DOROTEO IGOY COMPLAINANT, VS. ATTY. GILBERT F. SORIANO, RESPONDENT.

A.M. NO. 2001-9-SC. July 14, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On October 11, 2001, this Court unanimously ruled to dismiss respondent Atty. Gilbert Soriano from the service, with forfeiture of all retirement benefits and leave credits, with prejudice to reemployment in any branch or instrumentality of the government including government-owned or controlled corporations, and indefinitely suspended him from the practice of law. We denied with finality respondent's motion for reconsideration on June 10, 2003.

On March 31, 2006, respondent filed an Ex-Parte Plea for Clemency and Plea to Lift Order of Suspension from the Practice of Law alleging that his dismissal from the service and suspension from the practice of law for more than five years now is ample penalty for his transgressions. He claimed that at 61 years of age, he may no longer find gainful employment but as a lawyer, he could still be a productive citizen and family provider. On even date, respondent also filed an Ex-Parte Motion to Recover Money Equivalent of Respondent's Accrued Leave Credits which he earned during his 28 years of service in the judiciary.

On May 22, 2006, respondent filed a Supplement to Ex-Parte Plea for Clemency and Plea to Lift Order of Suspension from the Practice of Law and submitted certifications attesting to his good moral character issued by (a) Rev. Fr. Ariel O. Tecson, Parish Priest of Our Lady of the Most Holy Rosary Parish, Parañaque City; (b) Sr. Silvana Rescigno of the Franciscan Sisters Adorers of the Cross; (c) Rev. Fr. Christopher Salonga of the Fr. Hannibal Foundation Center in Parañaque City; (d) Rev. Fr. John Lucas of Di-Francia Center of Studies in Parañaque City; (e) Joseph Tan of the Knights of Columbus; and (f) Eduardo Timbungco, Bgy. Secretary of Manuyo Dos, Las Piñas City. At the same time, respondent prayed for the lifting of the prohibition for his re-employment in any branch or instrumentality of the government including government-owned or controlled corporations.

In fine, respondent is now asking this Court (a) to lift the order suspending him from the practice of law; (b) to release the monetary equivalent of his accrued leave credits; and (c) to lift the order prohibiting his re-employment in any branch or instrumentality of the government including government-owned or controlled corporation.

Without overlooking respondent's infractions which caused his dismissal from the service and suspension from the practice of law, we take a second look at the penalties imposed upon him.

The suspension of a lawyer is not intended primarily as a punishment, but as a measure of protection of the public and the profession,[1] the lifting of which is based on the same criterion used by the Court in applications for reinstatement to practice law, that is, whether or not "the public interest in the orderly and impartial administration of justice will be conserved by the [respondent's] participation therein in the capacity of an attorney and counselor

at law."[2] The respondent must, like a candidate for admission to the Bar, satisfy the Court that he is a person of good moral character – a fit and proper person to practice law. The Court will take into consideration his character and standing prior to the suspension, the nature and character of the charge for which he was suspended, his conduct subsequent thereto, and the time that has elapsed after his suspension.[3]

In this case, respondent manifests that he is sincerely repentant and deeply remorseful for the wrong he committed having realized that as a lawyer of the Highest Court of the Land, he should have "lived up to the strictest standards of integrity in the public service bearing in mind that the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat." He also undertakes to always faithfully abide by the ideals, canons and ethics of the legal profession once his suspension is lifted.

Respondent has been suspended from the practice of law since October 11, 2001. Thus, for more than five years, respondent had ample time and opportunity to amend his erring ways and rehabilitate himself as proven by the certifications attesting to his moral character. Thus, he has shown that he is worthy once again to enjoy the privilege of being a member of the Bar. The lifting of the order suspending him from the practice of law is therefore in order.

Similarly, we find merit in respondent's plea for the release of the monetary equivalent of his accrued leave credits. Section 58 of the Uniform Rules on Administrative Cases in the Civil Service provides in part:

> Section 58. Administrative Disabilities Inherent in Certain Penalties.
>
> a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

The above Uniform Rules on Administrative Cases in the Civil Service, specifically Section 86 thereof, repealed Section 9, Rule XIV of the Omnibus Rules Implementing Book V of Administrative Code of 1987 (Executive Order No. 292), which provides for the forfeiture of not only the retirement benefits but of the leave credits as well. By so repealing, it must have been the intent of the framers of the Rules to exclude the forfeiture of the latter as one of the penalties inherent in the penalty of dismissal.

