

JOSE A. RIVERA, COMPLAINANT, VS. ATTY. NAPOLEON CORRAL, RESPONDENT.

A.C. No. 3548. July 04, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On September 1, 1990,[1] Jose A. Rivera instituted a Complaint for Disbarment[2] charging Atty. Napoleon Corral with Malpractice and Conduct Unbecoming a Member of the Philippine Bar. The complaint alleges, inter alia -

- That on February 12, 1990, a Decision was penned by the Honorable Presiding Judge Gorgonio Y. Ybañez on (sic) Civil Case No. 17473 for Ejectment.[3]

- That such decision was received by Annaliza Superio, Secretary of Atty. Napoleon Corral, on February 23, 1990.[4]

- That on March 13, 1990, a “NOTICE OF APPEAL” was filed in court by Atty. Napoleon Corral, a copy of which was served on plaintiff’s counsel.[5]

- That on March 14, 1990, [at] about 1:50 p.m. Atty. Napoleon Corral came to the Office of the Clerk of Court, Branch 7, Bacolod City and changed the date February 23, 1990 to February 29, 1990. Realizing later that there is no 29th in February 1990, he filed a “REPLY TO PLAINTIFF’S MANIFESTATION” claiming therein that he received the Decision not on the 29th in (sic) February 1990 but on the 28th of February 1990.[6]

- That Atty. Napoleon Corral violated the proper norms/ethics as a lawyer by tampering with particularly by personally and manually changing entries in the court’s record without the Court’s prior knowledge and permission, conduct unbecoming of a member of the Philippine Bar much more so because in so doing he was found to have been motivated by the desire of suppressing the truth.

- That on July 13, 1990 Atty. Napoleon Corral filed a “MOTION TO DISMISS”, among other things he stated that the court is without jurisdiction to try and decide the case at issue.

In his defense, respondent claimed that the correction of the date was done on the paper prepared by him. He also alleged that the correction was initiated and done in the presence and with the approval of the Clerk of Court and the other court employees. According to respondent, the correction was made because of typographical error he committed. He denied that Annaliza Superio, who received the decision in his behalf, is his secretary.

In a Resolution dated January 20, 1993, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[7] Thereafter, Investigating Commissioner Victor C. Fernandez submitted his report on August 21, 1997 finding respondent guilty as charged and recommended his suspension from the practice of law for six (6) months.

On October 25, 1997, the IBP Board of Governors passed a Resolution approving and adopting the report and

recommendation of the Investigating Commissioner.

Respondent thereafter filed a motion for reconsideration of the IBP Board's decision. The Board, however, subsequently issued a Resolution on March 28, 1998 denying the motion for reconsideration and further pointed out that the pleading is improper because his remedy was to file the same with this Court within fifteen (15) days from notice thereof pursuant to Section 2 of Rule 139-B of the Rules of Court.

Thus, on May, 19, 1999, respondent filed with the Court a Motion for Reconsideration alleging -

- THAT THERE WAS NO DUE PROCESS OR HEARING WHICH HAVE BEEN REQUESTED BY RESPONDENT FROM THE BEGINNING;
- COMPLAINANT RIVERA COMMITTED PERJURY WHEN HE CLAIMED THAT RESPONDENT ALTERED THE COURT RECORDS;
- THAT THE MUNICIPAL TRIAL COURT IN BACOLOD CITY UNDER JUDGE IBÁÑEZ COMMITTED MISREPRESENTATION OF FACTS.

Respondent's claim that he was not afforded due process deserves scant consideration. The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an opportunity to seek a reconsideration of the action or ruling complained of. [8] In fact—

. . . a respondent in an administrative proceeding is not entitled to be informed of the findings and recommendations of any investigating committee created to inquire into charges filed against him. He is entitled only to the administrative decision based on substantial evidence made of record, and a reasonable opportunity to meet the charges and the evidence presented against him during the hearings of the investigating committee.[9]

Respondent can not feign he was denied an opportunity to be heard in this case because as borne out by the records, hearings had to be re-scheduled several times by the investigating commissioner to afford him the chance to present his evidence. The records disclose that when the case was referred to the IBP by Resolution of the Court dated January 30, 1993,[10] Investigating Commissioner Victor C. Fernandez issued a Notice of Hearing dated July 12, 1993 ordering complainant and respondent to appear before the IBP Commission on Bar Discipline on August 19, 1993.

