

SIMON D. PAZ, COMPLAINANT, VS. ATTY. PEPITO A. SANCHEZ, RESPONDENT

A.C. NO. 6125. September 19, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a disbarment complaint filed by Simon D. Paz ("complainant") against Atty. Pepito A. Sanchez ("respondent") for representing conflicting interests and violation of the lawyer's oath.

The Facts

In his complaint dated 23 July 2003, complainant stated that sometime in 1995, complainant and his partners, Alfredo Uyecio and Petronila Catap, engaged the services of respondent to assist them purchase, as well as document the purchase, of several parcels of land from tenant- farmers in Pampanga. Respondent was also tasked to defend complainant's claim on the properties against the claim of a certain George Lizares ("Lizares").

The complaint arose because respondent, allegedly after the termination of his services in May 2000, filed a complaint before the Department of Agrarian Reform Board ("DARAB case") in behalf of one Isidro Dizon ("Dizon") for annulment of Transfer Certificate Title No. 420127-R ("TCT No. 420127-R") in the name of complainant and his partners.[1] Complainant explained that Dizon's property, covered by Emancipation Patent No. 00708554/Transfer Certificate Title No. 25214 ("TCT No. 25214"), was among those properties purchased by complainant with respondent's assistance. Complainant alleged that respondent is guilty of representing conflicting interests when he represented Dizon in a case involving the same properties and transactions in which he previously acted as complainant's counsel. Complainant added that respondent filed the DARAB case with "malicious machination" because respondent used complainant's old address to serve the complaint and summons, enabling respondent to obtain a judgment by default in Dizon's favor.

Complainant also stated that on 23 June 2003, respondent, despite knowledge of complainant's pending petition for review of judgment in the DARAB case, filed a civil case ("RTC case") against complainant and Sycamore Venture Corporation[2] ("Sycamore") before the Regional Trial Court of San Fernando, Pampanga, for annulment of Transfer Certificate of Title No. 483629-R ("TCT No. 483629-R").[3] Complainant pointed out that respondent should be punished for forum shopping and preparing a false certification of non-forum shopping because respondent failed to disclose complainant's pending petition before the DARAB. Complainant also charged respondent with violation of the lawyer's oath because, "with malice and full knowledge of the real facts," respondent filed groundless and false suits against complainant, his partners and Sycamore.

In his comment dated 2 October 2003, respondent stated that he has been representing the tenant-farmers, including Dizon, in their cases before the DARAB and the courts since 1978. Respondent also represented the tenant-farmers against the claims of Lizares, who filed cases for the cancellation of their emancipation patents.

Respondent confirmed that in 1995, complainant and his partners expressed interest in acquiring Dizon's property.

Respondent also explained that complainant and his partners, as buyers of the tenant-farmers' properties, were impleaded as defendants in the Lizares cases. Respondent came to represent complainant and his partners because they "did not get a lawyer of their own and allowed respondent to represent them too." [4]

On the DARAB case, respondent clarified that the complaint [5] was filed on 15 May 1997 and not, as complainant claimed, after respondent's services was terminated in May 2000. Respondent declared that he was compelled to file the case because he felt responsible for the cancellation of TCT No. 25214. Respondent explained that he lent Dizon's title to complainant and his partners enabling them to transfer the title in their names. Denying that there was "malicious machination" in the filing of the DARAB case, respondent stated that the address he placed was the address of complainant in 1997. The 20 August 2002 DARAB decision [6] specifically stated that a copy of the complaint, summons and notices were duly served and received by complainant and his partners. However, complainant and his partners ignored the complaint, summons and notices, which led to the issuance of a judgment in Dizon's favor. Moreover, there was entry of judgment [7] on 21 November 2002 and the writ of execution [8] was issued on 10 December 2002.

On the RTC case, respondent explained that he was compelled to file the case when he discovered that TCT No. 420127-R, in the name of complainant and his partners, was transferred in the name of Sycamore. Respondent pointed out that unless TCT No. 483629-R is nullified, the Register of Deeds cannot execute the DARAB decision. Respondent denied that he violated the prohibition on forum shopping. [9] Respondent also maintained that the cases he filed were "justifiable, tenable and meritorious."

