

JULIUS V. AGUSTIN, COMPLAINANT, VS. ATTY. ENRIQUE S. EMPLEO, RESPONDENT

A.C. NO. 6986. March 06, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

This is a complaint for disbarment^[1] filed by complainant Julius V. Agustin against respondent Atty. Enrique S. Empleo for the latter's failure to comply with a court order while acting as the former's counsel, thereby resulting in the outright dismissal of a case and the complainant's counterclaim therein.

Records reveal that complainant was the defendant in Civil Case No. B-259 for Forcible Entry with Preliminary Mandatory Injunction and Damages then pending before the 2nd Municipal Circuit Trial Court (MCTC), Bindoy, Negros Oriental, in which respondent was his counsel.

In the course of the proceedings in that case, the MCTC issued an Order on September 25, 1998,^[2] giving the parties to the case a period of fifteen (15) days from receipt thereof within which to submit their compromise agreement or amicable settlement for the approval of the court.

With no compromise agreement having been submitted by the parties within the period thus given or thereafter, the MCTC, some four (4) years later, or on August 5, 2002, issued an Order^[3] dismissing Civil Case No. B-259 and the counterclaim therein for failure of the parties to prosecute.

Blaming his counsel for the dismissal of the case and his counterclaim therein, complainant filed on October 18, 2004, an administrative complaint against respondent with the Integrated Bar of the Philippines (IBP), thereat docketed as CBD Case No. 04-1344.

Acting on the complaint, the IBP Director for Bar Discipline, Atty. Rogelio A. Vinluan, required respondent to submit his answer thereto, otherwise he will be considered as in default and the case heard ex-parte.^[4]

In his answer,^[5] respondent admits having been complainant's counsel in Civil Case No. B-259 and the dismissal of that case by the MCTC for the parties' failure to submit a compromise agreement. He explained, however, that the non-submission of the compromise agreement was due to complainant's own fault in not contacting him for the purpose of providing the details of said agreement, pointing out that counsels merely assist their clients and do not decide for them in a compromise agreement. Respondent likewise averred that complainant was not prejudiced by the dismissal of Civil Case No. B-259 for the simple reason that the latter was no less the defendant therein and it was the plaintiff who failed to prosecute the case for a long period of time. In any event, respondent alleged that the instant administrative complaint is simply complainant's reaction to his letter dated June 15, 2004^[6] relative to his (respondent's) act of having withdrawn as complainant's counsel in a different case pending before another court.

Complainant, in his Reply-Affidavit,^[7] countered that he contacted respondent several times regarding the submission of the compromise agreement in Civil Case No. B-259. The first was on October 20, 1999 at

respondent's residence as the latter was not at his office at that time, in compliance with respondent's letter requesting to see him. The second was on April 19, 2000 when complainant went to respondent's office on account of another case, and there reminded the latter as to the compromise agreement but respondent just made the assurance that he will be the one to make the draft and/or prepare the same. The third was on January 12, 2001, again at the respondent's office where, after being reminded as to the compromise agreement, respondent told him not to be in a hurry because the court can wait for the compromise agreement and besides he is quite busy with other court cases. Denying that the administrative complaint is his reaction to respondent's letter dated June 15, 2004, complainant asserted that said letter concerns another case in connection with which he is preparing another administrative case against respondent.

In his Rejoinder,[8] respondent denied that complainant contacted and reminded him about the subject compromise agreement, averring that any communication that has happened between him and the complainant pertains to another case. Respondent further averred that complainant is merely attempting to besmirch his unsullied reputation as a legal practitioner since 1975.

After the termination of the mandatory preliminary conference, the parties were required to submit their respective position papers with documentary exhibits and affidavits of witnesses, if any, within twenty (20) days from notice, after which the case shall be submitted for resolution.[9]

Eventually, on July 26, 2005, the IBP Investigating Commissioner, Acerey C. Pacheco, submitted his Report and Recommendation.[10] Said the Commissioner in his report:

It is a fact as established by the records that no compromise agreement was submitted to the court despite the receipt of the Order dated September 25, 1998. While it is true that as counsel, respondent do not decide for the complainant to enter into such kind of agreement, respondent is however, duty bound to assist the court in the speedy disposition of cases.

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Respondent's asseveration that he waited for the complainant to provide him with details of the compromise agreement but the latter failed to come does not inspire belief in the face of the denials made by the complainant. Not even a piece of paper or letter requesting the complainant to provide him with the details of the agreement was presented to substantiate such allegation.