In response, complainant, who is based in Sta. Fe, Bacolod City, sent a letter dated August 10, 1993 informing the Commission that owing to his limited finances as a Baptist Pastor he could not afford the expenses involved in attending the hearings and in view thereof, he requested that the hearings be held without his presence and that the case be decided based on the evidence submitted. Nothing was heard from respondent, although the records show that he was furnished a copy of the notice.

On the scheduled hearing of August 19, 1993, both complainant and respondent did not appear. The investigator, however, noted the letter of complainant dated August 10, 1993. As there was no showing that respondent received the notice of hearing, the investigator reset the hearing of the case for reception of respondent's evidence to September 30, 1993. Both parties, who were duly furnished copies of the order, again did not appear on said date. The hearing was again reset to November 8, 1993. Both parties likewise failed to appear on November 8, 1993 hearing, which was re-scheduled on January 6, 1994. However, complainant sent a letter dated November 4, 1993 addressed to the investigator requesting that the hearings be continued even in his absence for the reasons he stated in his previous letter of August 10, 1993. Again nothing was heard from respondent although he and complainant were furnished copies by registered mail.

Neither complainant nor respondent appeared on the January 6, 1994 hearing, for which reason the investigator

issued an order re-scheduling the hearing for the last time to February 24, 1994 giving respondent “a last chance to present his evidence” with the warning that respondent’s failure to do so will compel the Commission to render a ruling based on the evidence submitted by the complainant. The investigator, however, noted the complainant’s letter of November 4, 1993 wherein the latter manifested that he was resting his case based on the evidence submitted by him together with the complaint.

On February 15, 1994, respondent filed a Motion to Dismiss on the grounds that: 1.] the complaint filed is not verified; 2.] in the hearings set by the Commission, complainant failed to appear; 3.] unless complainant appears personally, be sworn to and questioned personally under oath, the complaint is defective; 4.] the complaint which could be filed by anybody is a form of harassment; 5.] in view of the repeated failure of complainant to appear and be sworn to, the letter-complaint is merely hearsay.

On March 3, 1994, the investigator denied the motion to dismiss for lack of merit and set for the last time the hearing on April 21, 1994 for the reception of respondent’s evidence.

On April 4, 1994, respondent filed a Motion for Postponement praying that the hearing be reset on the last week of July 1994. Accompanying said motion was an “Answer To The Order Of The Commission Dated March 3, 1994” where he averred, among others, that: 1.] it was his right to cross-examine complainant with respect to the allegations in the complaint; 2.] the allegations in the complaint are not true and complainant’s use of the name “Reverend” was made to deceive the Commission; 3.] what respondent actually did was to correct the date of his pleading which was erroneously typed by his secretary and this was done in the presence of the court employees with their knowledge and consent; complainant made it appear that respondent falsified the records; 4.] the correction of the date in the pleading was done in good faith; 5.] this is not the first time complainant filed complaints to harass people and to misrepresent himself as a “Reverend”; 6.] in fact, complainant was nearly stabbed to death by families whom he ejected from their lands using donations of the church to buy the properties in his name; 7.] respondent intended to file a complaint with the Bible Baptist Association of America and the Philippines to investigate complainant’s activities.

To accommodate respondent, the Investigating Commissioner reset the hearing on July 28, 1994 with the warning that said setting is intransferable and that the Commission will proceed with its investigation on said date with or without respondent’s presence. For failure of respondent to appear on said date, the investigator issued an order considering the case submitted for decision on the basis of the evidence presented.

Given the foregoing factual backdrop, respondent can not now complain that he was denied due process. On the contrary, the Commission was lenient to a fault in accommodating his numerous requests for continuance. Indeed, the chronology of events shows that the prolonged silence of respondent and the belated filing of his motion to dismiss followed by the “Answer” to the investigator’s March 3, 1994 Order, were deliberately resorted to hinder the proceedings.

