

OCA CIRCULAR NO. 61-2003, June 02, 2003

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TO:

THE COURT OF APPEALS, SANDIGANBAYAN COURT OF TAX APPEALS, REGIONAL TRIAL COURTS SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS THE OFFICE OF THE STATE PROSECUTOR, PUBLIC DEFENDERS OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT :

SUSPENSION FROM THE PRACTICE OF LAW OF ATTY. NAPOLEON CORRAL

For the information and guidance of all concerned, quoted heremider is the decision of the Couit's First Division in. Administrative Case No. 354S entitled "Jose A. Rivera vs. Atty. Napoleon Corral" dated July 4, 2002, to wit:

"On September 1, 1990, [1]Jose A Rivera, instituted a Complaint for Disbarment[2] charging. Atty. Napoleon Corral with Malpractice and Conduct Unbecoming a Member of the Philippine Bar. x x x

x x x

Respondent's claim that he was not afforded due process deserves' scant consideration. The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to seek a reconsideration of the action or ruling complained of.[8] In fact -

'...a respondent in an administrative proceeding is not entitled to be informed of the findings and recommendations of any investigating committee created to inquire into charges filed against him. He is entitled only to the administrative decision based on evidence made of record, and a reasonable opportunity to meet the charges and the evidence presented against him during the hearings or the investigating committee.[9]

x x x

The quintessence of due process is simply that a party be afforded a reasonable opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one's side and to adduce any evidence he may have in support of his defense.[11] Entrenched is the rule that due process doe not necessarily mean or require a hearing but simply a reasonable opportunity or a right to be heard or, as applied to administrative proceedings and opportunity to explains one's side.[12] Where opportunity to be heard either through oral arguments or pleadings is accorded, there is no denial of due process.[13]

In his report, the Investigating Commissioner pointed out that the correction introduced by respondent was made not to reflect the truth but to mislead the trial court into believing that the notice of appeal was filed within the reglementary period. The Decision rendered in Civil Case No. 17473 was duly received by a certain Annaliza

Superio, the secretary of respondent, on February 22, 1990. Respondent filed the Notice of Appeal on March 13, 1990 which was clearly out of time. To extricate himself from such predicament, respondent altered the date when he allegedly received the Decision from February 23, 1990 to February 29, 1990 in the calendar, he sought to change the date again to February 28, 1990 by means of a "reply to Plaintiffs Manifestation."

x x x'

The primary objective of administrative cases against lawyers is not only to punish and discipline the erring individual lawyers but also to safeguard the administration of justice by protecting the courts and the public from the misconduct of lawyers, and to remove from the legal profession persons whose utter disregard of their lawyer's oath have proven them unfit to continue discharging the trust reposed in them as members of the bar.[15] A lawyer may be disbarred or suspended for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, honesty, probity and good demeanor or unworthy to continue as an officer of the court.[16]

Section 27, Rule 138 of the Revised Rules of Court provides that a member of the Bar may be disbarred or suspended from his office as attorney on the following grounds, to wit: 1] deceit; 2] malpractice or other gross misconduct in office; 3] grossly immoral conduct; 4] conviction of a crime involving moral turpitude; 5] violation of the lawyer's oath; 6] willful disobedience to any lawful order of a superior court; and 7] willfully appearing as an attorney for a party without authority.

While the prevailing facts of the case do not warrant so severe a penalty as disbarment, the inherent power of the Court to discipline an errant member of the Bar must, nonetheless, be exercised it can not be denied that respondent has violated his solemn oath as a lawyer not to engage in unlawful, dishonest or deceitful conduct.¹⁷

The relevant rules to the case at bar are Rules 1.01 and Rule 19.01 of the Code of Professional Responsibility. Rule 1.01 states in no uncertain terms that: "A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." More specifically, Rule 19.01 mandates that "a lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate or threaten to present unfounded aiminal charges to obtain improper advantage in any case or proceeding."

