

**LT. LAMBERTO P. VILLAFLOR, COMPLAINANT, VS. ALVIN T. SARITA, RESPONDENT.***AC CBD No. 471. June 10, 1999*

Ponente: KAPUNAN, J.

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This administrative case originated from a sworn affidavit-complaint[1] dated 14 March 1997, filed before the Integrated Bar of the Philippines ("IBP"), Commission on Bar Discipline, by Lt. Lamberto P. Villaflor seeking the disbarment of Atty. Alvin T. Sarita for disregarding the Temporary Restraining Order ("TRO") issued by the Court of Appeals in relation to the case entitled "Lamberto Villaflor vs. Biyaya Corporation, et al." [2] now pending with the same court.

Respondent Atty. Alvin T. Sarita is the counsel of Biyaya Corporation, the plaintiff in the ejectment case[3] filed against complainant Lt. Lamberto P. Villaflor before the Metropolitan Trial Court, Branch 53, of Kalookan City. Metropolitan Trial Court Judge Romanito A. Amatong decided the ejectment case in favor of Biyaya Corporation. Complainant appealed this decision to the Regional Trial Court of Kalookan City, Branch 131, [4] which affirmed the decision of the MTC. Not satisfied with the decision of the RTC, complainant brought the case on appeal before the Court of Appeals which was docketed as CA G.R No. 50623. [5] Losing no time, complainant also filed with the Court of Appeals an Urgent Ex-Parte Motion for the Issuance of a Temporary Restraining Order to prevent the impending demolition of his family home.

In a Resolution dated 27 December 1996, the Court of Appeals granted the prayer for a TRO, the dispositive portion of which reads as follows:

IN VIEW OF THE FOREGOING, let a restraining order forthwith issue against defendants-appellees including the public respondent Judge or Sheriff or any person under him from evicting and demolishing the family house of the movant, pending appeal. x x x

SO ORDERED.

The TRO was specifically addressed to, and personally served on, the Presiding Judge of RTC, Branch 131, Kalookan City; the Sheriff/Deputy Sheriff, RTC Branch 131, Kalookan City; Atty. Alvin T. Sarita; and Atty. Romeo F. Barza. [6] Despite the TRO issued by the Court of Appeals, respondent on 8 January 1997, filed before the MTC an Urgent Ex-Parte Motion for the Implementation and/or Enforcement of the Writ of Demolition [7] which had already been issued by the trial court as early as 12 August 1996. In his motion which is quoted hereunder, respondent stated the reason why he did not heed the TRO:

- That last January 7, 1997, plaintiff received a "Resolution" dated December 27, 1996 from the Thirteenth Division of the Court of Appeals granting the issuance of a Temporary Restraining Order (TRO).
- A close scrutiny of the afore-said "Resolution" including the "Notice of Resolution" and the "Temporary Restraining Order" show that it was directed to the Honorable Presiding Judge (Honorable Antonio J. Fineza)

of the Regional Trial Court of Caloocan City, Branch 131 and to the assigned (deputy) sheriff thereon and NOT to this Honorable Court and its deputy sheriff.

- The only conclusion therefrom is that the Honorable Metropolitan Trial Court is not restrained nor prohibited from enforcing and/or implementing its judicial process such as the subject writ of demolition.

**X X X**

On 9 January 1997, Judge Amatong granted the motion of respondent and issued an order[8] for the implementation of the writ of demolition. The demolition order was actually carried out the next day, or on 10 January 1997, by the deputy sheriff of the lower court.[9]

In response to the situation, complainant filed before the Court of Appeals an action for Indirect Contempt against respondent, Biyaya Corporation, Judge Amatong, And the Register of Deeds of Kalookan City.

The Court of Appeals in its Resolution dated 20 February 1997, found respondent and his co-defendants, Judge Amatong and Biyaya Corporation, guilty of indirect contempt. The dispositive portion of the resolution states:

WHEREFORE, in the light of the foregoing disquisitions, defendants-appellees Biyaya Corporation and MTC Judge Ramonito Amatong, and their counsel, Atty. Alvin Sarita are hereby adjudged GUILTY OF CONTEMPT OF COURT as they are hereby fined to pay the amount of P30,000.00 each, as per SC Administrative Circular No. 22-95, amending Section 6, Rule 71 of the Rules of Court, with a warning that repetition of the same or similar acts will be dealt with more severely.

