

ARTEMIO ENDAYA, COMPLAINANT, VS. ATTY. WILFREDO OCA, RESPONDENT.

A.C. No. 3967. September 03, 2003

Ponente: TINGA, J.

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TINGA, J.:

The law is no brooding omnipresence in the sky, so spoke Justice Holmes. He must have made the statement because invariably the legal system is encountered in human form, notably through the lawyers. For practical purposes, the lawyers not only represent the law; they are the law.[1] With their ubiquitous presence in the social milieu, lawyers have to be responsible. The problems they create in lawyering become public difficulties. To keep lawyers responsible underlies the worth of the ethics of lawyering. Indeed, legal ethics is simply the aesthetic term for professional responsibility.

The case before us demonstrates once again that when a lawyer violates his duties to his client, the courts, the legal profession and the public, he engages in conduct which is both unethical and unprofessional.

This case unfolded with a verified Complaint[2] filed on January 12, 1993 by complainant Artemio Endaya against respondent Atty. Wilfredo Oca for violation of the lawyer's oath and what complainant termed as "professional delinquency or infidelity." [3] The antecedents are:

On November 7, 1991, a complaint for unlawful detainer docketed as Civil Case No. 34-MCTC-T was filed with the Municipal Circuit Trial Court of Taysan-Lobo, Batangas by Apolonia H. Hornilla, Pedro Hernandez, Santiago Hernandez and Dominador Hernandez against complainant and his spouse Patrosenia Endaya.[4]

On December 13, 1991, the complainant and his wife as defendants in the case filed their answer which was prepared by a certain Mr. Isaias Ramirez. A preliminary conference was conducted on January 17, 1992, which complainant and his wife attended without counsel. During the conference, complainant categorically admitted that plaintiffs were the declared owners for taxation purposes of the land involved in the case. Continuation of the preliminary conference was set on January 31, 1992. Thereafter, complainant sought the services of the Public Attorney's Office in Batangas City and respondent was assigned to handle the case for the complainant and his wife.[5]

At the continuation of the preliminary conference, respondent appeared as counsel for complainant and his spouse. He moved for the amendment of the answer previously filed by complainant and his wife, but his motion was denied.[6] Thereafter, the court, presided by Acting Trial Court Judge Teodoro M. Baral, ordered the parties to submit their affidavits and position papers within ten days from receipt of the order. The court also decreed that thirty days after receipt of the last affidavit and position paper, or upon expiration of the period for filing the same, judgment shall be rendered on the case.[7]

Respondent failed to submit the required affidavits and position paper, as may be gleaned from the Decision dated March 19, 1992 of the MCTC where it was noted that "only the plaintiffs submitted their affidavits and position

papers."[8]

Nonetheless, the court dismissed the complaint for unlawful detainer principally on the ground that the plaintiffs are not the real parties-in-interest. The dispositive portion of the Decision reads:

WHEREFORE, this case is hereby dismissed on the ground that the plaintiffs have no legal capacity to sue as they are not the real party (sic) in interest, in addition to the fact that there is no privity of contract between the plaintiffs and the defendants as to the verbal lease agreement.

SO ORDERED.[9]

Plaintiffs appealed the Decision to the Regional Trial Court (RTC) of Batangas City, Branch 1, where the case was docketed as Civil Case No. 3378. On April 10, 1992, the RTC directed the parties to file their respective memoranda.[10] Once again, respondent failed the complainant and his wife. As observed by the RTC in its Decision[11] dated September 7, 1992, respondent did not file the memorandum for his clients, thereby prompting the court to consider the case as submitted for decision.[12]

In its Decision, the RTC reversed the decision appealed from as it held that plaintiffs are the co-owners of the property in dispute and as such are parties-in-interest.[13] It also found that the verbal lease agreement was on a month-to-month basis and perforce terminable by the plaintiffs at the end of any given month upon proper notice to the defendants.[14] It also made a finding that defendants incurred rentals in arrears.[15] The decretal portion of the Decision reads, thus:

WHEREFORE, premises considered, the Decision of the Municipal Circuit Trial Court of Taysan-Lobo dated March 19, 1992, is REVERSED and SET ASIDE and new one entered, to wit:

Defendants ARTEMIO ENDAYA and PATROSENIA ENDAYA and all persons claiming under them are hereby ordered to vacate and dismantle their house on the land subject of the verbal lease agreement at their own expense. The defendants are likewise ordered to pay the monthly rental of P25.00 from the month of January 1991 to November 1991 and ONE THOUSAND (P1,000.00) PESOS monthly from December 1991 until the defendants finally vacate and surrender possession of the subject property to the plaintiffs and to pay attorney's fee in the amount of TEN THOUSAND (P10,000.00) PESOS.

