

EDUARDO R. BALAOING, COMPLAINANT, VS. JUDGE LEOPOLDO CALDERON, RESPONDENT.

A.M. No. RTJ-90-580. April 27, 1993

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PER CURIAM:

This is the latest of the several administrative complaints filed by Atty. Eduardo R. Balaoing against different judges of Olongapo City and Zambales.

The first complaint was dated February 17, 1989, entitled "Atty. Balaoing vs. Hon. Jaime Dojillo as Judge of Municipal Trial Court in Cities, Olongapo City, et al." Said complaint was dismissed for lack of merit through this Court's Resolution dated September 18, 1990. Further, Atty. Balaoing was required to show cause why he should not be disciplinarily dealt with for having suppressed certain material facts of which he was charged with knowledge, and for having engaged in forum shopping. On September 26, 1990, Atty. Balaoing submitted his "Explanation and Motion for Reconsideration." In a Resolution[1] of the Court En Banc, said motion for reconsideration was DENIED, his explanation was DECLARED UNSATISFACTORY and he was SEVERELY CENSURED for having instituted a patently unfounded and frivolous administrative action, and WARNED that the commission by him of the same or similar misconduct will be dealt with more severely.

The second administrative complaint filed by Atty. Eduardo R. Balaoing was against Judge Santiago Maliwanag, RTC, Branch 71, Iba, Zambales and Clerk of Court Alberto Ariño, Sr., RTC, Iba, Zambales, charging them with grave misconduct for their alleged failure and refusal to issue the corresponding writ of execution (pending appeal) prayed for by complainant in his motion filed in Civil Case No. 983-1 (CA-G.R. No. 01234), entitled "TEOFILO ZABALA, et al. vs. EUGENIO BUENO". The Court was disturbed by complainant Balaoing's unrestrained use of unsavory, even defamatory and offensive language against respondent Judge. One glaring example narrates: "x x x It is well to advise Judge Maliwanag not to be wearing his brief (short) while in his chamber during office hours; it is downright undignified, especially so when his body has traces of fungus, which may have been afflicted during his 26 years as Assistant City Fiscal of Olongapo City, a dirty city." (This was vehemently denied by respondent Judge.) The Court, in a Resolution[2] En Banc, dated December 4, 1990, resolved to:

- (1) DISMISS the complaint;
- (2) SUSPEND complainant from the practice of law for one (1) year; and
- (3) IMPOSE upon complainant a FINE of ONE THOUSAND PESOS (P1,000.00), for Violation of the Canons of the Code of Professional Responsibility, with a stern warning that subsequent similar infractions shall be dealt with more severely.

Notwithstanding the above warnings, censure and suspension from the practice of law for one (1) year, Atty. Eduardo R. Balaoing is again before this Court with more administrative complaints filed against not only one, but two judges, the Honorable Leopoldo T. Calderon, Jr. and the Honorable Santiago Maliwanag, of Olongapo City and Zambales, respectively.

On September 25, 1990, Atty. Eduardo R. Balaoing filed a sworn letter-complaint^[3] against Judge Leopoldo T. Calderon, Jr. of the Regional Trial Court, Branch 75, Olongapo City, for misconduct, grave abuse of authority and malicious delay in the administration of justice, allegedly committed as follows:

"Complainant alleges that in the matter of implementing the Supreme Court Circular mandating continuous trial, there is no way for it to succeed in so far as respondent Judge is concerned since the latter does not follow the Circular and merely treats it as directory; that at the start of court sessions, it has been the practice of respondent Judge to automatically grant postponements and deferments of the hearing of cases to a later hour whenever his OIC, Leonor Maniago, makes a manifestation in open court that a certain lawyer or party called up requesting that his/her case be postponed or be called later in the day; that respondent Judge drinks a lot with lawyers close to Mayor Gordon and fraternizes with them openly; that with respect to respondent's personal driver, the latter receives his salary both from Mayor Gordon as a casual employee and from the Supreme Court as a judicial aide; and, that respondent Judge sanctions the set up of having his legal researcher, Jaime Dojildo, Jr., to work under the supervision of an OIC who, according to complainant, is grossly inefficient and a notorious swindler with no background in law.

