WILFREDO T. GARCIA, COMPLAINANT, VS. ATTY. BENIAMINO A. LOPEZ, RESPONDENT.

A.C. NO. 6422. August 28, 2007

Ponente: CORONA, J.

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CORONA, J.:

In a complaint dated September 24, 2002, complainant Atty. Wilfredo T. Garcia charged respondent Atty. Beniamino A. Lopez with violation of his oath as a member of the bar and officer of the court, and misrepresentation, amounting to perjury and prayed that respondent be suspended or disbarred.

Complainant was the counsel of the late Angelina Sarmiento, applicant in LRC Case No. 05-M-96 which was pending in the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 15.[1] Sarmiento sought the registration and confirmation of her title over a 376,397 sq. m. tract of land. This was granted by the court.[2] The case went all the way to the Supreme Court and ultimately, the RTC decision was upheld. The decision became final and executory and the RTC, in an order dated February 21, 2002, directed the Land Registration Authority (LRA) to issue the decree of registration and certificate of title.[3] The LRA failed to comply, prompting the complainant to file an urgent motion to cite the LRA administrator or his representative in contempt of court. Hearings were scheduled.

On September 19, 2002, respondent, claiming to be the counsel of the heirs of Sarmiento, filed his entry of appearance and motion for postponement.[4]

Complainant alleged that he was surprised by this, considering that he had not withdrawn from the case. He contended that respondent should be sanctioned for misrepresenting to the court that he was the counsel of all the heirs of Sarmiento and omitting to mention that complainant was the counsel of record. According to him, his attorney's fee was arranged on a contingent basis and therefore, the attempt of respondent to enter his appearance at the final stage of the proceedings was tantamount to "unfair harvesting" of the fruit of complainant's labors since 1996.[5]

It appears that Sarmiento was succeeded by the following compulsory heirs: Gina Jarviña (Angelina's daughter by her common-law husband Victor Jarviña), Alfredo, Zenaida, Wilson, Jeanette and Geneva, all surnamed Ku (Angelina's children by her husband prior to her relationship with Victor). Complainant presented an affidavit executed by Gina Jarviña and Alfredo Ku wherein they stated that they did not engage the services of respondent and that they recognized complainant as their only counsel of record.

In his defense, respondent claimed that he was merely representing Zenaida and Wilson Ku[6] who sought his help on September 19, 2002 and told him that they wanted to retain his services. They allegedly did not have a lawyer to represent them in a hearing scheduled the next day. Because of the scheduled hearing, he had to immediately file an entry of appearance with motion for postponement. He asserted that it was an honest mistake not to have listed the names of his clients. He claimed it was not deliberate and did not prejudice anyone. He insisted that he had no intention of misrepresenting himself to the court.

The complaint was referred to the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP). The investigating commissioner, Wilfredo E.J.E. Reyes, in his report and recommendation dated January 8, 2004, found respondent guilty of misrepresentation and violation of Rule 8.02 of the Code of Professional Responsibility (CPR) when he failed to specify in his entry of appearance the individuals he was representing. He recommended that respondent be strongly reprimanded for his act with a reminder that a repetition of the same or similar offense would be dealt with more severely. This was adopted and approved by the IBP Board of Governors in its resolution passed on February 27, 2004.

We affirm the factual findings of the IBP but modify the penalty recommended.

Lawyers are officers of the court who are empowered to appear, prosecute and defend the causes of their clients. The law imposes on them peculiar duties, responsibilities and liabilities. Membership in the bar imposes on them certain obligations.[7] They are duty bound to uphold the dignity of the legal profession. They must act honorably, fairly and candidly towards each other and otherwise conduct themselves beyond reproach at all times.[8]

Complainant was the counsel of Sarmiento, the original applicant. Upon her death, the attorney-client relationship was terminated. However, complainant was retained as counsel by Gina Jarviña and Alfredo Ku. In filing an entry of appearance with motion of postponement in behalf of the "compulsory heirs of the late Angelita Sarmiento" when in truth he was merely representing some of the heirs but not all of them, respondent was guilty of misrepresentation which could have deceived the court. He had no authorization to represent all the heirs. He clearly violated his lawyer's oath that he will "do no falsehood nor consent to the doing of any in court."

Likewise, the CPR states:

> CANON 10 - A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.
>
> Rule 10.01 - 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.

Moreover, Canon 8 of the CPR demands that lawyers conduct themselves with courtesy, fairness and candor toward their fellow lawyers:

> CANON 8 - A lawyer shall conduct himself with courtesy, fairness and candor toward his professional colleagues, and shall avoid harassing tactics against opposing counsel.
>
> xxx xxx xxx
>
> Rule 8.02 - A lawyer shall not, directly or indirectly, encroach upon the professional employment of another lawyer; however, it is the right of any lawyer, without fear or favor, to give proper advice and assistance to those seeking relief against unfaithful or neglectful counsel.

Respondent failed to observe the foregoing rules. He made it appear that he was entering his appearance as counsel for all the heirs of Sarmiento which was highly unfair to complainant who had worked on the case from the very beginning (i.e. since 1996) and who had not been discharged as such. It is true that without the formal withdrawal of complainant as counsel of record, respondent would merely be considered as collaborating counsel. Nevertheless, by being less than candid about whom he was representing, respondent undeniably encroached upon the legal functions of complainant as the counsel of record.

We cannot casually brush aside what respondent did. Even assuming that it was not a calculated deception, he was still remiss in his duty to his fellow lawyer and the court. He should have been more careful about his actuation since the court was relying on him in its task of ascertaining the truth.

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WHEREFORE, respondent Atty. Beniamino A. Lopez is hereby SUSPENDED from the practice of law for one (1) month for violating Canons 8 and 10, Rules 8.02 and 10.01 of the Code of Professional Responsibility. He is warned that the commission of the same or similar act in the future will be dealt with more severely.

Let this resolution be furnished the Bar Confidant for appropriate annotation in the record of respondent.

SO ORDERED.

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

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[1] Rollo, p. 6.

[2] In a decision dated November 29, 1997 penned by Judge Carlos C. Ofilada; id., p. 15.

[3] Id., p. 17.

[4] Id., pp. 21-22.

[5] Id., p. 4.

[6] Although in respondent's Rejoinder, he alleged that he also represented Geneva and Jeanette Ku. Id., p. 122.

[7] Reyes v. Chiong, A.C. No. 5148, 1 July 2003, 405 SCRA 212, 217.

[8] Dallong-Galicinao v. Castro, A.C. No. 6396, 25 October 2005, 474 SCRA 1, 8, citing Alcantara v. Atty. Pefianco, 441 Phil. 514, 519 (2002).

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