

JOSEPH C. CHUA, COMPLAINANT, VS. ATTY. ARTURO M. DE CASTRO, RESPONDENT.

A.C. No. 10671. December 05, 2016

Ponente: REYES, J.

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REYES, J.:

Before the Court is a Motion for Reconsideration[1] (MR) filed by respondent Atty. Arturo M. De Castro (Atty. De Castro) of the Court's Resolution[2] dated November 25, 2015 which found him liable for violation of the Code of Professional Responsibility (CPR) and was meted out the penalty of suspension from the practice of law for a period of three (3) months.

The Court recalls the antecedents that brought the instant case to the fore as follows:

Chua alleged that his company, Nemar Computer Resources Corp. (NCRC) filed a collection case against Dr. Concepcion Aguila Memorial College, represented by its counsel, Atty. De Castro.

According to Chua, since the filing of the collection case on June 15, 2006, it took more than five (5) years to present one witness of NCRC due to Atty. De Castro's propensity to seek postponements of agreed hearing dates for unmeritorious excuses. Atty. De Castro's flimsy excuses would vary from simple absence without notice, to claims of alleged ailment unbacked by any medical certificates, to claims of not being ready despite sufficient time given to prepare, to the sending of a representative lawyer who would profess non-knowledge of the case to seek continuance, to a plea for the postponement without providing any reason therefore.

x x x x

For his defense, Atty. De Castro countered that his pleas for continuance and resetting were based on valid grounds. Also, he pointed out that most of the resetting were [sic] without the objection of the counsel for NCRC, and that, certain resettings were even at the instance of the latter.

On April 10, 2013, the CBD submitted its Report and Recommendation addressing the charge against Atty. De Castro. The CBD found Atty. De Castro to have violated Canons 10, 11, 12 and 13 of the [CPR] when he deterred the speedy and efficient administration of justice by deliberately employing delaying tactics in Civil Case No. 7939. The CBD recommended that he be suspended from the practice of law for a period of six (6) months from notice, with a warning that a similar lapse in the future may warrant more severe sanctions.

On April 16, 2013, the IBP Board of Governors issued a Resolution adopting and approving with modification the Report and Recommendation of the CBD. The Board of Governors modified the penalty meted out to [Atty. De Castro] [by] reducing the period of suspension from six (6) months to three (3) months. Both Chua and Atty. De Castro filed their respective motions for reconsideration dated August 28, 2013 and August 23, 2013 but the same were denied in a Resolution dated May 3, 2014.[3] (Citations omitted)

On November 25, 2015, the Court affirmed the recommendation of the Integrated Bar of the Philippines (IBP) Board of Governors. The Court held that Atty. De Castro violated his oath of office in his handling of the collection case filed against his client.

Undaunted with the Court's ruling, Atty. De Castro filed the present motion for reconsideration alleging that the findings of malice, bad faith, and deliberate intent on his part were merely based on the Summary of Hearings and Reports of the Court, a self-serving and misleading evidence submitted by the complainant, Joseph C. Chua (Chua). He argues that it is not an official document, but merely a narration of the accusations of Chua. He strongly disputes the allegations of Chua averring that the long delay in the disposition of the collection case before the Regional Trial Court (RTC) was due to the several postponements which were found meritorious by the RTC. In fact, some postponements were at the motions and at the instance of Chua's counsel.[4]

Moreover, Atty. De Castro asseverates that he will soon be a septuagenarian. He has been active in the academe, teaching law subjects and preparing bar candidates for the Bar examinations. His record as a lawyer is untarnished. He states that if indeed he has committed professional lapses in his schedules, these were not deliberate, dishonest, malicious and with no ill motives.[5]

On June 1, 2016, the Court issued a Resolution[6] directing Chua to comment on the motion within 10 days from receipt thereof.

In his Comment,[7] Chua states that the motion for reconsideration is just a rehash of Atty. De Castro's previous answers and motion to the Commission on Bar Discipline of the IBP, and is awash with lies. He insists that Atty. De Castro's unethical practice of law calls for his disbarment permanently.[8]

Ruling of the Court

After a second hard look at the facts of the case, relevant laws, and jurisprudence, the Court finds merit in the motion for reconsideration.