Complainant further alleges that respondent Judge has been maliciously delaying the disposition of several cases pending in his sala.

- a. Civil Case No. 418--0-88, where complainant is the counsel for the plaintiff, was filed in 1988. Since the respondent Judge allowed the defendants to keep on postponing the hearings, to date, the case remains pending, without any hearing, for more than one (1) year;
- b. Sp. Proc. No. 285, where complainant is the counsel for the Petitioner, the case was submitted for decision on (sic) September 1989. To date, no decision has yet been rendered on the case to the prejudice of the petitioner who is now very old and sickly;
- c. In Civil Case No. 157-0-89, where complainant is the plaintiff, respondent Judge in cahoots with his Deputy Sheriff, unlawfully prevented the implementation of the Writ of Possession;
- d. In Civil Case No. 253-0-90, where complainant is the Petitioner, the application for the immediate issuance of mandatory injunction was filed on April 27, 1990. To date, the same has not yet been acted upon by the respondent Judge."^[4]

A second letter-complaint^[5] dated October 5, 1990, was again filed by Atty. Eduardo R. Balaoing against the same Judge Leopoldo T. Calderon, Jr. and his Officer-in-Charge (OIC) Leonor Maniago charging them both with misconduct, grave abuse of authority and malicious delay in the administration of justice relative to Civil Case No. 201-0--89, entitled "Eduardo R. Balaoing vs. The Estate of Eufemio Bueno," and Civil Case No. RTC 327-1 entitled "Joaquina Vda. de Balaoing and Eduardo R. Balaoing vs. Santiago Maliwanag and Romeo Enriquez." Complainant Balaoing, who is the plaintiff in both cases, alleges that respondent Judge abused his authority by refusing to declare in default the defendants in the above-entitled cases despite their repeated failure to attend the pre-trial conferences and to submit their pre-trial briefs. Complainant further avers that at the scheduled hearing, on October 5, 1990, respondent Judge did not call complainant's case, and was told only three (3) hours later that the reason was because of the motion filed by him for respondent Judge's inhibition, which the latter allegedly refused to resolve.

With respect to the other respondent OIC Leonor Maniago, complainant Balaoing alleges that when he came out of the courtroom, he was castigated by the former for allegedly calling her notorious, swindler, insane, etc.

Respondent Judge Leopoldo T. Calderon, Jr. filed his Comment^[6] on November 13, 1991. He asserts that the present administrative complaint filed against him by complainant Balaoing was precipitated by incidents in Civil

Case No. 190-0-89 entitled "Atty. Eduardo R. Balaoing vs. Eliseo Gavilan, et al." for Damages, wherein defendant Gavilan defaulted. All the other cases mentioned in the letter-complaint were allegedly included to merely embellish the charges.

The factual backdrop of the Gavilan case shows that complainant Balaoing won in a foreclosure case against one Eliseo Gavilan. After the foreclosed properties (a house and lot) were sold in a public auction, where complainant Balaoing was the highest bidder, a Certificate of Sale was issued and the same was registered. Respondent Judge, however, allegedly prevented the implementation of the writ of possession, to the prejudice of complainant Balaoing. In his Comment, respondent Judge explained that the reason why he quashed the writ of possession he earlier issued in favor of complainant Balaoing was due to the fact that Gavilan's widow, Alice, and her children, were residing in the foreclosed properties and, more importantly, the period to redeem the said properties had not yet expired. This action of respondent Judge allegedly infuriated complainant Balaoing, hence, his filing of several suits, one after the other, against respondent Judge, namely:

