ATTY. EDITA NOE-LACSAMANA, COMPLAINANT, VS. ATTY. YOLANDO F. BUSMENTE, RESPONDENT.

A.C. No. 7269. November 23, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Before the Court is a complaint for disbarment filed by Atty. Edita Noe-Lacsamana (Noe-Lacsamana) against Atty. Yolando F. Busmente (Busmente) before the Integrated Bar of the Philippines (IBP).

The Antecedent Facts

Noe-Lacsamana alleged in her complaint that she was the counsel for Irene Bides, the plaintiff in Civil Case No. SCA-2481 before the Regional Trial Court of Pasig City, Branch 167, while Busmente was the counsel for the defendant Imelda B. Ulaso (Ulaso). Noe-Lacsamana alleged that Ulaso's deed of sale over the property subject of Civil Case No. SCA-2481 was annulled, which resulted in the filing of an ejectment case before the Metropolitan Trial Court (MTC), San Juan, docketed as Civil Case No. 9284, where Busmente appeared as counsel. Another case for falsification was filed against Ulaso where Busmente also appeared as counsel. Noe-Lacsamana alleged that one Atty. Elizabeth Dela Rosa or Atty. Liza Dela Rosa (Dela Rosa) would accompany Ulaso in court, projecting herself as Busmente's collaborating counsel. Dela Rosa signed the minutes of the court proceedings in Civil Case No. 9284 nine times from 25 November 2003 to 8 February 2005. Noe-Lacsamana further alleged that the court orders and notices specified Dela Rosa as Busmente's collaborating counsel. Noe-Lacsamana alleged that upon verification with this Court and the Integrated Bar of the Philippines, she discovered that Dela Rosa was not a lawyer.

Busmente alleged that Dela Rosa was a law graduate and was his paralegal assistant for a few years. Busmente alleged that Dela Rosa's employment with him ended in 2000 but Dela Rosa was able to continue misrepresenting herself as a lawyer with the help of Regine Macasieb (Macasieb), Busmente's former secretary. Busmente alleged that he did not represent Ulaso in Civil Case No. 9284 and that his signature in the Answer[1] presented as proof by Noe-Lacsamana was forged.

The Decision of the Commission on Bar Discipline

In its Report and Recommendation,[2] the IBP Commission on Bar Discipline (IBP-CBD) found that Dela Rosa was not a lawyer and that she represented Ulaso as Busmente's collaborating counsel in Civil Case No. 9284. The IBP-CBD noted that while Busmente claimed that Dela Rosa no longer worked for him since 2000, there was no proof of her separation from employment. The IBP-CBD found that notices from the MTC San Juan, as well as the pleadings of the case, were all sent to Busmente's designated office address. The IBP-CBD stated that Busmente's only excuse was that Dela Rosa connived with his former secretary Macasieb so that the notices and pleadings would not reach him.

The IBP-CBD rejected the affidavit submitted by Judy M. Ortalez (Ortalez), Busmente's staff, alleging Macasieb's failure to endorse pleadings and notices of Civil Case No. 9284 to Busmente. The IBP-CBD noted that Ortalez did not exactly refer to Ulaso's case in her affidavit and that there was no mention that she actually witnessed Macasieb withholding pleadings and notices from Busmente. The IBP-CBD also noted that Macasieb was still working at Busmente's office in November 2003 as shown by the affidavit attached to a Motion to Lift Order of Default that she signed. However, even if Macasieb resigned in November 2003, Dela Rosa continued to represent Ulaso until 2005, which belied Busmente's allegation that Dela Rosa was able to illegally practice law using his office address without his knowledge and only due to Dela Rosa's connivance with Macasieb. As regards Busmente's allegation that his signature on the Answer was forged, the IBP-CBD gave Busmente the opportunity to coordinate with the National Bureau of Investigation (NBI) to prove that his signature was forged but he failed to submit any report from the NBI despite the lapse of four months from the time he reserved his right to submit the report.

