

SAMUEL B. ARNADO, COMPLAINANT, VS. ATTY. HOMOBONO A. ADAZA, RESPONDENT.

A.C. No. 9834. August 26, 2015

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an administrative case against Atty. Homobono A. Adaza (respondent) for his failure to comply with the requirements of the Mandatory Continuing Legal Education (MCLE) under Bar Matter No. 850.

The Antecedent Facts

In a letter, dated 15 March 2013, Atty. Samuel B. Arnado (complainant) called the attention of this Court to the practice of respondent of indicating "MCLE application for exemption under process" in his pleadings filed in 2009, 2010, 2011, and 2012, and "MCLE Application for Exemption for Reconsideration" in a pleading filed in 2012. Complainant informed the Court that he inquired from the MCLE Office about the status of respondent's compliance and received the following Certification, dated 2 January 2013, from Prof. Myrna S. Feliciano (Prof. Feliciano), MCLE's Executive Director:

This is to certify that per our records, ATTY. HOMOBONO A. ADAZA with Roll Number 14118 of IBP MISAMIS ORIENTAL Chapter did not comply with the requirements of Bar Matter [No.] 850 for the following compliance periods:

- First Compliance Period (April 15, 2001 -April 14, 2004)
- Second Compliance Period (April 15, 2004 -April 14, 2007)
- Third Compliance Period (April 15, 2007 -April 14, 2010)

This is to further certify that Atty. Adaza filed an Application for Exemption from the MCLE requirement on (sic) January 2009 but was DENIED by the MCLE Governing Board on (sic) its January 14, 2009 meeting.[1]

In its Resolution dated 17 June 2013, the Court referred this case to the MCLE Committee for evaluation, report and recommendation.

In a letter, dated 5 August 2013, Atty. Jesusa Jean D. Reyes (Atty. Reyes), Assistant Executive Officer of the MCLE Office, forwarded to the Court the rollo of the case together with the MCLE Governing Board's Evaluation, Report and Recommendation.[2] In its Evaluation, Report and Recommendation[3] dated 14 August 2013,[4] the MCLE Governing Board, through retired Supreme Court Associate Justice Bernardo P. Pardo (Justice Pardo), MCLE Chairman, informed the Court that respondent applied for exemption for the First and Second Compliance Periods covering 15 April 2001 to 14 April 2004 and 15 April 2004 to 14 April 2007, respectively, on the ground of "expertise in law" under Section 3, Rule 7 of Bar Matter No. 850. The MCLE Governing Board denied the request on 14 January 2009. In the same letter, the MCLE Governing Board noted

that respondent neither applied for exemption nor complied with the Third Compliance period from 15 April 2007 to 14 April 2010.

In its 9 December 2013 Resolution, the Court directed the Second Division Clerk of Court to furnish respondent with complainant's letter of 15 March 2013. The Court likewise required respondent to file his comment within ten days from notice.

In his Compliance and Comment[5] dated 3 February 2014, respondent alleged that he did not receive a copy of the 5 August 2013 letter of Atty. Reyes. He stated that he was wondering why his application for exemption could not be granted. He further alleged that he did not receive a formal denial of his application for exemption by the MCLE Governing Board, and that the notice sent by Prof. Feliciano was based on the letter of complainant who belonged to Romualdo and Arnado Law Office, the law office of his political opponents, the Romualdo family. Respondent alleged that the Romualdo family controlled Camiguin and had total control of the judges and prosecutors in the province. He further alleged that the law firm had control of the lawyers in Camiguin except for himself.

Respondent enumerated his achievements as a lawyer and claimed that he had been practicing law for about 50 years. He stated:

x x x x

Fifth, with a great degree of immodesty, I was the first outsider of the Supreme Court WHOM PRESIDENT CORAZON C. AQUINO, offered, immediately after she took over government in February 1986, a seat as Justice of the Supreme Court but I refused the intended appointment because I did not like some members of the Cory crowd to get me to the SC in an effort to buy my silence;

Sixth, I almost single-handedly handled the case of CORAZON C. AQUINO in the canvassing of the results of the 1986 snap elections, DISCUSSING CONSTITUTIONAL and legal issues which finally resulted to the EDSA I revolution;

xxxx

Eighth; I was one of the two lead counsels of now SENATOR MIRIAM DEFENSOR SANTIAGO in the national canvassing before the National Canvassing Board when she ran for President against then GENERAL FIDEL RAMOS. The other counsel was former Justice of the Supreme Court SERAFIN CUEVAS;

Ninth, I handled the 1987 and 1989 as well as the 2003 COUP CASES for leading generals like ABENINA and COMMENDAOR and COLONELS like GREGORIO HONASAN as well as the SIX OAKWOOD CAPTAINS, including now SENATOR ANTONIO TRILLANES;

