

**ROBERT FRANCIS F. MARONILLA, AND ROMMEL F. MARONILLA,
REPRESENTED BY ATTY. RAMON M. MARONILLA, COMPLAINANTS,
VS. ATTY. EFREN N. JORDA AND IDA MAY J. LA'O, UP
PROSECUTOR AND CHI...**

A.C. No. 6973. October 30, 2006

Ponente: TINGA, J.

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TINGA, J.:

This treats of the Motion for Reconsideration dated 30 March 2006, filed by respondent Atty. Efren N. Jorda (Atty. Jorda), wherein he seeks the reconsideration of the Court's Resolution dated 13 February 2006. Through said Resolution,[1] the Court approved the recommendation of the Integrated Bar of the Philippines and accordingly reprimanded Atty. Jorda for gross ignorance of the law and for violating Rule 12.04 of the Code of Professional Responsibility.

A brief recall of the antecedent facts is in order. Atty. Jorda is a lawyer with the University of the Philippines-Diliman Legal Office. In behalf of the Diliman Legal Office, he was involved in the prosecution of several students of the University of the Philippines (U.P.), including the two (2) sons of Atty. Ramon Maronilla,[2] for their alleged participation in the mauling of another U.P. student, Ferdinand Ocampo, on 28 January 2002. The U.P. Student Disciplinary Tribunal (SDT) conducted the formal investigation of the Maronilla brothers and their co-accused. On 31 May 2004, the SDT promulgated a decision, recommending that the complaint against the Maronillas be dismissed for lack of substantial evidence. In the same decision, five (5) of the students were recommended for expulsion, while the charges against one other student was also dismissed for lack of substantial evidence.

Atty. Jorda filed a Motion for Partial Reconsideration dated 21 June 2004 with the office of the U.P. President, with respect to the dismissal of the complaint against the Maronillas. Atty. Jorda also filed an Extended Manifestation praying that the Motion for Partial Reconsideration of the SDT decision be considered as an appeal. These actions caused the complainant, the father of the Maronillas, to file the instant complaint with the Integrated Bar of the Philippines (IBP) against Atty. Jorda and Atty. Ida May J. La'o, the Chief Legal Officer of the U.P. Diliman Legal Office. The complaint alleged that "the rules in the disciplinary action and jurisprudence and practice x x x did not provide for an appeal or motion for reconsideration, more so if the ruling is in the form of an acquittal or dismissal of the complaint after trial on the merit." [3]

On 22 June 2005, the IBP Commission on Bar Discipline issued its Report and Recommendation, submitting that Atty. Jorda is guilty of violating the Code of Professional Responsibility, particularly Rule 12.04 thereof, as well as gross ignorance of the law. The Report and Recommendation, which was adopted by the IBP Board of Governors on 22 October 2005, recommended that Atty. Jorda be penalized with a reprimand while the complaint against Atty. La'o be dismissed for lack of merit.

On 13 February 2006, the Court issued the assailed Resolution[4] approving the recommendations of the IBP. The

Resolution took into account the observation of the IBP that there was no right to appeal from the decisions of the SDT, elucidating from that perspective that an appeal could not be undertaken without any express provision of law sanctioning the same since appeal is not a right but a privilege accorded by law. The Court stated that "Jorda breached a procedural rule no higher than the Revised Rules and Regulations Governing Fraternities, Sororities and Other Student Organizations,"[5] yet expounded that Jorda, "as a functionary of a state university, was obliged to adhere to the due process clause of the Constitution." [6] Accordingly, Atty. Jorda was meted the penalty of reprimand for gross ignorance of the law and for violating Rule 12.04 of the Code of Professional Responsibility,[7] which mandates that "[a] lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes."