In a Resolution dated 12 November 2003, the Court referred the case to the Integrated Bar of the Philippines ("IBP") for investigation, report and recommendation.

Commissioner Milagros V. San Juan ("Commissioner San Juan") set the case for mandatory conference on 4 March 2004. Both parties appeared and were given ten days to submit their position papers. Both parties complied.

The IBP's Report and Recommendation

The IBP Board of Governors issued Resolution No. XVI-2005-78 dated 12 March 2005 adopting, with modification, [10] Commissioner San Juan's Report and Recommendation finding respondent guilty of violating the prohibition against representing conflicting interests. The IBP Board of Governors recommended the imposition on respondent of a penalty of one year suspension from the practice of law with a warning that a similar offense in the future will be dealt with more severely.

The IBP Board of Governors forwarded the case to the Court as provided under Section 12(b), Rule 139-B [11] of the Rules of Court.

The Court's Ruling

The Court finds insufficient evidence to hold respondent liable for forum shopping and for filing groundless suits. However, the Court finds respondent liable for violation of the prohibition on representing conflicting interests.

On Respondent's Violation of the Rules on Non-Forum Shopping

Forum shopping takes place when a litigant files multiple suits, either simultaneously or successively, involving the same parties to secure a favorable judgment. [12] Forum shopping exists if the actions raise identical causes of action, subject matter and issues. [13] The mere filing of several cases based on the same incident does not necessarily constitute forum shopping. [14]

The Court notes that the certification against forum shopping did not form part of the records of the case.

However, a comparison of the two cases reveal that there was no forum shopping. Although both cases are related because Dizon's property is involved, the reliefs prayed for are different. In the DARAB case, Dizon prayed for the cancellation of TCT No. 420127-R in the name of complainant and his partners. In the RTC case, Dizon's widow prayed for the cancellation of TCT No. 483629-R in the name of Sycamore. Respondent cannot be held liable for forum shopping.

On Respondent's Violation of the Lawyer's Oath

Lawyers take an oath that they will not wittingly or willingly promote any groundless, false or unlawful suit, nor give aid or consent to the same. The Court notes that the cases are still pending before the DARAB and the RTC. The Court, therefore, does not have any basis for ruling if there was a violation of the oath.

On Respondent's Violation of the Prohibition against Representing Conflicting Interests

Rule 15.03 of the Code of Professional Responsibility provides that "a lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts." Lawyers are deemed to represent conflicting interests when, in behalf of one client, it is their duty to contend for that which duty to another client requires them to oppose.[15] The proscription against representation of conflicting interest applies to a situation where the opposing parties are present clients in the same action or in an unrelated action.[16]

By respondent's own admission, when he filed the DARAB case on Dizon's behalf against complainant, both complainant and Dizon were respondent's clients at that time. Respondent was representing complainant in the cases against Lizares where respondent was duty-bound to defend complainant's title over the properties against the claims of Lizares. While it is not clear from the records that the Lizares cases included Dizon's property, it is undisputed that respondent acted as complainant's counsel in the Lizares cases. At the same time, respondent was also representing Dizon before the DARAB for cancellation of lis pendens[17] involving Dizon's property, which cancellation was needed for complainant to purchase the Dizon property. In filing the second DARAB case on Dizon's behalf, respondent was duty-bound to assail complainant's title over Dizon's property, which complainant had purchased from Dizon. Respondent was clearly in a conflict of interest situation.

The Court notes that respondent did not specifically deny that he represented conflicting interests. Respondent merely offered to justify his actuations by stating that he felt it was his "duty and responsibility" to file the case because he felt responsible for the cancellation of TCT No. 25214 and its subsequent transfer in complainant's name.[18] Respondent stated that he "will forever be bothered by his conscience" if he did not file the case.[19] However, good faith and honest intentions do not excuse the violation of this prohibition.[20] In representing both complainant and Dizon, respondent's duty of undivided fidelity and loyalty to his clients was placed under a cloud of doubt. Respondent should have inhibited himself from representing Dizon against complainant in the DARAB and RTC cases to avoid conflict of interest.