- "a) a Motion for Inhibition of respondent Judge in the Gavilan case and in the other cases mentioned in his present administrative complaint, alleging, among other things, that respondent Judge is guilty of "mental dishonesty" and "grossness of ignorance of the law;"
- b) a Petition for Certiorari and Prohibition, to prevent respondent Judge from further acting in the Gavilan case and to nullify the Order of the Quashal of the Writ of Possession rendered in his favor;
- c) Civil Case No. 425-0-90, entitled "Balaoing vs. Judge Leopoldo Calderon, Jr.," for Damages, the causes of action of which were anchored on the events that transpired in the Gavilan case; and
- d) a Petition to cite respondent Judge in contempt filed with the Court of Appeals for expunging his motion for inhibition.

When the redemption period in the Gavilan case had expired without the heirs redeeming the property, respondent Judge issued a writ of possession in favor of complainant Balaoing. But up to the present time, complainant Balaoing has not yet taken possession of the same, showing thereby his apparent disinterest.

As to the application of complainant Balaoing for a writ of injunction and restraining order in Civil Case No. 253-0-90, respondent Judge explains that before he could finish hearing the evidence of the parties in support of and in opposition to the petition for issuance of the ancillary writ prayed for, complainant Balaoing filed another Motion for Inhibition of respondent Judge to hear his cases. Nevertheless, respondent Judge denied the motion for the issuance of the writ prayed for failure of complainant Balaoing to show a clear right over the property and that irreparable injury would visit him if the writ would not be issued.

With regard to the charge of grave misconduct, respondent Judge vehemently denies the same. Thus,

7.1 The charge that the undersigned drinks "whisky like water" is a canard. The undersigned is not a habitual imbiber of liquor as he suffers from an occasional high blood pressure and migraine. Since undersigned became a judge, he never "patronized" with any lawyer.

7.2 The undersigned applies the Mandatory Continuous Trial Scheme in his cases. If there were occasional lapses, it was because of the abnormal case load which is now more than 500 cases.

7.3 Court Aide Antonio Faustino does not receive any compensation from the City Government. He was, before being appointed by the Supreme Court to such a position, a casual employee of the City government. Upon his assumption to his present duty, he ceased to receive compensation from any other source.

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7.5 Atty. Jaime Dojillo was the duly appointed researcher in my sala. When he was promoted as Assistant Clerk of Court, upon his request, the Executive Judge allowed him to do researches for me. He is now a Trial Attorney in the PAO.

8. The undersigned has conducted the trial of cases and had disposed of the same consistent with the Rules of Court and various Supreme Court rulings and circulars. x x x"[7]

Other respondent OIC Leonor Maniago adopted the allegations in respondent Judge's Comment, and alleged further that she has "faithfully performed her duties and obligations under the law to administer justice in accordance with her authority and without any impartiality (sic) whatsoever." [8]

Consolidated with this administrative case is A.M. No. R-676-RTJ, entitled "Atty. Eduardo R. Balaoing vs. Hon. Santiago Maliwanag," wherein the former charges the latter with gross ignorance of the law for allegedly issuing a patently unjust order.

Respondent Judge Maliwanag, in his Comment dated September 2, 1986, denied the charge and alleged among others, that his order was issued based on jurisprudence, equity and justice, in order to prevent an unjust and inequitable execution of the judgment and an injustice perpetrated by a lawyer on the unlearned and poor couple from the barrio.

In a Memorandum to then Chief Justice Marcelo B. Fernan, dated September 12, 1990, the Office of the Court Administrator recommended the dismissal of Atty. Balaoing's complaint against Judge Maliwanag on the ground that the same failed "to specifically show and prove the facts constituting the charge of gross ignorance of the law. The allegations of the complainant are not only laconic and general but they are also based on mere and personal interpretations of the complainant on the law instead of material allegations of facts." [9]

