

CHAN SHUN KUEN, COMPLAINANT, VS. COMMISSIONERS LOURDES B. COLOMA-JAVIER, GREGORIO O. BILOG III, RAUL TAGLE AQUINO AND ATTY. JOYRICH M. GOLANGCO, RESPONDENTS.

A.C. No. 9831. March 09, 2016

Ponente: REYES, J.

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REYES, J.:

The instant disbarment case filed by Chan Shun Kuen (complainant), the General Manager and Chief Executive Officer of Compromise Enterprises Corporation (CEC), against Commissioners Lourdes B. Coloma-Javier, Gregorio O. Bilog III and Raul Tagle Aquino, and Deputy Executive Clerk Atty. Joyrich M. Golangco (respondents), all from the National Labor Relations Commission (NLRC), is an offshoot of the labor case entitled *Felisa B. Toribio, et al., v. Compromise Enterprises Corporation and/or Margaret So Chan*.

The said labor case for illegal dismissal, unpaid service incentive leave and 13th month pay was decided against CEC; hence, it was ordered to pay separation pay in lieu of reinstatement in the sum of P5,543,807.57.[1] CEC, however, failed to appeal the said decision, thus it became final and executory. The complainants in the labor case moved for the execution of the said decision, hence, a Writ of Execution was issued and was duly served. Accordingly, the sheriff levied the property covered by Transfer Certificate of Title No. 19784 belonging to CEC.

By a Decision[2] dated October 16, 2007, the labor case was resolved by the NLRC Third Division in favor of the complainants therein. CEC filed several motions and appeal before the NLRC but all were ruled against it.

Instead of filing an appeal with the appellate court, the complainant opted to file a series of complaints, administrative and criminal, against one or several of the respondents of the NLRC before different bodies.[3]

Undaunted with the dismissal of all the cases he filed against the respondents, the complainant once again came to this Court with a Verified Complaint[4] for disbarment claiming that the respondents connived with each other in writing its Decision dated October 16, 2007 for the said labor case and alleging that Commissioner Tito F. Genilo's (Commissioner Genilo) signature was forged by a personnel of the Third Division, as well as the December 10, 2007 Letter of Commissioner Genilo regarding his inhibition in the said case.

In compliance with the Court's directive,[5] the respondents filed their Comment[6] asserting in the main that the complainant committed forum shopping for having filed identical complaints in various forms, against the same respondents before different bodies. The respondents branded the complaint as motivated by malice and retorted that the complainant has been using the Court and several quasi-judicial bodies as a means to overturn the decision of the Labor Arbiter in his desperate attempt to stop the execution proceedings on his property by maliciously and repeatedly filing baseless, unfounded and frivolous harassment suits against them.

After examining the instant complaint, the Court resolves to dismiss it outright.

To begin with, the main issue in disbarment cases is whether or not a lawyer has committed serious professional misconduct sufficient to cause disbarment. The test is whether the lawyer's conduct shows him or her to be

wanting in moral character, honesty, probity, and good demeanor; or whether it renders him or her unworthy to continue as an officer of the court. The burden of proof rests upon the complainant; and the Court will exercise its disciplinary power only if the complainant establishes the complaint with clearly preponderant evidence.[7]

Guided by the foregoing tenets, the disbarment complaint against the respondents has no leg to stand on. The particular acts alleged by the complainant against the respondents, which to his mind, were grounds for disbarment, have no merit and seem too far-fetched. The respondents cannot be disbarred merely on complainant's bare allegation that the respondents connived with each other in writing its decisions, resolutions and orders against his company, and that Commissioner Genilo's signature was forged by a personnel of the NLRC Third Division. These acts particularized by the complainant are mere allegations and he has nothing but hollow suppositions to bolster his complaint.

Even if the Court were to gauge the assailed actions of the respondents, there was no evidence to show that the respondents committed the acts complained of. No specific incidents and sufficient evidence can be gathered to show that the respondents had committed misconduct, dishonesty, falsehood, or had misused the rules of procedure. There was no indication whatsoever of any connivance or manifest partiality to prejudice the complainant. Neither was there proof that the decisions, resolution, or orders of the respondents were attended by bad faith, malice or gross negligence. As it turned out, the charges levelled against the respondents were imaginary and unworthy of serious consideration because it was clear from the start that the acts particularized in the complaint pertain to the respondents' capacity as NLRC commissioners. Besides, the sincerity of the charge against the respondents is cynical.