In Villaros v. Orpiano,[4] the Court noted that even when the penalty is dismissal, the forfeiture of the leave credits is not imposed by the applicable rule found in Section 58 of the Uniform Rules on Administrative Cases in the Civil Service. In Paredes v. Padua,[5] the Court held that despite their dismissal from the service, government employees are entitled to the leave credits that they have earned during the period of their employment. As a matter of fairness and law, they may not be deprived of such remuneration, which they have earned prior to their dismissal. Considering the foregoing cases and the provisions of the Uniform Rules on Administrative Cases in the Civil Service, the release of the monetary equivalent of respondent's accrued leave credits is hereby ordered.

However, we cannot grant respondent's plea for the lifting of the prohibition for reemployment in the government service. The records show that during the investigation of the instant case, respondent offered to retire not once, but twice. In the Memorandum of the Office of Administrative Services dated December 3, 2001, it was noted that –

> Lastly, respondent claims that his offer to resign was erroneously construed as an admission of guilt. He broached the idea that such offer came at a time when he was emotionally, intellectually and physically wrecked by the filing of the complaint. The OAS cannot simply bite this self-serving claim. The offer to retire/resign came initially as part of the first comment submitted by respondent on November 6, 2000, where in the ultimate portion, he stated that "if you find that I have committed a misconduct in helping Mr. Taneo despite my explanation, may I request Your Honor that I just be allowed to retire from the service"

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> (underscoring supplied). By saying so, all along respondent honestly believed that he committed a misconduct.
>
> It may be true that by then, respondent was still emotionally bothered, which is why he reacted the same. However, what OAS cannot surmise is why on January 8, 2001, respondent reiterated the same offer through a letter of even date addressed to the Honorable Chief Justice. This only means that he made this reiteration after he already had sufficient opportunity to determine the consequence or effect of the first offer. Considering that he is bent in doing so, it is reasonably assumed he made the subsequent offer to resign/retire freely and voluntarily.

We also note that when respondent filed the Ex-Parte Plea for Clemency and Plea to Lift Order of Suspension from the Practice of Law on March 31, 2006, he prayed only for the lifting of his suspension from the practice of law. In fact, he admitted that he is no longer interested in appealing his "dismissal from the service" considering the denial with finality of his motion for reconsideration. He likewise conceded that at "61 years of age, a senior citizen and almost in the twilight of [his] life x x x [he] may no longer find a gainful employment x x x."

Records show that this Court denied on June 10, 2003 respondent's motion for reconsideration of his dismissal from the service. The denial was with finality hence it should no longer be disturbed. Likewise, pursuant to Section 58 of the Uniform Rules on Administrative Cases in the Civil Service, dismissal from the service carries with it the cancellation of eligibility and perpetual disqualification for re-employment in the government service.

Besides, mere passage of time is not a license to overlook the infractions of the respondent which were committed within the hallow grounds of this Court. Lest it be forgotten, we reiterate our findings thus:

> Respondent's acts seriously undermined the trust and confidence of the public in the entire judicial system. What makes his infraction worse is the fact that he is not a mere court employee, but a senior attorney employed in the Highest Court of the Land. He has indelibly sullied his record of government service spanning twenty-eight years, and in so doing he has prejudiced the integrity of the Court as a whole. Once more, this Court is called upon to apply disciplinary sanction on an errant member, and again it will not shirk from its responsibility. Thus, this Court imposes on respondent the only penalty that he deserves – that of dismissal from the service.

Finally, respondent is sternly warned that the practice of law is a privilege burdened with conditions. Adherence to the rigid standards of mental fitness, maintenance of the highest degree of morality and faithful compliance with the rules of legal profession are the conditions required for remaining a member of good standing of the bar and for enjoying the privilege to practice law.[6]

ACCORDINGLY, the order suspending respondent Atty. Gilbert Soriano from the practice of law is LIFTED. The monetary equivalent of his accrued leave credits is ordered RELEASED. However, respondent shall REMAIN DISQUALIFIED for re-employment in any branch or instrumentality of the government including government-owned or controlled corporations.

The Fiscal Management and Budget Office is directed to compute the monetary equivalent of respondent's accrued leave credits and release the same to him.

Let copies of this Resolution be furnished to all the courts of the land as well as the Integrated Bar of the Philippines, and the Office of the Bar Confidant. Let this Resolution be also made of record in the personal files of the respondent.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Sandoval-Gutierrez,Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, Garcia, and Velasco, Jr. JJ., concur.
Carpio, J., on official leave.

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[1] Magat v. Santiago, G.R. Nos. L-43301-45665, April 1, 1980, 97 SCRA 1, 3.

[2] Prudential Bank v. Grecia, A.C. No. 2756, December 18, 1990, 192 SCRA 381, 386.

[3] Id.

[4] 459 Phil. 1, 9 (2003).

[5] A.M. No. CA-91-3-P, April 14, 2004, 427 SCRA 134, 135.

[6] Foronda v. Guerrero, A.C. No. 5469, January 27, 2006.

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