

NATASHA HUEYSUWAN-FLORIDO, COMPLAINANT, VS. ATTY. JAMES BENEDICT C. FLORIDO, RESPONDENT.*A.C. No. 5624. January 20, 2004*

Ponente: YNARES-SATIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-5624/>**YNARES-SATIAGO, J.:**

This is an administrative complaint for the disbarment of respondent Atty. James Benedict C. Florido and his eventual removal from the Roll of Attorneys for allegedly violating his oath as a lawyer “by manufacturing, flaunting and using a spurious and bogus Court of Appeals Resolution/Order.”[1]

In her Complaint-Affidavit, Natasha V. Heysuwan-Florido averred that she is the legitimate spouse of respondent Atty. James Benedict C. Florido, but that they are estranged and living separately from each other. They have two children – namely, Kamille Nicole H. Florido, five years old, and James Benedict H. Florido, Jr., three years old – both of whom are in complainant’s custody. Complainant filed a case for the annulment of her marriage with respondent, docketed as Civil Case No. 23122, before the Regional Trial Court of Cebu City, Branch 24. Meanwhile, there is another case related to the complaint for annulment of marriage which is pending before the Court of Appeals and docketed as CA-G.R. SP No. 54235 entitled, “James Benedict C. Florido v. Hon. Pampio Abarientos, et al.”

Sometime in the middle of December 2001, respondent went to complainant’s residence in Tanjay City, Negros Oriental and demanded that the custody of their two minor children be surrendered to him. He showed complainant a photocopy of an alleged Resolution issued by the Court of Appeals which supposedly granted his motion for temporary child custody.[2] Complainant called up her lawyer but the latter informed her that he had not received any motion for temporary child custody filed by respondent.

Complainant asked respondent for the original copy of the alleged resolution of the Court of Appeals, but respondent failed to give it to her. Complainant then examined the resolution closely and noted that it bore two dates: November 12, 2001 and November 29, 2001. Sensing something amiss, she refused to give custody of their children to respondent.

In the mid-morning of January 15, 2002, while complainant was with her children in the ABC Learning Center in Tanjay City, respondent, accompanied by armed men, suddenly arrived and demanded that she surrender to him the custody of their children. He threatened to forcefully take them away with the help of his companions, whom he claimed to be agents of the National Bureau of Investigation.

Alarmed, complainant immediately sought the assistance of the Tanjay City Police. The responding policemen subsequently escorted her to the police station where the matter could be clarified and settled peacefully. At the police station, respondent caused to be entered in the Police Blotter a statement that he, assisted by agents of the NBI, formally served on complainant the appellate court’s resolution/order.[3] In order to diffuse the tension, complainant agreed to allow the children to sleep with respondent for one night on condition that he would not take them away from Tanjay City. This agreement was entered into in the presence of Tanjay City Chief of Police

Juanito Condes and NBI Investigator Roger Sususco, among others.

In the early morning of January 16, 2002, complainant received information that a van arrived at the hotel where respondent and the children were staying to take them to Bacolod City. Complainant rushed to the hotel and took the children to another room, where they stayed until later in the morning.

On the same day, respondent filed with the Regional Trial Court of Dumaguete City, Branch 31, a verified petition[4] for the issuance of a writ of habeas corpus asserting his right to custody of the children on the basis of the alleged Court of Appeals' resolution. In the meantime, complainant verified the authenticity of the Resolution and obtained a certification dated January 18, 2002[5] from the Court of Appeals stating that no such resolution ordering complainant to surrender custody of their children to respondent had been issued.

At the hearing of the petition for habeas corpus on January 23, 2002, respondent did not appear. Consequently, the petition was dismissed.

Hence, complainant filed the instant complaint alleging that respondent violated his attorney's oath by manufacturing, flaunting and using a spurious Court of Appeals' Resolution in and outside a court of law. Furthermore, respondent abused and misused the privileged granted to him by the Supreme Court to practice law in the country.

After respondent answered the complaint, the matter was referred to the IBP-Commission on Bar Discipline for investigation, report and recommendation. The IBP-CBD recommended that respondent be suspended from the practice of law for a period of three years with a warning that another offense of this nature will result in his disbarment.[6] On June 23, 2003, the IBP Board of Governors adopted and approved the Report and recommendation of the Commission with the modification that the penalty of suspension be increased to six years.

