

RIZALINO C. FERNANDEZ, COMPLAINANT, VS. ATTY. DIONISIO C. ISIDTO, RESPONDENT.

Adm. Case No. 5036. January 13, 2003

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a complaint against respondent Atty. Dionisio C. Isidto for misconduct and violation of the lawyer's oath.

Complainant Rizalino C. Fernandez is the son of Vicente K. Fernandez, plaintiff in Civil Case No. 3726, entitled "Vicente K. Fernandez v. Cresencia Dahildahil," filed in the Regional Trial Court, Branch 43, Bacolod City. He alleges that on February 24, 1997, judgment was rendered by the trial court declaring his father to be the owner of Lot Nos. 3, 4, and 5 of the Bacolod Cadastre covered by TCT No. 29264 and ordering defendant Cresencia Dahildahil to surrender possession of the lots to the plaintiff. According to complainant, the decision became final on October 3, 1998 as defendant Dahildahil, who had filed a notice of appeal, decided not to pursue her appeal upon the advice of respondent Atty. Isidto.

Complainant claims that on May 24, 1999, the trial court issued a writ of execution, but respondent moved to quash the same on the ground of the pendency of another case filed in Branch 11 of the same court. It appears that respondent had filed on October 26, 1998 a complaint, entitled "William Ko, Sio Bee Ko, and Chona Ko v. Rizalino Fernandez, Virginia Fernandez, Elena Fernandez, Vicky Fernandez, Vivian Fernandez and Venancia Fernandez" and docketed as Civil Case No. 98-10520, in which he sought the cancellation of a certificate of title issued in the name of Vicente K. Fernandez (TCT No. 29264), which had been declared valid in Civil Case No. 3726.

On August 18, 1999, the trial court denied respondent's motion to quash on the ground that the action instituted by respondent in behalf of the children of Cresencia Dahildahil was barred by the judgment of February 24, 1997 in Civil Case No. 3726. Respondent filed a supplemental motion to quash the writ, but it was similarly denied by the trial court on December 9, 1999. Meanwhile, on motion of the children of Vicente K. Fernandez, as defendants in Civil Case No. 98-10520, the trial court dismissed the complaint filed by respondent as it was barred by the judgment in Civil Case No. 3726. Respondent filed a notice of appeal and, on his motion, the Court of Appeals granted him an extension to file the appellants' brief. Nonetheless, for unknown reasons, respondent failed to file the appellants' brief, as a result of which the appeal was dismissed.

Complainant claims that respondent's actions were calculated to delay the execution of the decision of Civil Case No. 3726.

Respondent denies the allegations made against him. He claims that although it was upon his advice that Dahildahil did not pursue her appeal in Civil Case No. 3726, he nevertheless filed Civil Case No. 98-10520 in behalf of Dahildahil's children because he honestly believed that they had a valid ground for seeking the cancellation of the certificate of title in the name of Vicente K. Fernandez. He contended that the decision in Civil Case No. 3726 did not constitute a bar to the filing of Civil Case No. 98-10520 as the two cases involved different

parties and causes of action.[1]

Complainant filed a Reply and Supplemental Reply to respondent's comment, after which the case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. In its Resolution No. XV-2002-404, dated August 3, 2002, the IBP Board of Governors approved the recommendation of its Investigating Commissioner, Pedro A. Magpayo, Jr., that respondent be suspended from the practice of law for a period of one year for "misu[sing] the [R]ules [of] Procedure to impede the noble ends of justice."

The investigating commissioner's report reads in pertinent parts:

The records sufficiently establish that Vicente Fernandez (father of complainant) filed Civil Case No. 3726 (hereinafter referred to as the first case) in the Regional Trial Court of Bacolod City on October 10, 1985 against Cresencia Dahildahil (common law wife of Ko Chun) involving Lots 3, 4, and 5 all of Bacolod Cadastre covered by TCT No. 29264 of the Registry of Deeds of Bacolod City. The action was for recovery of possession and sum of money.

