

ISMAELA DIMAGIBA, COMPLAINANT, VS. ATTY. JOSE MONTALVO, JR., RESPONDENT.

A.C. No. 1424. October 15, 1991

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PER CURIAM:

This is a complaint filed by Ismaela Dimagiba against Atty. Jose Montalvo for Malpractice, for stretching to almost a half a century a litigation arising from the probate of a will of the late Benedicta de los Reyes which instituted Ismaela Dimagiba as the sole heir of all the properties.

The letter of the private complainant, Ismaela Dimagiba, received on January 15, 1975 by the Supreme Court, states:

x x x x x x x x

The clients of Atty. Montalvo, namely: Dionisio Fernandez, Eusebio Reyes, Luisa Reyes, Mariano Reyes, Cesar Reyes, Leonor Reyes, filed a case against me with the Court of First Instance of Bulacan in 1946 for annulment of sale and was docketed as Civil Case No. 108 of said Court. This case was terminated annulling the sale, as per decision in 1954 in G.R. No. L-5618 and L-5620;

On January 19, 1955, I filed a case for Probate of Will with the Court of First Instance of Bulacan, regarding the same property subject of the annulment of sale and was docketed with the Court of First Instance of Bulacan as Sp. Proc. No. 831-M. Luckily, the said case was terminated on June 20, 1958, probating the said will. The oppositors in this case who are the same persons mentioned above appealed this case to the Higher Court of the Philippines and was decided by the Hon. Supreme Court of the Philippines on October 12, 1967 in G.R. No. L-23638 and L-23662, affirming the decision of the Lower Court;

That after the decision of the above-mentioned case was promulgated, the same parties filed on June 5, 1968 Civil Case No. 3677-M with the CF1 of Bulacan for annulment of will; this case was filed through their counsel, Atty. Gregorio Centeno.

Said case was dismissed by the Court on February 11, 1970 without pronouncement of costs;

That on August 13, 1971, again, the clients of Atty. Montalvo filed Civil Case No. 4078 with the Court of First Instance of Bulacan for annulment of the said will; this case was dismissed by the Court on December 21, 1971;

That on April 22, 1972, again the same parties, through their counsel Atty. Montalvo, filed another case with the Court of First Instance of Bulacan, allegedly for Partition of the same property mentioned in the probate of will which was docketed as Civil Case No. 4151. This case was again dismissed by the Court in its Order dated October 11, 1972;

That on May 25, 1972, still another case was filed by the same parties, through Atty. Montalvo, for specific performance, with the CF1 of Bulacan and was docketed as Civil Case No. 4188-M. This case was again dismissed by the Court in its Order dated October 24, 1973. On August 12, 1974, the said case was remanded to the Court of Appeals, Manila, by the Court of First Instance of Bulacan;

Still on April 5, 1974, I was again surprised to know that there was another case filed by the same persons mentioned above through Atty. Montalvo with the Court of First Instance of Bulacan and was docketed as Civil Case No. 4458. This case is still pending before said court.

In view of the numerous cases filed against me by the same parties, through their counsel, Atty. Montalvo, I am constrained to report to that [sic] Honorable Court of the actuation of said lawyer who is a member of the Philippine Bar attending to cases of non suit, which cause harassment on my part.

The parties in this case are the ones in possession of the property Subject of Sp. Proc. No. 831 of the CFI, Bulacan. They can not be ejected from the land holdings because they claim that the case filed by Atty. Montalvo is still pending in Court.

In all the foregoing [sic] I respectfully submit to this Honorable Court for appropriate action.

x x x x x x x x[1]

In the Resolution of the Second Division of the Supreme Court dated January 27, 1975, the respondent Montalvo was required to file an Answer within ten days from notice.[2]

In his Answer dated March 3, 1975, Montalvo claims that the case filed against the complainant were done

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at the instance of different parties; or by reason of different causes of action and all the pleadings filed by the undersigned were and/or the result of a very painstaking, diligent, and careful study and evaluation of the facts and law involved therein such that even before signing the same, the undersigned has always been of the honest and sincere belief that its filing is for the interest of justice—certainly never for harassment; (2) that the reason why the parties tenant could not be ejected from their land as stated by complainant in her complaint is because of the passage of Presidential Decree No. 27 which emancipated the farmers from their bondage and declared them as owners of the rice and corn land they tilled upon the passage of the decree coupled with the very acts of the complainant herself; and that (3) the complainant by filing this instant complaint for disbarment wants to cow and intimidate the undersigned in order to withdraw as counsel of his clients because she has been thwarted in her erroneous belief that she owns exclusively all the properties comprising the estate of the late Benedicta de los Reyes and could not accept and take into account the reality that by virtue of the final decision of the Supreme Court in G.R. No. 5618 and 5620 she is not the sole owner of the present estate of the deceased but only a co-owner with the clients of the undersigned.”[3]

In addition, Montalvo stated that it was Dimagiba who refused to be bound by the Supreme Court Decision In G.R. Nos. 5618 and 5620.[4]

As a Rejoinder to the Respondent’s Answer, the complainant Dimagiba stated that in Civil Case No. 3677-M, the plaintiffs are the same parties-oppositors who opposed the petition for probate of the Last Will and Testament of the deceased Benedicta De los Reyes in Special Proceeding No. 831. The same case was dismissed by the Court of First Instance of Bulacan on the ground that the issue raised had been decided by the Court.[5]

Likewise Civil Case No. 4078-M was also dismissed by Branch 2 of the Court of First Instance of Bulacan presided by Judge Ricardo C. Pronove, Jr., in the order of August 24, 1973 on the ground of res judicata.

