

ANTERO J. POBRE, COMPLAINANT, VS. SEN. MIRIAM DEFENSOR-SANTIAGO, RESPONDENT.

A.C. No. 7399. August 25, 2009

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

In his sworn letter/complaint dated December 22, 2006, with enclosures, Antero J. Pobre invites the Court's attention to the following excerpts of Senator Miriam Defensor-Santiago's speech delivered on the Senate floor:

x x x I am not angry. I am irate. I am foaming in the mouth. I am homicidal. I am suicidal. I am humiliated, debased, degraded. And I am not only that, I feel like throwing up to be living my middle years in a country of this nature. I am nauseated. I spit on the face of Chief Justice Artemio Panganiban and his cohorts in the Supreme Court, I am no longer interested in the position [of Chief Justice] if I was to be surrounded by idiots. I would rather be in another environment but not in the Supreme Court of idiots x x x.

To Pobre, the foregoing statements reflected a total disrespect on the part of the speaker towards then Chief Justice Artemio Panganiban and the other members of the Court and constituted direct contempt of court. Accordingly, Pobre asks that disbarment proceedings or other disciplinary actions be taken against the lady senator.

In her comment on the complaint dated April 25, 2007, Senator Santiago, through counsel, does not deny making the aforementioned statements. She, however, explained that those statements were covered by the constitutional provision on parliamentary immunity, being part of a speech she delivered in the discharge of her duty as member of Congress or its committee. The purpose of her speech, according to her, was to bring out in the open controversial anomalies in governance with a view to future remedial legislation. She averred that she wanted to expose what she believed "to be an unjust act of the Judicial Bar Council [JBC]," which, after sending out public invitations for nomination to the soon to-be vacated position of Chief Justice, would eventually inform applicants that only incumbent justices of the Supreme Court would qualify for nomination. She felt that the JBC should have at least given an advanced advisory that non-sitting members of the Court, like her, would not be considered for the position of Chief Justice.

The immunity Senator Santiago claims is rooted primarily on the provision of Article VI, Section 11 of the Constitution, which provides: "A Senator or Member of the House of Representative shall, in all offenses punishable by not more than six years imprisonment, be privileged from arrest while the Congress is in session. No member shall be questioned nor be held liable in any other place for any speech or debate in the Congress or in any committee thereof." Explaining the import of the underscored portion of the provision, the Court, in *Osmeña, Jr. v. Pendatun*, said:

Our Constitution enshrines parliamentary immunity which is a fundamental privilege cherished in every legislative assembly of the democratic world. As old as the English Parliament, its purpose "is to enable and encourage a representative of the public to discharge his public trust with firmness and success" for "it is indispensably necessary that he should enjoy the fullest liberty of speech and that he should be protected from

resentment of every one, however, powerful, to whom the exercise of that liberty may occasion offense." [1]

As American jurisprudence puts it, this legislative privilege is founded upon long experience and arises as a means of perpetuating inviolate the functioning process of the legislative department. Without parliamentary immunity, parliament, or its equivalent, would degenerate into a polite and ineffective debating forum. Legislators are immune from deterrents to the uninhibited discharge of their legislative duties, not for their private indulgence, but for the public good. The privilege would be of little value if they could be subjected to the cost and inconvenience and distractions of a trial upon a conclusion of the pleader, or to the hazard of a judgment against them based upon a judge's speculation as to the motives. [2]

This Court is aware of the need and has in fact been in the forefront in upholding the institution of parliamentary immunity and promotion of free speech. Neither has the Court lost sight of the importance of the legislative and oversight functions of the Congress that enable this representative body to look diligently into every affair of government, investigate and denounce anomalies, and talk about how the country and its citizens are being served. Courts do not interfere with the legislature or its members in the manner they perform their functions in the legislative floor or in committee rooms. Any claim of an unworthy purpose or of the falsity and mala fides of the statement uttered by the member of the Congress does not destroy the privilege. [3] The disciplinary authority of the assembly [4] and the voters, not the courts, can properly discourage or correct such abuses committed in the name of parliamentary immunity. [5]

For the above reasons, the plea of Senator Santiago for the dismissal of the complaint for disbarment or disciplinary action is well taken. Indeed, her privilege speech is not actionable criminally or in a disciplinary proceeding under the Rules of Court. It is felt, however, that this could not be the last word on the matter.

