

PSP DEVELOPMENT CORPORATION REPRESENTED BY REYNALDO JESUS B. PASCO, SR., COMPLAINANT, VS. ATTY. LUISITO C. ARMA, RESPONDENT.

A.C. No. 12220 (formerly CBD Case No. 07-1970). November 13, 2018

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This resolves the administrative case lodged against Atty. Luisito C. Anna (respondent) for serious misconduct and violation of the Lawyer's Oath.

Factual Antecedents

In its Complaint,[1] PSP Development Corporation (complainant) alleges that it is a domestic corporation; and, is represented in this suit by its President, Reynaldo Jesus B. Pasco, Sr. (Pasco).

According to complainant, in August 2004, Pasco engaged the legal services of respondent to file a case against a certain Pio Castillo, Jr. and Macatan Apparel, Inc. It claimed that respondent accepted the engagement and billed it P65,000.00 as professional fees. It insisted that, despite such payment and its repeated follow-ups, respondent failed and refused to file the necessary case in court to the prejudice of complainant.

Complainant further averred that, on September 7, 2005, it made its final demand asking respondent to return the money he received from it but to no avail.[2]

Report and Recommendation of the Integrated Bar of the Philippines (IBP) Investigating Commissioner

In her Report and Recommendation[3] dated April 1, 2016, the Investigating Commissioner recommended that respondent be suspended from the practice of law for five (5) years.

The Investigating Commissioner declared that, despite notice, respondent failed to file his answer to the Complaint. The Investigating Commissioner further stressed that the notice (to file answer) sent to respondent was returned with the notation "moved with no forwarding address." She added that complainant never inquired about the status of the case.

The Investigating Commissioner did not, however, mention whether the case was set for a mandatory conference. She did not also state whether an order of default was issued on respondent; or whether she directed the submission of position papers. Neither did she mention when this case was submitted for resolution.

Meanwhile, in her one-paragraph/two-sentence explanation, the Investigating Commissioner opined that there was sufficient basis to warrant the disciplinary action against respondent as he refused to return to his client what he had collected for the service which he failed to render

Notice of Resolution of the IBP Board of Governors

In its Resolution No. XXIII-2017-021 dated August 31, 2017,[4] the IBP Board of Governors resolved to modify the recommendation of the Investigating Commissioner in that respondent be instead suspended from the practice of law for two years.

Issue

Whether respondent committed misconduct and for which reason, he must be suspended from the practice of law.

Our Ruling

Enshrined in our Bill of Rights is the basic rule that no person shall be deprived of his or her life without due process of law.[5] In turn, due process in administrative proceedings relates to the opportunity given to a party to explain one's side, or to seek reconsideration on the action or adverse judgment against him or her. For as long as such opportunity is made available before judgment, the required due process is adequately complied with.[6]

In such instance when a party is declared in default, he or she waives only one's right to be heard and to present evidence and no other. To ensure due process, it remains important that, even if a party is in default, any judgment must be anchored on established facts and applicable law. Definitely, "[a]ny ruling that disposes of an action x x x must have basis in law, and any ruling so intentioned without legal basis is deemed as issued with grave abuse of discretion. In the end, a person who is condemned to suffer loss of property without justifying legal basis is denied due process of law." [7]

Note that in this case respondent failed to file his answer. Following the April 16, 2007 Order[8] of the IBP Commission on Bar Discipline, respondent appeared to have been in default (although there was no actual order of default issued against him), and the case should have been heard ex parte. However, there was no indication in the records that complainant presented evidence ex parte. Even the Investigating Commissioner mentioned that complainant did not follow-up the status of this case, which presupposes that no other proceeding transpired between its filing and the Report and Recommendation of the Investigating Commissioner. There was even no showing that this case was set for a mandatory conference; that the Investigating Commissioner directed the submission of position papers; or that the case was submitted for resolution.

There being no other pleading submitted, the recommendation to suspend respondent was solely pursuant to the Complaint. However, on the basis alone of the allegations in the Complaint, we find that complainant failed to convince us, much more discharge the necessary burden to prove by substantial evidence that respondent committed the accusations against him.[9] Let it be underscored that, other than the attached photocopy of a final demand letter[10] in the Complaint, (allegedly made on respondent but received by a certain Ely Tagalog), no other evidence was adduced establishing that respondent accepted money but failed to render any service in favor of complainant.

Keeping in mind the above-discussed requirement of due process as well as the fact that the power to disbar (including the power to suspend) must be exercised with great caution,[11] we hold that there is no sufficient basis for a disciplinary action against respondent. The Court cannot simply deprive respondent of the right to practice his legal profession without any sufficient factual and legal justifications. After all, such legal practice involves respondent's rights to work and to make a living, which are his property rights, and "the arbitrary and unwarranted deprivation of which normally constitutes an actionable wrong." [12]

Given all these, the Court finds that the allegations against respondent remained unsubstantiated. Hence, the

disciplinary action against him cannot stand.

WHEREFORE, the Complaint against Atty. Luisito C. Arma is DISMISSED for lack of evidence.

SO ORDERED.

Carpio, Peralta, Bersamin, Perlas-Bernabe, Leonen, Caguioa, A. Reyes, Jr., and J. Reyes, Jr., JJ., concur.
Jardeleza, Tijam, Gesmundo, and Hernando, JJ., on official leave.

[1] Rollo, pp. 2-4.

[2] Id. at 14.

[3] Id. at 21-22; penned by Commissioner Rebecca Villanueva-Maala.

[4] Id. at 19.

[5] PHILIPPINE CONSTITUTION, Article III, Section 1.

[6] See *Cojuangco, Jr. v. Palma*, 501 Phil. 1, 8 (2005).

[7] See *Paredes v. Verano*, 535 Phil. 274, 285-286 (2006).

[8] Rollo, p. 16.

[9] *Arsenio v. Tabuzo*, A.C. No. 8658, April 24, 2017, 824 SCRA 45, 49-50.

[10] Rollo, p. 14.

[11] See *Cojuangco, Jr. v. Palma*, supra note 6 at 7.

[12] See *JMM Promotion and Management, Inc. v. Court of Appeals*, 329 Phil. 87, 99-100 (1996).

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