No pronouncement as to cost.[16]

Complainant received a copy of the Decision on October 7, 1992. Two days later, or on October 9, 1992, complainant confronted respondent with the adverse decision but the latter denied receipt of a copy thereof. Upon inquiry with the Branch Clerk of Court, however, complainant found out that respondent received his copy back on September 14, 1992.[17]

Having lost the unlawful detainer case, on January 12, 1993 complainant filed the present administrative complaint against the respondent for professional delinquency consisting of his failure to file the required pleadings in behalf of the complainant and his spouse. Complainant contends that due to respondent's inaction he lost the opportunity to present his cause and ultimately the case itself.[18]

In his Comment[19] dated March 17, 1993, respondent denies that he committed professional misconduct in violation of his oath, stressing that he was not the original counsel of complainant and his spouse.[20] He further avers that when he agreed to represent complainant at the continuation of the preliminary conference in the main case, it was for the sole purpose of asking leave of court to file an amended answer because he was made to believe by the complainant that the answer was prepared by a non-lawyer. Upon discovering that the answer was in fact the work of a lawyer, forthwith he asked the court to relieve him as complainant's counsel, but he was denied. He adds that he agreed to file the position paper for the complainant upon the latter's undertaking to

provide him with the documents which support the position that plaintiffs are not the owners of the property in dispute. As complainant had reneged on his promise, he claims that he deemed it more prudent not to file any position paper as it would be a repetition of the answer. He offers the same reason for not filing the memorandum on appeal with the RTC. Finally, respondent asserts that "he fully explained his stand as regards Civil Case No. 34-MCTC-T to the complainant." [21]

Pursuant to our Resolution [22] dated May 10, 1993, complainant filed his Reply [23] to respondent's Comment wherein he merely reiterated his allegations in the Complaint.

On July 28, 1993, this Court directed respondent to file his rejoinder within ten days from notice of our Resolution. [24] But he failed to do so despite the lapse of a considerable period of time. This prompted the Court to require respondent to show cause why he should not be disciplinarily dealt with or held in contempt and to file his rejoinder, both within ten (10) days from notice. [25]

In his Explanation [26] dated February 28, 1997, respondent admits having received a copy of the resolution requiring him to file a rejoinder. However, he asserts that he purposely did not file a rejoinder for "he believed in good faith that a rejoinder to complainant's reply is no longer necessary." [27] He professes that in electing not to file a rejoinder he did not intend to cast disrespect upon the Court. [28]

On June 16, 1997, we referred this case to the Office of the Bar Confidant for evaluation, report and recommendation. [29]

In its Report [30] dated February 6, 2001, the Office of the Bar Confidant found respondent negligent in handling the case of complainant and his wife and recommended that he be suspended from the practice of law for one month. The pertinent portions of the Report read, thus:

It is to be noted that after appearing at the preliminary conference before the Municipal Circuit Trial Court, respondent was never heard from again. Respondent's seeming indifference to the cause of his client, specially when the case was on appeal, caused the defeat of herein complainant. Respondent practically abandoned complainant in the midst of a storm. This is even more made serious of the fact that respondent, at that time, was assigned at the Public Attorney's Office- a government entity mandated to provide free and competent legal assistance.

"A lawyer's devotion to his client's cause not only requires but also entitles him to deploy every honorable means to secure for the client what is justly due him or to present every defense provided by law to enable the latter's cause to succeed." (Miraflor vs. Hagad, 244 SCRA 106)

....

The facts, however, do not show that respondent employed every legal and honorable means to advance the cause of his client. Had respondent tried his best, he could have found some other defenses available to his client; but respondent was either too lazy or too convinced that his client had a losing case.

....

For intentionally failing to submit the pleadings required by the court, respondent practically closed the door to the possibility of putting up a fair fight for his client. As the Court once held, "A client is bound by the negligence of his lawyer." (Diaz-Duarte vs. Ong, 298 SCRA 388) [31]

However, the Bar Confidant did not find complainant entirely faultless. She observed, viz:

Respondent's allegation that complainant failed in his promise to submit the documents to support his claim was not denied by complainant; hence, it is deemed admitted. Complainant is not without fault; for

misrepresenting that he could prove his claim through supporting documents, respondent was made to believe that he had a strong leg to stand on. "A party cannot blame his counsel for negligence when he himself was guilty of neglect." (Macapagal vs. Court of Appeals, 271 SCRA 491)[32]

On April 18, 2001, we referred the case to the Integrated Bar of the Philippines for investigation, report and recommendation.