Atty. Jorda now seeks the reconsideration of the Court's Resolution. The most compelling argument he presents to the Court concerns Art. 50 of the University Code, which discusses the power of the President of the U.P. to modify or disapprove any action or resolution of any college or school faculty or administrative body. The provision reads in full:

Art. 50. [The President of the University of the Philippines] shall have the right to modify or disapprove any action or resolution of any college or school, faculty or administrative body, if in his judgment the larger interests of the University System so requires. Should he exercise such power, the President shall communicate his decision in writing to the body immediately affected, stating the reasons for his action; and thereafter shall accordingly inform the Board of Regents, which may take any action it may deem appropriate in connection therewith.[8]

According to Atty. Jorda, this provision precludes the unqualified assertion that there is no right to appeal from a decision of acquittal rendered by the SDT since the U.P. President exercises plenary powers to modify or disapprove any action or resolution of any faculty or administrative body, including the SDT. At the very least, the viability of review by the U.P. President under Art. 50 negates the notion that the pursuit of an appeal from a decision of the SDT to the U.P. President constitutes gross ignorance of the law. In support of this argument, Atty. Jorda attached a copy of a decision by then U.P. President Edgardo Angara in *U.P. v. Albino*, [9] where Art. 50 was cited to debunk the objection to the appeal lodged, not by respondents, but by the father of the victim in that case.

The complainants and the IBP were required to comment on the Motion for Reconsideration.[10] They failed to do so within the period set by the Court; hence, they are deemed to have waived the opportunity to so comment.

We agree that Art. 50 is determinative of the administrative complaint. Reconsideration of our previous Resolution is warranted.

Article 50 was not sufficiently highlighted as a defense during the proceedings before the IBP. Atty. Jorda himself presently asserts that the IBP Commissioner who investigated the present case "may not know the existence of Art. 50, hence his readiness to recommend that [Atty. Jorda] be castigated for 'gross ignorance of the law.'" [11] Considering the potency of Art. 50 as a defense for Atty. Jorda, it is unfortunate that he did not take greater pains to build his defense around the provision. He did advert to Art. 50, but did not quote it or indicate its text, in his Answer to Maronilla's Affidavit-Complaint before the IBP. Moreover, he did not expressly pursue it in his subsequent pleadings before the IBP such as the "Specifications of Countercharge with Motion," or more pertinently, in his Position Paper before the IBP.[12] Hence, it should not have come as any particular surprise that the IBP or this Court had not previously taken the provision under due consideration.

We reiterate that under the Revised Rules and Regulations Governing Fraternities, Sororities and Other Student Organizations, the University prosecutor is not expressly granted the right to appeal a decision of the SDT

acquitting a respondent. Rule V, Section 2 affords a respondent so penalized by the SDT the right to appeal, but not any other party. Also pertinent is Section 7, Rule IV of the same Rules which classifies "motion[s] for reconsideration of SDT rulings and/or resolutions" as among those pleadings and motions prohibited in SDT cases.

Does the prohibition against motions for reconsideration of SDT rulings and/or resolutions translate into an express bar against an appeal to the U.P. President? We do not believe so, for such barred motions for reconsideration are filed not with the U.P. President but with the SDT. On the other hand, the appellate procedure spelled out in the Rules and Regulations clearly refer to appeals as being undertaken not with the SDT, but with the U.P. President. The Rules and Regulations do not expressly authorize Atty. Jorda to undertake such appeal with the U.P. President since the right to appeal under said rules is extended only to respondents in SDT cases. At the same time, the Rules and Regulations do not explicitly bar an appeal filed by a person other than the respondent, such as the complainant or a prosecutor such as Atty. Jorda.

We now turn to the University Code, particularly Art. 50 thereof. The provision indubitably allows the U.P. President to reverse a recommendation of acquittal rendered by the SDT. Even though the provision does not, in precise terms, sanction an appeal undertaken by the University prosecutor from the decision of the SDT, it ineluctably allows the U.P. President to act as if such appeal was filed and accordingly reverse the SDT. If Atty. Jorda had not filed a pleading captioned "Motion for Partial Reconsideration," but instead replicated the contents thereof in a letter written on his personal stationery to the U.P. President, Art. 50 would still allow the President to act on the premises stated in the letter and reverse the SDT.

