

LIGAYA MANIAGO, COMPLAINANT, VS. ATTY. LOURDES I. DE DIOS, RESPONDENT.*A.C. No. 7472. March 30, 2010*

Ponente: NACHURA, J.

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The instant case arose from an Affidavit-Complaint dated April 2, 2007 filed by Ligaya Maniago, seeking the disbarment of Atty. Lourdes I. de Dios for engaging in the practice of law despite having been suspended by the Court.

Complainant alleged that she filed a criminal case against Hiroshi Miyata, a Japanese national, before the Regional Trial Court (RTC), Olongapo City, Branch 73, for violation of Presidential Decree No. 603, docketed as Criminal Case No. 699-2002. The accused was represented by Atty. De Dios, with office address at 22 Magsaysay Drive, Olongapo City. Complainant then learned from the RTC staff that Atty. De Dios had an outstanding suspension order from the Supreme Court since 2001, and was, therefore, prohibited from appearing in court. Complainant further alleges that there is a civil case (Civil Case No. 355-0-2005) and another case (Special Proceeding No. M-6153) filed against Miyata before the RTC, Makati City, Branch 134, where Atty. De Dios appeared as his counsel. Complainant averred that Atty. De Dios ought to be disbarred from the practice of law for her flagrant violation and deliberate disobedience of a lawful order of the Supreme Court.

In her Comment, Atty. De Dios admitted that there were cases filed against her client, Miyata. She, however, denied that she was under suspension when she appeared as his counsel in the cases.

Respondent explained that an administrative case was indeed filed against her by Diana de Guzman, docketed as A.C. No. 4943, where she was meted the penalty of 6-month suspension. She served the suspension immediately upon receipt of the Court's Resolution on May 16, 2001 up to November 16, 2001. In a Manifestation filed on October 19, 2001, respondent formally informed the Court that she was resuming her practice of law on November 17, 2001, which she actually did.

A problem arose when Judge Josefina Farrales, in her capacity as Acting Executive Judge of the RTC, Olongapo City, erroneously issued a directive on March 15, 2007, ordering respondent to desist from practicing law and revoking her notarial commission for the years 2007 and 2008. Knowing that the directive was rather questionable, respondent, nonetheless, desisted from law practice in due deference to the court order. Thereafter, respondent filed a Motion for Clarification with the Supreme Court on account of Judge Farrales' letters to all courts in Olongapo City and to some municipalities in Zambales, which "gave the impression that Atty. De Dios is not yet allowed to resume her practice of law and that her notarial commission for the years 2007 and 2008 is revoked." Acting on the said motion, the Court issued a resolution on April 23, 2007 in this wise:

A.C. No. 4943 (Diana de Guzman v. Atty. Lourdes I. De Dios) - Respondent's Urgent Motion for Clarification dated 14 March 2007 praying that the Court declare her to have served her six (6) months (sic) suspension and her resumption of law practice on 17 November 2001 onwards as proper is NOTED.

Considering the motion for clarification, the Court resolves to DEEM Atty. Lourdes I. De Dios to have SERVED her six (6) month suspension and her recommencement of law practice on 17 November 2001 as PROPER pursuant to the Resolution dated 30 January 2002.

Respondent averred that for the period stated in the affidavit of complainant Maniago, during which she allegedly practiced law, she was neither suspended nor in any way prohibited from practice. The complaint, she added, was baseless and malicious, and should be dismissed outright.

In the Resolution dated September 12, 2007, the Court referred the matter to the Office of the Bar Confidant (OBC) for evaluation, report and recommendation. Initially, the OBC directed the complainant to file a supplemental affidavit, stating therein the exact period of appearances of Atty. De Dios and the particular courts where respondent appeared as counsel in the following cases: (1) Criminal Case No. 699-2002; (2) Civil Case No. 355-0-2005; and (3) Sp. Proc. No. M-6153.