The IBP-CBD recommended Busmente's suspension from the practice of law for not less than five years. On 26 May 2006, in its Resolution No. XVII-2006-271,[3] the IBP Board of Governors adopted and approved the recommendation of the IBP-CBD, with modification by reducing the period of Busmente's suspension to six months.

Busmente filed a motion for reconsideration and submitted a report[4] from the NBI stating that the signature in the Answer, when compared with standard/sample signatures submitted to its office, showed that they were not written by one and the same person. In its 14 May 2011 Resolution No. XIX-2011-168, the IBP Board of Governors denied Busmente's motion for reconsideration.

The Issue

The issue in this case is whether Busmente is guilty of directly or indirectly assisting Dela Rosa in her illegal practice of law that warrants his suspension from the practice of law.

The Ruling of this Court

We agree with the IBP.

Canon 9 of the Code of Professional Responsibility states:

> Canon 9. A lawyer shall not, directly or indirectly, assist in the unauthorized practice of law.

The Court ruled that the term "practice of law" implies customarily or habitually holding oneself out to the public as a lawyer for compensation as a source of livelihood or in consideration of his services.[5] The Court further ruled that holding one's self out as a lawyer may be shown by acts indicative of that purpose, such as identifying oneself as attorney, appearing in court in representation of a client, or associating oneself as a partner of a law office for the general practice of law.[6]

The Court explained:

> The lawyer's duty to prevent, or at the very least not to assist in, the unauthorized practice of law is founded on public interest and policy. Public policy requires that the practice of law be limited to those individuals found duly qualified in education and character. The permissive right conferred on the lawyer is an individual and limited privilege subject to withdrawal if he fails to maintain proper standards of moral and professional conduct. The purpose is to protect the public, the court, the client, and the bar from the incompetence or dishonesty of those unlicensed to practice law and not subject to the disciplinary control of the Court. It devolves upon a lawyer to see that this purpose is attained. Thus, the canons and ethics of the profession enjoin him not to permit his professional services or his name to be used in aid of, or to make possible the

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> unauthorized practice of law by, any agency, personal or corporate. And, the law makes it a misbehavior on his part, subject to disciplinary action, to aid a layman in the unauthorized practice of law.[7]

In this case, it has been established that Dela Rosa, who is not a member of the Bar, misrepresented herself as Busmente's collaborating counsel in Civil Case No. 9284. The only question is whether Busmente indirectly or directly assisted Dela Rosa in her illegal practice of law.

Busmente alleged that Dela Rosa's employment in his office ended in 2000 and that Dela Rosa was able to continue with her illegal practice of law through connivance with Macasieb, another member of Busmente's staff. As pointed out by the IBP-CBD, Busmente claimed that Macasieb resigned from his office in 2003. Yet, Dela Rosa continued to represent Ulaso until 2005. Pleadings and court notices were still sent to Busmente's office until 2005. The IBP-CBD noted that Dela Rosa's practice should have ended in 2003 when Macasieb left.

We agree. Busmente's office continued to receive all the notices of Civil Case No. 9284. The 7 December 2004 Order[8] of Judge Elvira DC. Panganiban (Judge Panganiban) in Civil Case No. 9284 showed that Atty. Elizabeth Dela Rosa was still representing Ulaso in the case. In that Order, Judge Panganiban set the preliminary conference of Civil Case No. 9284 on 8 February 2005. It would have been impossible for Dela Rosa to continue representing Ulaso in the case, considering Busmente's claim that Macasieb already resigned, if Dela Rosa had no access to the files in Busmente's office.

Busmente, in his motion for reconsideration of Resolution No. XVII-2006-271, submitted a copy of the NBI report stating that the signature on the Answer submitted in Civil Case No. 9284 and the specimen signatures submitted by Busmente were not written by one and the same person. The report shows that Busmente only submitted to the NBI the questioned signature in the Answer. The IBP-CBD report, however, showed that there were other documents signed by Busmente, including the Pre-Trial Brief dated 14 November 2003 and Motion to Lift Order of Default dated 22 November 2003. Noe-Lacsamana also submitted a letter dated 14 August 2003 addressed to her as well as three letters dated 29 August 2003 addressed to the occupants of the disputed property, all signed by Busmente. Busmente failed to impugn his signatures in these other documents.

