

ATTY. EVELYN J. MAGNO, COMPLAINANT, VS. ATTY. OLIVIA VELASCO-JACOBA, RESPONDENT.

A.C. No. 6296. November 22, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

In her sworn complaint, as endorsed by the President of the Integrated Bar of the Philippines (IBP), Nueva Ecija Chapter, Atty. Evelyn J. Magno charged Atty. Olivia Velasco-Jacoba, a member of the same IBP provincial chapter, with willful violation of (a) Section 415 of the Local Government Code (LGC) of 1991 and (b) Canon 4 of the Code of Professional Responsibility.

This disciplinary case arose out of a disagreement that complainant had with her uncle, Lorenzo Inos, over a landscaping contract they had entered into. In a bid to have the stand-off between them settled, complainant addressed a letter, styled "Sumbong", [1] to Bonifacio Alcantara, barangay captain of Brgy. San Pascual, Talavera, Nueva Ecija. At the barangay conciliation/confrontation proceedings conducted on January 5, 2003, respondent, on the strength of a Special Power of Attorney signed by Lorenzo Inos, appeared for the latter, accompanied by his son, Lorenzito. Complainant's objection to respondent's appearance elicited the response that Lorenzo Inos is entitled to be represented by a lawyer inasmuch as complainant is herself a lawyer. And as to complainant's retort that her being a lawyer is merely coincidental, respondent countered that she is appearing as an attorney-in-fact, not as counsel, of Lorenzo Inos.

Complainant enumerated specific instances, with supporting documentation, tending to prove that respondent had, in the course of the conciliation proceedings before the Punong Barangay, acted as Inos Lorenzo's counsel instead of as his attorney-in-fact. This is what complainant said in her complaint: [2]

- xxx Atty. Olivia Jacoba asked for an ocular inspection of the subject matter of the complaint. A heated argument took place because Lorencito Inos said that [complainant's brother] Melencio Magno, Jr. made alterations in the lagoon Afterwards Atty. Olivia Jacoba . . . returned to the barangay hall to have the incident recorded in the barangay blotter.... attached as Annex "A"
- That on January 12, 2003, ... Lorenzo Inos appeared before the hearing also with the assistance of [respondent]. When the minutes of the proceeding (sic) was read, [respondent] averred that the minutes is partial in favor of the complainant because only her statements were recorded for which reason, marginal insertions were made to include what [respondent] wanted to be put on record. She also signed as "saksi" in the minutes
- xxx In a letter (answer to the "sumbong") sent to the Punong Barangay dated December 22, 2002, she signed representing herself as "Family Legal Counsel of Inos Family", a copy of the letter is attached as Annex "C" (Words in bracket added.)

In an Order dated February 17, 2003, Atty. Victor C. Fernandez, IBP Director for Bar Discipline, directed the respondent to submit, within fifteen (15) days from notice, her answer to the complaint, otherwise she will be

considered as in default.[3]

The case, docketed as CBD No. 03-1061, was assigned to Commissioner Rebecca Villanueva-Maala, who admitted respondent's answer notwithstanding her earlier order of July 15, 2003, declaring respondent in default for failure to file an answer in due time.[4]

In her Answer, respondent alleged that the administrative complaint was filed with the Office of the Punong Barangay, instead of before the Lupon Tagapamayapa, and heard by Punong Barangay Bonifacio Alcantara alone, instead of the collegial Lupon or a conciliation panel known as pangkat. Prescinding from this premise, respondent submits that the prohibition against a lawyer appearing to assist a client in katarungan pambarangay proceedings does not apply. Further, she argued that her appearance was not as a lawyer, but only as an attorney-in-fact.

In her report dated October 6, 2003,[5] Commissioner Maala stated that the "charge of complainant has been established by clear preponderance of evidence" and, on that basis, recommended that respondent be suspended from the practice of her profession for a period of six (6) months. On the other hand, the Board of Governors, IBP Commission on Bar Discipline, while agreeing with the inculpatory finding of the investigating commissioner, recommended in its Resolution No. XVI-2003-235,[6] a lighter penalty, 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, with modification, and considering respondent's actuations was in violation of Section 415 which expressly prohibits the presence and representation by lawyers in the Katarungan Pambarangay, Atty. Olivia Velasco-Jacoba is hereby ADMONISHED.

