

WALTER T. YOUNG, COMPLAINANT, VS. CEASAR G. BATUEGAS, MIGUELITO NAZARENO V. LLANTINO AND FRANKLIN Q. SUSA, RESPONDENTS.*A.C. No. 5379. May 09, 2003*

Ponente: YNARES-SANTIAGO, J.

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On December 29, 2000, Atty. Walter T. Young filed a Verified Affidavit-Complaint for disbarment against Attys. Ceasar G. Batuegas, Miguelito Nazareno V. Llantino and Franklin Q. Susa for allegedly committing deliberate falsehood in court and violating the lawyer's oath.[1]

Complainant is the private prosecutor in Criminal Case No. 00-187627 for Murder, entitled "People of the Philippines versus Crisanto Arana, Jr.", pending before the Regional Trial Court of Manila, Branch 27. On December 13, 2000, respondents Batuegas and Llantino, as counsel for accused, filed a Manifestation with Motion for Bail, alleging that the "accused has voluntarily surrendered to a person in authority. As such, he is now under detention." [2] Upon personal verification with the National Bureau of Investigation (NBI) where accused Arana allegedly surrendered, complainant learned that he surrendered only on December 14, 2000, as shown by the Certificate of Detention executed by Atty. Rogelio M. Mamauag, Chief of the Security Management Division of the NBI.

Respondent Susa, the Branch Clerk of Court of RTC of Manila, Branch 27, calendared the motion on December 15, 2000 despite the foregoing irregularity and other formal defects, namely, the lack of notice of hearing to the private complainant, violation of the three-day notice rule, and the failure to attach the Certificate of Detention which was referred to in the Motion as Annex "1".

Respondents filed their respective comments, declaring that on December 13, 2000, upon learning that a warrant of arrest was issued against their client, they filed the Manifestation with Motion for Bail with the trial court. Then they immediately fetched the accused in Cavite and brought him to the NBI to voluntarily surrender. However, due to heavy traffic, they arrived at the NBI at 2:00 a.m. the next day; hence, the certificate of detention indicated that the accused surrendered on December 14, 2000. They argued that there was neither unethical conduct nor falsehood in the subject pleading as their client has voluntarily surrendered and was detained at the NBI. As regards the lack of notice of hearing, they contend that complainant, as private prosecutor, was not entitled to any notice. Nevertheless, they furnished the State and City prosecutors copies of the motion with notice of hearing thereof. Moreover, the hearing of a motion on shorter notice is allowed under Rule 15, Sec. 4(2) of the Rules of Court.[3]

For his part, respondent Susa argues in his comment that he was no longer in court when his co-respondents filed the Manifestation with Motion for Bail. Ms. Teofila A. Peña, Clerk III, received the said Motion and noticed that it was set for hearing on December 15, 2000 and the Certificate of Detention was not attached. However, the presiding judge instructed her to receive the Motion subject to the presentation of the Certificate of Detention

before the hearing. Thus, the inclusion of the Motion in the court's calendar on December 15, 2000 was authorized by the presiding judge and, thus, was done by respondent Susa in faithful performance of his ministerial duty.

In a Resolution dated August 13, 2001,[4] the instant case was referred to the Integrated Bar of the Philippines for investigation, report and recommendation or decision.

On December 7, 2001, the Investigating Commissioner, Rebecca Villanueva-Maala, submitted her report and recommendation as follows:

WHEREFORE, the foregoing premises considered, it is respectfully recommended that Atty. Ceasar G. Batuegas and Atty. Miguelito Nazareno V. Llantino be suspended from the practice of their profession as a lawyer/member of the Bar for a period of six (6) months from receipt hereof. The complaint against Atty. Franklin Q. Susa, upon the other hand, is hereby recommended dismissed for lack of merit.[5]

The foregoing Report and Recommendation was adopted and approved by the IBP-Commission on Bar Discipline in Resolution No. XV-2002-400, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and in view of respondents' commission of deliberate falsehood, Atty. Batuegas and Atty. Llantino are hereby SUSPENDED from the practice of law for six (6) months. The complaint against Atty. Susa is hereby DISMISSED for lack of merit.[6]

We agree with the findings and recommendations of the Investigating Commissioner. Respondents Batuegas and Llantino are guilty of deliberate falsehood.

