 of the Code of Professional Responsibility and is hereby SUSPENDED from the practice of law for a period of six (6) months effective upon receipt of this Resolution. He is warned that a commission of the same or similar offense in the future will result in the imposition of a stiffer penalty.

Let a copy of this Resolution be entered into the records of Atty. Riz Tingalon L. Davis and furnished to the Office of the Clerk of Court, the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts in the Philippines, for their information and guidance.

Atty. Riz Tingalon L. Davis is DIRECTED to inform the Court of the date of his receipt of this Resolution.

ABRAGAN V. RODRIGUEZ

FACTS:

The case is about a disbarment case against respondent Rodriguez, wherein it was alleged by the petitioners that respondent represented them sometime in 1986, and that after the case was won. Respondent disturbed the association, wherein the petitioners are members, by selling their rights over the property without the consent of the petitioners. That after the petitioner found out of the alleged selling of right, petitioners then severed the attorney client relationship.

In a later date petitioners hired the Atty. Salve for his services in the contempt case against the sheriff Loncion. In the said contempt case, respondent allegedly represented the sheriff and against the petitioners. It was also alleged that Rodriguez later on influenced Atty. Salva.

Additionally on January 12, 1993 respondent without the consent of the petitioners filed a motion to withdraw their exhibit in a civil case 11204.

Aside from the unethical maneuvers of the respondent, to make matters worse, respondent allegedly fenced an area consisting of 10,200 square meters within the lot 1982, which is the subject matter of civil case 11204.

On the other hand the respondent states that the land he fenced off was part of the attorney's fee paid to him for the services he rendered. The case was then referred to the IBP for investigation. After the investigation it was suggested that the respondent be suspended from practice for 6 months. For violating Rule 15.03 of Canon 15, which states that A lawyer shall not represent conflicting interest except by written consent of all concerned parties, given the full disclosure of facts. The recommendation was appealed to the IBP board of Governors and the same was affirmed.

ISSUES:

Whether or not respondent violated Rule 15'03 of Canon 15.

RULING:

The Court affirmed the recommendation stating that, even if the allegations of the petitioners pertaining to the selling of rights without petitioners consent, the inducement or influence of respondent over atty. Salva and the fencing of the lot, were not proved due to lack of evidence to back up the allegations, the court still finds respondent in violation of Rule 15.03 of Canon 15 by representing conflicting interest, when respondent represented against the petitioner in the indirect contempt case against the Sheriff.

The court states that lawyers 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. That they must conduct themselves beyond reproach at all times.

That due to the divided alleg9iance of respondent, his divided loyalty constitutes malpractice which may be punished under sec 27 of rule 138 of the ROC.

JOSEFINA M. ANIÑON, COMPLAINANT, VS. ATTY. CLEMENCIO SABITSANA, JR., RESPONDENT.

Facts:

Josefina M. Aniñon (complainant) had previously engaged the legal services of Atty. Sabitsana in the preparation and execution in her favor of a Deed of Sale over a parcel of land owned by her late common-law husband, Brigido Caneja, Jr. Atty. Sabitsana allegedly violated her confidence when he subsequently filed a civil case against her for the annulment of the Deed of Sale in behalf of Zenaida L. Cañete, the legal wife of Brigido Caneja, Jr. The complainant accused Atty. Sabitsana of using the confidential information he obtained from her in filing the civil case.

Atty. Sabitsana admitted having advised the complainant in the preparation and execution of the Deed of Sale. However, he denied having received any confidential information. Atty. Sabitsana asserted that the present disbarment complaint was instigated by one Atty. Gabino Velasquez, Jr., the notary of the disbarment complaint who lost a court case against him (Atty. Sabitsana) and had instigated the complaint for this reason.

In a resolution dated February 27, 2004, the IBP Board of Governors resolved to adopt and approve the Report and Recommendation of the IBP Commissioner after finding it to be fully supported by the evidence on record and Respondent was suspended from the practice of law for a period of one year.

Atty. Sabitsana moved to reconsider the above resolution, but the IBP Board of Governors denied his motion.

Issue: Whether Atty. Sabitsana is guilty of misconduct for representing conflicting interests.

HELD

The SC agreed with the findings and recommendations of the IBP Commissioner and the IBP Board of Governors. The SC rules that the relationship between a lawyer and his/her client should ideally be imbued with the highest level of trust and confidence. This is the standard of confidentiality that must prevail to promote a full disclosure of the client's most confidential information to his/her lawyer for an unhampered exchange of information between them. Needless to state, a client can only entrust confidential information to his/her lawyer based on an expectation from the lawyer of utmost secrecy and discretion; the lawyer, for his part, is duty-bound to observe candor, fairness and loyalty in all dealings and transactions with the client. Part of the lawyer's duty in this regard is to avoid representing conflicting interests, a matter covered by Rule 15.03, Canon 15 of the Code of Professional Responsibility

Jurisprudence has provided three tests in determining whether a violation of the above rule is present in a given case.

One test is whether a lawyer is duty-bound to fight for an issue or claim in behalf of one client and, at the same time, to oppose that claim for the other client. Thus, if a lawyer's argument for

one client has to be opposed by that same lawyer in arguing for the other client, there is a violation of the rule.

Another test of inconsistency of interests is whether the acceptance of a new relation would prevent the full discharge of the lawyer's duty of undivided fidelity and loyalty to the client or invite suspicion of unfaithfulness or double-dealing in the performance of that duty. Still another test is whether the lawyer would be called upon in the new relation to use against a former client any confidential information acquired through their connection or previous employment

On the basis of the attendant facts of the case, substantial evidence proved to support Atty. Sabitsana's violation of the above rule: first, he filed a case against the complainant in behalf of Zenaida Cañete; second, he impleaded the complainant as the defendant in the case; and third, the case he filed was for the annulment of the Deed of Sale that he had previously prepared and executed for the complainant.

