

MA. HERMINIA T. TIONGSON, COMPLAINANT, VS. ATTY. MICHAEL L. FLORES, RESPONDENT.

A.C. No. 12424. September 01, 2020

Ponente: LOPEZ, J.

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LOPEZ, J.:

A lawyer must promptly call upon the client to correct any fraud. If the client refuses, the lawyer should terminate their professional relationship.[1] The observance of this rule is the core issue in this administrative case involving a lawyer who shared a falsified Court Order with his client who then used it to harass another person.

ANTECEDENTS

In 2014, a former court employee named Vincent gave Atty. Michael Flores (Atty. Flores) an Order that the Regional Trial Court (RTC) supposedly issued in Civil Case No. 1445-13 entitled "Heirs of Jacinta R. Tenorio, Represented by Arthur R. Tenorio, versus Ma. Herm[i]nia T. Tiongson and Register of Deeds-Bukidnon." The case is for segregation survey of Jacinta R. Tenorio's land registered under Transfer Certificate of Title No. T-30875 in favor of her compulsory heirs. Atty. Flores knew that the document was falsified but he still shared it with his client Arthur Tenorio (Arthur). The Court Order states:

Notice is hereby given that the remaining balance of Title No. T-30875 titled in the name of JACINTA R. TENORIO situated at Laguitas, Malaybalay City, Bukidnon, shall [be] subdivided or segregated among all legitimate compulsory heirs EQUALLY OR IN EQUAL SHARES.

Let a report be submitted to this court upon completion or approval of the [subdivision] survey for the final disposition of subject property.

SO ORDERED.

Given this 21[st] day of January 2014 at Malaybalay City, Bukidnon, Philippines.

(Sgd.)

JOSEFINA GENTILES BACAL

Judge

COPY FURNISHED:

1. Deticio/Flores Law Centrum
2. Herm[i]nia Tiongson
3. Register of Deeds-Bukidnon[2]

On March 9, 2014, Arthur together with Beverly Tenorio and Leonard Sena (Arthur, et al.) used the Court Order and presented it to Herminia Tiongson's (Heminia) caretaker Rogelio Lira (Rogelio). They advised Rogelio to

refrain from planting on the land because it will be subdivided and to tell Herminia that she is no longer its owner. Upon verification, Herminia discovered that there was no such Civil Case No. 1445-13 pending before the RTC and that the judge's signature was forged. Aggrieved, Herminia instituted against Arthur, et al. a criminal complaint for falsification. As supporting evidence, Herminia submitted certifications from the clerk of court and the legal researcher stating that the Court Order and its contents are fake.[3] The public prosecutor found probable cause against Arthur, et al. for three counts of falsification of public documents and grave coercion.[4] The corresponding informations were filed before the Municipal Trial Court.[5]

Later, Leonard Sena (Leonard) filed a criminal complaint for falsification against Atty. Flores considering that he was the one who handed the fake document to Arthur.[6] In his counter-affidavit, Atty. Flores claimed that it was a certain Vincent who gave him the falsified Court Order. He merely shared the document to Arthur without any instruction of using it. He maintained that the fake Order is inexistent, useless, and without value. It was not implemented and no one was prejudiced.[7] The public prosecutor found probable cause against Atty. Flores for falsification of public document.[8] Accordingly, the informations against Arthur, et al. were amended to include Atty. Flores as a conspirator.[9]

Meantime, Herminia filed a disbarment complaint[10] against Atty. Flores before the Integrated Bar of the Philippines (IBP) docketed as CBD Case No. 15-4595. Herminia repined that Atty. Flores committed gross misconduct, malpractice and deceit when he obtained a forged Court Order and shared it with his client who used it to coerce her caretaker. On the other hand, Atty. Flores did not file any answer and did not attend the mandatory conference.

On November 7, 2016, the IBP Commission on Bar Discipline reported that Atty. Flores violated the lawyer's oath and the Code of Professional Responsibility (CPR), specifically, Canon 1, Rules 1.01, 1.02, 1.03, Canon 7, Rule 7.03, Rules 10.01 and 10.03. It held that Atty. Flores authored the fake Court Order which warrants the penalty of disbarment,[11] viz. :

A lawyer who forges a court decision and represents it as that of a court of law is guilty of the gravest misconduct and deserves the supreme penalty of disbarment.

In this case, Respondent has made the following admissions in his Counter-Affidavit:

- That the document came from a person named "VINCENT[;"]
- That he shared the document [with] Mr. Tenorio;
- That he knew from the start that the document is non-existent, useless, of no value and not a public document;
- That it did not cause any damage.

