SOLIMAN M. SANTOS, JR., COMPLAINANT, VS. ATTY. FRANCISCO R. LLAMAS, RESPONDENT.

A.C. No. 4749. January 20, 2000

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a complaint for misrepresentation and non-payment of bar membership dues filed against respondent Atty. Francisco R. Llamas.

In a letter-complaint to this Court dated February 8, 1997, complainant Soliman M. Santos, Jr., himself a member of the bar, alleged that:

> On my oath as an attorney, I wish to bring to your attention and appropriate sanction the matter of Atty. Francisco R. Llamas who, for a number of years now, has not indicated the proper PTR and IBP O.R. Nos. and data (date & place of issuance) in his pleadings. If at all, he only indicates "IBP Rizal 259060" but he has been using this for at least three years already, as shown by the following attached sample pleadings in various courts in 1995, 1996 and 1997: (originals available)
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> Annex A
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> "Ex-Parte Manifestation and Submission" dated December 1, 1995 in Civil Case No. Q-95-25253, RTC, Br. 224, QC
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> Annex B
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> -
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> "Urgent Ex-Parte Manifestation Motion" dated November 13, 1996 in Sp. Proc. No. 95-030, RTC Br. 259 (not 257), Parañaque, MM
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> Annex C
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> -
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> "An Urgent and Respectful Plea for extension of Time to File Required Comment and Opposition" dated January 17, 1997 in CA-G.R. SP (not Civil Case) No. 42286, CA 6th Div.
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> This matter is being brought in the context of Rule 138, Section 1 which qualifies that only a duly admitted member of the bar "who is in good and regular standing, is entitled to practice law". There is also Rule 139-A, Section 10 which provides that "default in the payment of annual dues for six months shall warrant suspension of membership in the Integrated Bar, and default in such payment for one year shall be a ground for the removal of the name of the delinquent member from the Roll of Attorneys."
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> Among others, I seek clarification (e.g. a certification) and appropriate action on the bar standing of Atty.

> Francisco R. Llamas both with the Bar Confidant and with the IBP, especially its Rizal Chapter of which Atty. Llamas purports to be a member.
>
> Please note that while Atty. Llamas indicates "IBP Rizal 259060" sometimes, he does not indicate any PTR for payment of professional tax.
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> Under the Rules, particularly Rule 138, Sections 27 and 28, suspension of an attorney may be done not only by the Supreme Court but also by the Court of Appeals or a Regional Trial Court (thus, we are also copy furnishing some of these courts).
>
> Finally, it is relevant to note the track record of Atty. Francisco R. Llamas, as shown by:
>
> - his dismissal as Pasay City Judge per Supreme Court Admin. Matter No. 1037-CJ En Banc Decision on October 28, 1981 (in SCRA)
>
> - his conviction for estafa per Decision dated June 30, 1994 in Crim. Case No. 11787, RTC Br. 66, Makati, MM (see attached copy of the Order dated February 14, 1995 denying the motion for reconsideration of the conviction which is purportedly on appeal in the Court of Appeals).

Attached to the letter-complaint were the pleadings dated December 1, 1995, November 13, 1996, and January 17, 1997 referred to by complainant, bearing, at the end thereof, what appears to be respondent's signature above his name, address and the receipt number "IBP Rizal 259060."[1] Also attached was a copy of the order,[2] dated February 14, 1995, issued by Judge Eriberto U. Rosario, Jr. of the Regional Trial Court, Branch 66, Makati, denying respondent's motion for reconsideration of his conviction, in Criminal Case No. 11787, for violation of Art. 316, par. 2 of the Revised Penal Code.

On April 18, 1997, complainant filed a certification[3] dated March 18, 1997, by the then president of the Integrated Bar of the Philippines, Atty. Ida R. Macalinao-Javier, that respondent's "last payment of his IBP dues was in 1991. Since then he has not paid or remitted any amount to cover his membership fees up to the present."

