

CORAZON E. RECIO, COMPLAINANT, VS. ATTYS. ULPIANO S. MADAMBA AND MANOLITO M. APOSTOL, JR., RESPONDENTS.*A.C. No. 12197 (Formerly CBD Case No. 12-3355). June 16, 2021*

Ponente: INTING, J.

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The Court resolves the Complaint[1] filed by Corazon E. Recio (Recio) against Atty. Ulpiano S. Madamba (Atty. Madamba) and Atty. Manolito M. Apostol, Jr. (collectively, respondents) before the Integrated Bar of the Philippines (IBP) for alleged abuse of court processes in violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR).

The Antecedents

On July 26, 2004, Recio filed a Complaint[2] for illegal dismissal before the Labor Arbiter (LA) against Amalgamated Motors Philippines, Inc. (AMPI) who was a client of respondents at that time.

On February 23, 2006, the LA dismissed the Complaint for lack of merit.[3] The LA ruled that there was no constructive dismissal in Recio's case because her transfer of office from Quezon City to San Fernando, Pampanga was done by AMPI in good faith in order to serve its corporate needs.[4]

Aggrieved, Recio appealed before the National Labor Relations Commission (NLRC).

In its Decision[5] dated March 25, 2009, the NLRC reversed and set aside the LA's ruling. It found AMPI liable for constructive dismissal in view of: (1) Recio's demotion from transport secretary to clerical staff with no valid reason, and (2) her sudden reassignment to San Fernando, Pampanga despite having served the company in its Manila office for 19 years.[6] The NLRC further explained that under the circumstances, Recio's continued employment in AMPI had become impossible, unreasonable, or unlikely because of the company's vindictive actions against her for joining a labor union. Thus, the NLRC awarded Recio P767,542.82 representing her backwages and separation pay.[7]

Thereafter, respondents, as counsel for AMPI, filed a motion for reconsideration, but the NLRC denied the motion in its Resolution[8] dated July 31, 2009. As a consequence, respondents filed a Petition for Certiorari[9] under Rule 65 of the Rules of Court before the Court of Appeals (CA) assailing the NLRC Decision and Resolution. The case was docketed as CA-G.R. SP No. 110950.[10]

While the case was pending resolution with the CA, the NLRC issued an Entry of Judgment[11] dated November 25, 2009 stating that its Decision dated March 25, 2009 and Resolution dated July 31, 2009 had become final and executory on October 17, 2009. Thus, on January 4, 2010, Recio filed a Motion for Execution of the NLRC Decision and Resolution.[12] Despite respondents' opposition thereto, the LA granted the motion in an Order[13] dated February 1, 2010 and issued the corresponding Writ of Execution in favor of Recio.

Undeterred, respondents elevated the matter before the NLRC, arguing that the NLRC Decision and Resolution

cannot be the subject of an order of execution while AMPI's certiorari petition in CA-G.R. SP No. 110950 was still pending with the CA.[14] Moreover, respondents also filed a complaint for damages and injunction against Recio before the Regional Trial Court (RTC), alleging that she had committed wrongful acts when she insisted to implement the NLRC Decision and Resolution.[15]

In its Resolution[16] dated August 31, 2010, the NLRC dismissed the appeal for lack of merit. It pointed out that the Decision dated March 25, 2009 and the Resolution dated July 31, 2009 had already attained finality per the Entry of Judgment dated November 25, 2009. Moreover, the NLRC noted that the CA had not issued any order staying the execution of the judgment against AMPI in CA-G.R. SP No. 110950. Thus, it concluded that the LA did not commit an error in issuing the Writ of Execution in Recio's favor.[17]

Respondents moved for reconsideration, but the NLRC dismissed the motion in its Resolution[18] dated January 31, 2011 and thereafter issued the corresponding Entry of Judgment on March 7, 2011.[19]

Proceedings in CA-G.R. SP No. 110950

Meanwhile, the CA, in its Decision[20] dated July 9, 2010, affirmed the NLRC Decision dated March 25, 2009 and Resolution dated July 31, 2009 in toto. It agreed with the NLRC that Recio had been forced to quit or abandon her job by reason of AMPI's disfavor over her membership in a labor union that resulted not only in her demotion to a clerical position, but also her sudden reassignment in San Fernando, Pampanga.