By his acts, not only did Atty. Sabitsana agree to represent one client against another client in the same action; he also accepted a new engagement that entailed him to contend and oppose the interest of his other client in a property in which his legal services had been previously retained.

WHEREFORE, premises considered, the Court resolves to ADOPT the findings and recommendations of the Commission on Bar Discipline of the Integrated Bar of the Philippines. Atty. Clemencio C. Sabitsana, Jr. is found GUILTY of misconduct for representing conflicting interests in violation of Rule 15.03, Canon 15 of the Code of Professional Responsibility. He is hereby SUSPENDED for one (1) year from the practice of law

QUIAMBAO V. BAMBA

Facts:

Quiambao charges Atty. Bamba with violation of CPR for representing conflicting interests when the latter filed a case against her while he was at that time representing her in another case, and for committing other acts of disloyalty and double-dealing. Atty. Bamba is the counsel of Allied Investigation Bureau (AIB) and its president and managing director (Quiambao). Atty. Bamba is the counsel of Quaimbao in an ejectment case. Later on, Quiambao resigned from AIB. While the ejectment case was still ongoing, Atty. Bamba, as the counsel of AIB, filed a replevin case against Quiambao.

Issue:

Whether or not Atty. Bamba is guilty of misconduct for representing conflicting interests in contravention of the basic tenets of the legal profession.

Held:

Yes, Atty. Bamba is guilty. Suspended for 1 year.

At the time Atty. Bamba filed the replevin case on behalf of AIB, he was still the counsel of record of Quiambao in the pending ejectment case. Under Rule 15.03, “a lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts.” This is founded on the principles of public policy because it is the only way that litigants can be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice.

3 Tests of Conflict of Interests:

1. Whether a lawyer is duty-bound to fight for an issue or claim in behalf of one client and, at the same time, to oppose that claim for the other client
2. Whether the acceptance of a new relation would prevent the full discharge of the lawyer’s duty of undivided fidelity and loyalty to the client or invite suspicion of unfaithfulness or double-dealing in the performance of that duty

Whether the lawyer would be called upon in the new relation to use against a former client any confidential information acquired through their connection or previous employment

HEIRS OF FALAME V. BAGUIO**FACTS**

Plaintiffs, heirs of the late Lydio Falame, allege that their father engaged the services of respondent Atty. Baguio to represent him in an action for forcible entry (in which Lydio and his brother Raleigh were one of the defendants). As counsel, Atty. Baguio used and submitted evidence of: 1.) A special power of attorney executed by Lydio in favor of his brother, Raleigh Falame, appointing him as his attorney-in-fact; and 2.) affidavit of Raleigh Falame, executed before the respondent, in which Raleigh stated that Lydio owned the property subject of the case.

Plaintiffs further allege that even after a favorable ruling for the defendants in the said case, Lydio still retained the services of Atty. Baguio as his legal adviser and counsel of his businesses until his death in 1996.

However, in October of 2000 Atty. Baguio, in representation of spouses Raleigh and Noemi Falame, filed a compliant against the plaintiffs involving the same property that was the subject matter in the first case. Said complaint sought the declaration of nullity of the deed of sale, its registration in the registry of deeds, TCT issued as a consequence of the registration of the sale and the real estate mortgage.

Plaintiffs in turn, filed an administrative case against Atty. Baguio alleging that by acting as counsel for the spouses Falame in the second case, wherein they were impleaded a defendants,

respondent violated his oath of office and duty as an attorney. They contend that the spouses Falame's interests are adverse to those of his former client, Lydio.

The IBP Board of Governors passed a Resolution adopting and approving Investigating Commissioner Winston Abuyan's report and recommendation for the dismissal of this case.

ISSUE

W/N Atty. Baguio violated Rule 15.03 of the Code of Professional Responsibility?

HELD

Yes, he violated the rule. Rule 15.03 of the Canon of Professional Responsibility provides: A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts. A lawyer may not, without being guilty of professional misconduct, act as counsel for a person whose interest conflicts with that of his present or former client.

The test is whether, on behalf of one client, it is the lawyer's duty to contest that which his duty another client requires him to oppose or when the possibility of such situation will develop. The rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used.

The rule prohibits a lawyer from representing a client if that representation will be directly adverse to any of his present or former clients. The rule is grounded in the fiduciary obligation of loyalty.

The termination of attorney-client relation provides no justification for a lawyer to represent an interest adverse to or in conflict with that of the former client. The client's confidence once reposed should not be divested by mere expiration of professional employment. The protection given to a client is perpetual and does not cease with the termination of the litigation, nor is it affected by the party's ceasing to employ the attorney and retaining another, or by any other change of relation between them. It even survives the death of the client.

In the case at bar, respondent admitted having jointly represented Lydio and Raleigh as defendants in the first civil case. Evidently, the attorney-client relation between Lydio and respondent was established despite the fact that it is immaterial whether such employment was paid, promised or charged for.

As defense counsel in the first civil case respondent advocated the stance that Lydio solely owned the property subject of the case. In the second civil case involving the same property, respondent, as counsel for Raleigh and his spouse, has pursued the inconsistent position that Raleigh owned the same property in common with Lydio, with complainants, who inherited the property, committing acts which debase respondent's rights as co-owner. The fact that the attorney-client relation had ceased by reason of Lydio's death or through the completion of the specific task for which respondent was employed is not reason for respondent to advocate a position opposed to the of Lydio. And while plaintiffs have never been respondent's clients, they derive their rights to the property from Lydio's ownership of it which respondent maintained in the first civil case