The Court wishes to express its deep concern about the language Senator Santiago, a member of the Bar, used in her speech and its effect on the administration of justice. To the Court, the lady senator has undoubtedly crossed the limits of decency and good professional conduct. It is at once apparent that her statements in question were intemperate and highly improper in substance. To reiterate, she was quoted as stating that she wanted "to spit on the face of Chief Justice Artemio Panganiban and his cohorts in the Supreme Court," and calling the Court a "Supreme Court of idiots."

The lady senator alluded to *In Re: Vicente Sotto*. [6] We draw her attention to the ensuing passage in *Sotto* that she should have taken to heart in the first place:

x x x [I]f the people lose their confidence in the honesty and integrity of this Court and believe that they cannot expect justice therefrom, they might be driven to take the law into their own hands, and disorder and perhaps chaos would be the result.

No lawyer who has taken an oath to maintain the respect due to the courts should be allowed to erode the people's faith in the judiciary. In this case, the lady senator clearly violated Canon 8, Rule 8.01 and Canon 11 of the Code of Professional Responsibility, which respectively provide:

Canon 8, Rule 8.01.--A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

Canon 11.--A lawyer shall observe and maintain the respect due to the courts and to the judicial officers and should insist on similar conduct by others.

Senator/Atty. Santiago is a cut higher than most lawyers. Her achievements speak for themselves. She was a former Regional Trial Court judge, a law professor, an oft-cited authority on constitutional and international law, an author of numerous law textbooks, and an elected senator of the land. Needless to stress, Senator Santiago, as a

member of the Bar and officer of the court, like any other, is duty-bound to uphold the dignity and authority of this Court and to maintain the respect due its members. Lawyers in public service are keepers of public faith and are burdened with the higher degree of social responsibility, perhaps higher than their brethren in private practice.[7] Senator Santiago should have known, as any perceptive individual, the impact her statements would make on the people's faith in the integrity of the courts.

As Senator Santiago alleged, she delivered her privilege speech as a prelude to crafting remedial legislation on the JBC. This allegation strikes the Court as an afterthought in light of the insulting tenor of what she said. We quote the passage once more:

x x x I am not angry. I am irate. I am foaming in the mouth. I am homicidal. I am suicidal. I am humiliated, debased, degraded. And I am not only that, I feel like throwing up to be living my middle years in a country of this nature. I am nauseated. I spit on the face of Chief Justice Artemio Panganiban and his cohorts in the Supreme Court, I am no longer interested in the position [of Chief Justice] if I was to be surrounded by idiots. I would rather be in another environment but not in the Supreme Court of idiots x x x. (Emphasis ours.)

A careful re-reading of her utterances would readily show that her statements were expressions of personal anger and frustration at not being considered for the post of Chief Justice. In a sense, therefore, her remarks were outside the pale of her official parliamentary functions. Even parliamentary immunity must not be allowed to be used as a vehicle to ridicule, demean, and destroy the reputation of the Court and its magistrates, nor as armor for personal wrath and disgust. Authorities are agreed that parliamentary immunity is not an individual privilege accorded the individual members of the Parliament or Congress for their personal benefit, but rather a privilege for the benefit of the people and the institution that represents them.

To be sure, Senator Santiago could have given vent to her anger without indulging in insulting rhetoric and offensive personalities.

Lest it be overlooked, Senator Santiago's outburst was directly traceable to what she considered as an "unjust act" the JBC had taken in connection with her application for the position of Chief Justice. But while the JBC functions under the Court's supervision, its individual members, save perhaps for the Chief Justice who sits as the JBC's ex-officio chairperson,[8] have no official duty to nominate candidates for appointment to the position of Chief Justice. The Court is, thus, at a loss to understand Senator Santiago's wholesale and indiscriminate assault on the members of the Court and her choice of critical and defamatory words against all of them.

