ATTY. ORLANDO V. DIZON, COMPLAINANT, VS. ATTY. MARICHU C. LAMBINO, RESPONDENT.

A.C. No. 6968. August 09, 2006

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

The killing during a rumble on December 8, 1994 of University of the Philippines (UP) graduating student Dennis Venturina, the chairperson of the UP College of Public Administration Student Council, drew the then Chancellor of UP Diliman Roger Posadas to seek the assistance of the National Bureau of Investigation (NBI).

Acting on the request of Chancellor Posadas, Atty. Orlando Dizon, then Chief of the Special Operations Group (SOG) of the NBI, together with his men, repaired to the Office of Col. Eduardo Bentain, head of the UP Security Force on December 12, 1994.

As two student-suspects in the killing, Francis Carlo Taparan and Raymundo Narag, were at the time in the office of Col. Bentain, Atty. Dizon requested to take them into his custody. Atty. Marichu Lambino, Legal Counsel of UP Diliman, who repaired to the Office of Col. Bentain, advised against Atty. Dizon's move, however, he not being armed with a warrant for their arrest.

Chancellor Posadas and Vice Chancellor for students Rosario Torres-Yu, who also repaired to the office of the colonel, joined Atty. Lambino in opposing the turn-over of the suspects to Atty. Dizon, despite the latter's claim that under its Charter the NBI was authorized to make warrantless arrests.

The suspects' lawyer, one Atty. Villamor, later also showed up at the office of Col. Bentain and after what appeared to be a heated discussion between Atty. Dizon and the UP officials, the students were allowed to go back to their dormitories, with Atty. Villamor undertaking to accompany them to the NBI the following morning.

The two student-suspects were eventually indicted in court.

Hence, spawned the filing of a complaint by Atty. Dizon against Atty. Lambino before the Integrated Bar of the Philippines (IBP), for violation of Canon 1, Rules 1.1 to 1.3 of the Code of Professional Responsibility, docketed as CBD Case No. 346.

Atty. Dizon had earlier filed a criminal complaint also against Atty. Lambino, together with Chancellor Posadas and Vice Chancellor Torres-Yu and Col. Bentain, before the Ombudsman, for violation of P.D. 1829 which makes it unlawful for anyone to obstruct the apprehension and prosecution of criminal offenses.

Atty. Lambino in turn charged Atty. Dizon before the IBP with violation of the Code of Professional Responsibility, specifically Canon 1, Rule 1.01, 1.02, and 1.03; Canon 6, Rules 6.01 and 6.02; and Canon 8, Rule 8.01, docketed as CBD Case No. 373.

The administrative cases were, on motion of Atty. Lambino, consolidated. Before the IBP Commission on Bar Discipline (CBD), the issues were defined as follows:

- Whether the act of Atty. Lambino in refusing to turn over the suspected students to the group of Atty. Dizon constitutes violation of Code of Professional Responsibility.

- Whether the act of Atty. Dizon in trying to arrest the student-suspects constitutes violation of the Code of Professional Responsibility.

By Report and Recommendation submitted to the Board of Governors of the IBP on June 20, 2005, CBD Investigating Commissioner Siegfrid B. Mison recommended the dismissal of the complaint against Atty. Lambino in light of a finding that she "acted within her official duties as she safeguarded the rights of the students in accordance with the school's substitute parental authority" and "within the bounds of the law as the NBI agents had no warrants of arrest."

With respect to the complaint against Atty. Dizon, the Commissioner recommended to reprimand him for violating the Code of Professional Responsibility in "recklessly tr[ying] to arrest" the suspects without warrant.

The IBP Board of Governors, by Resolution of October 22, 2005, adopted and approved the Commissioner's Report. The IBP thereupon transferred to this Court its Notice of Resolution, together with the records of the cases which this Court noted by Resolution of February 1, 2006.

As earlier stated, the issue against Atty. Lambino is whether she violated the Canons of Professional Ethics in "refusing to turn over the suspected students to the group of Atty. Dizon."

When the complaint of Atty. Dizon before the Ombudsman against Chancellor Posadas, Vice Chancellor Torres-Yu and Atty. Lambino was elevated on Certiorari and Prohibition, this Court addressing in the negative the two issues raised therein, to wit:

> (1) Whether the attempted arrest of the student suspects by the NBI could be validly made without a warrant; and (2) Whether there was probable cause for prosecuting petitioner for violation of P.D. No. 1829. x x x,[1]

held that the objection of the said UP officials to the arrest of the students "cannot be construed as a violation of P.D. No. 1829, Sec. 1 (c) without rendering it unconstitutional,"[2] they having "a right to prevent the arrest [of the students] at the time because their attempted arrest was illegal."[3]

Indeed, Atty. Lambino was legally justified in advising against the turn over of the suspects to Atty. Dizon, there being no basis for him to effect a warrantless arrest. Atty. Dizon's administrative complaint against her must then be dismissed.

Respecting the complaint against Atty. Dizon, this Court, also in Posadas v. Ombudsman, held that "[f]or the failure of the NBI agents to comply with the constitutional and procedural requirements, . . . their attempt to arrest [the two student-suspects] without a warrant was illegal."[4]

In the main, Atty. Dizon invoked Section 1 (a) of Republic Act 157 (The NBI Charter) which empowers the NBI "to undertake investigations of crimes and other offenses against the laws of the Philippines, upon its own initiative and as public interest may require"[5] and to make arrests. The invocation does not impress. Said section does not grant the NBI the power to make warrantless arrests. The NBI Charter clearly qualifies the power to make arrests to be "in accordance with existing laws and rules."

> Members of the investigation staff of the Bureau of Investigation shall be peace officers, and as such have the following powers:
>
> (a) To make arrests, searches and seizures in accordance with existing laws and rules.[6]
>
> x x x x (Emphasis supplied)

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By persisting in his attempt to arrest the suspected students without a warrant, Atty. Dizon violated Rule 1.02 of Canon 1 of the Code of Professional Responsibility which provides:

> CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.
>
> x x x x
>
> Rule 1.02 – A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system. (Emphasis supplied).

WHEREFORE, CBD Case No. 346 against Atty. Marichu C. Lambino is DISMISSED.

Atty. Orlando V. Dizon is, in CBD Case No. 373, found guilty of violation of Canon 1 of Rule 1.02 of the Code of Professional Responsibility and is REPRIMANDED and WARNED that a repetition of the same or similar infraction shall be dealt with more severely.

Let a copy of this Decision be furnished the Office of the Bar Confidant, the National Bureau of Investigation, and the Department of Justice.
SO ORDERED.

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

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[1] Posadas v. Ombudsman, 395 Phil. 601, 609-610 (2000).

[2] Id. at 617.

[3] Ibid.

[4] Id. at 613.

[5] Republic Act 157, Section 1(a) and (b).

[6] Id. at Section 5.

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