Tenth, I filed a case with the Supreme Court contesting the constitutionality and validity of the 2010 national elections, still undecided up to this day;

Eleventh, I filed together with another lawyer, a case in the Supreme Court on the constitutionality and legality of the Corona impeachment which the SC only decided after the Senate decided his case and former SC Chief Justice Corona conceding to the decision, thus the SC declaring the case moot and academic;

Twelfth, I have been implementing and interpreting the Constitution and other laws as GOVERNOR OF MISAMIS ORIENTAL, COMMISSION OF IMMIGRATION and the senior member of the Opposition in the regular Parliament in the Committee on Revision of Laws and Constitutional Amendments;

Thirteenth, I was the leading Opposition member of Parliament that drafted the Omnibus Election Law;

Fourteenth, I was the leading member of the Opposition in Parliament that prepared and orchestrated the

debate in the complaint for impeachment against PRESIDENT FERDINAND MARCOS;

Fifteenth, I have been practicing law for about fifty years now with appearances before the Supreme Court when Justices were like Concepcion, Barrera and JBL REYES; in the Court of Appeals; and numerous courts all over the country;

Sixteenth, I have been engaged as lawyer for a number of lawyers who have exemptions from the MCLE;

x x x[6]

Respondent further claimed that he had written five books: (1) Leaders From Marcos to Arroyo; (2) Presidentiables and Emerging Upheavals; (3) Beginning, Hope and Change; (4) Ideas, Principles and Lost Opportunities; and (5) Corona Impeachment. Thus, he asked for a reconsideration of the notice for him to undergo MCLE. He asked for an exemption from MCLE compliance, or in the alternative, for him to be allowed to practice law while complying with the MCLE requirements.

In its 2 June 2014 Resolution, the Court referred respondent's Compliance and Comment to the Office of the Bar Confidant (OBC) for evaluation, report and recommendation.

The Report and Recommendation of the OBC

In its Report and Recommendation dated 25 November 2014, the OBC reported that respondent applied for exemption for the First and Second Compliance Periods on the ground of expertise in law. The MCLE Governing Board denied the request on 14 January 2009. Prof. Feliciano informed respondent of the denial of his application in a letter dated 1 October 2012. The OBC reported that according to the MCLE Governing Board, "in order to be exempted (from compliance) pursuant to expertise in law under Section 3, Rule 7 of Bar Matter No. 850, the applicant must submit sufficient, satisfactory and convincing proof to establish his expertise in a certain area of law." The OBC reported that respondent failed to meet the requirements necessary for the exemption.

The OBC reported that this Court requires practicing members of the Bar to indicate in all their pleadings filed with the courts the counsel's MCLE Certificate of Compliance or Certificate of Exemption pursuant to Bar Matter No. 1922. The OBC further reported that the MCLE Office has no record that respondent filed a motion for reconsideration; and thus, his representation in a pleading that his "MCLE Application for Exemption [is] for Reconsideration" in 2012 is baseless.

The OBC further reported that under Rule 12 of Bar Matter No. 850 and Section 12 of the MCLE Implementing Regulations, non-compliance with the MCLE requirements shall result to the dismissal of the case and the striking out of the pleadings from the records.[7] The OBC also reported that under Section 12(d) of the MCLE Implementing Regulations, a member of the Bar who failed to comply with the MCLE requirements is given 60 days from receipt of notification to explain his deficiency or to show his compliance with the requirements. Section 12(e) also provides that a member who fails to comply within the given period shall pay a non-compliance fee of P1,000 and shall be listed as a delinquent member of the Integrated Bar of the Philippines (IBP) upon the recommendation of the MCLE Governing Board. The OBC reported that the Notice of Non-Compliance was sent to respondent on 13 August 2013. The OBC also reported that on 14 August 2013, the MCLE Governing Board recommended that cases be filed against respondent in connection with the pleadings he filed without the MCLE compliance/exemption number for the immediately preceding compliance period and that the pleadings he filed be expunged from the records.

The OBC found that respondent had been remiss in his responsibilities as a lawyer. The OBC stated that respondent's failure to comply with the MCLE requirements jeopardized the causes of his clients because the pleadings he filed could be stricken off from the records and considered invalid.

The OBC recommended that respondent be declared a delinquent member of the Bar and guilty of non-compliance with the MCLE requirements. The OBC further recommended respondent's suspension from the practice of law for six months with a stern warning that a repetition of the same or similar act in the future will be dealt with more severely. The OBC also recommended that respondent be directed to comply with the requirements set forth by the MCLE Governing Board.

The Issue

The only issue here is whether respondent is administratively liable for his failure to comply with the MCLE requirements.

