

**OSCAR ABETO, COMPLAINANT, VS. MANUEL GARCESA,
STENOGRAPHIC REPORTER, REGIONAL TRIAL COURT, BRANCH 45,
BACOLOD CITY, RESPONDENT.**

A.M. No. P-88-269. December 29, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In a verified complaint dated 19 October 1988 and received by the Office of the Court Administrator on 18 November 1988, the complainant charges the respondent with having misrepresented himself as a full-fledged lawyer and having acted as one of the authorized representatives of the complainant and his co-complainants in labor cases filed with Regional Arbitration Branch VI of the National Labor Relations Commission (NLRC) of Bacolod City despite the fact that he is a court employee.

Then Deputy Court Administrator Meynardo A. Tiro referred the complaint to the respondent through the Presiding Judge of Branch 45 of the Regional Trial Court (RTC) of Bacolod City and required him to comment thereon.

In his Comment/Explanation, the respondent admits having assisted the complainants in the aforementioned labor cases; denies having misrepresented himself as a lawyer; and explained the nature of the assistance he had given to the complainants. According to him, when he first met complainant Abeto in December 1986, he frankly informed the latter that he is only a court employee and that he is only assisting or helping Mr. Arturo Ronquillo, for at that time no lawyer dared to assist the complainants in filing their cases. This Arturo Ronquillo is the Vice President of the Workers Amalgamated Union of the Philippines (WAUP) whose assistance was sought by complainant Abeto and the other complainants in the labor cases for the filing and prosecution of their cases. The respondent further alleges that the instant complaint arose out of ill-feeling and is designed to malign and destroy his name and reputation as a court employee. He manifests, however, that "in the event that his good motives and intentions in helping the poor and downtrodden workers/employees of BISCOP Central would be considered not in consonance with Memorandum Circular No. 17 dated September 4, 1986 issued by the Executive Department and is prohibited by Administrative Circular No. 5 issued by the Supreme Court, Manila, then [he] will readily and obediently submit to the sound discretion of the Honorable Supreme Court."

On 28 August 1989, then Deputy Court Administrator Juanito Bernad submitted a memorandum recommending that the complaint against the respondent for misrepresentation be dismissed, but that he be advised to heed the Civil Service Rules and this Court's memorandum circular prohibiting government employees from engaging in any private business, vocation, or profession without permission from this Court.

In his Letter-Petition dated 11 July 1995, the respondent asked for an early resolution of this case, which he considers baseless as it is but an offshoot of a petty misunderstanding between him and the complainant. He also invited the attention of this Court to the complainant's affidavit of desistance and letter to the Court requesting that this case be dismissed. He later submitted the said affidavit and letter.

In the resolution of 18 September 1995, this Court directed the Office of the Court Administrator to reevaluate this case and to submit a report thereon.

On 13 October 1995, Deputy Court Administrator Zenaida N. Elepaño submitted a Memorandum, duly approved by the Court Administrator, wherein she made the following findings and conclusion:

It is worth mentioning here Sec. 12, Rule XVIII of the Revised Civil Service Rules which provides that:

"Sec. 12. — No officer or employee shall engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural or industrial undertaking without a written permission from the head of Department: Provided, That this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government: Provided, further, That if an employee is granted permission to engage, in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the officer or employee: And provided, finally, That no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer or member of the board of directors."

Moreover in Administrative Circular No. 5 dated 4 October 1988 the Court expressed the view that

"The entire time of Judiciary officials and employees must be devoted to government service to insure efficient and speedy administration of justice considering the express prohibition in the Rules of Court and the nature of their work which requires them to serve with the highest degree of efficiency and responsibility, in order to maintain public confidence in the Judiciary."

These circumstances obtaining, we believe that the stenographer Garcesa merits at the very least a reprimand for engaging in a limited law practice. (*Italics supplied*)

She then recommends:

IN VIEW OF THE FOREGOING, it is respectfully recommended that the penalty of REPRIMAND be imposed on Manuel Garcesa, Stenographer Reporter, RTC, Branch 45, Bacolod City for failure to heed the abovequoted Civil Service rule and the Supreme Court Administrative Circular which prohibits government employees from engaging in any private business, vocation, or profession without permission from the Court.