The case suffered considerable delay due to one reason or another stated in the trial court's decision of February 24, 1997. Finally, after eleven (11) long years of litigation, the trial court resolved the main issue that "plaintiff presented sufficient evidence to prove his ownership of Lot 3, 4, and 5, Block 1, evidenced by TCT No. 29264" (page 18 Decision; Annex A of Complainant's Position Paper) and ordered the defendant Dahildahil to return possession of the property to plaintiff.

The decision was appealed by Dahildahil to the Court of Appeals. But, later, she abandoned her appeal (CA G.R. No. 56999) and did not pursue it on the advice of herein respondent (Comment of Respondent dated August 5, 1999). Consequently, the Court of Appeals dismissed the appeal which dismissal became final on October 3, 1998.

On October 26, 1998, or 23 days after the dismissal of the appeal, Civil Case No. 98-10520 (hereinafter referred to as the second case) was instituted by Dahildahil's children against the heirs of Vicente Fernandez, including the complainant, for cancellation of title of the same property litigated in Civil Case No. 3726 (first case) and adjudged by the court as belonging to Vicente Fernandez, upon the advice of herein respondent (Respondent's Position Paper on page 2).

At this juncture, it is worth mentioning that [the] plaintiffs in the second case (children of Dahildahil by the late Ko Chun) merely adopted as their cause of action the defense put up by their mother in the first case.

....

When the final judgment in the first case (Civil Case No. 3726) was being executed by the prevailing party, the defendant Dahildahil, thru respondent, vigorously opposed the move on the ground that the pendency of the second case (Civil Case No. 98-10520) "poses a civil prejudicial question which must be resolved before any further proceedings," or execution, can be taken in the first case.

With equal vigor, the trial court rejected this position. It ruled that precisely "there being identity of parties – plaintiffs and defendants in Civil Case No. 98-10520 (second case) are mere successors-in-interest of the parties at bar; [as the] cause[s] of action and subject matter [of the two cases are the same], the finding of this Court having become final and executory, res judicata sets in and Civil Case No. 98-10520 is barred by prior judgment" (Resolution dated August 19, 1999; Annex A of the Supplemental Reply).

....

Notwithstanding all the foregoing, however, with evident obduracy, respondent continued to resist execution of the judgment in the first case [by filing a supplemental motion to quash the writ of execution] reasoning out this time around that the judgment in the first case will operate only as against Dahildahil but not [as] against

her children (plaintiffs in the second case), who were not parties to the first case (Supplemental Motion to Quash Writ of Execution dated August 20, 1999).

Once more the trial court repudiated this feeble stand of the respondent and [denied Dahildahil's Supplemental Motion to Quash Writ of Execution].

Under the Revised Rules of Court, a lawyer shall "counsel or maintain such actions or proceedings as appear to him to be just, and such defenses only as he believes to be honestly debatable under the law." (Rule 138, Sec. 20, C)

The persistent obstruction engineered by the respondent to the execution of the final judgment in the first case coupled with his filing of the second case which was primarily intended to relitigate the settled issue of ownership of subject property is clearly transgressive of this rule.

....

The Resolution of August 19, 1999 (which resolve[d] respondent's "motion to quash writ of execution" in the first case) and the Order of December 9, 1999 (which resolve[d] the motion for reconsideration filed by respondent of the August 19, 1999 resolution) as well as the Order dated August 3, 2000 (which resolve[d] the "motion to dismiss" and the "Opposition" thereto filed in the second case), discussed thoroughly the doctrine of res judicata. Unfortunately, however, the respondent did not benefit from the lessons therein.