Respondents filed a motion for reconsideration which the CA denied in its Resolution dated October 1, 2010. Consequently, on October 27, 2010, respondents filed a Petition for Review on Certiorari under Rule 45 of the Rules of Court with the Court assailing the CA Decision and Resolution. The case was docketed as G.R. No. 194035.[21]

In its Resolution[22] dated November 24, 2010, the Court denied the petition for lack of merit. It upheld the finding of the lower tribunals that Recio had been constructively dismissed by AMPI due to her membership in a labor union. It likewise denied with finality the motion for reconsideration filed by respondents in its Resolution dated March 7, 2011.[23] Notably, the Resolution dated November 24, 2010 had already become final and executory per the Entry of Judgment[24] dated March 15, 2011.

Proceedings after the finality of the Court's
Resolution in G.R. No. 194035

On September 30, 2010, Recio moved for the issuance of an alias writ of execution before the LA, citing the NLRC Resolution dated August 31, 2010.

In the Order[25] dated May 5, 2011, the LA granted Recio's motion and issued an Alias Writ of Execution in her favor. The LA pointed out that the NLRC ruling, which denied respondents' appeal regarding the issuance of the Writ of Execution, had already attained finality.[26] Thus, there was no longer any question as to whether the execution of the NLRC Decision dated March 25, 2009 and Resolution dated July 31, 2009 should proceed.

Still unperturbed, respondents once again appealed before the NLRC on May 17, 2011. The NLRC, however, denied the appeal in its Decision[27] dated November 16, 2011 as well as the motion for reconsideration filed by respondents in its Resolution[28] dated December 28, 2011.

On January 11, 2012, respondents filed a Petition for Certiorari[29] under Rule 65 of the Rules of Court with the CA challenging the NLRC Decision dated November 16, 2011 and Resolution dated December 28, 2011. The case was docketed as CA-G.R. SP No. 122848.

This prompted Recio to file the present disbarment complaint against respondents before the IBP. In her

complaint, Recio alleged that respondents had utilized their legal knowledge in order to unjustifiably delay the execution of the NLRC Decision dated March 25, 2009 awarding her backwages and separation pay of P767,542.82 which had long attained finality.[30]

For their part, respondents denied that they deliberately delayed the disposition of the subject case against AMPI and justified their actions by stating that they were duty-bound to support the cause of their client within the legal means provided under pertinent rules and in line with recent jurisprudence.[31]

The IBP Report and Recommendation

In his Report and Recommendation[32] dated June 7, 2013, the Investigating Commissioner found that respondents had glaringly abused and misused the legal processes in order to unduly delay the execution of the judgment in favor of Recio,[33] viz.:

The complainant Corazon E. Recio's repeated attempt[s] to execute the money judgment involving her backwages and separation pay, despite its finality, have been thwarted by the legal maneuverings and stratagem perpetrated by the respondents Attorneys Madamba and Apostol. The frivolous appeals to the NLRC of the orders of execution and the alias writ thereof, as well as the filing of multiple Petitions for Certiorari with the Court of Appeals which were consistently dismissed, should not be countenanced.[34]

Thus, the Investigating Commissioner recommended that respondents be suspended from the practice of law for six (6) months for violation of the Lawyer's Oath and Rule 10.03, Canon 10 and Rule 12.04, Canon 12 of the CPR.[35]

In its Resolution No. XXI-2014-650[36] dated September 27, 2014, the IBP Board of Governors adopted and approved the Investigating Commissioner's findings and recommendation to suspend respondents from the practice of law for six (6) months.

Respondents separately moved for reconsideration.[37] They likewise filed a Motion to Dismiss[38] together with Recio, citing a Compromise Agreement [With Waiver, Release, and Quitclaim][39] between the parties wherein they agreed to move for the dismissal of all pending cases between them.