Upon scrutiny of the records of this case, it would reveal that the complaint was an ill-motivated bid to disbar the respondents, who were merely exercising their judicial function as NLRC Commissioners. Hence, there is a veneer of truth in the allegation of the respondents that the complaint is a vindictive charge of the complainant meant to vex, harass, humiliate and punish them in performing their duty, as well as to get even with them for deciding the labor case against the complainant. The Court had already held that "[t]o allow complainant to trifle with the Court, to make use of the judicial process as an instrument of retaliation, would be a reflection on the rule of law." [8]

The Court also noted that the instant complaint is a virtual duplicate of previous administrative complaints which this Court had already dismissed in A.C. No. 8040[9] and A.C. No. 8621,[10] there being no *prima facie* case. Clearly, all the cases filed by the complainant before the different bodies essentially revolve around the same circumstances and parties involving the decisions, resolutions, and orders relative to the abovementioned labor case.

From the foregoing, it is clear that the case should be dismissed for utter lack of merit. Nonetheless, the complainant's propensity in incessantly filing baseless complaints against the respondents should be curtailed. To allow every party who lost in a case to file multiple suits against those who did not decide in his favor would unreasonably clog the dockets of the court with unscrupulous cases. Considering that this has already been complainant's third attempt to file a baseless suit against the respondents before this Court, it is deemed proper to admonish him and sternly warn him that he shall be dealt with more severely should he commit a similar act against a member of the Bar.

WHEREFORE, the Court resolves to DISMISS the disbarment complaint against Commissioners Lourdes B. Coloma-Javier, Gregorio O. Bilog III, Raul Tagle Aquino, and Atty. Joyrich M. Golangco for lack of merit. Complainant Chan Shun Kuen is hereby ADMONISHED for filing the malicious complaint, WITH STERN WARNING that a repetition shall be dealt with more severely as indirect contempt of the Court.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Perez, and Jardeleza, JJ., concur.

April 11, 2016

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ____March 9, 2016____ a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on April 11, 2016 at 2:25 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[1] Rollo, Vol. I, pp. 77-81.

[2] Id. at 34-38.

[3] Id. at 453-466, 670-671.

Court/Office

Case Number

Complainant

Respondent/s

Status

NLRC Committee on Peers

A.O. 05-07

CEC/Chan Shun Kuen

[Herein respondents], Nieves Vivar De Castro, Angelita Alberto-Gacutan, Pablo Espiritu, Board Secretary Angelito V. Vives and Labor Associate Ramona P. Manalo

Dismissed

Ombudsman

CPL-C-08-1944

Chan Shun Kuen

[Herein respondent commissioners], Angelita A. Gacutan

Dismissed

Supreme Court

A.C. No. 8040

CEC Chan Shun Kuen

[Herein respondent commissioners], Angelita A. Gacutan

Dismissed

Supreme Court

A.C.No. 8621

CEC Chan Shun Kuen

Lourdes C. Javier, Gregorio O. Bilog III, Pablo C. Espiritu, Jr., Joyrich M. Golangco

Dismissed (28 June 2010 Resolution)

Ombudsman

OMB-C-A-10-0218-E

OMB-C-C-10-0205-E

Chan Shun Kuen

Lourdes C. Javier, Gregorio O. Bilog III, Pablo C. Espiritu, Jr., Angelito Vives, Joyrich M. Golangco, Ramona P. Manalo

Pending

Supreme Court Office of the Bar Confidant (Referred to [Integrated Bar of the Philippines] Board of Governors)

Adm. Case No. 7894

Chan Shun Kuen

Nieves V. De Castro

Dismissed on 28 May 2010

Ombudsman

CPL-C-08-0298

Chan Shun Kuen

Nieves V. De Castro

Pending

Office of the President

Atty. Marion Shane T. Madeja, Leonardo M. Leonida, Dolores Peralta-Beley, Numeriano D. Villena

Dismissed

[4] Id. at 1-21.

[5] Id. at 581.

[6] Id. at 582-600, 660-674, and rollo, Vol. II, pp. 1-6.

[7] Atty. Alfredo L. Villamor, Jr. v. Attys. E. Hans A. Santos and Agnes H. Maranan, A.C. No. 9868 April 22, 2015.

[8] Seares, Jr. v. Atty. Gonzales-Alzate, 698 Phil. 596, 609 (2012), citing *Lim v. Atty. Antonio*, 210 Phil. 226, 230 (1983).

[9] *Compromise Enterprises Corporation, Chan Shun Kuen, General Manager v. Commissioners Raul Aquino, Angelita Alberto-Gacutan, Lourdes Coloma-Javier and Gregorio O. Bilog III*, January 18, 2010, rollo, Vol. I, pp. 708-709. [10] *Compromise Enterprises Corporation, Chan Shun Kuen/CEO v. Commissioners Lourdes Coloma-Javier, Gregorio Ocampo Bilog III, and Pablo Espiritu, Jr., and Deputy Executive Clerk Joyrich Monteverde Golangco*, June 28, 2010, id. at 625-626.

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