Likewise clear in the judgment dated February 24, 1997 (first case) is the trial court's resolution of the question of "who is the true owner of Lot No. 3, Block 1, Lot 4, Block 1 and Lot 5, Block 1 evidenced by TCT No. T-29264, the plaintiff (Vicente Fernandez, herein complainant's father) or the late Ko Chun" (father of respondent's client who are plaintiffs in the second case) (on page 3).

....

The issue of "true ownership," therefore, of the lots in question is no longer debatable.

....

From all of the foregoing, it is not unreasonable to conclude and hold that respondent indeed availed of unfair means to unduly delay the termination of the first and second cases which achieve[d] his objective of prolonging the enjoyment of the property by his clients gratis et amore and to the detriment and prejudice of the complainant.

Stated in another way, the respondent misused the rules of procedure to impede the noble ends of justice.

Premises considered, therefore, it is respectfully recommended that the respondent Atty. Dionisio Isidto be temporarily suspended from the practice of law for a period of one (1) year with the stern warning that a repetition of any similar act shall merit a more harsh sanction.[2]

The case has been transmitted to this Court pursuant to Rule 139-B §12 (b) of the 1964 Rules of Court. After a review of this case, we find the IBP report and recommendation to be well taken.

First. The Code of Professional Responsibility provides:

Rule 10.03 – A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

Rule 12.03 - A lawyer shall not, after obtaining extensions of time to file . . . briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.

Rule 12.04 – A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse court

processes.

To be sure, respondent advised his client (Dahildahil) to desist from her appeal in Civil Case No. 3726, as a result of which the trial court's decision in that case became final and executory. However, he subsequently filed Civil Case No. 98-10520 in behalf of his client's children, based on the same ground invoked by Dahildahil in Civil Case No. 3726, and later invoked the pendency of the said Civil Case No. 98-10520 to block execution of the judgment in Civil Case No. 3726. Such subterfuge proved unsuccessful as the trial court dismissed Civil Case No. 98-10520 under the doctrine of res judicata. Respondent then filed a notice of appeal with the Court of Appeals, only to let the period for filing the appellant's brief lapse without complying

with the requirement despite an extension granted to him to do so. All these clearly show respondent's efforts to frustrate the final judgment in Civil Case No. 3726, which remained pending in the trial court for nearly 18 years.

The conduct of respondent constitutes a clear violation of Rules 10.03, 12.03 and 12.04. This Court has repeatedly impressed upon counsels that the need for the prompt termination of litigation "is essential to an effective and efficient administration of justice and [that] once a judgment has become final, the winning party be not, through a mere subterfuge, deprived of the fruits of the verdict." [3] As officers of the court, "lawyers have a responsibility to assist in the proper administration of justice. They do not discharge this duty by filing pointless [cases] that only add to the workload of the judiciary . . . which is burdened enough as it is. A judicious study of the facts and the law should advise them when a case should not be permitted to be filed to merely clutter the already congested judicial dockets. They do not advance the cause of law or their clients by commencing litigations that for sheer lack of merit do not deserve the attention of the courts." [4]

Second. Respondent's contention that Civil Case No. 98-10520 is not barred by the prior judgment in Civil Case No. 3726 because the two involved different parties and causes of action have no legal basis. The doctrine of res judicata applies not only to the same parties but also to their successors-in-interest. [5] In this case, the respective heirs of the parties in Civil Case No. 3726, became the parties in Civil Case No. 98-10520, which concerned the same parcels of land and the same title subject of litigation in Civil Case No.

