

GLORITO V. MATURAN, PETITIONER, VS. ATTY. CONRADO S. GONZALES, RESPONDENT.

A.C. No. 2597. March 12, 1998

Ponente: ROMERO, J.

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ROMERO, J.:

A complaint for disbarment was filed with this Court on October 25, 1983, by Glorito V. Maturan against his counsel, Atty. Conrado S. Gonzales, charging him with immoral, unethical, and anomalous acts. The respondent filed his comment thereto on February 6, 1984. On November 11, 1997, or after thirteen (13) years, the Board of Governors of the Integrated Bar of the Philippines submitted their report and recommendation on the instant case.

The facts, as culled from the records, are as follows:

Spouses Antonio and Gloria Casquejo instituted their son-in-law, Glorito V. Maturan (herein petitioner), as their attorney-in-fact, through a Special Power of Attorney (SPA) dated November 6, 1981. Said SPA authorized Maturan to file ejectment cases against squatters occupying Lot 1350-A, Psd-50375, located in General Santos City, as well as criminal cases against the latter for violation of P.D. 772, again in connection with said lot. Respondent, Atty. Conrado Gonzales, prepared and notarized said Special Power of Attorney.

Subsequently, Glorito Maturan engaged the services of respondent in ejecting several squatters occupying Lot 1350-A, Psd-50735. While said lot was registered in the name of Celestino Yokingco, Antonio Casquejo had, however, instituted a case for reconveyance of property and declaration of nullity against the former, docketed as Civil Case No. 2067.

As a consequence of his engagement by petitioner, respondent Gonzales filed Civil Case No. 1783-11 for Forcible Entry and Damages against several individuals. On February 18, 1983, a judgment was rendered in favor of petitioner. Petitioner, through respondent, filed a motion for issuance of a writ of execution on March 10, 1983.

In the interim, the parties to Civil Case No. 2067 entered into a compromise agreement, which was judicially approved in a judgment dated March 28, 1983.

On June 22, 1983, while the motion for issuance of a writ of execution was pending, and without withdrawing as counsel for petitioner, respondent filed, on behalf of Celestino Yokingco, et al., Civil Case No. 2746, an action to annul the judgment rendered in Civil Case No. 2067. The action was predicated on the lack of authority on the part of petitioner to represent Antonio and Gloria Casquejo, as no such authorization was shown to be on record in Civil Case No. 2067. On August 24, 1983, respondent, on behalf of Celestino Yokingco, et al., also filed Special Civil Case No. 161 for injunction with a prayer for preliminary injunction, with damages, against petitioner.

Aggrieved by respondent's acceptance of professional employment from their adversary in Civil Case No. 2067, and alleging that privileged matters relating to the land in question had been transmitted by petitioner to respondent in Civil Case 1783-11, petitioner filed an administrative complaint against the former for immoral, unethical, and anomalous acts and asked for his disbarment.

Respondent, in a comment dated January 25, 1984, denied having committed any malicious, unethical, unbecoming, immoral, or anomalous act against his client. Respondent declared that he was of the belief that filing a motion for issuance of a writ of execution was the last and final act in the lawyer-client relationship between himself and petitioner, and that his formal withdrawal as counsel for the Casquejos was unnecessary in order to sever the lawyer-client relationship between them. Furthermore, he alleged that his acceptance of employment from Yokingco was for him, an opportunity to honestly earn a little more for his children's sustenance.

The investigating commissioner of the Integrated Bar of the Philippines, in his report dated August 21, 1997, found respondent guilty of representing conflicting interests and recommended that he be suspended for three (3) years. The Board of Governors of the IBP adopted and approved the report and recommendation of the investigating commissioner but recommended that the suspension be reduced from three (3) years to one (1) year.

This Court adopts the findings of the investigating commissioner finding respondent guilty of representing conflicting interests. It is improper for a lawyer to appear as counsel for one party against the adverse party who is his client in a related suit, as a lawyer is prohibited from representing conflicting interests or discharging inconsistent duties. He may not, without being guilty of professional misconduct, act as counsel for a person whose interest conflicts with that of his present or former client.[1] That the representation of conflicting interest is in good faith and with honest intention on the part of the lawyer does not make the prohibition inoperative.

The reason for the prohibition is found in the relation of attorney and client, which is one of trust and confidence of the highest degree. A lawyer becomes familiar with all the facts connected with his client's case. He learns from his client the weak points of the action as well as the strong ones. Such knowledge must be considered sacred and guarded with care. No opportunity must be given him to take advantage of the client's secrets. A lawyer must have the fullest confidence of his client. For if the confidence is abused, the profession will suffer by the loss thereof.[2]

This Court finds respondent's actuations violative of Canon 6 of the Canons of Professional Ethics which provide in part:

"It is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts. Within the meaning of this canon, a lawyer represents conflicting interests when, in behalf of one client, it is his duty to contend for that which duty to another client requires him to oppose."

Moreover, respondent's justification for his actions reveal a patent ignorance of the fiduciary obligations which a lawyer owes to his client. A lawyer-client relationship is not terminated by the filing of a motion for a writ of execution. His acceptance of a case implies that he will prosecute the case to its conclusion. He may not be permitted to unilaterally terminate the same to the prejudice of his client.

As to the recommendation that the term of suspension be reduced from three years to one year, we find the same to be unwarranted. In similar cases decided by the Supreme Court, the penalty of two or three years suspension has been imposed where respondent was found guilty of representing conflicting interests. In *Vda. De Alisbo vs. Jalandoni, Sr.*,^[3] the respondent, who appeared for complainant in a case for revival of judgment, even though he had been the counsel of the adverse party in the case sought to be revived, was suspended for a period of two years. In *Bautista vs. Barrios*,^[4] a suspension of two years was imposed on respondent Barrios, who had drafted a deed of partition for petitioner, but who appeared for the other party therein, when the same was sought to be enforced by petitioner. In *PNB vs. Cedo*,^[5] the Court even suspended the respondent therein for three years, but only because respondent not only represented conflicting interests, but also deliberately intended to attract clients with interests adverse to his former employer. Finally, in *Natan vs. Capule*,^[6] respondent was suspended for two

years after he accepted professional employment in the very case in which his former client was the adverse party. ACCORDINGLY, this Court resolves to MODIFY the IBP recommendation to suspend respondent for one year and modifies it to SUSPENSION from the practice of law for TWO (2) YEARS, effective immediately.

SO ORDERED.

Narvasa, C.J., Regalado, Davide, Jr., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, , Martinez and Quisumbing, JJ., concur.

Purisima, J., no part. Did not take part in the deliberation.

Panganiban, J., no part. Related to one of involved clients of respondents.

[1] AGPALO, LEGAL ETHICS (1992), p. 219, citing Rule 15.03, Code of Professional Responsibility.

[2] U.S. vs. Laranja, 21 Phil. 500 (1912).

[3] 199 SCRA 321 (1991).

[4] 9 SCRA 695 (1963).

[5] 243 SCRA 1 (1995).

[6] 91 Phil. 647 (1952).

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