

**FELISA M. ANGELES, CELERINA M. ANGELES, AURELIA A. SEE,
MAXIMO M. ANGELES, LUISA A. CASTRO AND LORETO M. ANGELES,
COMPLAINANTS, VS. ATTY. ROBERTO L. FIGUEROA, RESPONDENT.**

A.C. NO. 5050. September 20, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

A complaint-affidavit, dated April 1999, was filed by herein complainants against Atty. Roberto L. Figueroa for allegedly using falsified registry receipts in his pleadings.

Complainants narrate that: they were the defendants in Civil Case No. 93-67503 pending before the Regional Trial Court, Br. 46, Manila while herein respondent Atty. Figueroa was the counsel of Bartolome M. Angeles, et al., the plaintiffs in said case; on September 25, 1998, the trial court ordered respondent to file an answer to complainants' request for admission; after failing several times to file his answer, respondent filed a manifestation dated February 1, 1999, alleging that he has already sent his answer to complainants' request for admission through registered mail and that he is in possession of registry receipt nos. 799, 800 and 801 issued by the Tanza Post Office on the mails sent to the court and to complainants' counsel; in view of the failure of the complainants' counsel and the court to receive the alleged answer, complainants went to the Central Post Office of Lawton, Manila to investigate the matter; Tomas Baggay of the Inspection Service of the Philippine Postal Corporation then sent complainants a letter citing the letter-report of the Postmaster of Tanza, Cavite dated February 24, 1999 stating that the letters bearing registry receipt numbers 799, 800 and 801 issued by the Tanza Post Office all dated November 16, 1998 were not posted at said office; complainants then filed a motion to declare Atty. Figueroa and Bartolome, et al. in contempt of court which the court granted on March 26, 1999 ordering respondent to pay a fine of P2,000.00.[1]

Pertinent portions of said Order read as follows:

It appears ... that on February 4, 1999 Atty. Figueroa filed a manifestation that he has already filed his answer to the request for admission. The defendants (complainants herein) then claimed that Atty. Figueroa did not actually send the answer to the request for admission despite the fact that he submitted as proof three registry receipts, Nos. 799, 800 and 801, purportedly issued on November 16, 1998 by the Tanza Post Office of Cavite.

That as per letter dated February 26, 1999... the Acting Director of the Inspection Service of the Post Office, a certain Tomas T. Baggay, certified that the said letter bearing numbers 799, 800 and 801 (sic) all dated November 16, 1998 issued by Tanza Post Office, Cavite were not actually posted at said Post Office since that at said date what were actually dispatched to Manila were only the letters covered by Registry Receipts No. 1566 to 1577.

The Court was deceived into believing that Atty. Figueroa had filed an answer to the request for admission and explained his non-appearance at the hearing of January 15, 1999.

Atty. Figueroa did not deny the charges.

Such act constitutes dishonesty and misconduct, a ground for disciplinary action against a member of the Bar. It also constitutes a violation of Sec. 3, paragraph (d), Rule 71, Rules of Court because his act degraded the administration of service.

In view of the foregoing, the Court hereby declare (sic) Atty. Roberto L. Figueroa in contempt of court and hereby imposes a fine of P2,000.00, same to be payable within five (5) days from receipt of this Order.[2]

Complainants further assert that: the act of respondent in using falsified registry receipts in his pleadings was meant to deliberately mislead the other parties and the court and constitutes malpractice and a blatant violation of the Code of Professional Responsibility, to wit, Rule 1.01, Canon 10, Rule 10.01, and Rule 10.03;[3] such act degraded the courts and the administration of justice and is a ground for disbarment or suspension of a lawyer under Section 27, Rule 138 of the Rules of Court;[4] the Order dated March 26, 1999 declaring respondent in contempt of court is prima facie evidence for the disbarment or suspension of respondent; and respondent, "a young and pompous lawyer so adept in using falsified registry receipts to mislead the Court, without fear of being caught and penalized" should be disciplined to restore the eroding faith of the Filipino people in our judiciary.[5]

