

**EPIFANIA Q. BANTOLO, COMPLAINANT, VS. ATTY. EGMEDIO B. CASTILLON, JR., RESPONDENT.***ADM. CASE NO. 6589. December 19, 2005*

Ponente: TINGA, J.

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In a letter-complaint to the Integrated Bar of the Philippines (IBP) dated 02 October 1997,[1] Epifania Q. Bantolo charged Atty. Egmedio B. Castillon, Sr. of violating the lawyer's oath and Section 20 of Rule 138 of the Rules of Court for having (i) wittingly or willingly performed, promoted, or sued any groundless, false or unlawful suit, and or giving aid or consent to the same; (ii) delayed the just execution of the suit without legal or justifiable cause and employing illegal means and unlawful force to do so; (iii) blatantly showed disrespect to the Regional Trial Court by disobeying its lawful orders; and (iv) for employing unlawful and illegal means to attain his ends.

According to complainant, respondent is the lawyer and one of the defendants in a case involving a parcel of land in Valderrama, Antique.[2] The case was decided in favor of the complainant and her co-plaintiffs, and thereafter, a writ of execution was issued, by virtue of which, defendants were ejected from the property. However, respondents, with his co-defendants subsequently entered the disputed property and harvested the palay planted therein.[3] Plaintiffs were prompted to move for defendants to be declared in contempt of court because of their "open defiance and willful disobedience to the lawful orders of the court, which were abetted by the acts of Atty. Egmedio Castillon who is an officer of the court".[4] On 25 January 1991, the trial court declared Atty. Castillon and his co-defendants guilty of indirect contempt of court, with the penalty of one month imprisonment and fine.[5] Subsequently, on 26 July 1994, the Court of Appeals affirmed the decision of the trial court, with the modification that instead of imprisonment, defendants were ordered to pay a fine of P1,000.00 each.[6]

In his Answer to Complaint dated 02 March 1998, respondent denied complainant's allegations and claimed that said complaint was a form of harassment.[7] Hearings were thereafter scheduled but were cancelled and reset due to the unavailability of the complainant. Finally, on 09 December 1998, a hearing for the reception of complainant's evidence was conducted.[8] While notices were subsequently sent to respondent setting the case for reception of his evidence, no such hearing pushed through due to respondent's failure to inform the IBP of his new office address. Thus, respondent was deemed to have waived his right to present evidence.[9]

In the Report and Recommendation ("Report") dated 17 March 2004, the investigating commissioner, Atty. Rafael Antonio M. Santos, found that complainant failed to prove that respondent's actions, with respect to his unsuccessful defense of the case were not within the bounds of the law. Moreover, that respondent lost his case in the trial court does not necessarily support the charge of "willingly promoting or ruining any groundless, false or unlawful suit or giving aid, or consenting to the same," [10] he added. Thus, according to the IBP, the only remaining issue to be resolved is respondent's liability, if any, for his contumacious acts, as found by the trial court and the Court of Appeals.[11]

Recognizing that the findings of the trial court and the appellate court with respect to respondent's contumacious

acts as final and conclusive, it was found that respondent committed an act which constitutes a breach of his sworn promise to "obey the laws as well as the legal orders of the duly constituted authorities." In *Zaldiar v. The Honorable Sandiganbayan*,<sup>[12]</sup> it was held that the power to discipline a member of the Bar and the power to cite him for contempt are not mutually exclusive but are concurrent. Furthermore, the Report noted respondent's attempts to thwart the instant disbarment proceedings, to wit: i) attempt to mislead the Commission on Bar Discipline by representing that the proceedings relative to the contempt charges against him are still pending when in fact they had already been terminated; ii) placing too much emphasis on the alleged lack of personality of the complainant to file the disbarment complaint; and iii) failure to notify the Commission of his change of address.<sup>[13]</sup>

Finding however, that the penalty of disbarment would be reasonable under the circumstances, the Commission recommended instead the penalty of suspension for one month.<sup>[14]</sup> As explained in the Report:

