

PHILIPPINE NATIONAL BANK, COMPLAINANT, VS. ATTY. TELESFORO S. CEDO, RESPONDENT.

A.C. No. 3701. March 28, 1995

Ponente: BIDIN, J.

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BIDIN, J.:

In a verified letter-complaint dated August 15, 1991, complainant Philippine National Bank charged respondent Atty. Telesforo S. Cedo, former Asst. Vice-President of the Asset Management Group of complainant bank, with violation of Canon 6, Rule 6.03 of the Code of Professional Responsibility, thus:

"A lawyer shall not, after leaving government service, accept engagement or employment in connection with any matter in which he had intervened while in said service."

by appearing as counsel for individuals who had transactions with complainant bank in which respondent during his employment with aforesaid bank, had intervened.

Complainant averred that while respondent was still in its employ, he participated in arranging the sale of steel sheets (denominated as Lots 54-M and 55-M) in favor of Milagros Ong Siy for P200,000. He even "noted" the gate passes issued by his subordinate, Mr. Emmanuel Elefan, in favor of Mrs. Ong Siy authorizing the pull-out of the steel sheets from the DMC Man Division Compound. When a civil action arose out of this transaction between Mrs. Ong Siy and complainant bank before the Regional Trial Court of Makati, Branch 146, respondent who had since left the employ of complainant bank, appeared as one of the counsels of Mrs. Ong Siy.

Similarly, when the same transaction became the subject of an administrative case filed by complainant bank against his former subordinate Emmanuel Elefan, for grave misconduct and dishonesty, respondent appeared as counsel for Elefan only to be later disqualified by the Civil Service Commission.

Moreover, while respondent was still the Asst. Vice President of complainant's Asset Management Group, he intervened in the handling of the loan account of the spouses Ponciano and Eufemia Almeda with complainant bank by writing demand letters to the couple. When a civil action ensued between complainant bank and the Almeda spouses as a result of this loan account, the latter were represented by the law firm "Cedo, Ferrer, Maynigo & Associates" of which respondent is one of the Senior Partners.

In his Comment on the complaint, respondent admitted that he appeared as counsel for Mrs. Ong Siy but only with respect to the execution pending appeal of the RTC decision. He alleged that he did not participate in the litigation of the case before the trial court. With respect to the case of the Almeda spouses, respondent alleged that he never appeared as counsel for them. He contended that while the law firm "Cedo, Ferrer, Maynigo & Associates" is designated as counsel of record, the case is actually handled only by Atty. Pedro Ferrer. Respondent averred that he did not enter into a general partnership with Atty. Pedro Ferrer nor with the other lawyers named therein. They are only using the aforesaid name to designate a law firm maintained by lawyers, who although not partners, maintain one office as well as one clerical and supporting staff. Each one of them

handles their own cases independently and individually receives the revenues therefrom which are not shared among them.

In the resolution of this Court dated January 27, 1992, this case was referred to the Integrated Bar of the Philippines (IBP), for investigation, report and recommendation.

During the investigation conducted by the IBP, it was discovered that respondent was previously fined by this Court in the amount of P1,000.00 in connection with G.R. No. 94456 entitled "Milagros Ong Siy vs. Hon. Salvador Tensuan, et al." for forum shopping, where respondent appeared as counsel for petitioner Milagros Ong Siy "through the law firm of Cedo Ferrer Maynigo and Associates."

The IBP further found that the charges herein against respondent were fully substantiated. Respondent's averment that the law firm handling the case of the Almeda spouses is not a partnership deserves scant consideration in the light of the attestation of complainant's counsel, Atty. Pedro Singson, that in one of the hearings of the Almeda 'spouses' case, respondent attended the same with his partner Atty. Ferrer, and although he did not enter his appearance, he was practically dictating to Atty. Ferrer what to say and argue before the court. Furthermore, during the hearing of the application for a writ of injunction in the same case, respondent impliedly admitted being the partner of Atty. Ferrer, when it was made of record that respondent was working in the same office as Atty. Ferrer.