Finally, Busmente claimed that he was totally unaware of Civil Case No. 9284 and he only came to know about the case when Ulaso went to his office to inquire about its status. Busmente's allegation contradicted the Joint Counter-Affidavit[9] submitted by Ulaso and Eddie B. Bides stating that:

> a. That our legal counsel is Atty. YOLANDO F. BUSMENTE of the YOLANDO F. BUSMENTE AND ASSOCIATES LAW OFFICES with address at suite 718 BPI Office Cond. Plaza Cervantes, Binondo Manila.
>
> b. That ELIZABETH DELA ROSA is not our legal counsel in the case which have been filed by IRENE BIDES and LILIA VALERA in representation of her sister AMELIA BIDES for Ejectment docketed as Civil Case No. 9284 before Branch 58 of the Metropolitan Trial Court of San Juan, Metro Manila.
>
> c. That we never stated in any of the pleadings filed in the cases mentioned in the Complaint-Affidavit that ELIZABETH DELA ROSA was our lawyer;
>
> d. That if ever ELIZABETH DELA ROSA had affixed her signature in the notices or other court records as our legal counsel the same could not be taken against us for, we believed in good faith that she was a lawyer; and we are made to believe that it was so since had referred her to us (sic), she was handling some cases of Hortaleza and client of Atty. Yolando F. Busmente;
>
> e. That we know for the fact that ELIZABETH DELA ROSA did not sign any pleading which she filed in court in connection with our cases at all of those were signed by Atty. YOLANDO BUSMENTE as our legal counsel; she just accompanied us to the court rooms and/or hearings;

> f. That we cannot be made liable for violation of Article 171 (for and in relation to Article 172 of the Revised Penal Code) for the reason that the following elements of the offense are not present, to wit:
>
> 1. That offender has a legal obligation to disclose the truth of the facts narrated;
> 2. There must be wrongful intent to injure a 3rd party;
> 3. Knowledge that the facts narrated by him are absolutely false;
> 4. That the offender makes in a document untruthful statements in the narration of facts.

And furthermore the untruthful narrations of facts must affect the integrity which is not so in the instant case.

g. That from the start of our acquaintance with ELIZABETH DELA ROSA we never ask her whether she was a real lawyer and allowed to practice law in the Philippines; it would have been unethical and shameful on our part to ask her qualification; we just presumed that she has legal qualifications to represent us in our cases because Atty. YOLANDO F. BUSMENTE allowed her to accompany us and attend our hearings in short, she gave us paralegal assistance[.] (Emphasis supplied)

The counter-affidavit clearly showed that Busmente was the legal counsel in Civil Case No. 9284 and that he allowed Dela Rosa to give legal assistance to Ulaso.

Hence, we agree with the findings of the IBP-CBD that there was sufficient evidence to prove that Busmente was guilty of violation of Canon 9 of the Code of Professional Responsibility. We agree with the recommendation of the IBP, modifying the recommendation of the IBP-CBD, that Busmente should be suspended from the practice of law for six months.

WHEREFORE, we SUSPEND Atty. Yolando F. Busmente from the practice of law for SIX MONTHS.

Let a copy of this Decision be attached to Atty. Busmente’s personal record in the Office of the Bar Confidant. Let a copy of this Decision be also furnished to all chapters of the Integrated Bar of the Philippines and to all courts in the land.

SO ORDERED.

Brion, Perez, Sereno, and Reyes, JJ., concur.

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[1] Rollo, pp. 17-25.

[2] Id. at 193-207. Penned by Investigating Commissioner Patrick M. Velez.

[3] Id. at 192.

[4] IBP rollo, Vol. II, pp. 29-31.

[5] Cambaliza v. Atty. Cristal-Tenorio, 478 Phil. 378 (2004).

[6] Id.

[7] Id. at 389.

[8] Rollo, p. 142.

[9] Id. at 102-103.

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