In compliance therewith, complainant submitted a Supplemental Affidavit in the vernacular, which reads:

2. Sa Criminal Case No. 699-2002 entitled People of the Philippines vs. Hiroshi Miyata ay [nagsimulang] mag[-]appear si Atty. Lourdes de Dios mula April 9, 2003, na [naka-]attach ang Certification mula sa Branch 73[,] Regional Trial Court[,] Olongapo City.

3. Sa Civil Case No. 355-0-2006 ay [nagsimulang] mag[-]appear si Atty. de Dios noong October 10, 2005, nakasaad din ito sa Certification mula sa Branch 73, Regional Trial Court of Olongapo City. At sa Sp. Proc. No. M-6153 ay ito ay na[-]file ni Atty. de Dios noong September 26, 2005 at hanggang ngayon ay pending pa sa Court of Appeals.

4. Bilang karagdagan po ay naka[-]attach ang Certified Xerox Copy ng Minutes of the Session ng Subic Municipal Trial Court na kung saan ay nag[-]appear si Atty. de Dios sa Civil Case No. 042-01 entitled Andrea Lorenzo, plaintiff, -versus- Simeon Pullido noong December 14, 2001.

5. At makikita rin po sa Annex A-5 ng Comment ni Atty. de Dios, x x x -

5.[a.] Nag file ng kaso si Atty. Lourdes de Dios noong May 17, 2001 entitled Shirley Pagaduan vs. Danilo Pagaduan[,] Civil Case No. 234-0-2001. Ito ay ginawa ni Atty. de Dios isang (1) araw pa lamang mula magsimula ang kanyang suspension noon[g] May 16, 2001.

5.b. Nag file din ng kaso si Atty. de Dios noong May 18, 2001 entitled Filmixco versus Dr. Ma. Perla Tabasondra-Ramos and Dr. Ricardo Ramos Civil Case No. 236-0-2001. Ito ay dalawang (2) araw mula magsimula ang suspension ni Atty. de Dios noong May 16, 2001.

5.c. At nag notaryo si Atty. de Dios ng isang (a) affidavit executed by Carolina C. Bautista noong May 16, 2001, (b) Affidavit executed by Jessica Morales-Mesa on May 17, 2001 at (c) isang Statement of non-liability of Alfredo C. Diaz on May 16, 2001. Ang mga pag notaryo na ito ay ginawa noong nagsimula na ang suspension ni Atty. de Dios noong May 16, 2001.

6. Ginawa ko ang Supplemental Affidavit na ito bilang patunay sa mga nakasaad base sa aking personal na kaalamanan at mga dokumentong hawak ko upang ipakita na nilabag ni Atty. de Dios ang kanyang suspension base sa sulat ni Deputy Clerk of Court and Bar Confidant Ma. Cristina B. Layusa na may petsang 12 February 2007 at sa admission ni Atty. de Dios na nagsimula ang kanyang suspension noong May 16, 2001.

A Supplemental Comment was thereafter filed by respondent, stating that there were no new matters raised in the Supplemental Affidavit, and asserting that "the opinion of Bar Confidant, Atty. Ma. Cristina B. Layusa, as contained in her letter dated 12 February 2007, cannot supersede the Resolution dated April 23, 2007 of this Honorable Court." According to her, the resolution should be the "final nail to the coffin of this case."

On November 18, 2008, the OBC submitted its Memorandum for the Court's consideration.

The OBC explained that the letter adverted to by complainant in her affidavit was the OBC's reply to an inquiry made by the Office of the Court Administrator regarding the status of Atty. De Dios.[1] Therein, the OBC made it clear that the lifting of the suspension order was not automatic, following the pronouncement of the Court in *J.K. Mercado and Sons Agricultural Enterprises, Inc. and Spouses Jesus and Rosario K. Mercado, complainants v. Atty. Eduardo de Vera and Jose Rongkales Bandalan, et al. and Atty. Eduardo C. de Vera v. Atty. Mervyn G. Encanto, et al.*, which states:

The Statement of the Court that his suspension stands until he would have satisfactorily shown his compliance with the Court's resolution is a caveat that his suspension could thereby extend for more than six months. The lifting of a lawyer's suspension is not automatic upon the end of the period stated in the Court's decision, and an order from the Court lifting the suspension at the end of the period is necessary in order to enable [him] to resume the practice of his profession.[2]

Thus, according to the OBC, a suspended lawyer must first present proof(s) of his compliance by submitting certifications from the Integrated Bar of the Philippines and from the Executive Judge that he has indeed desisted from the practice of law during the period of suspension. Thereafter, the Court, after evaluation, and upon a favorable recommendation from the OBC, will issue a resolution lifting the order of suspension and thus allow him to resume the practice of law. The OBC alleged that it was unfortunate that this procedure was overlooked in A.C. No. 4943, where Atty. De Dios was able to resume her practice of law without submitting the required certifications and passing through the OBC for evaluation. In order to avoid confusion and conflicting directives from the Court, the OBC recommended that the Court adopt a uniform policy on the matter of the lifting of the order of suspension of a lawyer from the practice of law.

The Court notes the Report and Recommendation of the OBC.

It must be remembered that the practice of law is not a right but a mere privilege and, as such, must bow to the inherent regulatory power of the Supreme Court to exact compliance with the lawyer's public responsibilities.[3] Whenever it is made to appear that an attorney is no longer worthy of the trust and confidence of his clients and of the public, it becomes not only the right but also the duty of the Supreme Court, which made him one of its officers and gave him the privilege of ministering within its Bar, to withdraw that privilege.[4] However, as much as the Court will not hesitate to discipline an erring lawyer, it should, at the same time, also ensure that a lawyer may not be deprived of the freedom and right to exercise his profession unreasonably.

IN LIGHT OF THE FOREGOING, it is hereby RESOLVED that the following guidelines be observed in the matter of the lifting of an order suspending a lawyer from the practice of law:

1)

After a finding that respondent lawyer must be suspended from the practice of law, the Court shall render a decision imposing the penalty;

2)

Unless the Court explicitly states that the decision is immediately executory upon receipt thereof, respondent has 15 days within which to file a motion for reconsideration thereof. The denial of said motion shall render the decision final and executory;

3)

Upon the expiration of the period of suspension, respondent shall file a Sworn Statement with the Court, through

the Office of the Bar Confidant, stating therein that he or she has desisted from the practice of law and has not appeared in any court during the period of his or her suspension;

4)

Copies of the Sworn Statement shall be furnished to the Local Chapter of the IBP and to the Executive Judge of the courts where respondent has pending cases handled by him or her, and/or where he or she has appeared as counsel;

5)

The Sworn Statement shall be considered as proof of respondent's compliance with the order of suspension;

6)

Any finding or report contrary to the statements made by the lawyer under oath shall be a ground for the imposition of a more severe punishment, or disbarment, as may be warranted.

SO ORDERED.

Carpio,[**] Corona, Carpio Morales, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ., concur.

Puno, C.J.,[*] on official leave.

******Acting Chief Justice in lieu of Chief Justice Reynato S. Puno per Special Order No. 826 dated March 16, 2010.

[1] Letter signed by Atty. James D.V. Navarrete Assistant, Officer-in-Charge, Legal Office, Office of the Court Administrator.

[2] See A.C. No. 3066, entitled "J.K. Mercado and Sons Agricultural Enterprises, Inc. v. Eduardo de Vera, et al.," and A.C. No. 4438, entitled "Atty. Eduardo C. de Vera v. Atty. Mervyn G. Encanto, et al."; Memorandum dated November 14, 2008 addressed to Justice Consuelo Yñares-Santiago, Chairperson, Third Division.

[3] Letter of Atty. Cecilio Y. Arevalo, Jr., Requesting Exemption from Payment of IBP Dues, B.M. No. 1370, May 9, 2005, 458 SCRA 209, 216.

[4] Hernandez v. Go, A.C. No. 1526, January 31, 2005, 450 SCRA 1, 9.

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