And even assuming arguendo that respondent indeed asked the complainant of such details, the period of almost four (4) years from September 25, 1998 (date of the Order requiring the submission of the compromise agreement) up to August 5, 2002 (date of the Order dismissing the case for failure to submit the same) without doing anything to avoid the case being left "hanging on the air" betrays respondent's duty towards the court. As an officer of the court whose primary function is to assist the court in the impartial and speedy adjudication of cases, respondent ought to be vigilant and avoid any act or omission that only impedes and obstructs speedy disposition of cases.

In the case at bar, the period of almost four (4) years of waiting constitutes inaction that caused unnecessary delay in the disposition of said cases. The fact that no damage or prejudice was sustained by the complainant, he being the defendant in that case, is of no moment.

Thus, the Commissioner's recommendation:

WHEREFORE, premises considered, it is most respectfully recommended that herein respondent be reprimanded for his inaction over the period of almost four (4) years without doing anything and that a repetition of the same act to be dealt with accordingly.[11]

On October 22, 2005, the IBP Board of Governors passed Resolution No. XVII-2005-90[12] adopting and

approving the afore-quoted report and recommendation of the Investigating Commissioner, 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 as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering the almost four years of inaction that caused delay in the disposition of the cases, Atty. Enrique S. Empleo is hereby REPRIMANDED and repetition of the same act shall be dealt with accordingly.

We are in full accord with the findings and recommendation of the Investigating Commissioner as adopted by the IBP Board of Governors.

First and foremost among the duties of a lawyer is his duty to the court. The chief mission of an attorney is to assist in the administration of justice and to this end, his client's success in the case is subordinate. As mandated in Canon 12 of the Code of Professional Responsibility:

A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER IT HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.

Like the court itself, a lawyer is an instrument to advance its ends: the speedy, efficient, impartial, correct and inexpensive adjudication of cases and the prompt satisfaction of final judgments.[13]A lawyer should not only help attain these objectives but should likewise avoid any unethical or improper practices that impede, obstruct or prevent their realization, charged as he is with the primary task of assisting in the speedy and efficient administration of justice.[14]

True, a lawyer cannot enter into a compromise agreement without his client's consent. Be it remembered, however, that a lawyer is also an officer of the court with the correlative duty to see to it that cases are disposed in the soonest possible time.

Here, respondent, fully aware that there is a pending court order for the submission of a compromise agreement, should have taken pains to remind complainant about it and ascertain the true intent of the latter regarding the same, so that he, as complainant's counsel, can make the necessary legal action in order for the case not to be unduly delayed and appear not to be indefinitely pending in the docket of the court concerned.

Moreover, by respondent's inaction to the court order in Civil Case No. B-259, he has very well violated his Attorney's Oath to "obey the laws and legal orders of the duly constituted authorities."

Lastly, we cannot but note that respondent's conduct relative to the civil case in question likewise fell short of the diligence required of his profession, in violation of Canon 18 of the Code of Professional Responsibility, which demands that a lawyer shall serve his client with competence and diligence. Rule 18.03 of said Canon further states that a lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable.

As complainant's counsel in Civil Case No. B-259, it was incumbent upon respondent to invite his client's attention as to the compromise agreement, especially so when there is a pending court order for the submission of the same. There is nothing in the record which shows that respondent did anything in this respect, even when, as per his admission, he and complainant were in communication at that time, albeit, with regards to another case.

Thus, by just letting the court order for the submission of a compromise agreement in Civil Case No. B-259 remain unacted upon resulting in the pendency of that case for almost four (4) years until its dismissal for the parties' non-compliance, respondent sorely failed to perform what is required of him as a lawyer and a member of the Bar.

ACCORDINGLY, respondent Atty. Enrique Empleo is hereby REPRIMANDED with WARNING that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Corona and Azcuna, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Annex "A" — Complaint; Rollo, pp. 3-4.

[3] Annex "B" — Complaint; Rollo, pp. 5-6.

[4] Rollo, p. 7.

[5] Rollo, pp. 8-9.

[6] Rollo, p. 11. In this letter, respondent informed complainant that he was withdrawing as the latter's counsel in another case and that the attorney's fees paid to him by complainant in that other case was just enough for the legal services he rendered therein.

[7] Rollo, pp. 17-19.

[8] Rollo, pp. 28-30.

[9] Rollo, p. 50.

[10] Rollo, pp. 98-100.

[11] Ibid., at p. 3.

[12] Rollo, p. 97.

[13] Far Eastern Shipping Company vs. Court of Appeals, 297 SCRA 30, 52 (1998).

[14] Ibid.

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