Several hearings were set by the IBP but complainant did not appear even once. Respondent attended five hearings, but he failed to present evidence in support of his defense, as required by Investigating Commissioner Victor C. Fernandez. This compelled the latter to make his report on the basis of the pleadings and evidence forwarded by the Office of the Bar Confidant.

On October 11, 2002, Commissioner Fernandez issued his Report[33] wherein he concurred with the findings and recommendation of the Office of the Bar Confidant.

In a Resolution[34] dated April 26, 2003, the IBP Board of Governors adopted the Report of Commissioner Fernandez.

The Court is convinced that respondent violated the lawyer's oath not only once but a number of times in regard to the handling of his clients' cause. The repeated violations also involve defilement of several Canons in the Code of Professional Responsibility.

Right off, the Court notes that respondent attributes his failure to file the required pleadings for the complainant and his wife invariably to his strong personal belief that it was unnecessary or futile to file the pleadings. This was true with respect to the affidavits and position paper at the MCTC level, the appeal memorandum at the RTC level and the rejoinder at this Court's level. In the last instance, it took respondent as long as three years, under compulsion of a show cause order at that, only to manifest his predisposition not to file a rejoinder after all. In other words, at the root of respondent's transgressions is his seeming stubborn mindset against the acts required of him by the courts. This intransigent attitude not only belies lack of diligence and commitment but evinces absence of respect for the authority of this Court and the other courts involved.

The lawyer's oath embodies the fundamental principles that guide every member of the legal fraternity. From it springs the lawyer's duties and responsibilities that any infringement thereof can cause his disbarment, suspension or other disciplinary action.[35]

Found in the oath is the duty of a lawyer to protect and safeguard the interest of his client. Specifically, it requires a lawyer to conduct himself "to the best of his knowledge and discretion with all good fidelity as well to the courts as to his clients." [36] This duty is further stressed in Canon 18 of the Code of Professional Responsibility which mandates that "(A) lawyer shall serve his client with competence and diligence."

In this case, evidence abound that respondent failed to demonstrate the required diligence in handling the case of complainant and his spouse. As found by the Office of the Bar Confidant,[37] after appearing at the second preliminary conference before the MCTC, respondent had not been heard of again until he commented on the complaint in this case. Without disputing this fact, respondent reasons out that his appearance at the conference was for the sole purpose of obtaining leave of court to file an amended answer and that when he failed to obtain it because of complainant's fault he asked the court that he be relieved as counsel.[38] The explanation has undertones of dishonesty for complainant had engaged respondent for the entire case and not for just one incident. The alternative conclusion is that respondent did not know his procedure for under the Rules on Summary Procedure[39] the amended answer is a prohibited pleading.

Even assuming respondent did in fact ask to be relieved, this could not mean that less was expected from him.

Once a lawyer takes the cudgels for a client's case, he owes it to his client to see the case to the end. This, we pointed out in *Legarda v. Court of Appeals*,^[40] thus:

It should be remembered that the moment a lawyer takes a client's cause, he covenants that he will exert all effort for its prosecution until its final conclusion. A lawyer who fails to exercise due diligence or abandons his client's cause make him unworthy of the trust reposed on him by the latter.^[41]

Also, we held in *Santiago v. Fojas*,^[42] "every case a lawyer accepts deserves his full attention, diligence, skill, and competence, regardless of its importance and whether he accepts it for a fee or for free." In other words, whatever the lawyer's reason is for accepting a case, he is duty bound to do his utmost in prosecuting or defending it.

Moreover, a lawyer continues to be a counsel of record until the lawyer-client relationship is terminated either by the act of his client or his own act, with permission of the court. Until such time, the lawyer is expected to do his best for the interest of his client ^[43]

Thus, when respondent was directed to file affidavits and position paper by the MCTC, and appeal memorandum by the RTC, he had no choice but to comply. However, respondent did not bother to do so, in total disregard of the court orders. This constitutes negligence and malpractice proscribed by Rule 18.03 of the Code of Professional Responsibility which mandates that "(A) lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable."

Respondent's failure to file the affidavits and position paper at the MCTC did not actually prejudice his clients, for the court nevertheless rendered a decision favorable to them. However, the failure is per se a violation of Rule 18.03.

It was respondent's failure to file appeal memorandum before the RTC which made complainant and his wife suffer as it resulted in their loss of the case. As found by the Office of the Bar Confidant, to which we fully subscribe, in not filing the appeal memorandum respondent denied complainant and his spouse the chance of putting up a fair fight in the dispute. Canon 19 prescribes that "(A) lawyer shall represent his client with zeal within the bounds of the law." He should exert all efforts to avail of the remedies allowed under the law. Respondent did not do so, thereby even putting to naught the advantage which his clients apparently gained by prevailing at the MCTC level. Verily, respondent did not even bother to put up a fight for his clients. Clearly, his conduct fell short of what Canon 19 requires and breached the trust reposed in him by his clients.

