

## MAGDALENA EBERO, VIRGILIO EBERO, AND NATIVIDAD SAYSON, PLAINTIFFS,

Ponente: VELOSO, J.

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### VELOSO, J.:

The Compliance[1] dated July 17, 2014 to the Resolution[2] dated July 8, 2014, filed by Evelyn A. Tanael, Romelias A. Barias and Amparo Colmenar (“defendants-appellees”), through counsel, is NOTED.

Meanwhile, finding merit in the allegations of the instant Motion to Dismiss the Appeal and to Expunge Appellant's Brief from the Records for Lack of Compliance with the MCLE Rules,[3] dated January 11, 2014 filed by the same defendants-appellees, viz.:

“(1)

Previously, Atty. Benjamin R.S. Rosales, Counsel for Plaintiff-Appellant Virgilio Ebero filed a 'Notice of Appeal' dated March 2, 2013 with the court a quo --- Regional Trial Court of Makati, Branch 146 – wherein he stated his professional details as follows –

(Sgd.) BENJAMIN R.S. ROSALES  
Counsel for the Petitioners-Appellants  
L20, B4 Dona Isidora St., Don Antonio Heights  
1127 Brgy. Holy Spirit, Quezon City  
PTR No. 6166008 -6/21/12 – Quezon City  
IBP No. 79102 – 6/22/12 – Quezon City  
MCLEIII Compliance Cert. No. 0014998  
issued on April 19, 2010  
Attorney's Roll No. 280028

xxx

(2)

Sometime thereafter, the court a quo forwarded the records of the instant case to this Honorable Court;

(3)

Subsequently, the herein Defendants-Appellees by counsel received the Appellant's Brief dated December 6, 2013 filed by Plaintiff-appellant Virgilio Ebero with this Court through his counsel, Atty. Benjamin R.S. Rosales;

(4)

After the prayer for relief, Atty. Rosales, stated his address, PTR, IBP No., MCLE Certificate of Compliance No. and Attorney's Roll as follows:

(Sgd.) BENJAMIN R.S. ROSALES  
Counsel for the Appellant  
L20, B4 Dona Isidora St., Don Antonio Heights  
Brgy. Holy Spirit, Quezon City  
PTR No. 7660008-06/21/13-Quezon City  
IBP No. 891132-05/24/13-Pasig City  
MCLEIII Compliance Cert. No. 0014998  
Issued on April 19, 2010  
Attorney's Roll No. 280028

xxx

(5)

Noticeable in the foregoing details is what appears to be the 'late compliance' by Atty. R. S. Rosales with Bar Matter No. 850, the Rule on Mandatory Continuing Legal Education (MCLE). An inquiry with the IBP MCLE Office reveals, however, that Atty. Rosales has never complied with Bar Matter No. 850 and Bar Matter No. 1922 since the time that the same was adopted and implemented by the Supreme Court. This is shown in the Certification issued by the Supreme Court stating that Atty. Benjamin R. S. Rosales was never issued a MCLE Certificate for the first, second, third and fourth compliance periods.

Copy of the certification issued by the Supreme Court through Atty. Jesusa Dean D. Reyes dated 07 January 2014 is hereto attached as Annex 'B' and made integral part hereof;

(6)

Although his total disregard and lack of compliance with the MCLE Rules is already appalling, what is more disturbing is the fraud and deceit that Atty. Rosales has employed not only on the parties to this case but also on his fellow lawyers, this Honorable Court, the Supreme Court and all trial courts where he has been appearing and filing pleadings for the past years, appearing and filing pleadings for the past years, making it appear that he has been issued a MCLE Compliance Certificate for the past three (3) Compliance periods when in fact he has never complied(;

(7)

As every practicing lawyer knows, Bar Matter No. 1922 requires practicing members of the Philippine Bar to indicate in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period. 'Failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records.'

(8)

In the case at bar, Atty. Benjamin R.S. Rosales not only falsely and maliciously failed to disclose that he failed/refused to comply with the MCLE Rules but also falsely and maliciously represented a MCLE Certificate of Compliance No. as his own, which however, was not the case, in blatant violation of the MCLE Rules. For this reason, all pleadings that he filed in court since the time that the MCLE Rules were implemented, including the Notice of Appeal dated March 2, 2013 which he filed with the court a quo should be deemed as mere scraps of paper and should be expunged from the records.

(9)

In view of the above, Plaintiff's Appellant's Brief should be expunged from the records and his appeal dismissed for lack of compliance with the MCLE Rules;

(10)

Further, it is also prayed that pending the resolution of the instant motion, the reglementary period for the filing of appellee's brief be suspended.” (emphasis and underscoring supplied)

and considering further that the allegations are well substantiated,[4] the Court is left with no recourse but to GRANT the subject motion.

More so that Atty. Benjamin Rosales boldly admitted:

“1. At the outset, the undersigned most humbly and sincerely apologizes to this Honorable Court and to opposing counsels for his brazen, cavalier, open and misleading attitude in fabricating his MCLE Compliance Certificate Numbers and his failure to undertake the Mandatory Continuing Legal Education (MCLE).”[5] (emphasis supplied)

That more importantly, Bar Matter No. 1922 requires practicing members of the Bar to indicate in all pleadings filed before the courts or quasi-judicial bodies, the number and date of issue of their MCLE Certificate of Compliance or Certificate of Exemption, as may be applicable, for the immediately preceding compliance period, and failure to disclose the required information would cause the dismissal of the case and the expunction of the pleadings from the records, the Court has no choice but to dismiss the instant appeal.

ACCORDINGLY, the Appellant's Brief is hereby ordered EXPUNGED from the records. The instant appeal is consequently DISMISSED.

**SO ORDERED.**

Lantion, and Antonio-Valenzuela, JJ., concur.

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[1] Rollo, p. 160.

[2] Ibid., p. 157.

[3] Ibid., p. 126.

[4] Rollo, p. 164.

[5] Ibid., p. 137.

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