In *Maturan v. Gonzales*, the Court said:

The reason for the prohibition is found in the relation of attorney and client, which is one of trust and confidence of the highest degree. A lawyer becomes familiar with all the facts connected with his client's case. He learns from his client the weak points of the action as well as the strong ones. Such knowledge must be considered sacred and guarded with care. No opportunity must be given him to take advantage of the client's secrets. A lawyer must have the fullest confidence of his client. For if the confidence is abused, the profession will suffer by the loss thereof.[21]

On the Appropriate Penalty Against Respondent

In cases involving representation of conflicting interests, the Court has imposed on the erring lawyer either a reprimand,[22] or a suspension from the practice of law from six months[23] to two years.[24]

In this case, we deem it proper to suspend respondent from the practice of law for one year as recommended by the IBP.

WHEREFORE, the Court finds respondent Atty. Pepito A. Sanchez GUILTY of violating Rule 15.03 of the Code of Professional Responsibility. The Court SUSPENDS respondent from the practice of law for ONE YEAR and WARNS respondent that the commission of a similar act in the future will merit a more severe penalty.

Let copies of this decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Likewise, copies shall be furnished to the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Velasco, Jr., JJ., concur.

[1] Docketed as DARAB Case No. 5230-P-97 entitled "Isidro Dizon vs. Petronila Catap, Alfredo Uyecio and Simon Paz" for Annulment of TCT No. 420127-R with Damages filed on 15 May 1997.

[2] Complainant is the President of Sycamore Venture Corporation.

[3] Docketed as Civil Case No. 12722 entitled "Natividad Carreon Vda. de Dizon vs. Simon Paz, Atty. Enrique M. Basa, Sycamore Venture Corporation, Register of Deeds of Pampanga and Provincial Assessors of Pampanga" for Declaration of Nullity of TCT No. 483629-R, Canceled Entry No. 7268 in TCT No. 420127-R and Damages with prayer for Injunction/Temporary Restraining Order filed on 23 June 2003.

[4] Rollo, p. 45.

[5] Id. at 22.

[6] Id. at 69-73.

[7] Id. at 74.

[8] Id. at 75.

[9] Id. at 80-84.

[10] Commissioner San Juan recommended a penalty of three years suspension from the practice of law.

[11] Section 12(b), Rule 139-B of the Rules of Court provides:

SEC. 12. Review and Decision by the Board of Governors. -

x x x

(b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.

[12] NBI-Microsoft Corporation v. Hwang, G.R. No. 147043, 21 June 2005, 460 SCRA 428.

[13] International Container Terminal Services, Inc. v. Court of Appeals, 319 Phil. 510 (1995).

- [14] Paredes, Jr. v. Sandiganbayan, 322 Phil. 709 (1996).
- [15] Canon of Professional Ethics, Canon 6.
- [16] Quiambao v. Bamba, A.C. No. 6708, 25 August 2005, 468 SCRA 1.
- [17] Docketed as DARAB Case No. 5190-P-97 entitled "Isidro Dizon vs. Register of Deeds Pampanga" for Cancellation of Lis Pendens filed on 26 February 1997.
- [18] Rollo, p. 47.
- [19] Id. at 48.
- [20] Nakpil v. Valdes, 350 Phil. 412 (1998).
- [21] 350 Phil. 882, 887 (1998).
- [22] Gamilla v. Mariño, Jr., 447 Phil. 419 (2003).
- [23] See Abragan v. Rodriguez, 429 Phil. 607 (2002); Artezuela v. Maderazo, 431 Phil. 135 (2002); De Guzman v. De Dios, 403 Phil. 222 (2001).
- [24] See Maturan v. Gonzales, supra note 21; Vda. de Alisbo v. Jalandoni, Sr., A.C. No. 1311, 18 July 1991, 199 SCRA 321; Natan v. Capule, 91 Phil. 640 (1952);

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