A close examination of the facts of this case reveals that the basis of the act for which the court found to be contumacious is a claim of ownership over the subject property, and thus arose from an emotional attachment to the property which they had possessed prior to their dispossession as a consequence of the decision in Civil Case No. 1345. Respondent's subsequent acts, however, including those which were found to be contumacious, as well as his actuations in the instant case, merit disciplinary sanctions, for which is recommended that respondent be suspended for one (1) month.<sup>[15]</sup>

On 30 July 2004, the IBP passed a resolution adopting the Report and Recommendation, to wit:

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RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that respondent has been found by both the Trial Court and the Court of Appeals guilty of indirect contempt for disobeying the writ of execution and for attempting to mislead the Commission into believing that the contempt charge is still pending by submitting an Order of the trial court which pertains to a second contempt charge, Atty. Egmedio B. Castillon, Sr. is hereby SUSPENDED from the practice of law for one (1) month.

The findings and recommendation of the IBP are well-taken.

Lawyers are particularly called upon to obey court orders and processes, and this deference is underscored by the fact that willful disregard thereof may subject the lawyer not only to punishment for contempt but to disciplinary sanctions as well.<sup>[16]</sup> Such is the situation in the instant case. We need not delve into the factual findings of the trial court and the Court of Appeals on the contempt case against respondents. Suffice it to say that respondent lawyer's commission of the contumacious acts have been shown and proven, and eventually punished by the lower courts.

A lawyer is first and foremost an officer of the court. Thus, while he owes his entire devotion to the interest and causes of his client he must ensure that he acts within the bounds of reason and common sense, always aware that he is an instrument of truth and justice. More importantly, as an officer of the court and its indispensable partner in the sacred task of administering justice, graver responsibility is imposed upon a lawyer than any other to uphold the integrity of the courts<sup>[17]</sup> and to show respect to its processes. Thus, any act on his part which tends visibly to obstruct, pervert or impede and degrade the administration of justice constitutes professional

misconduct calling for the exercise of disciplinary action against him.[18]

Respondent's defiance of the writ of execution is a brazen display of disrespect of the very system which he has sworn to support. Likewise, his various attempts to delay and address issues inconsequential to the disbarment proceedings had necessarily caused delay, and even threatened to obstruct the investigation being conducted by the IBP.

Nevertheless, the supreme penalty of disbarment is not proper in the instant case. The rule is that disbarment is meted out only in clear cases of misconduct that seriously affect the standing and character of the lawyer as an officer of the court. While the Court will not hesitate to remove an erring lawyer from the esteemed brotherhood of lawyers when the evidence calls for it, it will also not disbar him where a lesser penalty will suffice to accomplish the desired end.[19] In the case of respondent, the Court finds that a month's suspension from the practice of law will provide him with enough time to purge himself of his misconduct and will give him the opportunity to retrace his steps back to the virtuous path of the legal profession.

WHEREFORE, respondent Atty. Egmedio B. Castillon is found GUILTY of gross misconduct and is SUSPENDED from the practice of law for a period of one (1) month with a warning that a repetition of the same or similar act will be dealt with more severely. Respondent's suspension is effective upon notice of this decision. Let notice of this decision be spread in respondent's record as an attorney in this Court, and notice of the same served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all the courts concerned.

### **SO ORDERED.**

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp.1-2.

[2] Gertrudes Bantolo, et al. v. Coleta Castillon, et al., Civil Case No. 1345, RTC Antique, Branch 10.

[3] Rollo, p. 1.

[4] Id, p. 2.

[5] Id, pp. 7-13.

[6] Id, pp. 62-75.

[7] Id, pp. 17-19.

[8] Id, pp. 111-155.

[9] Id, p. 168.

[10] Id, pp. 168-169.

[11] Id, p. 170.

[12] Nos. L-79690-707, 7 October 1988, 116 SCRA 316,331.

[13] Rollo, p. 173-175..

[14] Id, p. 175.

[15] Id. at 176.

[16] AGPALO, THE CODE OF PROFESSIONAL RESPONSIBILITY (First Edition), p. 116, citing *In re Macdougall*, 3 Phil. 70 (1903).

[17] *Choa v. Judge Chiongson*, 329 Phil. 270, 276 (1996).

[18] *Surpa* note 12 at 332.

[19] *Garcia v. Manuel*, Adm. Case No. 5811, 20 January 2003, 395 SCRA 386, 392, citations omitted.

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