We agree with the recommendation of Deputy Court Administrator Elepaño. Indeed, per Annex "A" of the complaint, the respondent and one Arturo Ronquillo signed as "Authorized Representatives" of the complainants in an Ex-Parte Formal Manifestation dated 11 August 1988 in the following labor cases: RAB VI Cases Nos. 0272-86, 0304-86, 01-0067-87, 06-0295-87, and 04-0202-87. And in his Comment/Explanation, he admitted having given or extended "casual assistance" to Mr. Arturo Ronquillo in the filing and prosecution of the said cases. His justification therefor -- to help the poor and downtrodden workers of BISCOP Central -- will not absolve him from administrative liability for the violation of Section 12, Rule XVIII of the Revised Civil Service Rules and of the rulings of this Court in Valdez and in Rabanal which were incorporated in Administrative Circular No. 5 of 4 October 1988.

He could not, however, be liable for unauthorized practice of law, since there is no convincing evidence that he misrepresented himself as a lawyer. Moreover, his appearance was in his capacity as one of the representatives of the complainants in the labor cases and not as a lawyer. Under Section 6, Rule IV of the Revised Rules of Procedure of the NLRC in force at that time, a non-lawyer may appear before the NLRC or any Labor Arbiter if he represents himself as a party to the case, represents an organization or its members, or is a duly accredited

member of a free legal aid staff of the Department of Labor and Employment or of any other legal aid office accredited by the Department of Justice or the Integrated Bar of the Philippines.

Neither could he be liable under Memorandum Circular No. 17 dated 4 September 1986 of the Office of the President declaring that the authority to grant permission to any official or employee to engage in outside activities shall be granted by the head of the ministry (department) or agency in accordance with Section 12, Rule XVIII of the Revised Civil Service Rules. Said Memorandum Circular No. 17 was declared by this Court inapplicable to officials or employees of the courts. Thus, in its Administrative Circular No. 5 dated 4 October 1988, this Court stated:

However, in its En Banc resolution dated October 1, 1987, denying the request of Atty. Froilan L. Valdez of the Office of Associate Justice Ameurfina Melencio--Herrera, to be commissioned as a Notary Public, the Court expressed the view that the provisions of Memorandum Circular No. 17 of the Executive Department are not applicable to officials or employees of the courts considering the express prohibition in the Rules of Court and the nature of their work which requires them to serve with the highest degree of efficiency and responsibility, in order to maintain public confidence in the Judiciary. The same, policy was adopted in Administrative Matter No. 88-6-002-SC, June 21, 1988, where the court denied the request of Ms. Esther C. Rabanal, Technical Assistant II, Leave Section, Office of the Administrative Services of this Court, to work as an insurance agent after office hours including Saturdays, Sundays and holidays. Indeed, the entire time of Judiciary officials and employees must be devoted to government service to insure efficient and speedy administration of justice.

ACCORDINGLY, all officials and employees of the Judiciary are hereby enjoined from being commissioned as insurance agents or from engaging in any such related activities, and, to immediately desist therefrom if presently engaged thereat.

This prohibition is directed against "moonlighting," which amounts to malfeasance in office (Biyaheros Mart Livelihood Association, Inc. vs. Cabusao, 232 SCRA 707 [1994]).

WHEREFORE, for malfeasance in office consisting in the violation of Section 12, Rule XVIII of the Revised Civil Service Rules and of the rulings of this Court of 1 October 1987 in the case of Atty. Froilan L. Valdez and of 21 June 1988 in the case of Ms. Esther C. Rabanal embodied in Administrative Circular No. 5 dated 4 October 1988, respondent MANUEL GARCESA is hereby REPRIMANDED and warned that the commission of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Kapunan, and Hermosisima, Jr., JJ., concur.

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