As shown above, herein complainant Balaoing has a penchant for filing administrative charges against judges, in whose sala he has pending cases, whenever the latter render decisions or issue orders adverse to him and/or his clients. In *Bagamasbad vs. Judge de Guzman, Jr.*, [10] We have already admonished lawyers to be more prudent in filing administrative charges against members of the judiciary. It is true that "The lawyer owes 'entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability' x x x. No fear of judicial disfavor or public unpopularity should restrain him from the full discharge of his duty. x x x But it is steadfastly to be borne in mind that the great trust of the lawyer is to be performed within and not without the bounds of the law. The office of attorney does not permit, much less does it demand for him for any client, violation of law or any manner of fraud or chicanery. He must obey his own conscience and not that of his client." [11] Here, complainant Balaoing went out of bounds when he filed his baseless and frivolous administrative complaints against respondent Judges Calderon and Maliwanag, with no other plain and clear purpose than to harass respondent Judges, and thus, exact vengeance on them for rendering adverse judgments against him and his clients.

These acts of complainant Balaoing run counter to the explicit mandate of the Code of Professional Responsibility, to wit:

CANON 11 - A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

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Rule 11.03 - A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.

Rule 11.04 - A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality

to the case.

We have painstakingly reviewed the records of these cases and find the present administrative complaints of Atty. Balaoing against Judge Calderon, Jr. and his OIC Leonor Maniago, and against Judge Maliwanag, just as frivolous and baseless as the previous ones. Like before, his present complaints are based on his personal interpretation of the law and not on material allegations of fact, substantiated by solid evidence. This We cannot countenance.

Complainant Balaoing's wanton disregard of Our stern warning not to again file baseless and frivolous complaints which only clog the already full dockets of this Court instead of serve the ends of justice, and his adamant refusal to abide by the above-quoted provisions of the Code of Professional Responsibility which serve to regulate a lawyer's conduct in this jurisdiction, have shown complainant Balaoing's unfitness to hold the license to practice law. The Philippines abounds in lawyers. But as Justice Malcolm puts it, "the Philippines do not need so-called lawyers who x x x have no ethical standards, and who are a disgrace to a great and noble profession. x x x (F)or what is needed in the Philippines is not a greater quantity, but a finer quality, of professional men and women, x x x who have a sincere understanding of the high requirements of the legal profession x x x." [12] Complainant Balaoing has utterly failed to live up to the duties and responsibilities of a member of the legal profession.

WHEREFORE, premises considered, the administrative complaints are hereby DISMISSED for lack of merit. Complainant Eduardo R. Balaoing is hereby DISBARRED and his name is ordered STRICKEN from the Roll of Attorneys. Let a copy of this decision be furnished to the Bar Confidant and the Integrated Bar of the Philippines and spread on the personal records of complainant. This decision is immediately executory.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, and Quiason, JJ., concur.

[1] Atty. Eduardo R. Balaoing v. Hon. Jaime Dojillo as Judge of Municipal Trial Court in Cities, Olongapo City, et al., A.M. No. MTJ-89-268, Resolution En Banc, December 4, 1990.

[2] Eduardo R. Balaoing vs. Judge Santiago Maliwanag, RTC, Branch 71, Iba Zambales and Clerk of Court Alberto Ariño, Sr., Office of the Clerk of Court, RTC, Iba Zambales, A.M. No. RTJ-89-330, Resolution En Banc, December 4, 1990.

[3] Rollo, p. 69.

[4] Report of the Office of the Court Administrator, pp. 1-2.

[5] Rollo, p. 429.

[6] Rollo, p. 1376.

[7] Comment, pp. 13-14.

[8] Rollo, p. 1375.

[9] Memorandum for Hon. Marcelo B. Fernan Re: Administrative Matter No. R-676-RTJ, p. 3.

[10] Administrative Matter Mo. RTC-88, 237, November 7, 1989, En Banc, Minute Resolution.

[11] Canons of Professional Ethics, II, No. 15 par. 3.

[12] G. MALCOLM, LEGAL AND JUDICIAL ETHICS 5 (1949).

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