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But a closer analysis [sic] it is clear that this action is merely a rehash of the other cases previously litigated between the plaintiffs and the defendant and already settled by final judgment.”[6]

In fact, in that case, Atty. Jose Montalvo, Jr., included himself as one of the defendants.

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Finally, the fact that plaintiff's counsel, Jose Montalvo, Jr., had decided to join cause with the other plaintiffs in this case does not mean that there is no identity of parties between this case and Civil Case No. 3677-M. Atty. Jose Montalvo, Jr., is not alleged to be a real¹¹ party in interest in this case so that his inclusion herein as a party plaintiff can not produce any legal significance.[7]

This notwithstanding, Montalvo filed another case against Dimagiba which was docketed as Civil Case No. 4458-M of the CFI Bulacan where the plaintiffs and causes of action were again the same as 3677-M and 4188-M. Again, the CFI Bulacan dismissed the cases.

On April 16, 1975, the Second Division, following the procedure then obtaining for the resolution of disciplinary cases against lawyers, referred the case to the Solicitor General for investigation, report, and recommendation.[8]

It was only on May 4, 1990, or almost fifteen years later, that the entire records of Adm. Case No. 1424 involving Ismaela Dimagiba versus Atty. Jose Montalvo was returned to the Clerk of Court of the Supreme Court by the Office of the Solicitor General through Solicitor Aurora P. Cortes.

In summary, the following are the litigations that ensued from the probate of the Will of De los Reyes as found by the Solicitor General involving the same parties and the same cause of action:

1. Special Proceedings No. 831 instituted on January 15, 1955. The Will was admitted to probate but was subsequently appealed.
2. CA-G.R. No. 31221-R. This was an appeal of the decision in Spec. Proc. No. 831. The decision was affirmed.
3. G.R. Nos. L-23638 and L-23662. This decision dated October 12, 1967, in the Supreme Court, upheld the decision in CA-G.R. No. 31221-R, in effect, affirming the due execution of the Will and the capacity of the Testator as well as the institution of the complainant.
4. Civil Case No. 3677-M. Filed in the Court of First Instance of Bulacan on June 4, 1968, this was a petition for the nullification of the Will. This was dismissed.
5. Civil Case No. 200 which was redocketed as Civil Case NO. 4078-M. This complaint dated November 3, 1970 was again dismissed.
6. Civil Case No. 4151-M. This case, filed on February 16, 1972, for the partition of the property left by the deceased Benedicta De Los Reyes on the ground of the nullity of the Will, was again dismissed for failure to prosecute.
7. Civil Case No. 4188-M. Filed on May 25, 1972, with the Court of First Instance of Bulacan, Branch 2, the respondent Atty. Montalvo, Jr., joined the descendants of the collateral relatives of the deceased De los Reyes against herein complainant Dimagiba. This case was dismissed.
8. Civil Case No. 4458-M. Civil Case No. 4188-M was appealed. But without waiting for the outcome, Atty. Montalvo, Jr., filed Civil Case No. 4458-M on April 5, 1974 which was a complaint for the cancellation of the transfer certificates of title in the name of Ismaela Dimagiba and the issuance of new certificates of title in the name of the late Benedicta de los Reyes.

Clearly, the respondent Montalvo, Jr. repetitively filed several complaints in various forms involving the same parties and the same subject matter, persistently raising issues long laid to rest by final judgment.

This misbehavior in facie curiae consisting of a stubborn refusal to accept this Court's pronouncements is in fact

even summarily punishable under Rule 71, Section 1 of the Rules of Court.[9]

Any lawyer who assumes the responsibility for a client's cause has the duty to know the entire history of a case, specially if any litigation has commenced. In the case at bar, even Atty. Montalvo does not deny the fact that the probate of the will of the late Benedicta de los Reyes has been an over-extended and contentious litigation between the heirs.

A lawyer should never take advantage of the seemingly endless channels left dangling by our legal system in order to wangle the attention of the court. Atty. Montalvo may have thought that he could get away with his indiscriminate filing of suits that were clearly intended to harass Ismaela Dimagiba. When court dockets get clogged and the administration of justice is delayed, our judicial system may not be entirely blameless, yet the greater fault lies in the lawyers who had taken their privilege so lightly, and in such mindless fashion.

The Code of Professional Responsibility states that:

Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

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

On the basis of the foregoing, we find him guilty of malpractice as charged. He has violated his oath not to delay any man for money or malice, besmirched the name of an honorable profession, and has proven himself unworthy of the trust reposed in him by law as an officer of the Court. We have not countenanced other less significant infractions among the ranks of our lawyers. He deserves the severest punishment of DISBARMENT.

WHEREFORE, on the basis of the foregoing, and consistent with the urgent need to maintain the high traditions and standards of the legal profession and to preserve undiminished, public faith in attorneys-at-law, the Court Resolved to DISBAR the respondent Atty. Jose Montalvo, Jr. from the practice of law. His name is hereby ordered stricken from the Roll of Attorneys.

Copies of this Resolution shall be circulated to all courts of the country and entered in the personal record of respondent Atty. Jose Montalvo, Jr.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

[1] Rollo, 1-2.

[2] Rollo, 3.

[3] Rollo, 6.

[4] Id.

[5] Rollo, 7.

[6] Rollo, 8.

[7] Ibid.

[8] Rollo, 12.

[9] RULES OF COURT, Rule 71.

Section 1. Direct contempt punished summarily. A person guilty of misbehavior in the presence of or so near a court or judge as to obstruct or interrupt the proceedings before the same, including disrespect toward the court or judge, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required so to do, may be summarily adjudged in contempt by such court or judge and punished by fine not exceeding two hundred pesos or imprisonment not exceeding ten (10) days, or both, if it be a superior court, or a judge thereof, or by fine not exceeding ten pesos or imprisonment not exceeding one (1) day, or both, if it be an interior court.

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