In support of their contention, complainants submitted a copy of respondent's Answer to the Request for Admission dated November 16, 1998 which he purportedly sent through registered mail;[6] a copy of the Manifestation dated February 1, 1999 stating that respondent was surprised that the court and the opposing counsel have not received a copy of the Answer dated November 16, 1998 which he sent by registered mail;[7] a copy of the Order dated February 25, 1999 issued by the trial court stating that while it finds insufficient the explanation of the respondent for his late compliance with the order for him to file an answer to the request for admission, still it shall accept the answer with the warning that a similar excuse in the future shall be dealt with more strictly;[8] a copy of the letter of Tomas Baggay, Acting Director of the Inspection Service of the Philippine Postal Corporation;[9] a copy of the letter of Josefino A. Arbolante, Postmaster of Tanza, Cavite stating that the letters bearing registry receipt nos. 799, 800 and 801 all dated November 16, 1998 were not posted in said office;[10] a copy of complainants' motion to declare respondent in contempt of court;[11] and a copy of the Order of the trial court dated March 26, 1999 holding respondent in contempt of court and ordering him to pay the fine of P2,000.00.[12]

In his Comment, respondent explained that: he himself was surprised to find out that the pleadings he sent by registered mail to the lower court and to the counsel of complainants were not received by them; upon inquiry made in the Tanza Post Office, he found out that there were anomalies committed therein which led to the indefinite suspension and eventual removal of Mercedita Victa, Postmaster of Tanza, who was replaced by Josefino A. Arbolante; some of the anomalies being investigated at that time involved the non-remittance by the previous postmaster of Tanza of proceeds of the sale of postage stamps and registered mail fees; the anomalies resulted in the non-delivery of mails and letters posted in the said post office despite the payment of the fees for such mailing; in the subject case, respondent, who was just starting his solo practice, asked his own father to mail the said pleadings; respondent's father who is now deceased was given the registry receipts after paying the required fees; it is clear that the registry receipts were issued by the Post Office of Tanza and were not manufactured or altered by respondent or his father; as to whether these receipts or the transactions covered by them were properly recorded or performed was no longer within the control of the respondent; respondent should not be blamed for the anomalies that took place in the Post Office of Tanza; he was also a victim of anomalies and his only fault, if at all, was to rely in good faith on the registry receipts issued by the Post Office of Tanza to his father; and respondent no longer filed a comment in the motion to hold him in contempt of court for the reason that he did not want to drag his father into the matter.[13]

In the Resolution dated January 15, 2003, the Court referred the case to the Office of the Bar Confidant (OBC) for

its evaluation, report and recommendation.[14]

On December 8, 2003, the OBC submitted its report and recommendation, the decretal portion of which reads:

WHEREFORE, in the light of the foregoing premises, it is most respectfully submitted that the complaint leveled against respondent ATTY. ROBERTO L. FIGUEROA be DISMISSED for lack of merit.[15]

However, the case was referred anew to the OBC on February 4, 2004 for a full-blown hearing.[16]

On October 26, 2004, complainants manifested that because of their advanced age and the absence of counsel, they are submitting the case for decision based on the pleadings and documents submitted before the Court.[17]

The OBC meanwhile proceeded with the hearing and received the testimony of respondent's witnesses to accord respondent lawyer due process.[18]

On June 16, 2005, the OBC submitted its Report and Recommendation, pertinent portions of which read:

After a thorough investigation and perusal of the records of this case, evidence substantially supported the findings of facts and conclusion of law dismissing this case for lack of merit by the OBC in its first report and recommendation, dated 8 December 2003. There is no cogent reason to depart from the said findings and recommendation, the same being in accordance with existing law and jurisprudence.

Respondent unequivocally asserted that the required answer in Civil Case No. 93-67503 were sent to the Court and to the defendant's counsel and parties therein, thru registered mail, at the Tanza Post Office per registry receipts No. 799, 800 and 801, all dated 16 November 1998.