On July 7, 1997, respondent was required to comment on the complaint within ten days from receipt of notice, after which the case was referred to the IBP for investigation, report and recommendation. In his comment-memorandum,[4] dated June 3, 1998, respondent alleged:[5]

> 3. That with respect to the complainant's absurd claim that for using in 1995, 1996 and 1997 the same O.R. No. 259060 of the Rizal IBP, respondent is automatically no longer a member in good standing.
>
> Precisely, as cited under the context of Rule 138, only an admitted member of the bar who is in good standing is entitled to practice law.
>
> The complainant's basis in claiming that the undersigned was no longer in good standing, were as above cited, the October 28, 1981 Supreme Court decision of dismissal and the February 14, 1995 conviction for Violation of Article 316 RPC, concealment of encumbrances.
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> As above pointed out also, the Supreme Court dismissal decision was set aside and reversed and respondent was even promoted from City Judge of Pasay City to Regional Trial Court Judge of Makati, Br. 150.
>
> Also as pointed out, the February 14, 1995 decision in Crim. Case No. 11787 was appealed to the Court of Appeals and is still pending.
>
> Complainant need not even file this complaint if indeed the decision of dismissal as a Judge was never set aside and reversed, and also had the decision of conviction for a light felony, been affirmed by the Court of Appeals. Undersigned himself would surrender his right or privilege to practice law.
>
> 4. That complainant capitalizes on the fact that respondent had been delinquent in his dues.

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> Undersigned since 1992 have publicly made it clear per his Income Tax Return, up to the present, that he had only a limited practice of law. In fact, in his Income Tax Return, his principal occupation is a farmer of which he is. His 30 hectares orchard and pineapple farm is located at Calauan, Laguna.
>
> Moreover, and more than anything else, respondent being a Senior Citizen since 1992, is legally exempt under Section 4 of Rep. Act 7432 which took effect in 1992, in the payment of taxes, income taxes as an example. Being thus exempt, he honestly believe in view of his detachment from a total practice of law, but only in a limited practice, the subsequent payment by him of dues with the Integrated Bar is covered by such exemption. In fact, he never exercised his rights as an IBP member to vote and be voted upon.
>
> Nonetheless, if despite such honest belief of being covered by the exemption and if only to show that he never in any manner wilfully and deliberately failed and refused compliance with such dues, he is willing at any time to fulfill and pay all past dues even with interests, charges and surcharges and penalties. He is ready to tender such fulfillment or payment, not for allegedly saving his skin as again irrelevantly and frustratingly insinuated for vindictive purposes by the complainant, but as an honest act of accepting reality if indeed it is reality for him to pay such dues despite his candor and honest belief in all food faith, to the contrary.

On December 4, 1998, the IBP Board of Governors passed a resolution[6] adopting and approving the report and recommendation of the Investigating Commissioner which found respondent guilty, and recommended his suspension from the practice of law for three months and until he pays his IBP dues. Respondent moved for a reconsideration of the decision, but this was denied by the IBP in a resolution,[7] dated April 22, 1999. Hence, pursuant to Rule 139-B, §12(b) of the Rules of Court, this case is here for final action on the decision of the IBP ordering respondent's suspension for three months.

The findings of IBP Commissioner Alfredo Sanz are as follows:

> On the first issue, Complainant has shown "respondent's non-indication of the proper IBP O.R. and PTR numbers in his pleadings (Annexes "A", "B" and "C" of the letter complaint, more particularly his use of "IBP Rizal 259060 for at least three years."
>
> The records also show a "Certification dated March 24, 1997 from IBP Rizal Chapter President Ida R. Makahinud Javier that respondent's last payment of his IBP dues was in 1991."
>
> While these allegations are neither denied nor categorically admitted by respondent, he has invoked and cited that "being a Senior Citizen since 1992, he is legally exempt under Section 4 of Republic Act No. 7432 which took effect in 1992 in the payment of taxes, income taxes as an example."
>
> . . . .
>
> The above cited provision of law is not applicable in the present case. In fact, respondent admitted that he is still in the practice of law when he alleged that the "undersigned since 1992 have publicly made it clear per his Income tax Return up to the present time that he had only a limited practice of law." (par. 4 of Respondent's Memorandum).
>
> Therefore respondent is not exempt from paying his yearly dues to the Integrated Bar of the Philippines.
>
> On the second issue, complainant claims that respondent has misled the court about his standing in the IBP by using the same IBP O.R. number in his pleadings of at least six years and therefore liable for his actions. Respondent in his memorandum did not discuss this issue.

First. Indeed, respondent admits that since 1992, he has engaged in law practice without having paid his IBP dues. He likewise admits that, as appearing in the pleadings submitted by complainant to this Court, he indicated "IBP-Rizal 259060" in the pleadings he filed in court, at least for the years 1995, 1996, and 1997, thus misrepresenting that such was his IBP chapter membership and receipt number for the years in which those

pleadings were filed. He claims, however, that he is only engaged in a "limited" practice and that he believes in good faith that he is exempt from the payment of taxes, such as income tax, under R.A. No. 7432, §4 as a senior citizen since 1992.

Rule 139-A provides:

> Sec. 9. Membership dues. - Every member of the Integrated Bar shall pay such annual dues as the Board of Governors shall determine with the approval of the Supreme Court. A fixed sum equivalent to ten percent (10%) of the collections from each Chapter shall be set aside as a Welfare Fund for disabled members of the Chapter and the compulsory heirs of deceased members thereof.
>
> Sec. 10. Effect of non-payment of dues. - Subject to the provisions of Section 12 of this Rule, default in the payment of annual dues for six months shall warrant suspension of membership in the Integrated Bar, and default in such payment for one year shall be a ground for the removal of the name of the delinquent member from the Roll of Attorneys.

In accordance with these provisions, respondent can engage in the practice of law only by paying his dues, and it does not matter that his practice is "limited." While it is true that R.A. No. 7432, §4 grants senior citizens "exemption from the payment of individual income taxes: provided, that their annual taxable income does not exceed the poverty level as determined by the National Economic and Development Authority (NEDA) for that year," the exemption does not include payment of membership or association dues.

Second. By indicating "IBP-Rizal 259060" in his pleadings and thereby misrepresenting to the public and the courts that he had paid his IBP dues to the Rizal Chapter, respondent is guilty of violating the Code of Professional Responsibility which provides:

> Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.
>
> CANON 7 - A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION, AND SUPPORT THE ACTIVITIES OF THE INTEGRATED BAR.
>
> CANON 10 - A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.
>
> Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any court; nor shall he mislead or allow the court to be misled by any artifice.

Respondent’s failure to pay his IBP dues and his misrepresentation in the pleadings he filed in court indeed merit the most severe penalty. However, in view of respondent’s advanced age, his express willingness to pay his dues and plea for a more temperate application of the law,[8] we believe the penalty of one year suspension from the practice of law or until he has paid his IBP dues, whichever is later, is appropriate.

WHEREFORE, respondent Atty. Francisco R. Llamas is SUSPENDED from the practice of law for ONE (1) YEAR, or until he has paid his IBP dues, whichever is later. Let a copy of this decision be attached to Atty. Llamas’ personal record in the Office of the Bar Confidant and copies be furnished to all chapters of the Integrated Bar of the Philippines and to all courts in the land.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Buena, and De Leon, Jr., JJ., concur.

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[1] Rollo, pp. 4-9.

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[2] Id., p. 11.

[3] Id., p. 13.

[4] Records, pp. 35-42.

[5] Id., pp. 39-40.

[6] Records, p. 57.

[7] Rollo, p. 38.

[8] Comment-Memorandum, pp. 6-7; Records, pp. 40-41.

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