When then U.P. President Francisco Nemenzo issued his Decision^[13] dated 9 February 2005 upholding the acquittal of the Maronillas, he had noted that the Motion for Partial Reconsideration could not be given due course on the premises that a Motion for Reconsideration is a prohibited pleading under Section 7, Rule IV of the [Rules], and that appeal is not a matter of right or part of due process but merely a statutory privilege to be exercised only in the manner and in accordance with the law granting the right. However, even as President Nemenzo acknowledged that his office "cannot validly acquire jurisdiction over the 'appeal' of the University Prosecutor," he also pronounced as follows:

Having said that, we, however, agree with the University Prosecutor that the "Motion for Partial Reconsideration" can be considered for the purpose of inviting the attention of this Office to possible errors of the SDT in applying the rules and the facts. Hence, the "Motion for Partial Reconsideration" will be considered as the University Prosecutor's comment or opposition to the instant appeal.^[14] [Emphasis supplied.].

It does not appear that this opinion of President Nemenzo is atypical. The Albino case before the U.P. President, cited by Atty. Jorda, dealt with a similar issue in this fashion:

The Student Disciplinary Tribunal rendered a decision dated 29 July 1985 exonerating the respondents of any culpability of the charge of hazing conducted in the course of initiation by the Beta Sigma fraternity, resulting in the death of Arbel G. Liwag. A letter-appeal dated 9 August 1985 was brought to the Office of the President by Mr. Arturo Liwag, father of the deceased student. Mr. Liwag invokes the President's power under Article 50 of the Revised Code of the University and asks that the decision be modified or reversed on the ground that "the Tribunal failed to appreciate the evidence, mistook the real issue and demanded a sort of proof beyond reasonable doubt to sustain the charges." The respondent Rafael Tomeldan opposed the review and counsels for the respondents, Attys. Oscar E. Malinis, Leopoldo E. Petilia and Angel V. Colet in a letter of 12 November 1985[,] asserted that the SDT decision is final not only because no appeal was taken but also because there is no appeal from a decision of acquittal in an SDT decision.

The technical objection against review by the President under Art. 50 of the Revised University Code is

without merit. The explicit provision vesting authority in the President is independent of and suppletory to the rules on discipline whether of students, faculty or other employees of the University. The conditions under which the authority may be exercised are clear and they obtain in the instant case.[15]

Marvic M.V.F. Leonen, Vice-President for Legal Affairs, and Rosalio A. Aragon, Jr., Deputy General Counsel for Judicial Affairs of the U.P., cite Albino in support of their opinion that an "appeal" made by a party other than the respondent to an SDT case is permissible under Art. 50. They explain as follows:

In practice, the President can exercise his/her aforesaid power at his/her own initiative, with or without any prompting from some outside source. For that reason, pleas, requests, or appeals from various sources reach his/her office, thereby giving rise to the exercise of his/her power under Art. 50. In the specific case of the MARONILLAs, President Nemenzo did not close his door to the Prosecutor's "appeal" or "motion for partial reconsideration," as already stated in his decision. It is our view, therefore, that the Prosecution committed no irregularity or procedural malfeasance when it, in effect, supplied President Nemenzo with inputs that he could use in his decision-making process. After all, the final decision was his to make.

As a matter of fact, there had been instances where the President, in the exercise of his powers under Art. 50, sustained an appeal made by the complainant, even if, as a rule, the right to appeal is reserved to the respondent. The case which you cited - that of "UP v. Albino," a case decided by then President EDGARDO A. ANGARA, in December, 1985 - is very well in point. In Albino, the SDT exonerated the respondents, hence, as a rule the case would have ended right there. But the victim's father (i.e., the party represented by the University Prosecutor), dissatisfied with the SDT decision, appealed the exoneration to President ANGARA. The latter, pursuant to his powers under Art. 50, reversed the SDT decision and, instead, declared all the respondents "guilty" as charged.

In the light of the forgoing discussion, this Office confirms your position that, from the viewpoint of the internal rules of the UP on SDT disciplinary cases, and especially on the procedures governing appeals from SDT decisions, there was nothing irregular with the DLO's (through ATTY. EFREN N. JORDA) submission of an "appeal" or "motion for partial reconsideration" because the same merely served as an input to the President in the exercise of his plenary review powers under Art. 50 of the University Code. Even assuming that such a procedural move by the DLO did not sit well with the general rule reserving the right to appeal to the convicted respondents, there is nothing irregular in it, because the decision on the merits of the "appeal" still rests with the President, and the only sanction that can arise from such move is a denial or dismissal of the "appeal" made. We do not know of any incident in the University where a Prosecutor was charged administratively for filing an improper appeal from a decision of acquittal.[16]

Atty. Jorda has demonstrated, at the very least, that there is no definitive prohibition under the laws and regulations governing the University that would bar a party other than a respondent in an SDT case to pursue an appeal or a similarly oriented plea to the U.P. President. While this power of review may be exercised *motu proprio*, there is no bar against the U.P. President from taking cognizance of a written appeal by a complainant, a prosecutor, or even any third party for that matter.