As testified to by the witnesses, some letters/papers, if not all, mailed at the Tanza Post Office were withheld from being delivered to the addressee for the reason that the money collected from the postal services were actually not remitted but appropriated for personal use and the registry receipts correspondingly issued therewith were not posted and/or recorded in the inventory transaction of the Tanza Post Office. Former Tanza Postmaster Mercedita Victa was, in fact, suspended in 1998 and eventually dismissed from the service for such irregularities.

The testimonies of the witnesses only affirm the letter of Josefino A. Arbolante, former Tanza Postmaster, dated 24 February 1999... stating that the subject three (3) registry receipts presented by the respondent to the lower court were not posted at the said post office. The said letter did not state that the subject pleadings of the respondent were not mailed in the said post office.

The pleadings of the respondent were mailed at the Tanza Post Office on 16 November 1998, during the time the anomalies were actively happening. The pleadings should have been, thus, included in the letters/documents mailed at said post office which were purposely not delivered to the addressee for the reason that the money collected therefrom were not remitted and the three (3) registry receipts nos. 799, 800 & 801 were not recorded and/or posted to prevent its discovery by the Central Post Office officials.

As found by the OBC, in its 8 December 2003 report and recommendation, respondent presented the aforesaid three (3) registry receipts to the lower court believing in good faith that the same were actually issued by the Tanza Post Office. Thus, the fact that the subject pleadings did not reach the concerned parties in Civil Case No. 93-67503 entitled, "Bartolome M. Angeles, et al. vs. Felisa M. Angeles, et al." pending before the Regional Trial Court, Branch 46, Manila, was not the fault of the respondent. It would not be appropriate if he would be punished for an act not done by him but by others. Thus, respondent should be exonerated from the charge as he did not mislead the court and did not falsify the registry receipts when he presented the same to the lower court to prove that he indeed complied with the order of the court requiring him to file an answer to the defendants' request for admission. Respondent should be advised, however, to be more circumspect in his duty as an officer of the court to see to it that any pleading in a particular case should be submitted to the court

in accordance with the rules.

WHEREFORE, in view of the foregoing premises, it is respectfully recommended that the instant administrative case filed against respondent Atty. Roberto L. Figueroa be DISMISSED for lack of merit.[19]

We resolve to dismiss the complaint for lack of merit.

It is settled that the power to disbar or suspend ought always to be exercised on the preservative and not on the vindictive principle, with great caution and only for the most weighty reasons.[20] The burden of proof rests on the complainant and the case against the respondent must be established by clear, convincing and satisfactory proof.[21] Thus, the adage that "he who asserts, not he who denies, must prove.[22]

Indeed, complainants are the ones who bear the burden of showing through satisfactory evidence the bases of their complaint. As explained by this Court in *Boyboy vs. Yabut, Jr.*[23]

...a mere charge or allegation of wrongdoing does not suffice. Accusation is not synonymous with guilt. There must always be sufficient evidence to support the charge. This brings to the fore the application of the age-old but familiar rule that he who alleges must prove his allegations...[R]espondent ...is not under obligation to prove his negative averment, much less to disprove what has not been proved by complainants. Thus, we have consistently held that if the complainant/ plaintiff, upon whom rests the burden of proving his cause of action, fails to show in a satisfactory manner the facts upon which he bases his claim, the respondent/defendant is under no obligation to prove his exception or defense.[24]

The reason for this rule is that:

The profession of an attorney is acquired after long and laborious study. It is a lifetime profession. By years of patience, zeal and ability, the attorney may be able to amass considerable means to support himself and his family, besides the honor and prestige that accompany his office and profession. To deprive him of such honored station in life which would result in irreparable injury must require proof of the highest degree... While courts will not hesitate to mete out proper disciplinary punishment upon lawyers who fail to live up to their sworn duties they will, on the other hand, protect them from the unjust accusations of dissatisfied litigants. The success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored. Private persons, and particularly disgruntled opponents, may not, therefore, be permitted to use the courts as vehicles through which to vent their rancor on members of the Bar.[25]

In this case, it appears that the charge of complainants against respondent is hinged on the report of the Postmaster of Tanza, Cavite, Josefino A. Arbolante stating that the letters bearing registry receipt nos. 799, 800 and 801 dated November 16, 1998, which were allegedly posted by respondent in Tanza, were actually not posted in said office.

