PATROCINIA H. SALABAO, COMPLAINANT, VS. ATTY. ANDRES C. VILLARUEL, JR., RESPONDENT.

A.C. No. 8084. August 24, 2015

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

This is a complaint for disbarment filed by Patrocinia H. Salabao (complainant) against Atty. Andres C. Villaruel, Jr. (respondent) for abuse of court processes in violation of Canons 10 and 12 of the Code of Professional Responsibility.[1] After respondent filed his Answer[2] we referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[3]

Factual Background

The facts pertinent to this complaint are summarized in the Report and Recommendation of Investigating Commissioner Oliver A. Cachapero as follows:

> Complainant narrates that in 1995 she filed a case against Elmer Lumberio for his deceitful or fraudulent conduct of taking her precious real property situated in Taguig City. After hearing, the Regional Trial Court (RTC), Branch 162, Pasig City issued its resolution in her favor in 2002.
>
> Respondent then entered the picture as counsel for Lumberio. From then on, Complainant complained that Respondent had made her suffer because of his abuse of processes and disregard for her rights as a litigant.
>
> She narrates as follows:
>
> In 2002, the Regional Trial Court, Branch 162, Pasig City which tried Civil Case No. 65147 issued its resolution in her favor. In order to delay the case, Respondent brought the case on appeal to the Court of Appeals under CA-GR CV No. 76360. The Court of Appeals decided in her favor on January 13, 2004 but Respondent again filed an appeal before the Supreme Court under GR No. 167413. Lumberio lost and the case became final and executory.
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> Undeterred, respondent tried to defer the execution of the decision of the RTC, Branch 162, by bringing to the Court of Appeals a Petition for Annulment of Judgment under CA-GR SP No. 97564. When rebuffed, he again appealed to the Supreme Court under GR No. 181243 sans a clear or new arguments other than what he had presented before the Court of Appeals.
>
> Still, Respondent filed a Petition for Certiorari seeking to annul the 29 November 2007 Order of the RTC before the Court of Appeals under CA-GR SP No. 101992 which was however dismissed. From hereon, there was not stopping the Respondent. Once again he filed a new complaint before the RTC of Mauban, Quezon, Branch 64 under Civil Case No. 08-0666-M. Apart from this, Respondent filed several Motion, Inhibition and Contempt that were meant to delay the resolution of the case. He likewise filed an administrative case against Judge Briccio Ygaña of RTC Branch 153, Taguig City. Complainant then complained that Respondent had done more than enough to suppress her rights as a winning litigant and filed this case for abuse of processes pursuant to Rule 10.03 and Rule 10.02 of Canon 10 and Rule 12.04 of Canon 12 of the Code of Professional

> Responsibility (CPR).
>
> Respondent, for his part, denied the accusation and clarified that the several pleadings he had filed had centered on the legality of the court's decision ordering the cancellation of the title of Lumberio in such ordinary proceeding for cancellation of the title. To his mind, the said ordinary proceeding for cancellation of title before the RTC Branch 153, Taguig City was void because the law vests upon the government through the Solicitor General the power to initiate a reversion case if there is such a ground to cancel the title issued by the Land Management Bureau in favor of Lumberio.
>
> With respect to the civil case before the RTC of Ma[u]ban, Branch 64, he explained that the said case does not show that herein counsel committed any act of dishonesty which may subject him to any prosecution as he is just exercising his profession to the best of his ability.[4]

In his Report and Recommendation, the Investigating Commissioner found at respondent "relentlessly filed petitions and appeals in order to exhaust all possible remedies to obtain relief for his client"[5] which he considered as tantamount to "abusive and a spiteful effort to delay the execution of Judgment."[6] He noted that after the Regional Trial Court (RTC) of Pasig City, Branch 162 issued a Resolution in Civil Case No. 65147 adverse to his client, respondent filed a barrage of cases/pleadings such as an appeal to the Court of Appeals (CA) which affirmed the RTC ruling, a petition for review with the Supreme Court which was denied for having been filed out of time; a petition for annulment of the RTC judgment which was dismissed by the CA; another petition for review before this Court which was again denied; a petition for certiorari which was dismissed by the CA; another civil case before the RTC of Mauban, Quezon which was dismissed for "improper venue, res judicata, and violation of the anti-forum shopping law"[7] and that it involved the same issues as the one filed in Pasig RTC. Moreover, he filed several inhibitions, motions and an administrative complaint against the presiding judge. The Investigating Commissioner, stated:

> x x x [O]ne can immediately appreciate and see the abusive and spiteful conduct of Respondent. He as a lawyer could have hardly missed knowing that his subsequent actions were merely meant to harass the opposing litigant as in fact the Supreme Court had already issued its final ruling on the matter. After the ruling of the High Court, Respondent should have known that the case had been finally adjudicated and no amount of judicial exercise could turn the decision in his client's favor. From then on, he should have saved his efforts of filing cases and motions in court, as they are futile anyway, because he has his duty to the court above that to his client.
>
> Needless to state, the Respondent is found herein to have violated Canon 12, Rule 12.02 and Rule 12.04 of the CPR for which he should be meted with the appropriate administrative penalty.[8]

He thus recommended that respondent be meted out the penalty of suspension for four months.

