

**PABLO R. OLIVARES AND/OR OLIVARES REALTY CORPORATION,
COMPLAINANTS, VS. ATTY. ARSENIO C. VILLALON, JR.,
RESPONDENT.**

A.C. NO. 6323. April 13, 2007

Ponente: CORONA, J.

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CORONA, J.:

This is a complaint[1] for disbarment and suspension[2] against respondent Atty. Arsenio C. Villalon, Jr. by Pablo R. Olivares and/or Olivares Realty Corporation for violation of Rule 12.02, Canon 12 of the Code of Professional Responsibility and the rule on forum shopping.

In his complaint, Olivares alleged that respondent's client, Sarah Divina Morales Al-Rasheed, repeatedly sued him for violations of the lease contract which they executed over a commercial apartment in Olivares Building in Parañaque.[3]

In 1993, Al-Rasheed filed an action for damages and prohibition with prayer for preliminary mandatory injunction in the Regional Trial Court of Manila.[4] The case was dismissed for improper venue.[5]

Six years later, on July 1, 1999, Al-Rasheed filed an action for breach of contract with damages in the Regional Trial Court of Parañaque, Branch 274. [6] The case, docketed as Civil Case No. 99-0233, was dismissed for failure to prosecute.[7] Al-Rasheed, through counsel Atty. Villalon, sought a review of the order dismissing Civil Case No. 99-0233 but the Court of Appeals did not give due course to her appeal.[8] The subsequent petition for review on certiorari filed in the Supreme Court was likewise denied. [9]

On January 29, 2004, Al-Rasheed re-filed the 1999 suit in the Regional Trial Court of Parañaque, Branch 274[10] where it was docketed as Civil Case No. 0J-04-009.[11] It was dismissed on the grounds of res judicata and prescription.[12]

Respondent, on the other hand, asserts that he was only performing his legal obligation as a lawyer to protect and prosecute the interests of his client.[13] He denied that he was forum shopping as his client, in her certificate of non-forum shopping,[14] disclosed the two previous cases involving the same cause of action which had been filed and dismissed.[15] Respondent further claims he could not refuse his client's request to file a new case because Al-Rasheed was the "oppressed party" in the transaction.[16]

This Court referred the complaint, together with respondent's comment, to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[17]

The Commission on Bar Discipline (CBD) of the IBP found that respondent assisted Al-Rasheed in repeatedly suing Olivares for the same cause of action and subject matter.[18] It opined that respondent should have noted that the 1999 case was dismissed for lack of interest to prosecute.[19] Under Rule 17, Section 3 of the Rules of Court, such dismissal had the effect of an adjudication on the merits.[20] The CBD recommended the suspension of respondent for six months with a warning that any similar infraction in the future would be dealt with more

severely.[21]

The IBP adopted and approved the findings of the CBD that respondent violated Rule 12.02, Canon 12 of the Code of Professional Responsibility as well as the proscription on forum shopping. It, however, modified the recommended penalty to reprimand.[22]

We adopt the findings of the IBP except its recommendation as to the penalty.

All lawyers must bear in mind that their oaths are neither mere words nor an empty formality. When they take their oath as lawyers, they dedicate their lives to the pursuit of justice. They accept the sacred trust to uphold the laws of the land. [23] As the first Canon of the Code of Professional Responsibility states, "[a] lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes." [24] Moreover, according to the lawyer's oath they took, lawyers should "not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same." [25]

With all this in mind, respondent should have refrained from filing the second complaint against Olivares. He ought to have known that the previous dismissal was with prejudice since it had the effect of an adjudication on the merits. There was no excuse not to know this elementary principle of procedural law.

The facts of this case reveal that Atty. Villalon purposely filed the second complaint. Respondent appealed the 1999 case to the Court of Appeals and subsequently to this Court. Both actions were dismissed for lack of merit, not on mere technicality. The certificate of non-forum shopping attached to the 2004 complaint disclosed that Al-Rasheed previously sued Olivares for violating their lease contract. As if such disclosure was a sufficient justification, Atty. Villalon unapologetically reproduced his 1999 [26] arguments and assertions in the 2004 [27] complaint. Respondent obviously knew the law and tried to go around it. This Court therefore concludes that respondent willfully violated Rule 12.02, Canon 12 which provides that:

A lawyer shall not file multiple actions arising from the same cause.

Furthermore, he violated Rule 10.03, Canon 10 of the Code of Professional Responsibility:

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

A lawyer's fidelity to his client must not be pursued at the expense of truth and justice. [28] Lawyers have the duty to assist in the speedy and efficient administration of justice. Filing multiple actions constitutes an abuse of the Court's processes. It constitutes improper conduct that tends to impede, obstruct and degrade justice. Those who file multiple or repetitive actions subject themselves to disciplinary action for incompetence or willful violation of their duties as attorneys to act with all good fidelity to the courts, and to maintain only such actions that appear to be just and consistent with truth and honor. [29]

Everything considered, this Court finds that a reprimand is insufficient and rules instead that CBD's recommendation for a six-month suspension from the practice of law to be more commensurate to the violation committed. However, in view of respondent's death on September 27, 2006, [30] the penalty can no longer be imposed on him. This development has, in effect, rendered this disciplinary case moot and academic.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

[1] Dated February 18, 2004.

[2] Rollo (Vol. I), pp. 1-4.

[3] Id., pp. 35-39.

[4] Id. p. 41. Atty. Apolinario Torcuador filed the said action on behalf of Al-Rasheed.

[5] Id., p. 73.

[6] Id., pp. 1, 26.

[7] Order dated July 10, 2000, id., p. 21.

[8] Id., p. 2.

[9] Id., See also Resolution dated March 28, 2001 denying petition for review on certiorari for failure of petitioner [Al-Rasheed] to show a reversible error committed by the [Court of Appeals], p. 23 and Resolution dated August 8, 2001 denying petitioner's motion for lack of compelling reason nor substantial arguments to merit reconsideration, p. 24.

[10] Id., p. 1. The case was also a complaint for breach of contract with damages.

[11] Id., p. 26.

[12] Rollo (Vol. II), pp. 62-63.

[13] Rollo (Vol. I), p. 43.

[14] Id.

[15] Id., pp. 43-44.

[16] Id., p. 46.

[17] Resolution dated August 4, 2004, rollo (Vol. II), p. 1.

[18] Report and Recommendation of the IBP Commission on Bar Discipline, dated October 4, 2005, penned by Com. Salvador B. Hababag; rollo (Vol. IV), p. 6.

[19] Id., p. 6.

[20] Id., p. 7.

[21] Id., p. 8.

[22] Resolution of the IBP Commission on Bar Discipline, dated 26 May 2006, id., p. 2.

[23] Radjaie v. Alovera, 392 Phil. 1, 15 (2000).

[24] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 1.

[25] See Lawyer's Oath.

[26] Rollo (Vol. I), pp. 5-15.

[27] Id., pp. 26-30.

[28] People v. Almedras, G.R. No. 145915, 24 April 2003, 401 SCRA 555, 573.

[29] Foronda v. Guerrero, A.C. No. 5469, 10 August 2004, 436 SCRA 9, 23.

[30] Respondent's widow, thru Atty. Alicia Vidal, IBP Governor for Greater Manila and Chair of the Commission on Bar Discipline, informed the Court of respondent's demise and furnished it a copy of respondent's death certificate.

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