However, in its Resolution No. XXIII-2017-037[40] dated August 31, 2017, the IBP Board of Governors resolved to deny the motions for reconsideration for lack of merit.

The Issue

The sole issue for the Court's resolution is whether respondents should be held administratively liable for their actions.

The Court's Ruling

The Court adopts the findings of fact of the IBP Board of Governors, but modifies its recommendation as to the proper penalty, taking into serious consideration the prevailing jurisprudence on the matter as well as the gravity of respondents' transgressions.

While it is true that lawyers are, by all means, given the autonomy to defend the cause of their clients with utmost zeal, this is not without reasonable limitations. After all, as members of the Bar, their first and primary duty, is not to secure the success of their clients, but to assist in the speedy and efficient administration of justice.[41]

In the case, it is clear that respondents' filing of multiple motions and cases before the LA, the NLRC, the RTC, the CA, and even the Court had been intended to delay the execution of the NLRC Decision dated March 25, 2009, which found respondents' client liable for constructive dismissal and awarded Recio backwages and

separation pay of P767,542.82.

As a matter of fact, the records show that respondents continued to block the execution of the NLRC Decision through various legal maneuverings despite the absence of any order from the CA staying the execution of the NLRC's final judgment; notwithstanding the two Entries of Judgment issued by the NLRC – the first pertaining to the finality of its Decision on the main case, and the second on the validity of the Writ of Execution issued by the LA.

To make matters worse, respondents proceeded with their strategy to delay the execution of the NLRC Decision even after the Court itself had ruled on the matter with finality in G.R. No. 194035 wherein it upheld the NLRC's award of backwages and separation pay in Recio's favor. To this end, respondents again questioned the LA's issuance of an Alias Writ of Execution before the NLRC and then with the CA via another certiorari petition in CA-G.R. SP No. 122848. This time, respondents argued that the NLRC Decision could not be executed despite its finality on account of a "supervening event" in the form of a supposed Notice to Work requiring Recio to report back to work.[42]

Notably, the CA, in its Decision dated October 30, 2012, dismissed the certiorari petition in view of the Court's final ruling in G.R. No. 194035, viz.:

No less than the Supreme Court has already put an end to this controversy that petitioners are still tenaciously resurrecting. Furthermore, the notice to report could hardly be considered newly[-]discovered evidence. In the first place, it was petitioner, through its responsible officer, which issued the same. It should have known its existence at the very date it was issued. To even argue that it merely discovered the issuance of a notice it itself sent on a later date is beyond belief. In addition, there was no proof that the same letter was received by private respondent. Even if submitted on time, the notice to report carries with it no weight for being self-serving.[43]

What is more disturbing though is the CA's conclusion that Atty. Madamba, whose signature appeared in the verification and certification of non-forum shopping, had filed the certiorari petition without the required authority from their client. For clarity and precision, the pertinent portion of the CA Decision is quoted below:

At the outset, we must agree with private respondent's observation that the person authorized by the Board of Directors of petitioner company to prepare, sign and file the instant petition for certiorari and other pleadings, papers and documents relative hereto, on its behalf, is a certain Genesis M. delos Reyes. However, in the petition's verification and certification of non-forum shopping, it was Atty. Ulpiano S. Madamba who signed it.

x x x x

In this case, Atty. Madamba was not specifically authorized by the board of directors to file the petition and to sign the certificate of non-forum shopping on behalf of petitioners. Neither AMPI nor Atty. Madamba himself explained the relationship of Mr. delos Reyes, the authorized person, with Atty. Madamba. There is no other conclusion but that Atty. Madamba was not authorized by AMPI to file the instant petition.[44] (Emphasis supplied.)

Based on these considerations, there is no question that respondents have made a mockery of the judicial system by abusing and misusing court processes in order to unduly delay the execution of a final judgment, in clear violation of the Lawyer's Oath which proscribes lawyers from delaying any man for money or malice, as well as Rule 1.03, Canon 1, Rule 10.03, Canon 10, and Rules 12.02 and 12.04, Canon 12 of the CPR which provide:

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

x x x x

Rule 10.03 — A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

x x x x

Rule 12.02 — A lawyer shall not file multiple actions arising from the same cause.