In its Resolution No. XX-2013-251 dated 20 March 2013, the IBP Board of Governors adopted and approved the findings and recommendation of the Investigating Commissioner.

Respondent filed a Motion for Reconsideration on July 20, 2013, stating that:

> 2. x x x he had only exhausted all possible remedies available under the premises;
>
> x x x x
>
> With all candor and honesty, undersigned believes that he was only doing his legal duty as a lawyer to exhaust all legal remedies taking steps within its framework. He has not done any wrongdoing while taking such routes. He has never been dishonest;
>
> x x x x

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> 4. Respondent believes that undersigned deserves an acquittal given the fact that it was not shown that he acted in bad: faith in taking such legal remedies.
>
> 5. Respondent cannot also be charged with abuse of judicial process because complainant has other recourse available to execute the said decision in her favor while there were petitions filed, complainant also did not allege that respondent has abused the judicial process. The courts to which the said petitions were filed also did not cite the respondent in contempt of court [nor was a warning] given.
>
> xx x x
>
> 6. Moreover, respondent is now suffering from renal failure which requires him to undergo dialysis three (3) times in a week. To suspend him for four months would mean that he would stop his dialysis for four moths [sic] which may cause his immediate death. This Honorable Commission would not be too happy to see one of its members begging for alms from PCSO and government officials to shoulder his dialysis of about P100,000.00 per month.[9]

In a subsequent Resolution No. XXI-2014-182 dated March 23, 2014, the IBP Board of Governors affirmed its earlier Resolution and denied respondent's Motion for Reconsideration, saying that there was no cogent reason to reverse the findings of the Commission on Bar Discipline.

The Court's Ruling

While it is true that lawyers owe "entire devotion" to the cause of their clients,[10] it cannot be emphasized enough that their first and primary duty is "not to the client but to the administration of justice."[11] Canon 12 of the Code of Professional Responsibility states that "A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice." Thus, in the use of Court processes, the lawyer's zeal to win must be tempered by the paramount consideration that justice be done to all parties involved, and the lawyer for the losing party should not stand in the way of the execution of a valid judgment. This is a fundamental principle in legal ethics and professional responsibility that has iterations in various forms:

The Lawyer's Oath:

> x x x I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients x x x (Emphasis supplied)

Rule 138, Section 20, Rules of Court:

> Duties of attorneys. - It is the duty of an attorney: xxxx
>
> (c) To counsel or maintain such actions or proceedings only as appear to him to be just, and such defenses only as he believes to be honestly debatable under the law;
>
> x x x x
>
> (g) Not to encourage either the commencement or the continuance of an action or proceeding, or delay any man's cause, from any corrupt motive or interest; (Emphasis supplied)

Code of Professional Responsibility:

> Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.
>
> Rule 10.03 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of

> justice.
>
> Rule 12.02 - A lawyer shall not file multiple actions arising from the same cause.
>
> Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes. (Emphasis supplied)

Because a lawyer is an officer of the court called upon to assist in the administration of justice, any act of a lawyer that obstructs, perverts, or impedes the administration of justice constitutes misconduct and justifies disciplinary action against him.[12]

In this case, the judgment in favor of complainant had become final and executory by July 27, 2005. Respondent however proceeded to file no less than twelve (12) motions and cases in various courts subsequent to the Entry of Judgment:

Regional Trial Court of Taguig City:

- Urgent Motion for Reconsideration of the Order dated April 27,2006

- Motion to Admit Affidavit of Third-Party Claimant

- Motion for Early Resolution

- Motion to Observe Judicial Courtesy while the case is pending appeal with the Court of Appeals

- Urgent Motion to Defer/Suspend Execution in view of the Order of the CA

- Urgent Motion to Reconsider Order

Court of Appeals:

- Urgent Motion for Issuance of Temporary Restraining Order with the Court of Appeals

- Motion for Reconsideration

- Petition for Certiorari

- Urgent Motion to Reiterate the Issuance of Order for Judicial Courtesy

Supreme Court:

- Petition for Certiorari

- Motion for Issuance of Temporary Restraining Order

From the nature and sheer number of motions and cases filed, it is clear that respondent's intention was to delay the execution of the final judgment.

But even assuming for the sake of argument that respondent was only doing his duty as a lawyer to exhaust all legal remedies to protect the interest of his client, his other actions belie his claim of good faith. Respondent filed a civil case for damages with the Regional Trial Court of Mauban, Quezon in what was clearly a case of forum-shopping. Moreover, respondent filed three Motions to Inhibit against the three judges hearing these cases, and even a motion to cite the sheriff in contempt of court who was simply carrying out his duty to execute the decision.