There is no debate that lawyers are instruments of the Court in the administration of justice throughout the country. Accordingly, they are expected to maintain not only legal proficiency but also a high standard of ethics, honesty, integrity and fair dealing. Only in this way will the people's faith and confidence in the judicial system be ensured.[9]

A lawyer indubitably owes fidelity to the cause of his clients, and is thus expected to serve the client with competence and utmost diligence. He is enabled to utilize every honorable means to defend the cause of his client and secure what is due the latter. Under the CPR, every lawyer is required to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice. Yet, this obligation is not without limitations. There are professional rules that define the limits of a lawyer's zeal for the client's benefit. The CPR obliges him to employ only fair and honest means to attain the lawful objectives of the client.[10] The lawyer must then strike an even balance between his fidelity to the Court and the legal profession on one hand, and his commitment to the cause of his client, on the other.

The Court has the authority to impose the proper disciplinary sanctions on any member of the Bar found culpable for misconduct. In line with its authority, however, the Court has the responsibility to protect the reputation of any member of the Bar who is wrongfully or improperly charged. Towards this end, the burden of proving unethical conduct in every case of disbarment or other administrative sanction rests on the complainant, who is then bound to establish the charge by clear, convincing and satisfactory evidence before the Court wields its disciplinary power.

Here, Atty. De Castro professed only good intentions from the very moment he accepted to defend, allegedly pro bono, the Dr. Concepcion Aguila Memorial College of Batangas City, his alma mater, in Civil Case No. 7939. He initially moved for and obtained the dismissal of the complaint, but such dismissal was eventually reversed on motion of the plaintiff. Thereafter, according to Chua, Atty. De Castro caused various postponements and delays

resulting in taking more than five (5) years to present one witness of Nemar Computer Resources Corporation.[11]

Upon careful consideration of the circumstances, the Court finds that the delay in the disposition of Civil Case No. 7939 was not solely attributable to Atty. De Castro. The trial court itself, either at its own initiative or at the instance of Chua's counsel, allowed the delays. Consequently, if not all of such delays were attributable to Atty: De Castro's doing, it would be unfair to hold him solely responsible for the delays caused in the case. Moreover, it appears that the trial court granted Atty. De Castro's several motions for resetting of the trial; and that at no time did the trial court sanction or cite him for contempt of court for abuse on account of such motions. Verily, if his explanations for whatever delays he might have caused were accepted by the trial court without any reservations or conditions, there would be no legitimate grievance to be justly raised against him on the matter.

Initially, the IBP and the Court similarly found Atty. De Castro guilty of professional misconduct. The basis for the finding was Rule 1.03 and Rule 10.3 of the CPR, to wit:

Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

Rule 10.3 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

While Atty. De Castro's repeated requests for resetting and postponement of the trial of the case may be considered as contemptuous if there was a showing of abuse on his part, the Court, however, finds that Chua failed to show that Atty. De Castro was indeed moved to cause delays by malice, or dishonesty, or deceit, or grave misconduct as to warrant a finding of administrative liability against him. The operative phrase for causing delay in any suit or proceeding under Rule 1.03 is "for any corrupt motive or interest." Considering that this matter concerned Atty. De Castro's state of mind, it absolutely behooved Chua to present sufficient evidence of the overt acts committed by Atty. De Castro that demonstrated his having deliberately intended thereby to do wrong or to cause damage to him and his business. That demonstration, however, was not made by Chua.

On the contrary, there was a clear indication that the postponements of the hearing at Atty. De Castro's instance were mostly sanctioned by the trial court, which negated or foreclosed malice, or dishonesty, or deceit, or grave misconduct. The motions to re-set were based on grounds such as the possibility for an amicable settlement,[12] trips abroad for an emergency medical treatment,[13] and to attend a son's graduation from the University of California,[14] which are not flimsy excuses.