Josefino Arbolante, himself, however testified, in the scheduled hearing of November 4, 2004, that there were in fact anomalies during the term of Mercedita Victa, former postmaster of Tanza such that several mails and registry receipts were not remitted and recorded.[26] Luzvimindo Layva, another witness, likewise testified that sometime in November 1998, he sent a card at the Tanza Post Office which was never received by the intended recipient.[27]

Clearly, the evidence submitted by complainants vis a vis the explanation and the testimonies presented by respondent are insufficient to justify the disbarment or suspension of respondent. What is evident to us is that the registry receipts received by the father of respondent may have been among those that were in fact issued by the former Tanza Postmaster Victa but were not actually posted and/or recorded by her in the inventory transaction of the Tanza Post Office to cover up the money collected and misappropriated for personal use of Victa who had been dismissed from service for such irregularities. We give the benefit of doubt in favor of herein respondent.

The Order of the trial court holding respondent in contempt noted the report of the Postmaster of Tanza, Cavite that the subject registry receipts were not actually posted in Tanza, Cavite and that respondent did not deny the charges hurled against him.[28] Respondent, now before this Court, however explains that he did not file any comment on the motion to charge him in contempt as he did not want his father to be dragged into the matter.[29] While such explanation may be wanting, the fact remains that complainants bear the burden of proving the basis of their complaint. Having failed to discharge such burden, the Court is left with no choice but to dismiss the present complaint.

WHEREFORE, the present complaint against ATTY. ROBERTO L. FIGUEROA is hereby DISMISSED for lack of merit.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 1-5.

[2] Id., pp. 22-23.

[3] Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

...

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 in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

Rule 10.03 – A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.

[4] Sec. 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. --- A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or of any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

[5] Rollo, pp. 1-5.

[6] Id., p. 8, Annex "A."

Respondent's Answer to the Request for Admission reads:

"Plaintiffs, by counsel, by way of answer to the request for admission filed by defendants, respectfully state that the matters sought to be admitted in paragraphs 1 to 33 of defendants' 'Request for Admissions (sic)' are all denied and cannot be admitted by plaintiffs. The aforesaid matters are irrelevant, immaterial and/or mere fabrications designed to mislead this Honorable Court.

Respectfully submitted."

[7] Rollo, p. 10, Annex "A-2."

- [8] Rollo, p. 12, Annex "B."
- [9] Id., p. 13, Annex "C."
- [10] Id., p. 14, Annex "C-1."
- [11] Id., pp. 15-21, Annex "D."
- [12] Id., pp. 22-23, Annex "E."
- [13] Rollo, pp. 30-32.
- [14] Id., p. 37.
- [15] Id., p. 46.
- [16] Id., p. 53.
- [17] Id., p. 68.
- [18] Id., p. 87.
- [19] Rollo, pp. 143-145.
- [20] Gatmaytan vs. Ilao, A.C. No. 6086, January 26, 2005, 449 SCRA 268.
- [21] Gaviola vs. Salcedo, A.C. No. 3037, May 20, 2004, 428 SCRA 563.
- [22] Boyboy vs. Yabut, A.C. No. 5225, April 29, 2003, 401 SCRA 622.
- [23] Ibid.
- [24] Id., p. 627.
- [25] Gaviola vs. Salcedo, supra, p. 566, citing Santos vs. Dichoso, A. C. No. 1825, 84 SCRA 622.
- [26] TSN, Josefino A. Arbolante, November 4, 2004, Rollo, pp. 91-99.
- [27] TSN, Luzvimindo Layva, November 4, 2004, Rollo, pp. 112-114.
- [28] Rollo, p. 22.
- [29] Id., p. 32.

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