Independently of the admissions made by the Respondent, the evidence showed that the Order purportedly issued by the Court is a falsity. This led to the filing of three (3) Information for Falsification of Public Document against the Respondent before the Court.

Based on the admissions made by the Respondent in his Counter-Affidavit filed before the Prosecutor's Office, this Commission is fully convinced that Respondent was the author of the falsified court order x x x in view of the following considerations:

First, the Court Order dated 21 January 2014 is a falsified document. This is clearly shown by the Certification issued by the OIC and the Office of the Clerk of Court considering that: a) there is no such case number in the files or is pending before the Court, and b) the signature of the Presiding Judge is a forgery, In short, the purported case is non-existent.

Second, Respondent was the author of the falsified Court Order dated 21 January 2014. By his own admission, Respondent has full knowledge from the start on the falsity x x x when the alleged "VINCENT" had handed to him the spurious court order. Despite full knowledge of its falsity, Respondent had admitted that he still shared a copy thereof [with] Mr. Tenorio. This is a clear criminal act of falsification of a public document by a private individual and by an officer of the Court.

Third, [a]s a lawyer, Respondent should have known the consequences of the illegality of his acts. However, by sharing a falsified document to Mr. Tenorio, Respondent has allowed a falsified court order for [sic] be used for illegal purpose, that is, to deceive, misrepresent and or to defraud Herminia T. Tiongson. x x x.

Fourth, irrespective of the outcome of the pending criminal cases against the Respondent x x x, the guilt of the Respondent in this case has clearly been proven by overwhelming evidence. This is in addition to the Respondent's admission clearly showing his lack of moral character which is indispensable in the continued license to practice of law. x x x.

x x x x

IN VIEW THEREOF, finding overwhelming evidence that Respondent is guilty of falsification of a judicial order, it is hereby recommended that Respondent be DISBARRED.

RECOMMENDATION

WHEREFORE, premised considered, it is hereby recommended that Respondent ATTY. MICHAEL L. FLORES be DISBARRED and his name stricken off from the Roll of Attorneys.

RESPECTFULLY SUBMITTED.[12] (Emphases supplied.)

The IBP Board of Governors adopted the Commission's findings,[13] thus:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner imposing the penalty of Disbarment from practice of law of Atty. Michael L. Flores and his name stricken off from the Rolls of Attorneys.[14] (Emphasis in the original.)

RULING

At the outset, we clarify that a disbarment case does not involve a trial but only an investigation into the conduct of lawyers. The only issue is their fitness to continue in the practice of law. Hence, the findings have no material bearing on other judicial action which the parties may choose to file against each other.[15] Specifically, a disbarment proceeding is separate and distinct from a criminal action filed against a lawyer. The two cases may proceed independently of each other.[16] A conviction in the criminal case does not necessarily mean a finding of liability in the administrative case.[17] In the same way, the dismissal of a criminal case against an accused does not automatically exculpate the respondent from administrative liability. The quantum of evidence is different. In a criminal case, proof beyond reasonable doubt is required.[18] In an administrative case against a lawyer, preponderant evidence is necessary which means that the evidence adduced by one side is superior to or has greater weight than that of the other.[19] More importantly, the burden of proof rests upon the complainant.[20] The lawyer's presumption of innocence subsists absent contrary evidence.[21]

Also, it bears emphasis that the Court must exercise the power to disbar with great caution. The supreme penalty of disbarment is imposed only for the most imperative reasons and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and a member of the bar.[22] Notably, we disbarred lawyers who simulated court documents in *Gatchalian Promotions Talents Pool, Inc. v. Atty. Naldoza*[23] *Tan v. Diamante*,[24] *Krursel v. Atty. Abion*,[25] *Madria v. Atty. Rivera*[26] *Taday v. Apoya*,

Jr.[27] Lampas-Peralta v. Ramon,[28] and Sitaca v. Palomares.[29]

In Gatchalian Promotions, the respondent obtained from the complainant money allegedly for "cash bond" in connection with an appealed case and falsified an official receipt from the Court to conceal the misappropriation of the amount entrusted to him.[30] In Tan, the respondent falsified a court order purportedly directing the submission of Deoxyribonucleic Acid (DNA) results in order to misrepresent to his client that he still had an available remedy, when in reality, his case had long been dismissed for failure to timely file an appeal. The Court considered the acts of the respondent so reprehensible and flagrant exhibiting moral unfitness and inability to discharge his duties as a member of the bar.[31] In Krursel, the complainant paid substantial amounts of money to respondent in relation to the filing of the complaint for injunction. The respondent did not issue any receipt or accounting despite her demands. Instead, respondent drafted a fake order from this Court granting the complaint.[32]