We cannot sustain respondent's excuse in not filing the affidavits and position paper with the MCTC and the appeal memorandum with the RTC. He claims that he did not file the required pleadings because complainant failed to furnish him with evidence that would substantiate complainant's allegations in the answer. He argues that absent the supporting documents, the pleadings he could have filed would just be a repetition of the answer. However, respondent admits in his comment that complainant furnished him with the affidavit of persons purporting to be barangay officials attesting to an alleged admission by Felomino Hernandez, the brother of the plaintiffs in the unlawful detainer case, that he had already bought the disputed property.^[44] This did not precipitate respondent into action despite the evidentiary value of the affidavit, which was executed by disinterested persons. Said affidavit could have somehow bolstered the claim of complainant and his wife which was upheld by the MCTC that plaintiffs are not the real parties-in-interest. While respondent could have thought this affidavit to be without probative value, he should have left it to the sound judgment of the court to determine whether the affidavit supports the assertions of his clients. That could have happened had he filed the required position paper and annexed the affidavit thereto.

Further, notwithstanding his belief that without the supporting documents filing the required pleadings would be a

futile exercise, still respondent should have formally and promptly manifested in court his intent not to file the pleadings to prevent delay in the disposition of the case.[45] Specifically, the RTC would not have waited as it did for the lapse of three months from June 5, 1992, the date when plaintiffs-appellants submitted their appeal memorandum, before it rendered judgment. Had it known that respondent would not file the appeal memorandum, the court could have decided the case much earlier.

For his failure to inform the court, respondent violated Canon 12, to wit:

Canon 12: A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

Respondent likewise failed to demonstrate the candor he owed his client. Canon 17 provides that "(A) lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him." When complainant received the RTC decision, he talked to respondent about it.[46] However, respondent denied knowledge of the decision despite his receipt thereof as early as September 14, 1992. Obviously, he tried to evade responsibility for his negligence. In doing so, respondent was untruthful to complainant and effectively betrayed the trust placed in him by the latter.

On top of all these is respondent's employment as a lawyer of the Public Attorney's Office which is tasked to provide free legal assistance for indigents and low-income persons so as to promote the rule of law in the protection of the rights of the citizenry and the efficient and speedy administration of justice.[47] Against this backdrop, respondent should have been more judicious in the performance of his professional obligations. As we held in *Vitriola v. Dasig*[48] "lawyers in the government are public servants who owe the utmost fidelity to the public service." Furthermore, a lawyer from the government is not exempt from observing the degree of diligence required in the Code of Professional Responsibility. Canon 6 of the Code provides that "the canons shall apply to lawyers in government service in the discharge of their official tasks."

At this juncture, it bears stressing that much is demanded from those who engage in the practice of law because they have a duty not only to their clients, but also to the court, to the bar, and to the public. The lawyer's diligence and dedication to his work and profession not only promote the interest of his client, it likewise help attain the ends of justice by contributing to the proper and speedy administration of cases, bring prestige to the bar and maintain respect to the legal profession.[49]

The determination of the appropriate penalty to be imposed on an errant attorney involves the exercise of sound judicial discretion based on the facts of the case.[50] In cases of similar nature, the penalty imposed by this Court consisted of reprimand,[51] fine of five hundred pesos with warning,[52] suspension of three months,[53] six months,[54] and even disbarment in aggravated cases.[55]

The facts and circumstances in this case indubitably show respondent's failure to live up to his duties as a lawyer in consonance with the strictures of the lawyer's oath and the Code of Professional Responsibility, thereby warranting his suspension from the practice of law. At various stages of the unlawful detainer case, respondent was remiss in the performance of his duty as counsel.

To reiterate, respondent did not submit the affidavits and position paper when required by the MCTC. With his resolution not to file the pleadings already firmed up, he did not bother to inform the MCTC of his resolution in mockery of the authority of the court. His stubbornness continued at the RTC, for despite an order to file an appeal memorandum, respondent did not file any. Neither did he manifest before the court that he would no longer file the pleading, thus further delaying the proceedings. He had no misgivings about his deviant behavior, for despite receipt of a copy of the adverse decision by the RTC he opted not to inform his clients accordingly. Worse, he denied knowledge of the decision when confronted by the complainant about it.

At this Court's level, respondent's stubborn and uncaring demeanor surfaced again when he did not file a rejoinder to complainant's reply.

