

GREGORY U. CHAN, COMPLAINANT, VS. NLRC COMMISSIONER ROMEO L. GO AND ATTY. JOSE RAULITO E. PARAS, RESPONDENTS.

A.C. No. 7547. September 04, 2009

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In a verified Complaint[1] dated June 5, 2007, complainant Gregory U. Chan prayed for the disbarment or imposition of proper disciplinary sanctions upon respondents Commissioner Romeo Go of the National Labor Relations Commission (NLRC) and Atty. Jose Raulito E. Paras for perpetrating acts unbecoming and degrading to the legal profession, in violation of the Code of Professional Responsibility,[2] Canons of Professional Ethics,[3] and the Rules of Court.[4]

Complainant alleged that respondents are influence peddlers who pride themselves in being able to direct the outcome of cases pending before the NLRC; that respondents belittled and denigrated the nobility of the legal profession by indicating that decisions of the NLRC are merely drafted by humble secretaries or clerks who write in accordance to their mandate; and that respondents attempted to extort money from him.

The present controversy stemmed from an illegal dismissal case[5] filed by Susan Que Tiu against complainant and his companies. On July 18, 2003, the labor arbiter[6] ruled in favor of Tiu and ordered her employers to pay backwages, separation pay, unpaid commissions, and 10% attorney's fees.[7] Pending resolution of their appeal before the NLRC, complainant alleged that respondents Go and Paras attempted to extort money from him in behalf of Tiu. He narrated that respondent Go arranged for meetings at expensive restaurants to wit:

- First Meeting on September 16, 2003
at Yuraken Japanese Restaurant, Diamond Hotel, Manila

Complainant alleged that it was during this dinner when respondents were first introduced to him, his wife Jenny, his brother Glenn, and the latter's mother-in-law Mrs. Ban Ha; that respondent Go claimed that he is a very powerful "high ranking" commissioner at the NLRC; that respondents were personally overseeing the developments of the labor case although it was pending before another division; that it was merely respondent Go's secretary or clerk who would be drafting the decision of the said case; and that respondents told him to simply give in to Tiu's demands.[8]

- Second Meeting on September 26, 2003
at Akiga Japanese Restaurant, Mandaluyong

Complainant alleged that respondents brought with them a certain Mr. Alfredo Lim, a former schoolmate of respondent Go and a godfather of Tiu; that Lim demanded the settlement of Tiu's claims; that he illustrated he is not a bad employer Tiu painted him to be as the latter even invited him to her wedding; that respondent Go offered him the services of respondent Paras as legal counsel; and that respondents asked him to give them pertinent documents relating to the labor case in their next meeting.[9]

- Third Meeting on October 20, 2003

at Korean Village Restaurant, Manila

Complainant alleged that his group brought their company accountant Ms. Leah Pascual, while respondents brought Atty. Jessie Andres who was introduced to be connected with then Senator Noli De Castro; that he showed the group the company documents proving payment to Tiu of her sales commission; that respondents did not bother expressing interest in examining the documents; that respondent Go left the dinner early for another business commitment; and that the remaining people instead discussed his possible support for Sen. De Castro's campaign.[10]

- Fourth Meeting on December 2, 2003

at Akiga Japanese Restaurant, Mandaluyong

Complainant alleged that he did not personally attend the meeting to avoid a confrontation with Tiu; that Jenny, Glenn, and Pascual met with respondents, Lim, Tiu, and her husband; that respondent Go dismissed the documents presented by Jenny and claimed that it was his tactic for Tiu to submit a sur-rejoinder with photo-attachments[11] showing MCC Industrial Sales, Corp. and Sanyo Seiki Industrial Sales, Corp. conducting business in one office; that respondent Go goaded Jenny to give in to Tiu's demands as the latter was suffering from cancer; that Jenny refused the demands, prompting her to lose her appetite and walk out to regain her composure; and that respondent and his companions simply enjoyed their free sumptuous meals.[12]