The quintessence of due process is simply that a party be afforded a reasonable opportunity to be heard, or as applied to administrative proceedings, an opportunity to explain one’s side and to adduce any evidence he may have in support of his defense.[11] Entrenched is the rule that due process does not necessarily mean or require a hearing but simply a reasonable opportunity or a right to be heard or, as applied to administrative proceedings and opportunity to explain one’s side.[12] Where opportunity to be heard either through oral arguments or pleadings is accorded, there is no denial of due process.[13]

In his report, the Investigating Commissioner pointed out that the correction introduced by respondent was made not to reflect the truth but to mislead the trial court into believing that the notice of appeal was filed within the reglementary period. The Decision rendered in Civil Case No. 17473 was duly received by a certain Annaliza

Superio, the secretary of respondent, on February 22, 1990. Respondent filed the Notice of Appeal on March 13, 1990 which was clearly out of time. To extricate himself from such predicament, respondent altered the date when he allegedly received the Decision from February 23, 1990 to February 29, 1990. Realizing that there was no February 29, 1990 in the calendar, he sought to change the date again to February 28, 1990 by means of a “reply to Plaintiff’s Manifestation”.

The Investigating Commissioner further pointed out that respondent’s claim that the correction was made in the presence of the Clerk of Court and other court employees was denied by Nilda P. Tronco, the Branch Clerk of the Municipal Trial Court of Bacolod City, who declared that the alteration was surreptitiously made and would have been left unnoticed were it not for the timely discovery thereof.[14]

The Court finds the facts as summarized by the investigator fully supported by the evidence. However, the recommended penalty is not commensurate to the misdeed of respondent.

The primary objective of administrative cases against lawyers is not only to punish and discipline the erring individual lawyers but also to safeguard the administration of justice by protecting the courts and the public from the misconduct of lawyers, and to remove from the legal profession persons whose utter disregard of their lawyer’s oath have proven them unfit to continue discharging the trust reposed in them as members of the bar.[15] A lawyer may be disbarred or suspended for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, honesty, probity and good demeanor or unworthy to continue as an officer of the court.[16]

Section 27, Rule 138 of the Revised Rules of Court provides that a member of the Bar may be disbarred or suspended from his office as attorney on the following grounds, to wit: 1.] deceit; 2.] malpractice or other gross misconduct in office; 3.] grossly immoral conduct; 4.] conviction of a crime involving moral turpitude; 5.] violation of the lawyer’s oath; 6.] willful disobedience to any lawful order of a superior court; and 7.] willfully appearing as an attorney for a party without authority.

While the prevailing facts of the case do not warrant so severe a penalty as disbarment, the inherent power of the Court to discipline an errant member of the Bar must, nonetheless, be exercised because it can not be denied that respondent has violated his solemn oath as a lawyer not to engage in unlawful, dishonest or deceitful conduct.[17]

The relevant rules to the case at bar are Rules 1.01 and Rule 19.01 of the Code of Professional Responsibility. Rule 1.01 states in no uncertain terms that: “A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.” More specifically, Rule 19.01 mandates that “a lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate or threaten to present unfounded criminal charges to obtain improper advantage in any case or proceeding.”

The Court “can not overstress the duty of a lawyer to at all times uphold the integrity and dignity of the legal profession. He can do this by faithfully performing his duties to society, to the bar, to the courts and to his clients.”[18] Along the same vein, in *Ong v. Atty. Elpidio D. Unto*,[19] the Court ruled that “The ethics of the legal profession rightly enjoin lawyers to act with the highest standards of truthfulness, fair play and nobility in the course of his practice of law. A lawyer may be disciplined or suspended for any misconduct, whether in his professional or private capacity.[20] Public confidence in the law and lawyers may be eroded by the irresponsible and improper conduct of a member of the Bar. Thus, every lawyer should act and comport himself in such a manner that would promote public confidence in the integrity of the legal profession.”[21]