A lawyer must be a disciple of truth.[7] He swore upon his admission to the Bar that he will "do no falsehood nor consent to the doing of any in court" and he shall "conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity as well to the courts as to his clients." [8] He should bear in mind that as an officer of the court his high vocation is to correctly inform the court upon the law and the facts of the case and to aid it in doing justice and arriving at correct conclusion.[9] The courts, on the other hand, are entitled to expect only complete honesty from lawyers appearing and pleading before them.[10] While a lawyer has the solemn duty to defend his client's rights and is expected to display the utmost zeal in defense of his client's cause, his conduct must never be at the expense of truth.[11]

The Court may disbar or suspend a lawyer for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, in honesty, probity, and good demeanor, thus proving unworthy to continue as an officer of the court.[12]

Evidently, respondent lawyers fell short of the duties and responsibilities expected from them as members of the bar. Anticipating that their Motion for Bail will be denied by the court if it found that it had no jurisdiction over the person of the accused, they craftily concealed the truth by alleging that accused had voluntarily surrendered to a person in authority and was under detention. Obviously, such artifice was a deliberate ruse to mislead the court and thereby contribute to injustice. To knowingly allege an untrue statement of fact in the pleading is a contemptuous conduct that we strongly condemn. They violated their oath when they resorted to deception.

Respondents contend that their allegation of the accused's detention was merely a statement of an ultimate fact which still had to be proved by evidence at the hearing of the Motion. That they were able to show that their client was already under the custody of the NBI at the hearing held on December 15, 2000 does not exonerate them. The fact remains that the allegation that the accused was in the custody of the NBI on December 13, 2000 was false.

In *Comia vs. Antona*, we held:

It is of no moment that the accused eventually surrendered to the police authorities on the same date "tentatively" scheduled for the hearing of the application for bail. To our mind, such supervening event is of no bearing and immaterial; it does not absolve respondent judge from administrative liability considering that he should not have accorded recognition to the application for bail filed on behalf of persons who, at that point, were devoid of personality to ask such specific affirmative relief from the court.[13]

In this jurisdiction, whether bail is a matter of right or discretion, reasonable notice of hearing is required to be given to the prosecutor or fiscal, or at least, he must be asked for his recommendation.[14]

In the case at bar, the prosecution was served with notice of hearing of the motion for bail two days prior to the scheduled date. Although a motion may be heard on short notice, respondents failed to show any good cause to justify the non-observance of the three-day notice rule. Verily, as lawyers, they are obliged to observe the rules of procedure and not to misuse them to defeat the ends of justice.[15]

Finally, we are in accord with the Investigating Commissioner that respondent clerk of court should not be made administratively liable for including the Motion in the calendar of the trial court, considering that it was authorized by the presiding judge. However, he is reminded that his administrative functions, although not involving the discretion or judgment of a judge, are vital to the prompt and sound administration of justice.[16] Thus, he should not hesitate to inform the judge if he should find any act or conduct on the part of lawyers which are contrary to the established rules of procedure.

WHEREFORE, in view of the foregoing, respondent Attys. Ceasar G. Batuegas, Miguelito Nazareno V. Llantino are found guilty of committing deliberate falsehood. Accordingly, they are **SUSPENDED** from the practice of law for a period of six (6) months with a warning that a repetition of the same or similar act will be dealt with more severely.

Let a copy of this Resolution be attached to the personal records of Attys. Ceasar G. Batuegas and Miguelito Nazareno V. Llantino in the Office of the Bar Confidant and copies thereof be furnished the Integrated Bar of the Philippines.

SO ORDERED.

Davide, Jr., Vitug, Carpio, and Azcuna, JJ., concur.

[1] Rollo, p. 1-2.

[2] *Id.*, p. 4.

[3] *Id.*, pp. 31-36, 70-85.

[4] *Id.*, p. 128.

[5] *Id.*, p. 135.

[6] Resolution No. XV-2002-400 dated August 3, 2002.

[7] *Benguet Electric Cooperative, Inc. v. Flores*, A.C. No. 4058, 12 March 1998, 287 SCRA 449, 463.

[8] Form 28, Appendix of Forms, Revised Rules of Court.

[9] *Artiaga, Jr. v. Villanueva*, A.C. No. 1892, 29 July 1988, 163 SCRA 638, 643.

- [10] Far Eastern Shipping Company v. CA, 357 Phil. 703, 718 (1998).
- [11] Flores v. Chua, A.C. No. 4500, 30 April 1999, 366 SCRA 132, 151.
- [12] Tapucar v. Tapucar, 335 Phil. 66, 74 (1998).
- [13] A.M. RTJ-99-1518, 14 August 2000, 337 SCRA 656, 667.
- [14] Te v. Perez, A.M. No. MTJ-00-1286, 21 January 2002.
- [15] Code of Professional Responsibility, Rule 10.03
- [16] Escanan v. Monterola, A.M. No. P-99-1347, 6 February 2001, 351 SCRA 228, 234.

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