- Fifth Meeting on February 24, 2004

at California Pizza Kitchen, Shangri-La Plaza Mall, Mandaluyong

Complainant alleged that his wife Jenny again met with respondent Go, Mr. Lim, Ms. Que Tiu and her husband; that Tiu lowered the settlement amount to P450,000.00; that Jenny insisted that Tiu's claim should not exceed P198,000.00; and that respondent Go prevented Jenny from walking out of their meeting with assurances that he will further convince Tiu.[13]

- Sixth Meeting on March 3, 2004

at Palm Court Café, Diamond Hotel, Manila

Complainant alleged that he, together with his wife Jenny, and brother Glenn met with respondents Paras and Go and his wife; and that respondent Go assured them that it's going to be their last meeting and Tiu will just settle for P300,000.00.[14]

- Seventh Meeting on October 4, 2004

at Una Mas, Greenhills

Complainant alleged that respondent Paras asked for another dinner appointment to which he sent his brother Glenn to attend; that respondent Paras disclosed during the meeting that the matter was no longer in their hands as they decided not to push through with the deal with Tiu; that Glenn was shocked at respondent's fraudulent duplicity that he left the restaurant in a huff after paying the bill.[15]

As proof of these meetings, complainant attached receipts[16] for the meals ordered at the above-mentioned establishments and affidavits of Jenny Chan,[17] Leah Pascual,[18] and Glenn Chan,[19] recounting the matters that transpired therein.

On September 10, 2004, the NLRC affirmed the Labor Arbiter's Decision, but removed the award of separation pay and ordered complainant to reinstate Tiu to her former position without loss of seniority rights and privileges.[20] On July 12, 2005, the NLRC denied the parties' Motions for Reconsideration and sustained its earlier Resolution.[21]

On June 5, 2007, or simultaneously with the filing of the present administrative complaint, complainant filed a case for Grave Misconduct[22] against respondents Go and Paras with the Office of the Ombudsman, alleging the

same set of facts in the administrative case.

Previously, complainant also filed an Estafa case[23] against Susan Que Tiu, Ramon Givertz, and Zed Metal and Construction Corporation. However, it was dismissed by the Office of the City Prosecutor of Manila in a Resolution[24] dated May 22, 2006, for insufficiency of evidence.

Thereafter, in April 2007, respondent Paras filed a complaint against complainant Chan for Grave Oral Slander, Serious Slander by Deed, Grave Threats, and Alarms and Scandals[25] with the Office of the City Prosecutor of Mandaluyong. He alleged that without provocation, complainant suddenly pushed his left shoulder and hurled insults and invectives when his group bumped onto him on March 31, 2007 at Fish and Co. restaurant in Shangri-La Mall at Mandaluyong City.

On July 9, 2007, complainant filed a Manifestation[26] stating that he received death threats[27] about two weeks after filing the present complaint.

On July 23, 2007, the Court of Appeals affirmed the Resolutions of the NLRC, with modification that the total monetary award should be P737,757.41.[28] Complainant and his companies thus filed a Petition for Review on Certiorari with this Court which is still pending resolution. [29]

In his Comment,[30] respondent Paras alleged that the present complaint, like the Ombudsman case for Grave Misconduct, was filed by complainant to gain leverage against him for the criminal case (I.S. No. 07-71604-D) he filed against the latter. Paras denied conspiring with Go in the commission of the acts complained of. He likewise denied knowing Tiu or the labor case. As for the enumerated meetings, respondent Paras alleged that he was not present on September 16, 2003, December 2, 2003, and February 24, 2004; that he merely fetched respondent Go at the meeting on September 26, 2003; that he was present during the October 20, 2003 meeting, but deemed the same to be social dinner rather than a conciliation/mediation for settlement; that during the March 3, 2004 meeting, he merely accompanied respondent Go and his wife because they previously came from an earlier dinner; that it was complainant's brother Glenn who asked for an appointment on October 4, 2004 and offered to secure his services as their counsel for the labor case against Tiu; and that days later, Glenn even asked for his services regarding a collection case which he declined because it was his law firm's policy not to accept simple collection cases.

