

**NILO L. MIRAFLOR AND PRIMO L. MIRAFLOR, COMPLAINANTS, VS. ATTY. JUAN M. HAGAD, ATTY. JOSE Y. AGUIRRE, JR., ATTY. ROLAND V. EVANGELISTA, INSULAR LUMBER CO. (PHIL)., INC. AND MARI...***Adm. Case No. 2468. May 12, 1995*

Ponente: BELLOSILLO, J.

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This is a verified complaint of the brothers Nilo and Primo L. Miraflor charging Attys. Juan M. Hagad, Jose Y. Aguirre, Jr., and Roland V. Evangelista as well as Mariano P. Aledron and Insular Lumber Co., (Phil.) Inc. (ILCOPHIL) with conspiracy to perpetuate obstruction of justice relative to NLRC Case No. ROVI--404-73 entitled "Nilo L. Miraflor v. Insular Lumber Co. (Phil.)." Since this is an administrative complaint, we shall only proceed against respondents who are members of the Bar.

The antecedents: On 9 May 1973 Nilo L. Miraflor assisted by his brother Primo L. Miraflor, filed a complaint for illegal dismissal against ILCOPHIL with the Ministry (now Department) of Labor and Employment, Bacolod City. The complaint was initially dismissed but on appeal to the NLRC the dismissal was reversed. Upon appeal to the Office of the President the decision of the NLRC was modified by (a) ordering ILCOPHIL to reinstate Nilo to his original position in the company and to pay him backwages computed from the time of his dismissal and (b) directing the remand to NLRC of the claims of complainant for salary differentials and other fringe benefits.

On 29 November 1976 respondent Executive Labor Arbiter Jose Y. Aguirre Jr. issued a writ of execution for the reinstatement of Nilo and for the payment of his backwages in the sum of P27,260.00. Upon ILCOPHIL's motion filed through respondent Juan M. Hagad, respondent Aguirre Jr. not only required ILCOPHIL to post a bond of P10,000.00 to stay the execution pending appeal but also set a hearing to determine the amount of backwages and other benefits to be paid to Nilo. Thereafter respondent Aguirre Jr. reduced the amount of backwages to only P14,201.69.

In the meantime, Nilo was reinstated. On 29 April 1981 respondent Aguirre Jr. rendered judgment awarding the sum of P26,768.28 as salary differentials, bonuses and other fringe benefits. ILCOPHIL filed a motion for reconsideration.

Complainants accuse respondents of thwarting the execution of the decision of the Office of the President with regard to Nilo's reinstatement and monetary award. They charged that: (a) respondent Aguirre Jr., upon ILCOPHIL's motion, altered the amount of backwages due Nilo from P27,260.00 to only P14,201.69, and allowed ILCOPHIL to reinstate Nilo to an allegedly different and lower position in the company, and that again upon ILCOPHIL's appeal or motion for reconsideration he allowed ILCOPHIL to evade its obligations to pay Nilo the sum of P26,768.28 as salary differentials, bonuses and other fringe benefits instead of defending his decision; (b) respondent Hagad as counsel for ILCOPHIL employed "unashamedly legal contortions and illegalism x x x to satisfy the unlawful obsession, whims and caprices of a merciless client like ILCOPHIL;" and, (c) respondent Evangelista as Personnel Manager of ILCOPHIL, through his silence, chose to be a "spineless minion of

ILCOPHIL and Atty. Juan M. Hagad" whose actions run counter to the decision favorable to Nilo.[1]

In his comment, respondent Aguirre Jr. maintains that he merely complied with due process by granting ILCOPHIL the opportunity to present evidence relative to its claim that Nilo had gainful employment during the time he was dismissed from his job.[2]

For his part, respondent Hagad claims that the question of the amount of salary differentials and fringe benefits due Nilo has remained open because of ILCOPHIL's timely appeal or reconsideration; that he could not be faulted for resorting to remedies available to his client for the protection of its interests otherwise he would have been remiss in his professional obligation; that complainant Nilo should blame himself for the slow progress of the case since he has persisted in being represented by his co-complainant, his brother who is a non-lawyer, who chose to "become personal instead of concentrating on pursuing his action so that early decision could be obtained in this case;" and, that despite this circumstance, respondent did not resort to underhanded means to defeat complainants' rights.[3]