By altering the material dates to make it appear that the Notice of Appeal was timely filed, respondent committed an act of dishonesty. Under pertinent rules,[22] dishonesty constitutes grave misconduct upon which the Court, in

a recent case,[23] imposed a one-year suspension on respondent therein for inserting in the records of the case a certification of non-forum shopping and making it appear that the same was already part of such records at the time the complaint was filed. A one-year suspension was similarly imposed on respondent in *Reyes v. Atty. Rolando Javier*[24] for deceiving his client into believing that he filed the petition on time when in fact it was filed on a much later date. It should be stressed that brazenly resorting to such a legal subterfuge to mislead the court and to cover up for his failings toward his client is not only a disgraceful indictment on respondent's moral fiber and personal fitness to his calling as a lawyer. It is also an embarrassment to his brethren in the Bar. Such misconduct warrants a similar penalty for the Court can not tolerate any misconduct that tends to besmirch the fair name of an honorable profession.

WHEREFORE, in view of the foregoing, respondent Atty. Napoleon Corral is **SUSPENDED** from the practice of law for **ONE (1) YEAR** and **STERNLY WARNED** that a repetition of the same or similar offense will be dealt with more severely.

Let copies of this resolution be entered in the personal record of respondent as a member of the Bar and furnished the Bar Confidant, the Integrated Bar of the Philippines (IBP) and the Court Administrator for circulation to all courts of the country.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Kapunan, and Austria-Martinez, JJ., concur.

[1] Rollo, p. 1.

[2] *Ibid.*, p. 1-3.

[3] *Id.*, p. 4; Exhibit A, Complaint.

[4] *Id.*, p. 11; Exhibit B, Complaint.

[5] *Id.*, p. 12; Exhibit C, Complaint.

[6] *Id.*, pp. 15-17.; Exhibits D and E, Complaint.

[7] *Id.*, p.35.

[8] *Vda. de Dela Cruz v. Abille*, 352 SCRA 691, 698 (2001), citing *Sunset View Condominium Corp. v. NLRC*, 228 SCRA 466, 472 (1993), citing *Bautista v. Secretary of Labor*, 196 SCRA 470 (1991).

[9] *Pefianco v. Moral*, 322 SCRA 439, 449 (2000), citing *Ruiz v. Drilon*, 209 SCRA 695 (1992).

[10] Rollo, p. 35.

[11] *PAL v. NLRC*, 337 SCRA 286 (2000); *Orola v. Alovera*, 335 SCRA 609 (2000).

[12] *Aparente, Sr. v. NLRC*, 331 SCRA 82, 89-90 (2000), citing *National Semiconductor (HK) Distribution Ltd. v. NLRC*, 291 SCRA 348, 354 (1998); *Ramoran v. Jardine CMG Life Insurance Company*, 326 SCRA 209, 220 (2000).

[13] *Gacutana-Fraile v. Domingo*, 348 SCRA 414 (2000), citing *Alba v. Nitorreda*, 254 SCRA 753 (1996), citing *Concerned Officials of MWSS v. Hon. Ombudsman Conrado Vazquez*, 240 SCRA 502 (1995).

[14] Exhibit D.

[15] *Sevilla v. Salubre*, 348 SCRA 592, 599 (2000).

[16] *Calub v. Suller*, 323 SCRA 556, 560 (2000).

[17] *Alitagtag v. Atty. Virgilio R. Garcia*, A.C. No. 4738, 6 February 2002, citing Rule 1.01, Code of Professional Responsibility.

[18] *Reyes v. Atty. Rolando Javier*, A.C. No. 5574, 1 February 2002.

[19] A.C. No. 2417, 6 February 2002.

[20] Ducat, Jr. v. Villalon, Jr., 337 SCRA 622, 628 (2000).

[21] Id., p. 629.

[22] Memorandum Circular No. 30, Series of 1989, or the Guidelines in the Application of Penalties in Administrative Cases.

[23] Santos v. Joyce Trinidad Arlegui-Hernandez, et al., 22 February 2002.

[24] See note no. 13.

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