There was a delay in the disposition of the case caused by the issue of jurisdiction raised by Atty. De Castro in the lower court wherein he filed a Motion to Dismiss on the ground that the principal amount claimed is only P271,000.00 which falls within the jurisdiction of the Municipal Trial Court.[15] Initially, the RTC dismissed the case[16] which apparently, came only after a turnover of three judges.[17] On MR, however, the RTC reversed the dismissal after considering accumulated interest. This matter is still the subject of MR.[18] Although the same contributed to the delay, the same was exercised by Atty. De Castro in good faith and in keeping with his duty to represent his client with zeal within the bounds of the law.[19] Clearly, Atty. De Castro was merely advocating for his client's interest.

Notwithstanding the absence of malice, dishonesty, or ill motive, it is good to remind Atty. De Castro that as a member of the Bar, he is expected to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice and to be more circumspect whenever seeking the postponements of cases.[20] The Court reiterates what was stated in *Miwa v. Atty. Medina*,[21] that members of the Bar are exhorted:

[T]o handle only as many cases as they can efficiently handle. For it is not enough that a practitioner is qualified to handle a legal matter, he is also required to prepare adequately and give the appropriate attention to his legal work. A lawyer owes entire devotion to the cause of his client, warmth and zeal in the defense and maintenance of his rights, and the exertion of his learning and utmost ability that nothing can be taken or withheld from his client except in accordance with law. x x x.[22] (Citation omitted)

Violations of the Rules cannot be countenanced. Also, the Court will not hesitate to refrain from imposing the appropriate penalties in the presence of mitigating factors, such as the respondent's length of service as a member of the Bar, acknowledgment of his infraction, voluntary offer of conciliation to the complainant, unblemished career, humanitarian and equitable considerations, and respondents advanced age, among other things, which have varying significance in the Court's determination of the imposable penalty. It, may likewise be stated that the power to discipline should be exercised on the preservative and not on the vindictive principle.[23]

Considering the Court's earlier discussion that the responsibility for the delays caused in the case did not fall exclusively on the shoulders of Atty. De Castro, punishing him with suspension from the practice of law for three (3) months would be disproportionate to the acts imputable to him. More so, the Court notes that the trial court itself did not consider his responsibility for the delays sanctionable as contempt of court. Thus, after a careful consideration of Atty. De Castro's MR, the Court finds it proper for a modification of the assailed Resolution.

WHEREFORE, premises considered, the Motion for Reconsideration filed by respondent Atty. Arturo M. De Castro is hereby GRANTED. The Court's Resolution dated November 25, 2015 is SET ASIDE. Atty. Arturo M. De Castro is ADMONISHED to exercise the necessary prudence required in the practice of his legal profession in his representation of the defendant in Civil Case No. 7939 in the Regional Trial Court of Batangas City.

SO ORDERED.

Velasco, Jr., (Chairperson), Bersamin,[*] and Perez, JJ., concur.
Peralta, J., on official leave.

[*] Designated Acting Member per Special Order No. 2289 dated November 16, 2015 vice Associate Justice Francis H. Jardeleza.

[1] Rollo, Vol. II, pp. 608-622.

[2] Id. at 603-607.

[3] Id. at 604-605.

[4] Id. at 614.

[5] Id. at 610.

[6] Id. at 641.

[7] Id. at 646-662.

[8] Id. at 661.

[9] Lao v. Atty. Medel, 453 Phil. 115, 120 (2003).

[10] Avida Land Corporation (Formerly Laguna Properties Holdings, Inc.) v. Atty. Al C. Argosino, A.C. No. 7437, August 17, 2016.

[11] Rollo, Vol. I, p. 15.

[12] Id. at 35.

[13] Id. at 85.

[14] Id. at 88.

[15] Rollo, Vol. II, p. 610.

[16] Resolution dated August 27, 2015; id. at 624-628.

[17] Id. at 610.

[18] Id.

[19] CPR, Canon 19.

[20] CPR, Canon 12.

[21] 458 Phil. 920 (2003).

[22] Id. at 928

[23] Villavicencio v. Lukban, 39 Phil. 778, 798 (1919).

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