At any event, equally important as the speech and debate clause of Art. VI, Sec. 11 of the Constitution is Sec. 5(5) of Art. VIII of the Constitution that provides:

Section 5. The Supreme Court shall have the following powers:

x x x x

(5) Promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of the law, the Integrated Bar, and legal assistance to the underprivileged. (Emphasis ours.)

The Court, besides being authorized to promulgate rules concerning pleading, practice, and procedure in all courts, exercises specific authority to promulgate rules governing the Integrated Bar with the end in view that the integration of the Bar will, among other things:

(4) Shield the judiciary, which traditionally cannot defend itself except within its own forum, from the assaults that politics and self interest may level at it, and assist it to maintain its integrity, impartiality and independence;

x x x x

(11) Enforce rigid ethical standards x x x.[9]

In Re: Letter Dated 21 February 2005 of Atty. Noel S. Sorreda,[10] we reiterated our pronouncement in Rheem of the Philippines v. Ferrer[11] that the duty of attorneys to the courts can only be maintained by rendering no service involving any disrespect to the judicial office which they are bound to uphold. The Court wrote in Rheem of the Philippines:

x x x As explicit is the first canon of legal ethics which pronounces that "[i]t is the duty of a lawyer to maintain towards the Courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance." That same canon, as a corollary, makes it peculiarly incumbent upon lawyers to support the courts against "unjust criticism and clamor." And more. The attorney's oath solemnly binds him to a conduct that should be "with all good fidelity x x x to the courts."

Also, in Sorreda, the Court revisited its holding in Surigao Mineral Reservation Board v. Cloribel[12] that:

A lawyer is an officer of the courts; he is, "like the court itself, an instrument or agency to advance the ends of justice." His duty is to uphold the dignity and authority of the courts to which he owes fidelity, "not to promote distrust in the administration of justice." Faith in the courts, a lawyer should seek to preserve. For, to undermine the judicial edifice "is disastrous to the continuity of government and to the attainment of the liberties of the people." Thus has it been said of a lawyer that "[a]s an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice." [13]

The lady senator belongs to the legal profession bound by the exacting injunction of a strict Code. Society has entrusted that profession with the administration of the law and dispensation of justice. Generally speaking, a lawyer holding a government office may not be disciplined as a member of the Bar for misconduct committed while in the discharge of official duties, unless said misconduct also constitutes a violation of his/her oath as a lawyer.[14]

Lawyers may be disciplined even for any conduct committed in their private capacity, as long as their misconduct reflects their want of probity or good demeanor,[15] a good character being an essential qualification for the admission to the practice of law and for continuance of such privilege. When the Code of Professional Responsibility or the Rules of Court speaks of "conduct" or "misconduct," the reference is not confined to one's behavior exhibited in connection with the performance of lawyers' professional duties, but also covers any misconduct, which--albeit unrelated to the actual practice of their profession--would show them to be unfit for the office and unworthy of the privileges which their license and the law invest in them.[16]

This Court, in its unceasing quest to promote the people's faith in courts and trust in the rule of law, has consistently exercised its disciplinary authority on lawyers who, for malevolent purpose or personal malice, attempt to obstruct the orderly administration of justice, trifle with the integrity of courts, and embarrass or, worse, malign the men and women who compose them. We have done it in the case of former Senator Vicente Sotto in Sotto, in the case of Atty. Noel Sorreda in Sorreda, and in the case of Atty. Francisco B. Cruz in Tacordan v. Ang[17] who repeatedly insulted and threatened the Court in a most insolent manner.

The Court is not hesitant to impose some form of disciplinary sanctions on Senator/Atty. Santiago for what otherwise would have constituted an act of utter disrespect on her part towards the Court and its members. The factual and legal circumstances of this case, however, deter the Court from doing so, even without any sign of remorse from her. Basic constitutional consideration dictates this kind of disposition.