On the other hand, respondent Evangelista asserts that he was not yet connected with ILCOPHIL when Nilo was dismissed from employment and that it was absurd for him to conspire with respondents Aguirre Jr. and Hagad because he knew nothing of the case nor had he even met with respondent Aguirre Jr. or complainant Primo L. Miraflor.[4]

Acting on the pleadings of the parties, we referred the case to the Bar Confidant for evaluation, report and recommendation.[5]

On 1 March 1995 the Office of the Bar Confidant submitted a report on its findings with the following recommendation that this administrative complaint be dismissed[6] as -

x x x x

x x x x There is nothing in the records of the case which will show that respondents acted in such a way as may constitute malpractice, gross misconduct nor violation of the lawyer's oath.

Nilo Miraflor's complaint arose out of his frustration to get his salary differentials and other monetary benefits from his employer ILCOPHIL which he attributes to respondents' illegal maneuverings which, to his mind, constitute 'conspiracy to perpetuate obstruction of justice.' He zeroed in on the motion for reconsideration of June 9, 1981 filed by respondent Atty. Hagad which prevented the execution of the Labor Arbiter's decision of April 29, 1981 awarding to the former salary differentials, bonuses and other fringe benefits in the amount of P26,768.28. (R)espondent Atty. Hagad can never be faulted for having filed said motion for reconsideration. As counsel for ILCOPHIL, he has the duty to pursue with zeal and dedication the best interests of his client and the filing of the motion for reconsideration was well within the scope of his authority and prerogatives as such counsel. Canon 18 of the Code of Professional Responsibility mandates that 'a lawyer shall serve his client with competence and diligence.' It should be remembered that the moment a lawyer takes a client's cause, he covenants that he will exert all effort for its prosecution until its final conclusion. A lawyer who fails to exercise due diligence or abandons his client's cause makes him unworthy of the trust reposed on him by the client (*Legarda vs. Court of Appeals*, 209 SCRA 722). Thus, for making use of the legal remedies available to his client, a lawyer can not be accused of obstruction of justice; otherwise, a responsible lawyer will have a convenient excuse for not diligently and competently pursuing their clients' cause.

With respect to respondent Atty. Aguirre, Jr., his explanation is reasonable and satisfactory. Complainants, except for their unsubstantiated allegations, never offered any satisfactory evidence to warrant the conclusion that Atty. Aguirre, Jr. acted maliciously in allowing ILCOPHIL to file the questioned motion for reconsideration. His

explanation that he 'merely complied with due process by granting the respondent company ILCOPHIL an opportunity to present evidence relative to its claim that complainant (Nilo Miraflor) had gainful employment during the time he was dismissed' is well taken. As a matter of fact, in allowing said motion for reconsideration, Atty. Aguirre was merely complying with the presidential directive to have a further adjudication on Nilo's salary differentials and other benefits due him.

As for Atty. Evangelista, there is not an iota of evidence showing that he actively participated in the prosecution of ILCOPHIL's cause against Nilo Miraflor. Complainants' accusation against him is, therefore, baseless and unfounded.

Moreover, taking into consideration complainants' lack of interest in pursuing their charges, what with the considerable lapse of time (almost twelve years) since the last responsive pleading was filed without them pressing their charges, which has created doubt as to the merit of their complaint, this case must be dismissed.

We fully agree with the recommendation that the case should be dismissed. We find no evidence of malice or improper motive in the actuations of respondents who merely discharged their respective functions to the best of their professional abilities within the confines of law and jurisprudence. Evidently, complainants cast the bigger blame upon respondent Hagad whom they accuse of instigating the whole scheme of defeating Nilo's rights to the monetary award. Such accusation has no basis. A lawyer's devotion to his client's cause not only requires but also entitles him to employ every honorable means to secure for the client what is justly due him or to present every defense provided by law to enable the latter's cause to succeed.[7]

ACCORDINGLY, the Court Resolves to DISMISS the complaint for lack of merit.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Quiason, JJ., concur.

Kapunan, J., on official leave.

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[1] Rollo, pp. 1-9.

[2] *Id.*, p. 73.

[3] *Id.*, p. 77.

[4] *Id.*, p. 12.

[5] Resolution of 27 July 1983 of the First Division; Rollo, p. 88.

[6] *Id.*, pp. 146-154.

[7] *Gamalinda v. Alcantara*, Adm. Case No. 3695, 24 February 1992, 206 SCRA 468, 472.

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