Rule 12.04 — A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

In so doing, respondents also breached their duties under Section 20, Rule 138 of the Rules of Court as follows:

SEC. 20. Duties of attorneys. — It is the duty of an attorney:

x x x

(c) To counsel or maintain such actions or proceedings only as appear to him to be just, and such defenses only as he believes to be honestly debatable under the law;

x x x

(g) Not to encourage either the commencement or the continuance of an action or proceeding, or delay any man's cause, from any corrupt motive or interest.

x x x

In their defense, respondents claim that the legal actions they have undertaken thus far in their client's behalf are in line with pertinent procedural rules as well as the latest pronouncements of the Court.[45] In particular, respondents insist that the NLRC Decision in this case was not immediately executory in view of the pendency of their certiorari petition with the CA.[46]

Respondents, however, could not be more wrong. After all, it is well settled that the NLRC has a ministerial duty to issue an entry of judgment unless a restraining order is issued by the CA.[47] In other words, the filing of a certiorari petition, by itself, will not stay the execution of an otherwise final judgment by the NLRC.[48] Here, there was no valid reason to delay the execution of the NLRC Decision because the CA never issued any restraining order to that effect in favor of respondents' client.

Besides, respondents' assertions do not justify why they continued to delay the execution of the NLRC Decision despite the finality of the Court's ruling in G.R. No. 194035. To recall, the LA issued its second order of execution of the NLRC Decision on May 5, 2011, or after the Court's Resolution dated November 24, 2010 in G.R. No. 194035 became final and executory. Still, respondents again challenged the execution of the judgment before the NLRC and the CA in a clear disregard of the Court's pronouncements in G.R. No. 194035.

By their own actions, respondents have demonstrated a lack of respect for the Court and its legal processes, which, in itself, is tantamount to willful disobedience of the lawful orders of the Supreme Court in violation of Canon 1 of the CPR, viz.:

CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

Given the unjustified delay in the execution of the NLRC Decision, it should come as no surprise that Recio eventually gave her consent to settle the labor dispute out of court as evidenced by the Compromise Agreement [With Waiver, Release and Quitclaim] dated October 3, 2013, wherein she agreed to receive the amount of P450,000.00 instead of the original monetary award totaling to P767,542.82 per the Entry of Judgment issued by

the Court dated November 24, 2010. This clearly shows that the dilatory tactics that respondents employed for several years in order to frustrate the execution of the NLRC Decision had actually worked to the detriment not just of Recio, but the legal profession and the judicial system as a whole.

In similar cases involving the abuse and misuse of court processes,[49] the Court has imposed the penalty of suspension from the practice of law against erring lawyers for a period ranging from six (6) months to two (2) years. In this case, the Court deems it proper to impose the penalty of suspension from the practice of law for one (1) year against respondents, in view of the multiplicity of motions and cases that they filed in order to unduly delay the execution of the NLRC judgment, their apparent lack of remorse for their actions, and the damage and prejudice they have caused the complainant.

WHEREFORE, the Court finds respondents Attys. Ulpiano S. Madamba and Manolito M. Apostol, Jr. GUILTY of violating the Lawyer's Oath as well as Rule 1.03, Canon 1, Rule 10.03, Canon 10, and Rules 12.02 and 2.04, Canon 12 of the Code of Professional Responsibility. They are hereby SUSPENDED from the practice of law for a period of one (1) year, effective upon their receipt of the Decision.

Attys. Ulpiano S. Madamba and Manolito M. Apostol, Jr. are DIRECTED to immediately file their manifestations to the Court stating that their suspension has started, copy furnished to all courts and quasi-judicial bodies when they have entered their appearances as counsel.

Let copies of this Decision be furnished the Office of the Bar Confidant to be appended to the personal records of Attys. Ulpiano S. Madamba and Manolito M. Apostol, Jr., and the Office of the Court Administrator and the Integrated Bar of the Philippines for their information and guidance.

