

CONCORDIA B. GARCIA, COMPLAINANT, VS. ATTY. CRISANTO L. FRANCISCO, RESPONDENT.

A.C. No. 3923. March 30, 1993

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PER CURIAM:

In a sworn complaint filed with this Court on October 6, 1992, Concordia B. Garcia seeks the disbarment of Atty. Crisanto L. Francisco.

On March 9, 1964, Concordia B. Garcia and her husband Godofredo, the Dionisio spouses, and Felisa and Magdalena Baetiong leased a parcel of land to Sotero Baluyot Lee for a period of 25 years beginning May 1, 1964. Despite repeated verbal and written demands, Lee refused to vacate after the expiration of the lease. Lee claimed that he had an option to extend the lease for another 5 years and the right of pre-emption over the property.

In this disbarment case, the complainant claims that Lee's counsel, respondent Francisco, commenced various suits before different courts to thwart Garcia's right to regain her property and that all these proceedings were decided against Lee. The proceedings stemmed from the said lease contract and involved the same issues and parties, thus violating the proscription against forum-shopping.

Respondent, in his comment, says that he asserted in defense of his client's rights only such remedies as were authorized by law.

The tangle of recourses employed by Francisco is narrated as follows:

1. On March 29, 1989, Lee, through Francisco, filed a complaint against Garcia and the other lessors for specific performance and reconveyance with damages in the Regional Trial Court of Quezon City. This was docketed as Civil Case No. Q-89-2118. On June 9, 1989, Garcia filed a motion to dismiss the complaint on the grounds of failure to state a cause of action, laches and prescription. The case was dismissed by Judge Felimon Mendoza on August 10, 1989.
2. On May 29, 1989, Garcia and the other lessors filed a complaint for unlawful detainer against Lee in the Metropolitan Trial Court of Quezon City. This was docketed as Civil Case No. 1455. Through Francisco, Lee filed an answer alleging as special and affirmative defense the pendency of Civil Case No. Q-89-2118 in the Regional Trial Court of Quezon City. On September 5, 1989, Judge Marcelino Bautista issued a resolution rejecting this allegation on the ground that the issues before the two courts were separate and different.
3. On October 24, 1989, Lee, through Francisco, filed with the Regional Trial Court of Quezon City a petition for certiorari and prohibition with preliminary injunction against Judge Bautista, Garcia and the other lessors. This was docketed as Civil Case No. Q-89-3833. In filing this petition, Francisco knew or should have known that it violated the Rule on Summary Procedure prohibiting the filing of petitions for certiorari, mandamus or prohibition against any interlocutory order issued by the court.

Francisco claims that what he appealed to the Regional Trial Court in Civil Case No. Q-89-3833 was the denial of

his prayer for dismissal of Civil Case No. 1455. This is not true. Civil Case Q-89-3833 was clearly a special civil action and not an appeal.

On November 13, 1989, Judge Abraham Vera issued an order enjoining Judge Bautista from proceeding with the trial of the unlawful detainer case. Upon motion of the complainant, however, the injunction was set aside and Civil Case No. Q-89-3833 was dismissed on January 9, 1990. Lee did not appeal.

4. On April 6, 1990, Lee, through Francisco, filed a petition for certiorari and prohibition with prayer for preliminary injunction with the Court of Appeals against Judge Vera, Judge Singzon, Garcia and the other lessors. Docketed as CA G.R. Sp No. 20476, the petition assailed the January 9, 1990 order of Judge Vera dismissing Civil Case No. Q-89-3833. On May 31, 1989, the petition was denied.

5. On June 14, 1990, Judge Singzon decided Civil Case No. 1455 in favor of complainant Garcia and the other lessors. Lee did not appeal. Instead, on June 21, 1990, through Francisco again, he filed a petition against Judge Singzon and the other lessors for certiorari and annulment of the decision in Civil Case No. 1455 and damages with prayer for issuance of preliminary injunction. This was docketed as Civil Case No. 90-5852 in the Regional Trial Court of Quezon City, Branch 98, presided by Judge Cesar C. Peralejo.

In Francisco's comment before us, he alleges that Civil Case No. Q-90-5852 is an appeal from the unlawful detainer case. Again, he lies. Civil Case No. Q-90-5852 was a special civil action and not an appeal.

On July 2, 1990, Garcia's group filed an Omnibus Motion to Dismiss Civil Case No. 90-5852. On July 13, 1990, Judge Peralejo issued an order enjoining Judge Singzon from enforcing the decision in that case. Garcia attacked this order in a petition for certiorari and prohibition with prayer for preliminary injunction docketed as CA Sp. No. 22392. The petition was granted by the Court of Appeals on September 19, 1991, on the ground that the judgment in the unlawful detainer case had become final and executory as of June 30, 1990.

6. On September 24, 1991, Garcia filed a motion for execution in the unlawful detainer case. On September 27, 1991, Lee, through Francisco, filed a motion to inhibit Judge Singzon and to defer the hearing of the motion. A writ of execution was nonetheless issued by Judge Singzon on October 8, 1991.

7. Two days later, Lee, through Francisco, filed with the Supreme Court a petition for certiorari with preliminary injunction and temporary restraining order against the Court of Appeals, Judge Singzon, Garcia and the other lessors. This Court denied the petition on January 27, 1992, and reconsideration on April 8, 1992.

8. Finally, Lee, still through Francisco, filed a petition for certiorari with preliminary injunction against Judge Singzon, Garcia and the other lessors in the Regional Trial Court of Quezon City to set aside and declare the writs of execution in Civil Case No. 1455. This was dismissed on August 4, 1992, and Lee, through Francisco, filed a motion for reconsideration. According to Francisco, he was relieved as counsel while this motion was pending.

A lawyer owes fidelity to the cause of his client but not at the expense of truth and the administration of justice.

The cause of the respondent's client is obviously without merit. The respondent was aware of this fact when he wilfully resorted to the gambits summarized above, continuously seeking relief that was consistently denied, as he should have expected. He thereby added to the already clogged dockets of the courts and wasted their valuable time. He also caused much inconvenience and expense to the complainant, who was obliged to defend herself against his every move.

By grossly abusing his right of recourse to the courts for the purpose of arguing a cause that had been repeatedly rebuffed, he was disdaining the obligation of the lawyer to maintain only such actions or proceedings as appear to him to be just and such defenses only as he believes to be honestly debatable under the law. By violating his oath

not to delay any man for money or malice, he has besmirched the name of an honorable profession and has proved himself unworthy of the trust reposed in him by law as an officer of the Court.

Atty. Crisanto L. Francisco took his oath as a lawyer on March 2, 1956. Considering his age and experience in the practice of the law, he should have known better than to trifle with it and to use it as an instrument for the harassment of the complainant and the misuse of judicial processes. For this serious transgression of the Code of Professional Responsibility, he deserves to be sanctioned, not only as punishment for his misconduct but also as a warning to other lawyers who may be influenced by his example.

Accordingly, he is hereby **SUSPENDED** for **ONE YEAR** from the practice of law and from the enjoyment of all the rights and privileges appurtenant to membership in the Philippine bar.

Let a copy of this Resolution be served immediately on the respondent and circularized to all courts and the Integrated Bar of the Philippines.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, Bellosillo, and Quiason, JJ., concur.

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