It may still be correct to assert that Atty. Jorda, as University Prosecutor, had no statutory right to appeal the SDT decision favoring the Maronillas since neither the U.P. Code nor the Rules and Regulations expressly vests such a right on persons other than respondents in SDT cases. However, it cannot be denied that the U.P. President, under Art. 50, has the power to take cognizance of an appeal "couched" in whatever form. The absence of a statutory right to appeal ultimately means only that Atty. Jorda, or any would-be-appellant, has no right to demand that the President acquire jurisdiction or even consider in any manner any appeal that they may lodge, no matter the timeliness or even the obvious merit of such appeal.

Our earlier Resolution hinged on the precept that an appeal cannot be undertaken without any express provision of

law authorizing the same. The strict application of that principle must be tempered in light of Art. 50, which ostensibly does not expressly grant Atty. Jorda the right of appeal yet unmistakably does authorize the U.P. President to consider any appeal Atty. Jorda may file. Art. 50 does, in effect, institutionalize a process of backdoor appeals; but it must be conceded that the notion is not entirely comforting, especially if as a result, a student acquitted by the SDT were to be instead ordered expelled by the U.P. President exercising his/her powers under Art. 50. Yet it is not our present function to review Art. 50, or even the vagaries of any formal or informal appellate procedure from SDT decisions. All we are called to do is to recognize the legal framework within the U.P. System regarding appeals from SDT decisions and on that basis ascertain whether Atty. Jorda's actions are sanctioned within that framework. We rule that they are.

Accordingly, Atty. Jorda cannot be found liable for gross ignorance of the law. Gross ignorance of the law necessitates in the first place an action contrary to law, and the appeal undertaken by Atty. Jorda, even if not expressly sanctioned, was neither expressly barred and indeed permissible within the discretion of the U.P. President to recognize under Art. 50 of the University Code. Nor can Atty. Jorda be found liable for violating Rule 12.04 of the Code of Professional Responsibility, which proscribes lawyers from unduly delaying cases, impeding the execution of judgments, or misusing Court processes. The appeal undertaken by Atty. Jorda, authorized as it ultimately is under the U.P. system legal framework, could not have worked towards such deleterious effects.

WHEREFORE, the Motion for Reconsideration dated 30 March 2006 is GRANTED. The Resolution of the Court dated 13 February 2006 is RECONSIDERED and SET ASIDE. Accordingly, the complaint against respondent Atty. Efren N. Jorda is DISMISSED.

No pronouncement as to costs.

SO ORDERED.

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

[1] Penned by the author of this present resolution, and concurred in by Justices Antonio T. Carpio and Conchita Carpio-Morales. Associate Justice Leonardo A. Quisumbing concurred "only in regard to [the] dismissal of [the] complaint against [respondent Atty. Ida May J.] La'o", the complaint against co-respondent Atty. La'o having been dismissed for lack of merit.

[2] His sons, Robert Francis F. Maronilla and Rommel F. Maronilla, as represented by their father, are the formal complainants in this case.

[3] Rollo, p. 2.

[4] Id. at 110-118.

[5] Id. at 117.

[6] Id.

[7] Id. at 118.

[8] Id. at 123.

[9] SDT Case No. 83-024, 16 December 1985. Rollo, pp. 153-169.

[10] In a Resolution dated 14 June 2006.

[11] Motion for Reconsideration, rollo, p. 135.

[12] See rollo, pp. 88-96.

[13] SDT Case No. 02-004, rollo, pp. 68-80.

[14] Id. at 72.

[15] Supra note 9, at 153.

[16] Id. at 218-219.

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