SO ORDERED.

Leonen (Chairperson), Delos Santos, and J. Lopez, JJ., concur.
Hernando, J., on official leave.

[1] Rollo, pp. 2-4.

[2] Id. at 129.

[3] See Decision dated February 23, 2006 of Labor Arbiter Cresencio G. Ramos, Jr. in NLRC NCR Case No. 00-07-08708-04, id. at 59-64.

[4] Id. at 62-63.

[5] Id. at 5-11; penned by Commissioner Perlita B. Velasco with Presiding Commissioner Gerardo C. Nograles and Commissioner Romeo L. Go, concurring.

[6] Id. at 10-11.

[7] Id. at 11.

[8] Id. at 12-15.

[9] Id. at 34-40.

[10] Id. at 21.

[11] Id. at 16.

[12] As culled from the Decision dated November 16, 2011 of the National Labor Relations Commission (NLRC), *id.* at 97.

[13] *Id.* at 75-76; penned by Executive Labor Arbiter Fatima Jambaro-Franco.

[14] *Id.* at 46.

[15] *Id.* at 345.

[16] *Id.* at 17-20; penned by Commissioner Perlita B. Velasco with Commissioner Romeo L. Go, concurring; Presiding Commissioner Gerardo C. Nograles, took no part.

[17] *Id.* at 18-19.

[18] *Id.* at 81-82; penned by Commissioner Perlita B. Velasco with Presiding Commissioner Gerardo C. Nograles and Commissioner Romeo L. Go, concurring.

[19] *Id.* at 86.

[20] *Id.* at 21-31.

[21] *Id.* at 32.

[22] *Id.*

[23] *Id.* at 45.

[24] *Id.* at 184.

[25] *Id.* at 84-87; penned by Labor Arbitor Raymund M. Celino.

[26] *Id.* at 85.

[27] *Id.* at 95-102.

[28] *Id.* at 103-104.

[29] *Id.* at 105-110.

[30] *Id.* at 3-4.

[31] *Id.* at 277.

[32] *Id.* at 379-384; signed by Investigating Commissioner Roland B. Beltran.

[33] *Id.* at 381-382.

[34] *Id.*

[35] *Id.* at 384.

[36] *Id.* at 377-378.

[37] *Id.* at 350-353 and 360-365.

[38] *Id.* at 357-359.

[39] *Id.* at 354-356.

[40] *Id.* at 375-376.

[41] See *Valencia v. Atty. Cabanting*, 273 Phil. 534 (1991).

[42] *Rollo*, p. 209.

[43] See Decision dated October 30, 2012 of the Court of Appeals, Seventh Division, in CA-G.R. SP No. 122848, pp. 7-8; penned by Associate Justice Ramon A. Cruz with Associate Justices Noel G. Tijam and Romeo F. Barza, concurring. <<http://services.ca.judiciary.gov.ph/casestatusinquiry-war/faces/jsp/view/ViewResult.jsp>> (last accessed May 31, 2021).

[44] *Id.* at 6-7.

[45] *Id.* at 277.

[46] *Id.* at 278.

[47] See *One Shipping Corp., et al. v. Peñafiel*, 751 Phil. 204 (2015).

[48] See The 2011 NLRC Rules of Procedure, Rule XI, Section 4.

[49] See *Penticostes v. Judge Hidalgo*, 268 Phil. 86 (1990); *Garcia v. Atty. Francisco*, 292-A Phil. 644 (1993); *Millare v. Montero*, 316 Phil. 29 (1995); *Afurong v. Atty. Aquino*, 373 Phil. 695 (1999); *Re: Administrative Case Against Atty. Occeña*, 433 Phil. 138 (2002); *Plus Builders, Inc. v. Atty. Revilla, Jr.*, 533 Phil. 250 (2006); *Salabao v. Atty. Villaruel*, 767 Phil. 548 (2015); and *In Re: G.R. No. 157659 "Mallari v. GSIS, et al."*, 823 Phil. 164 (2018).

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