In Madria, we held that falsifying or simulating the court papers amounted to deceit, malpractice or misconduct in office, any of which was already a ground sufficient for disbarment. In that case, the respondent acknowledged authorship of the simulated court decision and certificate of finality in a case for annulment of marriage. The Court rejected the explanation of the respondent that he forged the documents only upon the persistent prodding of the complainant.[33] In Taday, the respondent notarized a petition for annulment of marriage without the appearance of the complainant. Thereafter, the respondent authored a fake decision to deceive the complainant that her petition was granted. The Court observed that the falsified decision is strikingly similar with the petition that the respondent drafted. The respondent then retaliated against complainant for confronting him with the fake decision by withdrawing the petition in the court resulting into the dropping of the case from the civil docket.[34] In Lampas-Peralta, the respondent falsified a decision of the Court of Appeals and demanded exorbitant professional fees from her clients. She was even caught in an entrapment operation by the National Bureau of Investigation.[35]

In Sitaca, the combination of all the circumstances produced the indubitable conclusion that it was respondent who conceptualized, planned, and implemented the falsified bail bond and release order for his son's temporary liberty. As the counsel of record for his son, the respondent knew that there was no petition or an order granting and fixing the amount of bail. Corollarily, the respondent cannot feign ignorance of the spurious documents which he presented to the clerk of court with the goal of securing his son's liberty. The respondent pointed to a person named "Guialani" who processed the falsified court issuances but failed to shed light on his true identity and actual participation. The respondent likewise did not file an action against Guialani.[36]

In the above-cited cases, there are sufficient circumstances and admissions that the respondents committed falsification or forgery and that they benefitted from the use of fake documents. Here, the IBP recommended to disbar Atty. Flores because he falsified a court order. It relied on the principle that he who possessed a forged/falsified document and made use and benefited from it is deemed the forger/falsifier.[37] Yet, the facts are insufficient to presume that Atty. Flores authored the falsification. Foremost, Herminia failed to show that Atty. Flores was involved directly or indirectly in the falsification of the court order and forgery of the judge's signature. The substance of Atty. Flores' counter-affidavit before the public prosecutor can hardly be considered as acknowledgment of the imputed acts. To be sure, Atty. Flores vehemently denied authorship of the bogus court order and explained that a former court employee named Vincent gave it to him. At most, Atty. Flores only admitted the possession of spurious document and knowledge of its falsity. Moreover, there is no evidence that Atty. Flores used the fake order and benefitted from it. Atty. Flores even categorically stated in his counter-affidavit that the document is inexistent, useless, and without value.[38] Thus, he shared the document to his client. Unknown to Atty. Flores, Arthur, et al. utilized the falsified order to harass Herminia's caretaker. It

must be underscored that the fake order is about the segregation of the land and submission of the survey report. On the other hand, the threat against Herminia to refrain from planting on the land because she is no longer its owner is Arthur, et al.'s own words and beyond the contents of the document. Lastly, we applied in Sitaca, the presumption of authorship against the respondent. However, the present case is starkly different. The essential requisites that the respondent must use and benefit from the simulated court issuance are absent. Unlike the respondent in Sitaca, Atty. Flores did not utilize or derive any benefit from the fake court order but merely shared it to his client. Quite the contrary, the respondent in Sitaca used the falsified documents with the goal of securing his son's liberty. Also, Atty. Flores did not feign ignorance of the spurious document but is keen in noticing its falsity. The fact that Atty. Flores is Arthur's counsel of record and that he did not explain Vincent's identity or file a case against him are minor considerations inadequate to warrant the presumption.

Nevertheless, Atty. Flores must be penalized for his carelessness in entrusting a forged document in the hands of his client despite the danger of using it for a wrongful purpose. On this point, we stress that in no case shall an attorney allow a client to perpetrate fraud upon a person or commit any act which shall prejudice the administration of justice. The lawyer and client alike must only employ fair, honest, and honorable means to advance their interests.[39] Particularly, Rule 19.02 of the CPR outlines the procedure in dealing with a client who committed fraud, to wit:

Rule 19.02 - A lawyer who has received information that his clients has, in the course of the representation, perpetrated a fraud upon a person or tribunal, shall promptly call upon the client to rectify the same, and failing which he shall terminate the relationship with such client in accordance with the Rules of Court.