Respondent Paras also alleged that complainant's charge of violation of Rule 6.02, Canon 6 of the Code of Professional Responsibility is misplaced as he was not a lawyer in the government service at the time material to the acts complained of.

Meanwhile, respondent Go labelled as blatant lies the allegations of Chan in his complaint. He alleged that he met Chan, Jenny, and Glenn, through his mother's close friends Yek Ti L. Chua and Ban Ha; that he came to know of the labor case of Susan Que Tiu during a casual bridge session with the latter's godfather Alfredo Lim; that it was complainant who organized the meetings and persisted in asking his help regarding the said labor case; that he refused to help complainant because he would not want to influence his colleagues in the NLRC to reverse their judgments; that he did not impress upon complainant and his family that he is engaged in influence peddling; that when he relayed to Lim complainant's intention to amicably settle the case, Lim agreed to be introduced to complainant; that he never introduced respondent Paras as his associate; that he only assisted the parties during the conciliation meetings but never coerced complainant to give in to the demands of Lim; and that he did not extort money from complainant.

To substantiate his claim, Go submitted affidavits of Yek Ti L. Chua;[31] Evangeline C. Apanay[32] and Marina R. Taculao,[33] both of whom are administrative personnel assigned at his office in the NLRC.

The duty of the Court towards members of the bar is not only limited to the administration of discipline to those found culpable of misconduct but also to the protection of the reputation of those frivolously or maliciously charged. In disbarment proceedings, the burden of proof is upon the complainant and this Court will exercise its disciplinary power only if the complainant establishes his case by clear, convincing and satisfactory evidence.[34]

After a careful study of the instant case, we find no sufficient evidence to support complainant's claim. Except for complainant's bare allegations, there is no proof that respondents engaged in influence peddling, extortion, or in any unlawful, dishonest, immoral, or deceitful conduct. It is axiomatic that he who alleges the same has the onus of validating it.[35]

We note that the labor case of Tiu has already been decided in the latter's favor prior the alleged meetings. Even after the said meetings, the NLRC still affirmed the decision of the labor arbiter which was adverse to herein complainant and his companies. If respondent Go really agreed to influence the outcome of the case, then the results would have been otherwise.

In addition, the receipts presented by complainant do not necessarily prove the presence of respondents in said meetings. They only show that certain persons went to the aforementioned restaurants to eat and meet. However, it could not be said with certainty that respondents were among them - based only on the receipts presented.

Moreover, the alleged representations by respondent Go regarding the drafting of NLRC decisions were refuted by the affidavits executed by Apanay and Taculao. Also, no proof was presented in support of the allegation regarding the belittling or denigration of the legal profession and the NLRC.

Significantly, the present complaint was filed only after the lapse of almost four years since the alleged extortion was made or two years since the resolution of the labor case by the NLRC. Complainant did not offer any reason for the belated filing of the case thus giving the impression that it was filed as a leverage against the case for Grave Oral Slander, Serious Slander by Deed, Grave Threats, and Alarms and Scandals (I.S. No. 07-71604-D) filed by Paras against complainant.

Also, the ruling of the labor arbiter was favorable to Tiu; hence, there was no need for respondents to get in touch with complainant to settle the case in Tiu's behalf. In contrast, complainant who was the defeated party in the labor case has more reason to seek avenues to convince Tiu to accept a lower settlement amount. This Court is thus convinced that it was the complainant who arranged to meet with respondent Go and not the contrary as he averred.