Moreover, the IBP noted that assuming the alleged set-up of the firm to be true, it is in itself a violation of the Code of Professional Responsibility (Rule 15.02) since the client's secrets and confidential records and information are exposed to the other lawyers and staff members at all times.

From the foregoing, the IBP found a deliberate intent on the part of respondent to devise ways and means to attract as clients former borrowers of complainant bank since he was in the best position to see the legal weaknesses of his former employer, a convincing factor for the said clients to seek his professional services. In sum, the IBP saw a deliberate sacrifice by respondent of his ethics in consideration of the money he expected to earn.

The IBP thus recommended the suspension of respondent from the practice of law for 3 years.

The records show that after the Board of Governors of the IBP had, on October 4, 1994, submitted to this Court its Report and recommendation in this case, respondent filed a Motion for Reconsideration dated October 25, 1994 of the recommendation contained in the said Report with the IBP Board of Governors. On December 12, 1994, respondent also filed another "Motion to Set Hearing" before this Court, the aforesaid Motion for Reconsideration. In resolving this case, the Court took into consideration the aforesaid pleadings.

In addition to the findings of the IBP, this Court finds this occasion appropriate to emphasize the paramount importance of avoiding the representation of conflicting interests. In the similar case of *Pasay Law and Conscience Union, Inc. vs. Paz*, (95 SCRA 24 [1980]) where a former Legal Officer and Legal Prosecutor of PARGO who participated in the investigation of the Anti-Graft case against Mayor Pablo Cuneta later on acted as counsel for the said Mayor in the same anti-graft case, this Court, citing *Nombrado vs. Hernandez* (26 SCRA 13 [1968]) ruled:

"The Solicitor General is of the opinion, and we find no reason to disagree with him, that even if respondent did not use against his client any information or evidence acquired by him as counsel it cannot be denied that he did become privy to information regarding the ownership of the parcel of land which was later litigated in the forcible entry case, for it was the dispute over the land that triggered the mauling incident which gave rise to the criminal action for physical injuries. This Court's remarks in *Hilado vs. David*, 84 Phil. 571, are apropos:

'Communications between attorney and client are, in a great number of litigations, a complicated affair, consisting of entangled relevant and irrelevant, secret and well-known facts. In the complexity of what is said in the course of dealings between an attorney and client, inquiry of the nature suggested would lead to the revelation, in advance of the trial, of other matters that might only further prejudice the complainant's cause.'

"Whatever may be said as to whether or not respondent utilized against his former client information given to him in a professional capacity, the mere fact of their previous relationship should have precluded him from appearing as counsel for the other side in the forcible entry case. In the same case of Hilado vs. David, supra, this Tribunal further said:

'Hence the necessity of setting down the existence of the bare relationship of attorney and client as the yardstick for testing incompatibility of interests. This stern rule is designed not alone to prevent the dishonest practitioner from fraudulent conduct, but as well to protect the honest lawyer from unfounded suspicion of unprofessional practice. x x x It is founded on principles of public policy, of good taste. As has been said in another case, the question is not necessarily one of the rights of the parties, but as to whether the attorney has adhered to proper professional standard. With these thoughts in mind, it behooves attorneys, like Caesar's wife, not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double dealing. Only thus can litigants be encouraged to entrust their secrets to their attorneys which is of paramount importance in the administration of justice.'

The foregoing disquisition on conflicting interest applies with equal force and effect to respondent in the case at bar. Having been an executive of complainant bank, respondent now seeks to litigate as counsel for the opposite side, a case against his former employer involving a transaction which he formerly handled while still an employee of complainant, in violation of Canon 6 of the Canons of Professional Ethics on adverse influence and conflicting interests, to wit:

"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."

ACCORDINGLY, this Court resolves to SUSPEND respondent ATTY. TELESFORO S. CEDO from the practice of law for THREE (3) YEARS, effective immediately.

Let copies of this resolution be furnished the Integrated Bar of the Philippines and all courts in Metro Manila.
SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

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