Atty. Flores failed to follow the above-cited rule. Upon knowledge of falsification, Atty. Flores should have immediately alerted the trial court or reported the matter to the authorities. However, Atty. Flores's negligence encouraged Arthur, et al. to assert their supposed claim against Herminia. Worse, Atty. Flores remained indifferent and did not confront Arthur to rectify his fraudulent representation. Considering that this is Atty. Flores' first infraction, and that there is no clear showing that his malpractice was deliberately done in bad faith or with deceit, a penalty of suspension from the practice of law for one year is proper.

Finally, Atty. Flores disobeyed the orders of the IBP Commission without justifiable reason when he did not file an answer and did not attend the mandatory conference despite due notice. As such, Atty. Flores must pay a fine of P5,000.00.[40]

FOR THESE REASONS, Atty. Michael L. Flores is GUILTY of violation of Rule 19.02 of the Code of Professional Responsibility and is SUSPENDED from the practice of law for a period of one year. The suspension in the practice of law shall take effect immediately upon respondent's receipt of this decision. He is DIRECTED to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel. He is likewise STERNLY WARNED that a repetition of the same or similar acts will be dealt with more severely.

Atty. Michael L. Flores is also meted a FINE in the amount of P5,000.00 for disobedience to the orders of the Integrated Bar of the Philippines. These payments shall be made within ten days from notice of this decision.

Let a copy of this Decision be furnished to the Office of the Bar Confidant to be entered into Atty. Michael L. Flores' records. Copies shall likewise be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

SO ORDERED.

Peralta, C. J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, J. Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Delos Santos, and Gaerlan, JJ., concur.
Baltazar-Padilla, J., on leave.

[1] See *Dalisay v. Atty. Mauricio, Jr.*, 515 Phil. 283, 294 (2006).

[2] *Rollo*, p. 6.

[3] *Id.* at 7-8.

[4] *Id.* at 9-12.

[5] *Id.* at 13-16.

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

[7] *Id.* at 21-22.

[8] *Id.* at 23-26.

[9] *Id.* at 27-29.

[10] *Id.* at 2-4.

[11] *Id.* at 53-71.

[12] *Id.* at 62-71.

[13] *Id.* at 51.

[14] *Id.*

[15] *Alpha Insurance and Surety Co., Inc. v. Castañeda*, A.C. No. 12428, March 18, 2019, citing *Heenan v. Atty. Espejo*, 722 Phil. 528, 537 (2013). See also *Zarcilla, et al. v. Atty. Quesada*, 827 Phil. 629 (2018).

[16] *Yu, et al. v. Atty. Palaña*, 580 Phil. 19, 26 (2008).

[17] *Bengco, et al. v. Atty. Bernardo*, 687 Phil. 7, 17 (2012).

[18] *Jimenez v. Atty. Jimenez*, 517 Phil. 68, 73 (2006).

[19] *Aba, et al. v. Attys. De Guzman, Jr., et al.*, 678 Phil. 588, 600-601 (2011).

[20] *Cruz v. Atty. Centron*, 484 Phil. 671, 675 (2004)

[21] *Francia v. Atty. Abdon*, 739 Phil. 229, 309 (2014).

[22] *Yu, et al. v. Atty. Palaña*, *supra* at 27. See also *Kara-an v. Atty. Pineda*, 548 Phil. 82, 85 (2007).

[23] 374 Phil. 1 (1999).

[24] 740 Phil. 382 (2014).

[25] 789 Phil. 584 (2016).

[26] 806 Phil. 774 (2017).

[27] A.C. No. 11981, July 3, 2018, 870 SCRA 1.

[28] A.C. No. 12415, March 5, 2019.

[29] A.C. No. 5285, August 14, 2019, 427 SCRA 121.

[30] Supra.

[31] Supra note 24.

[32] Supra note 25.

[33] Supra note 26.

[34] Supra note 27.

[35] Supra note 28.

[36] Supra note 29.

[37] *United States v. Castillo*, 6 Phil. 453, 455; *People v. De Lara*, 45 Phil. 754, 761; *People v. Domingo*, 49 Phil. 28, 34; *People v. Astudillo*, 60 Phil. 338, 343-344; and *People v. Manansala*, 105 Phil. 1253.

[38] Rollo, p. 22.

[39] Eldrid C. Antiquiera, *Comments on Legal and Judicial Ethics*, Second Edition (2018), p. 103.

[40] *Domingo v. Sacdalan*, A.C. No. 12475, March 26, 2019, citing *Ojales v. Atty. Villahermosa III*, 819 Phil. 1 (2017).

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