We cannot lend credence to complainant's allegation that he or his group met with respondents six or seven times. Complainant and his group were allegedly angered, insulted, and offended by respondents yet they still agreed to foot the bills for the meals. Even after the denial by the NLRC of their motion for reconsideration, with nothing more to discuss, complainants still allegedly met with respondents. These actions are not in accord with human behavior, logic, and common sense. At this time, complainant would have known that respondents could not deliver on their alleged promises to influence the outcome of the case in his favor; that they were only trying to extort money from him, and abusing him for free meals. As such, he should have stopped meeting them, or immediately filed criminal and/or administrative charges against them, or at the least, refused to foot the bill for their meals.

This Court agrees with respondent Paras that complainant's charge of violation of Rule 6.02, Canon 6 of the Code of Professional Responsibility is misplaced because he was not a government lawyer at the time material to the acts complained of. This fact is certified[36] by the Training and Administrative Manager[37] of Lepanto Consolidated Mining Co. where respondent Paras was employed as Assistant Manager, then as Manager for Legal

Services and Government Affairs from July 31, 2000 to March 31, 2004.

WHEREFORE, the complaint against respondents Atty. Jose Raulito E. Paras and NLRC Commissioner Romeo Go is DISMISSED for lack of merit.

SO ORDERED.

Chico-Nazario, Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 1-27.

[2] CODE OF PROFESSIONAL RESPONSIBILITY:

Canon 1 - a lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law of and legal processes.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

Rule 6.02 - A lawyer in the government service shall not use his public position to promote or advance his private interests, nor allow the latter to interfere with his public duties.

Canon 7 - a lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the integrated bar.

Canon 13 - a lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court.

[3] CANONS OF PROFESSIONAL ETHICS, Canon 32 - The lawyer's duty in its last analysis:

No client corporate or individual, however, powerful nor any cause, civil or political, however important, is entitled to receive nor should any lawyer render any service or advice involving disloyalty to the laws whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condemnation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advice his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.

[4] RULES OF COURT, Rule 138, Sec. 27:

Attorneys removed or suspended by Supreme Court on what grounds. - A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a wilfull

disobedience of any lawful order of a superior court, or for corruptly or wilfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

[5] Susan Que Tiu v. MCC Industrial Sales, Corp., Sanyo Seiki Industrial Sales, Corp., and/or Gregory Chan, NLRC-NCR Case No. 30-04-01895-01.

[6] Teresita D. Castillon-Lora.

[7] Rollo, pp. 279-294.

[8] Id. at 6-7.

[9] Id. at 8-11.

[10] Id. at 11-13.

[11] Id. at 40-42.

[12] Id. at 13-15.

[13] Id. at 16.

[14] Id. at 17-18.

[15] Id. at 18.

[16] Id. at 30-27.

[17] Id. at 43-45.

[18] Id. at 38-39.

[19] Id. at 46-47.

[20] Id. at 531-543; NLRC Resolution, penned by Commissioner Tito F. Genilo, concurred in by Commissioners Lourdes C. Javier and Ernesto C. Verceles.

[21] Id. at 549.

[22] OMB-C-A-07-0301-F.

[23] I.S. No. 06B-02382.

[24] Rollo, pp. 339-342, penned by Assistant City Prosecutor Mea D. Llavore, approved by Second Assistant City Prosecutor Antonio M. Israel and City Prosecutor Jhosep Y. Lopez

[25] I.S. No. 07-71604-D.

[26] Rollo, pp. 49-53.

[27] Id. at 54-62.

[28] Id. at 505-525; CA Decision, penned by Associate Justice Mariflor P. Punzalan Castillo, concurred in by Associate Justices Marina L. Buzon and Rosmari D. Carandang.

[29] MCC Industrial Sales Corp. v. Court of Appeals, G.R. No. 171093.

[30] Id. at 750-759.

[31] Id. at 476.

[32] Id. at 477.

[33] Id. at 478.

[34] Aquino v. Villamar-Mangaoang, 469 Phil. 613, 618 (2004).

[35] Urban Bank, Inc. v. Peña, 417 Phil. 70, 78 (2001).

[36] Rollo, p. 127.

[37] Atty. Crisanto O. Martinez.

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