The Ruling of this Court

Bar Matter No. 850 requires members of the IBP to undergo continuing legal education "to ensure that throughout their career, they keep abreast with law and jurisprudence, maintain the ethics of the profession and enhance the standards of the practice of law."^[8] The First Compliance Period was from 15 April 2001 to 14 April 2004; the Second Compliance Period was from 15 April 2004 to 14 April 2007; and the Third Compliance Period was from 15 April 2007 to 14 April 2010. Complainant's letter covered respondent's pleadings filed in 2009, 2010, 2011, and 2012 which means respondent also failed to comply with the MCLE requirements for the Fourth Compliance Period from 15 April 2010 to 14 April 2013.

The records of the MCLE Office showed that respondent failed to comply with the four compliance periods. The records also showed that respondent filed an application for exemption only on 5 January 2009. According to the MCLE Governing Board, respondent's application for exemption covered the First and Second Compliance Periods. Respondent did not apply for exemption for the Third Compliance Period. The MCLE Governing Board denied respondent's application for exemption on 14 January 2009 on the ground that the application did not meet the requirements of expertise in law under Section 3, Rule 7 of Bar Matter No. 850. However, the MCLE Office failed to convey the denial of the application for exemption to respondent. The MCLE Office only informed respondent, through its letter dated 1 October 2012 signed by Prof. Feliciano, when it received inquiries from complainant, Judge Sinfroso Tabamo, and Camiguin Deputy Provincial Prosecutor Renato A. Abbu on the status of respondent's MCLE compliance. Respondent filed a motion for reconsideration after one year, or on 23 October 2013, which the MCLE Governing Board denied with finality on 28 November 2013. The denial of the motion for reconsideration was sent to respondent in a letter^[9] dated 29 November 2013, signed by Justice Pardo.

Clearly, respondent had been remiss in his responsibilities by failing to comply with Bar Matter No. 850. His application for exemption for the First and Second Compliance Periods was filed after the compliance periods had ended. He did not follow-up the status of his application for exemption. He furnished the Court with his letter dated 7 February 2012^[10] to the MCLE Office asking the office to act on his application for exemption but alleged that his secretary failed to send it to the MCLE Office.^[11] He did not comply with the Fourth Compliance Period.

In its 1 October 2012 letter to respondent, the MCLE Office enjoined him to comply with the requirements for the First to Third Compliance periods. It was reiterated in the 29 November 2013 letter denying respondent's motion for reconsideration of his application for exemption. The OBC also reported that a Notice of Non-Compliance was sent to respondent on 13 August 2013. Under Section 12(5) of the MCLE Implementing Regulations, respondent has 60 days from receipt of the notification to comply. However, in his Compliance and Comment before this Court, respondent stated that because of his involvement in public interest issues in the country, the earliest that he could comply with Bar Matter No. 850 would be on 10-14 February 2014 and that he already registered with the MCLE Program of the University of the Philippines (UP) Diliman on those dates.

Section 12(5) of the MCLE Implementing Regulations provides:

Section 12. Compliance Procedures

x x x x

(5) Any other act or omission analogous to any of the foregoing or intended to circumvent or evade compliance with the MCLE requirements.

A member failing to comply with the continuing legal education requirement will receive a Non-Compliance Notice stating his specific deficiency and will be given sixty (60) days from the receipt of the notification to explain the deficiency or otherwise show compliance with the requirements. Such notice shall be written in capital letters as follows:

YOUR FAILURE TO PROVIDE ADEQUATE JUSTIFICATION FOR NON-COMPLIANCE OR PROOF OF COMPLIANCE WITH THE MCLE REQUIREMENT WITHIN 60 DAYS FROM RECEIPT OF THIS NOTICE SHALL BE A CAUSE FOR LISTING YOU AS A DELINQUENT MEMBER AND SHALL NOT BE PERMITTED TO PRACTICE LAW UNTIL SUCH TIME AS ADEQUATE PROOF OF COMPLIANCE IS RECEIVED BY THE MCLE COMMITTEE.

The Member may use the 60-day period to complete his compliance with the MCLE requirement. Credit units earned during this period may only be counted toward compliance with the prior period requirement unless units in excess of the requirement are earned in which case the excess may be counted toward meeting the current compliance period requirement.

A member who is in non-compliance at the end of the compliance period shall pay a non-compliance fee of P1,000.00 and shall be listed as a delinquent member of the IBP by the IBP Board of Governors upon the recommendation of the MCLE Committee, in which case Rule 13.9-A of the Rules of Court shall apply.

Even if respondent attended the 10-14 February 2014 MCLE Program of UP Diliman, it would only cover his deficiencies for the First Compliance Period. He is still delinquent for the Second, Third, and Fourth Compliance Periods. The Court has not been furnished proof of compliance for the First Compliance Period.