In his defense, respondent argued that the Courts did not call attention to his improper behavior and dilatory tactics. This is not true. In her Order inhibiting herself from the case, Judge Homena-Valencia stated:

> This presiding judge would like to emphasize that, having assumed her position as acting presiding judge of this branch only last September 2005, she does not know any of the parties from Adam. As such, she could not be inclined to show bias in favor of one of them. She refuses, however, to be drawn into a discussion, to put it mildly, with respondent's counsel as to her knowledge of the law.
>
> However, to obviate any suspicion as to her objectivity, she inhibits herself from further hearing this case although the reasons stated by the defendant are not one of those provided for in the Rules for the voluntary inhibition of a judge.
>
> Respondent's counsel is hereby advised to be more professional in his language, he, being a lawyer, is first and foremost an officer of the court.[13]

In the October 23, 2007 Decision[14] of the CA in CA-G.R. SP No. 97564, respondent was rebuked for the misuse of court processes, thus:

> This Petition for Annulment of Judgment is petitioner's last-ditch effort to defer the execution of the 31 July 2002 Decision of the Regional Trial Court of Pasig City, Branch 162, which has long attained finality.
>
> x x x x
>
> In epitome, to sustain petitioner's insinuation of extrinsic fraud is to make a mockery of Our judicial system. We take exception to the unjustified delay in the enforcement of the RTC Decision dated 31 July 2002 which has long become final and executory. This is obviously a spiteful ploy to deprive respondent of the fruits of her victory.
>
> WHEREFORE, the Petition for Annulment of Judgment is hereby DISMISSED.[15]

Moreover, in his Omnibus Order[16] dated September 18, 2008, Judge Briccio C. Ygaña[17] stated:

> This case is a clear example of how a party, aided by a smart lawyer, could unduly delay a case, impede the execution of judgment or misuse court processes. Defendant and counsel are very lucky that the herein plaintiff has the patience of Job. Should this case reach the attention of the Supreme Court, where the whole story will be known, they will have a lot of explaining to do.[18]

It is quite clear that respondent has made a mockery of the judicial process by abusing Court processes, employing dilatory tactics to frustrate the execution of a final judgment, and feigning ignorance of Ms duties as an officer of the court. He has breached his sworn duty to assist in the speedy and efficient administration of justice, and violated the Lawyer's Oath, Rules 10.03 and 12.04 of the Code of Professional Responsibility, and Rule 138, Sec. 20 (c) and (g) of the Rules of Court. In so doing, he is administratively liable for his actions.

Rule 138, Sec. 27 of the Rules of Court provides the penalties of disbarment and suspension as follows:

Disbarment or suspension of attorneys by Supreme Court; grounds therefor. - A member of the bar may be disbarred 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 wilful 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 x x x.

In previous decisions involving abuse of court processes,[19] this Court has imposed the penalty of suspension ranging from six months to two years. In light of the following aggravating circumstances - multiplicity of motions and cases filed by respondent, the malice evinced by his filing of various motions to prevent the judges and sheriff from fulfilling their legal duties, feigned ignorance of his duties as an officer of the court, and his lack

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of remorse for his actions - the Court finds that a penalty of suspension for 18 months would be commensurate to the damage and prejudice that respondent has inflicted on complainant Salabao for his actions.

WHEREFORE, premises considered, respondent Atty. Andres C. Villaruel, Jr. is hereby found GUILTY of violation of the Lawyer's Oath and Rules 10.03 and 12.04 of the Code of Professional Responsibility and is hereby suspended from the practice of law for a period of eighteen (18) months.

Let copies of this Resolution be furnished the Office of the Bar Confidant and noted in Atty. Villaruel's record as a member of the Bar.

SO ORDERED.

Carpio, (Chairperson), Mendoza, Leonen, and Jardeleza,[*] JJ., concur.

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[*] Per Special Order No. 2147 dated August 24,2015.

[1] Rollo, pp. 1-5.

[2] Id. at 81-85.

[3] Id. at 92.

[4] See Report and Recommendation, pp. 2-3, id., unpaginated.

[5] Id. at 4; id.

[6] Id.

[7] Id. at 5; id.

[8] Id.

[9] Rollo, unpaginated.

[10] Valencia v. Cabanting, A.C. Nos. 1302, 1391, & 1543, April 26, 1991, 196 SCRA 302, 308.

[11] Id. at 309.

[12] Cantorne v. Ducusin, 57 Phil. 23, 25 (1933).

[13] See Omnibus Order of Judge Briccio C. Ygaña dated September 18, 2008, p. 6; rollo, pp. 6-15 at 11.

[14] Rollo, pp. 40-46; penned by Associate Justice Japar B. Dimaampao and concurred in by Associate Justices Portia Alino-Hormachuelos and Mario L. Guariña III.

[15] Id. at 40-45.

[16] Id. at 6-15.

[17] Regional Trial Court of Pasig City, Branch 153.

[18] Rollo, pp. 14-15.

[19] See Penticostes v. Judge Hidalgo, 268 Phil. 86 (1990); Garcia v. Francisco, A.C. No. 3923, March 30, 1993, 220 SCRA 512; Millare v. Montero, 316 Phil. 29 (1995); Afurong v. Atty. Aquino, 373 Phil. 695 (1999); Re: Administrative Case Against Atty. Occena, 433 Phil. 138 (2002); Plus Builders, Inc. v. Atty. Revilla, Jr., 533 Phil.

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250 (2006).

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