The issue to be resolved is whether or not the respondent can be held administratively liable for his reliance on and attempt to enforce a spurious Resolution of the Court of Appeals.

In his answer to the complaint, respondent claims that he acted in good faith in invoking the Court of Appeals Resolution which he honestly believed to be authentic. This, however, is belied by the fact that he used and presented the spurious resolution several times. As pointed out by the Investigating Commissioner, the assailed Resolution was presented by respondent on at least two occasions: first, in his Petition for Issuance of Writ of Habeas Corpus docketed as Special Proc. Case No. 3898,[7] which he filed with the Regional Trial Court of Dumaguete City; and second, when he sought the assistance of the Philippine National Police (PNP) of Tanjay City to recover custody of his minor children from complainant. Since it was respondent who used the spurious Resolution, he is presumed to have participated in its fabrication.

Candor and fairness are demanded of every lawyer. The burden cast on the judiciary would be intolerable if it could not take at face value what is asserted by counsel. The time that will have to be devoted just to the task of verification of allegations submitted could easily be imagined. Even with due recognition then that counsel is expected to display the utmost zeal in the defense of a client's cause, it must never be at the expense of the truth.[8] Thus, the Code of professional Responsibility states:

CANON 10.

A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01

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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 10.02

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A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of an opposing counsel, or the text of a decision or authority, or knowingly cite as a law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which has not been proved.

Moreover, the records show that respondent used offensive language in his pleadings in describing complainant and her relatives. A lawyer's language should be forceful but dignified, emphatic but respectful as befitting an advocate and in keeping with the dignity of the legal profession.[9] The lawyer's arguments whether written or oral should be gracious to both court and opposing counsel and should be of such words as may be properly addressed by one gentlemen to another.[10] By calling complainant, a "sly manipulator of truth" as well as a "vindictive congenital prevaricator", hardly measures to the sobriety of speech demanded of a lawyer.

Respondent's actions erode the public perception of the legal profession. They constitute gross misconduct and the sanctions for such malfeasance is prescribed by Section 27, Rule 138 of the Rules of Court which states:

SEC. 27. Disbarment and suspension of attorneys by Supreme Court, grounds therefore.- 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 for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience appearing as attorney for a party without authority to do so.

Considering the attendant circumstances, we agree with the recommendation of the IBP Board of Governors that respondent should be suspended from the practice of law. However, we find that the period of six years is too harsh a penalty. Instead, suspension for the lesser period of two years, which we deem commensurate to the offense committed, is hereby imposed on respondent.

WHEREFORE, in view of all the foregoing, Atty. James Benedict C. Florido is SUSPENDED from the practice of law for a period of two (2) years.

Let copies of this resolution be entered in the personal record of respondent as a member of the Bar and furnished the Bar Confidant, the Integrated Bar of the Philippines (IBP) and the Court Administrator for circulation to all courts of the country.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Rollo, p. 1.

[2] Id., p. 14.

[3] Id., p. 9.

[4] Id., p. 10.

[5] Id., p. 13.

[6] IBP Commission on Bar Discipline Report and Recommendation, p. 9.

[7] Rollo, p. 10.

[8] Muñoz v. People, G.R. No. L-33672, 28 September 1973, 53 SCRA 190.

[9] Surigao Mineral v. Cloribel, G.R. No. L-27072, 9 January 1970, 31 SCRA 1; In re Almacen, G.R. No. L-27654, 18 February 1970, 31 SCRA 562; Montecillo v. Gica, G.R. No. L-36800, 21 October 1974, 60 SCRA 235; In re Gomez, 43 Phil. 376 [1922]; Sulit v. Tiangco, G.R. No. L-35555, 20 July 1982, 115 SCRA 207; Zaldivar v. Gonzales, G.R. Nos. L-79690-707, 7 October 1988, 166 SCRA 316.

[10] National Security Co. v. Jarvis, 278 U.S. 610; People v. Taneo, G.R. No. 117683, 16 January 1998, 284 SCRA 251.

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