The Court notes the lackadaisical attitude of respondent towards Complying with the requirements of Bar Matter No. 850. He assumed that his application for exemption, filed after the compliance periods, would be granted. He purportedly wrote the MCLE Office to follow-up the status of his application but claimed that his secretary forgot to send the letter. He now wants the Court to again reconsider the MCLE Office's denial of his application for exemption when his motion for reconsideration was already denied with finality by the MCLE Governing Board on 28 November 2013. He had the temerity to inform the Court that the earliest that he could comply was on 10-14 February 2014, which was beyond the 60-day period required under Section 12(5) of the MCLE Implementing Regulations, and without even indicating when he intended to comply with his deficiencies for the Second, Third, and Fourth Compliance Periods. Instead, he asked the Court to allow him to continue practicing law while complying with the MCLE requirements.

The MCLE Office is not without fault in this case. While it acted on respondent's application for exemption on 14 January 2009, it took the office three years to inform respondent of the denial of his application. The MCLE Office only informed respondent on 1 October 2012 and after it received inquiries regarding the status of respondent's compliance. Hence, during the period when respondent indicated "MCLE application for exemption under process" in his pleadings, he was not aware of the action of the MCLE Governing Board on his application for exemption. However, after he had been informed of the denial of his application for exemption, it still took respondent one year to file a motion for reconsideration. After the denial of his motion for reconsideration, respondent still took, and is still taking, his time to satisfy the requirements of the MCLE. In addition, when

respondent indicated "MCLE Application for Exemption for Reconsideration" in a pleading, he had not filed any motion for reconsideration before the MCLE Office.

Respondent's failure to comply with the MCLE requirements and disregard of the directives of the MCLE Office warrant his declaration as a delinquent member of the IBP. While the MCLE Implementing Regulations state that the MCLE Committee should recommend to the IBP Board of Governors the listing of a lawyer as a delinquent member, there is nothing that prevents the Court from using its administrative power and supervision to discipline erring lawyers and from directing the IBP Board of Governors to declare such lawyers as delinquent members of the IBP.

The OBC recommended respondent's suspension from the practice of law for six months. We agree. In addition, his listing as a delinquent member of the IBP is also akin to suspension because he shall not be permitted to practice law until such time as he submits proof of full compliance to the IBP Board of Governors, and the IBP Board of Governors has notified the MCLE Committee of his reinstatement, under Section 14 of the MCLE Implementing Regulations. Hence, we deem it proper to declare respondent as a delinquent member of the IBP and to suspend him from the practice of law for six months or until he has fully complied with the requirements of the MCLE for the First, Second, Third, and Fourth Compliance Periods, whichever is later, and he has fully paid the required non-compliance and reinstatement fees.

WHEREFORE, the Court resolves to:

- (1) REMIND the Mandatory Continuing Legal Education Office to promptly act on matters that require its immediate attention, such as but not limited to applications for exemptions, and to communicate its action to the interested parties within a reasonable period;
- (2) DENY the prayer of Atty. Homobono A. Adaza to be exempted from MCLE compliance as the matter had already been denied with finality by the MCLE Governing Board on 28 November 2013;
- (3) DECLARE Atty. Homobono A. Adaza as a delinquent member of the Integrated Bar of the Philippines and SUSPEND him from the practice of law for SIX MONTHS, or until he has fully complied with the MCLE requirements for the First, Second, Third, and Fourth Compliance Periods, whichever is later, and he has fully paid the required non-compliance and reinstatement fees.

Let a copy of this Decision be attached to Atty. Homobono A. Adaza's personal record in the Office of the Bar Confidant and copies be furnished to all chapters of the Integrated Bar of the Philippines and to all courts in the land. Let copies be also furnished the MCLE Office and the IBP Governing Board for their appropriate actions.

SO ORDERED.

Del Castillo, Mendoza, Leonen, and Jardeleza,[*] JJ., concur.

[*] Designated acting member per Special Order No. 2147 dated 24 August 2015.[1] Rollo, p. 68.

[2] The MCLE Governing Board's Evaluation, Report and Recommendation was not attached to the letter and was actually forwarded to the Court only on 22 August 2013.

[3] Rollo, pp. 73-76.

[4] Not 15 August 2013 as stated in the Court's 9 December 2013 Resolution.

[5] Rollo, pp. 84-87.

[6] Id. at 85-86.

[7] This was amended in the Court's Resolution dated 14 January 2014 in Bar Matter No. 1922.

[8] Section I, Rule 1.

[9] Rollo, p. 94.

[10] Id. at 92. Not 7 February 2013 as respondent stated in his Compliance and Comment.

[11] Id. at 91.

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