The Court "can not overstress the duty of a lawyer to at all times uphold the integrity and dignity of the legal profession. He can do this by faithfully performing his duties to society, to the bar, to the courts and to his clients.[18] Along the same vein, in *Ong v. Aity. Elpidio D. Unto*,^[19] the Court ruled that "The ethics of the legal profession rightly enjoin lawyers to act with the highest standards of truthfulness, fair play and nobility in the course of his practice of law. A lawyer may be disciplined or suspended for any misconduct, whether in his professional or private capacity.[20] Public confidence in the law and lawyers may be eroded by the irresponsible aid improper conduct of a member of the Bar. Thus, every lawyer should act and comport himself in such a manner that would promote public confidence in the integrity of the legal profession.[21]

By altering the material dates to make it appear that the Notice of Appeal was timely filed, respondent committed an act of dishonesty. Under pertinent rules,^[22] dishonesty constitutes grave misconduct upon which the Court, in a recent case, " imposed a one-year suspension on respondent therein for inserting in the records of the case a certification of non-forum shopping and making it appear that the same was already part of such records at the time the complaint was filed. A one-year suspension was similarly imposed on respondent in *Reyes v. Atty. Rolando Javier*²⁴ for deceiving his client into believing that he filed the petition on time when in fact it was filed on a much later date. It should be stressed that brazenly resorting to such a legal subterfuge to mislead the court and to cover up for his failings toward his client is not only a disgraceful indictment on respondent's moral fiber and personal fitness to his calling as a lawyer. It is also an embarrassment to his brethren in the Bar. Such

misconduct warrants a similar penalty for the Court can not tolerate any misconduct that tends to besmirch the fair name of an honorable profession.

WHEREFORE, in view of the foregoing, respondent. Atty. Napoleon Corral is SUSPENDED from the practice of law for ONE (1) year and STERNLY. WARNED that a repetition of the same or similar offense will be dealt with more severely.

x x x"

Copy of this resolution was received by respondent on November 18, 2002.

June 2, 2003.Untitled Document

PRESBITERO J. VELASCO, JR.

Court Administrator

[1]Rollo, p. 1

[2]Ibid, p. 1-3.

[8]Vda. de Dela Cruz vs. Abille, 352 SCRA691, 698 (2001), citing Sunsent View Condominium Corp. v. NLRC, 228 SCRA, 466, 472 (1993), citing Bautista v. Secretary of Labor, 196 SCRA 470 (1991)

[9]Perfianco v. Mora, 322 SCRA 439, 449 (2000), citing Ruiz v. Drilon, 209 SCRA 695 (1992)

[11]PAL vs. NLRC, 337 SCRA 286 (2000), Orola vs. Alovera, 335 SCRA 609 (2000)

[12] Aparente, Sr. vs. NLRC, 331 SCRA 82, 89-90 (2000), citing National Semiconductor (HK) Distribution Ltd. v. NLRC 291 SCRA 348, 354 (1998); Ramoran v. Jardine CMG Life Insurance Company, 326 SCRA 209, 220 (2000)

[13]Gacutana-Fraile v. Domingo, 348 SCRA 414 (2000), citing Alba v. Niforreda, 254 SCRA

[15]Sevilla v. Salubre, 348 SCRA592,599 (2000)

[16]Calub v. Suller, 323 SCRA 556, 560 (2000)

[17]Alitagtag v. Atty. Virgilio R. Garcia, A. C. No. 4738, 6 February 2002, citing Rule 1.01, Code of Professional Responsibility

[18]Reyes v. Atty. Rolando Javier, A. C. No. 5574, 1 February 2002.

[19] A. C. No. 2417, February 2002.

[20]Ducat, Jr. v. Villalon., 337 SCRA 622, 628 (2000)

[21]Id., p. 629

[22]Memorandum circular No. 30, Series of 1989, or the Guidelines in the Application of Penalties in

Administrative Cases

[23]Santos v. Joyce Trinidad Arlegui-Hernandez, et al., 22 February 2002

[24]See note no. 13

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