Atty. Alvin Sarita is likewise REPRIMANDED for his contemptuous or improvident act despite receipt of Our Restraining Order, without prejudice to any further administrative sanction the injured party may seek in the proper forum.

Describing the unfortunate behavior of respondent, the Court of Appeals said:

Specifically, the Court is convinced that Atty. Alvin Sarita should answer for contempt of court for misleading if not deceiving the defendant-appellee MTC Judge into doing a precipitate act of implementing the writ of demolition of appellant's family house which is restrained by this Court, or for making false allegations that led his clients to commit a contemptuous act. (Cu Unjieng vs. Mitchell, 58 Phil. 476.) His misinterpretation of the resolution is no defense otherwise, all lawyers can effectively avoid restraining orders of the higher court by arguing around the bush.[10]

The Court of Appeals also granted the prayer for the issuance of a writ of preliminary mandatory injunction and ordered Biyaya Corporation and Judge Amatong to immediately restore the demolished family house of complainant or, return to him the estimated value of the same.

Thereafter, complainant filed a case for disbarment against respondent before the IBP Commission on Bar Discipline. The commissioner[11] assigned to investigate the case issued an order[12] dated 3 September 1997, directing respondent to file his answer or comment to the complaint. The period of time allotted to answer the complaint lapsed without respondent submitting his comment. On 8 December 1997, an order[13] was issued by the investigating commissioner requiring the parties to attend the hearing of the case on 10 February 1998. Respondent failed to appear therein. The hearing was postponed and reset to 6 March 1998. A notice of hearing[14] was sent to respondent but again he failed to attend the proceeding. After giving respondent enough opportunity to face the charges against him, which the latter did not avail, the case was submitted for resolution on 6 March 1998.[15]

The commissioner's report dated 10 September 1998, recommending the disbarment of Atty. Alvin T. Sarita

stated in part:

As clearly established in the resolution of the Honorable Thirteenth Division of the Court of Appeals in its disquisition on his culpability, Atty. Sarita is liable not only for deliberately misleading if not deceiving the defendant-appellee MTC Judge into violating the appellate court's restraining order, but also for making false allegations that led his clients to commit a contemptuous act;

As a member of the Bar, Atty. Sarita is mandated by his oath to obey the laws as well as the duly constituted authorities therein and not to do any falsehood nor consent to the doing of any in court;

In filing his urgent ex-parte motion to implement the writ of demolition issued against the residence of the complainant, Atty. Sarita was well-aware that what he was seeking to do was specifically restrained by the court of Appeals in no uncertain terms. Even if we were inclined, in a gesture of utmost liberality, to hold for Atty. Sarita's (sic) and resolve any doubts in his favor, we are simply overwhelmed by the thought that as a lawyer, Atty. Sarita knew quite well or must have known quite well that what he was asking for in his motion was violative not only of an order from the second highest court but more personally was violative of his own oath as a lawyer;

The findings of the Court of Appeals says it all. What all the more moves the undersigned to recommend the ultimate penalty of disbarment against Atty. Alvin T. Sarita is the evident, even palpable disdain, in which he clearly holds this Office in particular, and the Integrated Bar in general. Nowhere is this disdain more felt than in Atty. Sarita's deliberate and pointed refusal, not only to file an Answer to the complaint against him but also his unjustified refusal to appear before this Office despite repeated notices. It appears that Atty. Sarita is beyond caring for whatever sanctions this Office may recommend against him. Surely, he cannot turn his back on the possibility that the complainant's prayer may be granted given the seriousness of his (Sarita's) misdeeds. But then, considering that Atty. Sarita has no compunctions about misleading a judge of the Metropolitan Trial Court into disregarding and violating an order from the Court of Appeals, it is no surprise that he would ignore the Commission on Bar Discipline;

We recommend for the disbarment of Atty. Alvin T. Sarita.

In its 4 December 1998 Resolution, the IBP Board of Governors resolved to adopt the findings of the investigating commissioner, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution/Decision as Annex "A"; and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, Respondent Atty. Alvin T. Sarita is DISBARRED from the practice of law.

The facts and evidence obtaining in this case clearly reveal respondent's failure to live up to his duties as a member of the Bar in accordance with the Code of Professional Responsibility, the Lawyer's Oath and Section 20 (b), Rule 138 of the Rules of Court, thus warranting disciplinary sanction.