3726. Furthermore, as the IBP investigating commissioner noted, the plaintiffs in Civil Case No. 98-10520 merely adopted the defense raised by their mother Cresencia Dahildahil in Civil Case No. 3726, i.e., their natural father, Ko Chun, had purchased the parcels of land in question from a certain Venancio Lim but had them titled in the name of Vicente Fernandez, his nephew, because of the prohibition of ownership of real estate by aliens. Thus, the complaint in Civil Case No. 98-10520 alleged:

- That the plaintiffs are the son[s] and daughter of spouses Ko Chun and Cresencia Dahildahil, said spouses not [being] legally married[.] Plaintiffs are Filipino citizens, while the defendants are the children of spouses Vicente Fernandez and Venancia Chua Fernandez;
- That in the month of August 1965 Ko Chun purchased Lot 3 Block 1, Lot 4 Block 1 and Lot 5 Block 1 from the original owner Venancio Lim for the sum of P65,000.00[.] Ko Chun being a Chinese citizen put the title of the property in the name of Vicente Fernandez, . . a relative of Ko Chun. [6]

On the other hand, as the trial court stated in its decision in Civil Case No. 3726:

In her answer with counterclaim, defendant alleges inter alia: That subject properties Lot 3, Block 1, Lot 4 Blk. 1 and Lot 5 Blk. 1 all situated in the City of Bacolod, . . . are actually owned by her husband Ko Chun or his estate. The money paid for the acquisition of said lots came from the exclusive and personal funds of the Ko Chun. However, since the late Ko Chun at the time of the acquisition of said properties was a Chinese citizen, he placed the title of said properties in the name of the plaintiff, Vicente K. Fernandez, in order to circumvent or do away with the constitutional prohibition against aliens, who are disqualified from acquiring properties in

the Philippines . . . [7]

In its decision in Civil Case No. 3726, the trial court declared Vicente K. Fernandez to be the owner of the parcels of land in question. The trial court said:

After going over the version of the plaintiff [Vicente Fernandez] as supported by the testimonial evidence of his witnesses as well as his documentary evidence and the version of the defendant [Cresencia Dahildahil], supported by the testimonial evidence of her witnesses as well as her documentary evidence, this Court is inclined to give plaintiff's version more credit and weight.

. . . .

All told, plaintiff has presented sufficient evidence to prove his ownership of Lots 3, 4, and 5, Block 1, evidenced by TCT No. T-29264.

While on the other hand, the evidence presented by defendant falls short of establishing the ownership of her [late] husband [Ko Chun] of Lots 3, 4, and 5, Block 1, evidenced by TCT No. T-29264.[8]

As successors-in-interest of their mother Cresencia Dahildahil, the plaintiffs in Civil Case No. 98-10520 are bound by the foregoing findings.

In *Millare v. Montero*,[9] this Court suspended the respondent attorney from the practice of law for a period of one year for trying to frustrate the execution of a judgment through the filing of frivolous appeals and resort to other dilatory tactics. We find it appropriate for the same penalty to be meted out to respondent in this case.

WHEREFORE, the decision of the IBP Investigating Commissioner as approved by the IBP Board of Governors, finding respondent Atty. Dionisio C. Isidto guilty of violation of Rules 10.03, 12.03, and 12.04 of the Code of Professional Responsibility, is **AFFIRMED** and respondent is hereby **SUSPENDED** from the practice of law for one (1) year, with **WARNING** that commission of any or similar acts would be dealt with more severely. Let copies of the Decision be entered in his record as an attorney and be furnished the Integrated Bar of the Philippines (IBP) and all the courts in the country for their information and guidance.

SO ORDERED.

Bellosillo, J., (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Comment, pp. 1-3; Rollo, pp. 28-31.

[2] Report and Recommendation, pp. 5-6, 8-10, 12, 16-19.

[3] *Chua Huat v. Court of Appeals*, 199 SCRA 1, 15 (1991) citing *Li Kom Tho v. Go Siu Kao*, 82 Phil. 776, 778 (1949).

[4] *Baragon v. Zerna*, 154 SCRA 593, 598 (1987).

[5] 1997 RULES OF CIVIL PROCEDURE, Rule 39, §47 par. (b).

[6] Rollo, p. 23.

[7] RTC Decision, p. 2; Rollo, p. 6.

[8] *Id.*, pp. 14, 18; *id.*, pp. 18, 22.

[9] 246 SCRA 1 (1995).

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