Respondent's story projects in vivid detail his appalling indifference to his clients' cause, deplorable lack of respect for the courts and a brazen disregard of his duties as a lawyer.

However, we are not unmindful of some facts which extenuate respondent's misconduct. First, when complainant sought the assistance of respondent as a PAO lawyer, he misrepresented that his answer was prepared by someone who is not a lawyer. Second, when complainant showed respondent a copy of their answer with the MCTC, he assured him that he had strong evidence to support the defense in the answer that plaintiffs were no longer the owners of the property in dispute. However, all that he could provide respondent was the affidavit of the barangay officials. Last but not least, it is of public knowledge that the Public Attorney's Office is burdened with a heavy caseload.

All things considered, we conclude that suspension for two (2) months from the practice of law is the proper and just penalty.

WHEREFORE, respondent Atty. Wilfredo Oca is ordered SUSPENDED from the practice of law for two (2) months from notice, with the warning that a similar misconduct will be dealt with more severely. Let a copy of this decision be attached to respondent's personal record in the Office of the Bar Confidant and copies be furnished to all chapters of the Integrated Bar of the Philippines (IBP) and to all the courts in the land.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] See Luban, David Lawyers and Justice, Princeton University Press, 1988, p. xvii.

[2] Rollo, pp. 1-6.

[3] Id. at 1.

[4] Id. at 26.

[5] Ibid.

[6] Rollo, p. 27.

[7] Id. at 7.

[8] Id. at 10.

[9] Id. at 11.

[10] Id. at 15.

[11] Id. at 12-22.

[12] Id. at 15.

[13] Id. at 19.

[14] Id. at 20.

[15] Id. at 21.

[16] Id. at 22.

[17] Id. at 3.

[18] Ibid.

[19] Rollo, pp. 26-28.

[20] Id. at 26.

[21] Id. at 27-28.

[22] Id. at 28.

[23] Id. at 38.

[24] No copy of the Resolution dated July 28, 1993 is found in the Rollo. However, this Court's order requiring respondent to file a rejoinder within ten days from notice is indicated in the minutes of the meeting of the Second Division held on July 28, 1993.

[25] Rollo, p.44

[26] Id. at 46.

[27] Ibid.

[28] Ibid.

[29] Rollo, p. 48.

[30] Id. at 49-56.

[31] Id. at 53-54.

[32] Id. at 54.

[33] Id. at 74-76.

[34] Id. at 73.

[35] Vitriolo v. Dasig, A.C. No. 4984, April 1, 2003, p. 7.

[36] Form 28, Appendix of Forms, Rules of Court.

[37] Rollo, p. 53.

[38] Id. at 26-27.

[39] Rules on Summary Procedure

Section 2. Pleading-

A. Pleadings allowed- The only pleadings allowed to be filed are the complaint and the answer (to the complaint, counterclaim or cross-claim). If the defendant has a crossclaim or a compulsory counterclaim, the same must be asserted in the answer, or be considered barred.

Section 4. Answer.- Upon being served with summons, the defendant must answer the complaint within ten (10) days from service thereof. The answer to a counterclaim or crossclaim must be filed within ten (10) days from service thereof.

- [40] G.R. No. 94457, 10 June 1992, 209 SCRA 722.
- [41] Id. at 730-731.
- [42] A.C. No. 4103, 7 Sept. 1995, 248 SCRA 68, 75-76.
- [43] *Orcino v. Gaspar*, 344 Phil. 792, 800-801 (1997).
- [44] *Rollo*, p. 27.
- [45] *Bergonia v. Merrera*, A.C. No. 5024, 20 Feb. 2003, p. 7.
- [46] *Rollo*, p. 3.
- [47] Art. 14.2, Integrated Reorganization Plan, Feb. 1972; Presidential Decree No. 1725.
- [48] *Supra*, note 35 at 7.
- [49] *Supra*, note 42 at 74.
- [50] *Ford v. Atty. Daitol*, 320 Phil. 53, 59 (1995).
- [51] *Supra*, note 42 at 76; *Vda. De Oribiana v. Gerio*, A.C. No. 1582, 88 SCRA 586, 592, 28 Feb. 1979.
- [52] *Basas v. Icawat*, A.C. No. 4282, 24 Aug. 2000, 338 SCRA 648, 652.
- [53] *Supra*, note 50 at 59.
- [54] *Perla Compania De Seguros, Inc., v. Saquilabon*, 337 Phil. 555, 559 (1997).
- [55] *Mariveles v. Mallari*, A.C. Case No. 3294, 219 SCRA 44, 461, 17 Feb. 1993.

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