This resolution is now before us for confirmation.

Section 415 of the LGC of 1991[7], on the subject Katarungang Pambarangay, provides:

Section 415. Appearance of Parties in Person. - In all katarungang pambarangay proceedings, the parties must appear in person without the assistance of the counsel or representative, except for minors and incompetents who may be assisted by their next of kin who are not lawyers.

The above-quoted provision clearly requires the personal appearance of the parties in katarungan pambarangay conciliation proceedings, unassisted by counsel or representative. The rationale behind the personal appearance requirement is to enable the lupon to secure first hand and direct information about the facts and issues,[8] the exception being in cases where minors or incompetents are parties. There can be no quibbling that laymen of goodwill can easily agree to conciliate and settle their disputes between themselves without what sometimes is the unsettling assistance of lawyers whose presence could sometimes obfuscate and confuse issues.[9] Worse still, the participation of lawyers with their penchant to use their analytical skills and legal knowledge tend to prolong instead of expedite settlement of the case.

The prohibition against the presence of a lawyer in a barangay conciliation proceedings was not, to be sure, lost on respondent. Her defense that the aforementioned Section 415 of the LGC does not apply since complainant addressed her Sumbong to the barangay captain of Brgy. San Pascual who thereafter proceeded to hear the same is specious at best. In this regard, suffice it to state that complainant wrote her Sumbong with the end in view of availing herself of the benefits of barangay justice. That she addressed her Sumbong to the barangay captain is really of little moment since the latter chairs the Lupon Tagapamayapa.[10]

Lest it be overlooked, the prohibition in question applies to all katarungan barangay proceedings. Section

412(a)[11] the LGC of 1991 clearly provides that, as a precondition to filing a complaint in court, the parties shall go through the conciliation process either before the lupon chairman or the lupon or pangkat. As what happened in this case, the punong barangay, as chairman of the Lupon Tagapamayapa, conducted the conciliation proceedings to resolve the disputes between the two parties.

Given the above perspective, we join the IBP Commission on Bar Discipline in its determination that respondent transgressed the prohibition prescribed in Section 415 of the LGC. However, its recommended penalty of mere admonition must have to be modified. Doubtless, respondent's conduct tended to undermine the laudable purpose of the katarungan pambarangay system. What compounded matters was when respondent repeatedly ignored complainant's protestation against her continued appearance in the barangay conciliation proceedings.

WHEREFORE, Atty. Olivia Velasco-Jacoba is hereby FINED in the amount of Five Thousand Pesos (P5,000.00) for willful violation of Section 415 of the Local Government Code of 1991 with WARNING that commission of similar acts of impropriety on her part in the future will be dealt with more severely.

SO ORDERED.

Panganiban, (Chairman) Corona, and Carpio-Morales, JJ., concur.
Sandoval-Gutierrez, J., on official leave.

[1] Annex "D" of the Complaint, Rollo, p. 11.

[2] Rollo, pp. 2-5.

[3] Rollo, p. 14.

[4] Rollo, p. 17.

[5] Rollo, pp. 51-54.

[6] Rollo, p. 50.

[7] Rep. Act 7160, which took effect on January 1, 1992. The law on barangay conciliation was originally governed by PD No. 1508 (enacted on June 11, 1978).

[8] Nollado, The Local Government Code of 1991 Annotated, 2004 ed., p. 476

[9] Ibid.

[10] Sec. 399, Rep. Act 7160

[11] Section 412. Conciliation. -

(a) Pre-condition to Filing of Complaint in Court. - No complaint, petition, action or proceeding involving any matter within the authority of the lupon shall be filed or instituted directly in court or any other government office for adjudication, unless there has been a confrontation between the parties before the lupon chairman or the pangkat, and that no conciliation or settlement has been reached as certified by the lupon secretary or pangkat secretary as attested to by the lupon or pangkat chairman or unless the settlement has been repudiated by the parties thereto.

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