As an officer of the court, it is the duty of a lawyer to uphold the dignity and authority of the court, to which he owes fidelity, according to the oath he has taken. It is his foremost responsibility "to observe and maintain the respect due to the courts of justice and judicial officers." [16] The highest form of respect to the judicial authority is shown by a lawyer's obedience to court orders and processes.

Atty. Alvin T. Sarita committed an immeasurable disservice to the judicial system when he openly defied the TRO issued by the Court of Appeals. By such act, he deliberately disregarded or ignored his solemn oath to conduct himself as a lawyer according to the best of his knowledge and discretion, with all good fidelity to the courts. He neglected his duties to observe and maintain the respect due to the courts of justice and judicial officers, [17] and to act with candor, fairness and good faith to the courts. [18]

Moreover, even assuming ex gratia argumenti that the TRO issued by the Court of Appeals was ambiguous in its phraseology, respondent should have carried out the intent and the spirit of the said TRO rather than choose to be narrowly technical in interpreting and implementing the same. In *De Leon vs. Torres*,<sup>[19]</sup> this Court said:

We desire to call attention to the fact that courts' orders, however erroneous they may be, must be respected, especially by the bar or the lawyers who are themselves officers of the courts. Court orders are to be respected not because the judges who issue them should be respected, but because of the respect and consideration that should be extended to the judicial branch of the Government. This is absolutely essential if our Government is to be a government of laws and not of men. Respect must be had not because of the incumbents to the positions, but because of the authority that vests in them. Disrespect to judicial incumbents is disrespect to that branch of the Government to which they belong, as well as to the State which has instituted the judicial system.

Not only did respondent disobey the order of the Court of Appeals, he also misled the trial court judge into issuing the order to implement the writ of demolition which led to the destruction of the family home of complainant. In doing so, respondent violated his oath of office and Canon 10, Rule 10.01 of the Code of Professional Responsibility which provides that "a lawyer shall not do any falsehood nor consent to the doing of any in court." Surely, such conduct of respondent is starkly unbecoming of an officer of the court.

Respondent's behavior also exhibited his reckless and unfeeling attitude towards the complainant. By disobeying the TRO issued by the Court of Appeals, he inflicted deep physical and moral injury upon complainant and his family by making them homeless. Obviously, it did not matter to him whether complainant and his family would still have a place to stay as long as he won the case for his client. We would like to emphasize that a lawyer's responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions against the other party.<sup>[20]</sup> Respondent failed to live up to this expectation.

We find the complaint against respondent fully substantiated by the evidence. However, we believe that the penalty of disbarment imposed by the Board of Governors of the Integrated Bar of the Philippines is too severe and, hereby reduce it to suspension for two (2) years from the practice of law.<sup>[21]</sup>

ACCORDINGLY, respondent Atty. Alvin T. Sarita is hereby **SUSPENDED** for two (2) years from the practice of law and from the enjoyment of all rights and privileges appurtenant to membership in the Philippine Bar, effective immediately.

Let copies of this Resolution be furnished the Bar Confidant, the Integrated Bar of the Philippines and all courts throughout the country.

### **SO ORDERED.**

Davide, Jr., C.J., Romero, Bellosillo, Melo, Puno, Vitug, Mendoza, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.  
Panganiban, J., on leave.

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[1] Records, p. 4.

[2] *Lamberto Villaflor vs. Biyaya Corporation*, et al.

[3] *Biyaya Corporation vs. Lamberto Villaflor*, Civil Case No. 20555.

[4] Presided by Judge Antonio J. Fineza.

[5] *Lamberto Villaflor vs. Biyaya Corporation*, et al., CA-G.R. CV No. 50623.

- [6] Records, Annex B, p. 32.
- [7]Records, Annex C, p. 34.
- [8] Records, Annex D, p. 37.
- [9]Commissioner's Report, p. 3.
- [10] Records, p. 27.
- [11] Renato G. Cunanan.
- [12]Records, p. 42.
- [13]Id., at 50.
- [14]Id., at 52.
- [15] Id., at. 54.
- [16]Section 20 (b), Rule 138, Rules of Court.
- [17] Canon 11, Code of Professional Responsibility.
- [18] Canon 10, Code of Professional Responsibility.
- [19] 99 Phil. 462, 466 (1956).
- [20] Marcelo v. Javier, 214 SCRA 1, 15 (1992).
- [21] Five Justices voted to sustain the penalty of disbarment.

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