We, however, would be remiss in our duty if we let the Senator's offensive and disrespectful language that definitely tended to denigrate the institution pass by. It is imperative on our part to re-instill in Senator/Atty. Santiago her duty to respect courts of justice, especially this Tribunal, and remind her anew that the parliamentary non-accountability thus granted to members of Congress is not to protect them against prosecutions for their own benefit, but to enable them, as the people's representatives, to perform the functions of their office without fear of being made responsible before the courts or other forums outside the congressional hall.[18] It is intended to protect members of Congress against government pressure and intimidation aimed at influencing the decision-making prerogatives of Congress and its members.

The Rules of the Senate itself contains a provision on Unparliamentary Acts and Language that enjoins a Senator from using, under any circumstance, "offensive or improper language against another Senator or against any public institution." [19] But as to Senator Santiago's unparliamentary remarks, the Senate President had not apparently called her to order, let alone referred the matter to the Senate Ethics Committee for appropriate disciplinary action, as the Rules dictates under such circumstance.[20] The lady senator clearly violated the rules of her own chamber. It is unfortunate that her peers bent backwards and avoided imposing their own rules on her.

Finally, the lady senator questions Pobre's motives in filing his complaint, stating that disciplinary proceedings must be undertaken solely for the public welfare. We cannot agree with her more. We cannot overstress that the senator's use of intemperate language to demean and denigrate the highest court of the land is a clear violation of the duty of respect lawyers owe to the courts.[21]

Finally, the Senator asserts that complainant Pobre has failed to prove that she in fact made the statements in question. Suffice it to say in this regard that, although she has not categorically denied making such statements, she has unequivocally said making them as part of her privilege speech. Her implied admission is good enough for the Court.

WHEREFORE, the letter-complaint of Antero J. Pobre against Senator/Atty. Miriam Defensor-Santiago is, conformably to Art. VI, Sec. 11 of the Constitution, DISMISSED.

SO ORDERED.

Chico-Nazario, (Acting Chairperson), Carpio Morales,[*] Nachura, and Peralta, JJ., concur.

[*] Additional member as per August 3, 2009 raffle.

[1] 109 Phil. 863 (1960); cited in Bernas, *The Constitution of the Republic of the Philippines* 643 (1996).

[2] *Tenney v. Brandhove*, 34 US 367, 71 S. Ct. 783786.

[3] *Id.*

[4] *Osmena, Jr.*, *supra*.

[5] *Tenney*, *supra* note 2.

[6] 82 Phil. 595, 602 (1949).

[7] *Ali v. Bubong*, A.C. No. 4018, March 8, 2005, 453 SCRA 1, 13.

[8] Constitution, Art. VIII, Sec. 8.

[9] *In re Integration of the Bar of the Philippines*, January 9, 1973, 49 SCRA 22, 26-27.

- [10] A.M. No. 05-3-04-SC, July 22, 2005, 464 SCRA 43.
- [11] No. L-22979, June 26, 1967, 20 SCRA 441, 444.
- [12] No. L-27072, January 9, 1970, 31 SCRA 1, 16-17.
- [13] Id.; citing *People ex rel. Karlin v. Culkin*, 60 A.L.R. 851,855; Sotto, *supra* note 6; Malcolm, *Legal and Judicial Ethics* 160 (1949); and *People v. Carillo*, 77 Phil. 572 (1946).
- [14] *Vitriolo v. Dasig*, A.C. No. 4984, April 1, 2003, 400 SCRA 172, 178.
- [15] *Gacias v. Balautitan*, A.C. No. 7280, November 16, 2006, 507 SCRA 11, 12.
- [16] Id.
- [17] G.R. No. 159286, April 5, 2005 (En Banc Resolution).
- [18] Osmeña, Jr., *supra*.
- [19] Rule XXXIV, Sec. 93.
- [20] Id., Secs. 95 & 97.
- [21] *Tiongco v. Savillo*, A.M. No. RTJ-02-1719, March 31, 2006, 486 SCRA 48, 63.

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