

RE: COMPLAINTS OF MRS. MILAGROS LEE AND SAMANTHA LEE AGAINST ATTY. GIL LUISITO R. CAPITO.

A.M. No. 2008-19-SC. July 27, 2010

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Atty. Gil Luisito R. Capito (respondent), Court Attorney IV at the Office of the Chief Attorney (OCAT), was charged with grave misconduct and willful failure to pay just debts by Milagros Lee (Milagros) and her daughter Samantha Lee.

Atty. Eden T. Candelaria (Atty. Candelaria), Deputy Clerk of Court and Chief Administrative Officer, in her February 6, 2009 Memorandum,[1] summarizes the facts which spawned the filing of the complaint against respondent as follows:

Mrs. Milagros Lee alleged that sometime in March 2008, Atty. Capito was introduced to her by neighbors Ma. Cecilia and Ferdinand De Guzman as she needs a lawyer to file a claim for financial support for her and her children against her husband who is in Hawaii. Atty. Capito is a friend of Ferdinand De Guzman.

Mrs. Lee again encountered Atty. Capito in the third week of April 2008 when Ms. De Guzman (a.k.a. Michelle) picked up Mrs. Lee in her house and told her that Atty. Capito is in their (Michelle[s]) house and that Mrs. Lee can now consult her problems with Platinum Plans and her claim for support against her husband. The De Guzman spouses made mention to her that Atty. Capito specializes in land cases and that he is connected with Senator Loren Legarda. She came to know also that Atty. Capito is working in the Supreme Court. [Mrs.] Milagros Lee's marriage contract and other documents were photocopied by Samantha Lee and were given to Atty. Capito for his information.

On June 26, 2008, Mrs. Lee had a meeting with Atty. Capito at KFC to discuss the matter concerning her possible claim for support. After the consultation, Atty. Capito said, "Malabo na daw makaclaim for support," and he did not do any legal action on the matter.

On June 27, 2008, Atty. Capito went to Mrs. Lee's house to borrow money. She told him that she does not have any, and that his (Atty. Capito[s]) friends, the De Guzman spouses, induced her to invest money that would earn a lot, but the money was not returned anymore. She was in short, scammed. She mentioned, however, that she has an existing bracelet which Atty. Capito asked her to pawn and give him the money so he could redeem his cell phone from the casino. The bracelet was pawned for P7,000.00 and the P4,000.00 was allegedly lent to Atty. Capito.

The following day, June 28, 2008, Atty. Capito called Mrs. Lee on the phone and asked the latter if he can come to her house and stay there for just two (2) weeks. Mrs. Lee consented, but his stay was prolonged for a month. During his stay in Mrs. Lee's house, Atty. Capito was treated as a guest. He told Mrs. Lee that he will pay for the board and lodging. But it did not happen. Not a single centavo was actually paid to her.

On July 7, 2008, despite the borrowed sum not having been returned yet, Atty. Capito again borrowed P10,000 from Mrs. Lee and promised that he will return the money immediately. Because he saw the Lees' kindness, he

again borrowed money twice. One was on a date which Mrs. Lee cannot remember anymore, and another one was on July 23, 2008. Both were in the amount of P1,000.00 each. Mrs. Lee alleged that Atty. Capito was in dire need as he has no money for his daily use. He even asked Mrs. Lee to borrow money for him if she has some other acquaintance or friend as he had a problem with a case he filed, and proposed to double the payment. His debt with the complaint allegedly reached to P16,000[.]

For several times, Mrs. Lee called Atty. Capito in the OCAT through phone, but she received an answer "wala pa" until Mrs. Lee told him to give the exact date when to pay her. Mrs. Lee alleged that Atty. Capito promised to pay her on September 30, 2008. On said date, Mrs. Lee together with her daughter Samantha, went early to the said office but she was told "wala pa." Mrs. Lee got angry as they needed the money already that is why they came early to see him at his office.[2] (*italics in the original; underscoring supplied*)

When Milagros finally met respondent on September 30, 2008, respondent, in the presence of several others, told her "Eh kung sabihin ko na sugar mommy kita,"[3] adding that "Nagpapakantot ka naman sa akin." [4]

Respondent's side of the case was also summarized by Atty. Candelaria, viz:

In the investigations conducted by this Office, Atty.[.] Capito denied having stayed in the house of Mrs. Lee. He claimed that he is not indebted to Mrs. Lee, and stated that he had already explained everything in his Affidavit of Explanation and Rejoinder. The said pleadings he filed deny any indebtedness owing to Mrs. Lee as the alleged indebtedness is not supported by any concrete evidence and that Mrs. Lee is saying things irrelevant to the complaint not intended to prove the alleged indebtedness but intended to ruin his honor and reputation. Atty. Capito alleged that it is the complainants who are in dire need of money as they even asked him to write a demand letter to the father of Ferdinand De Guzman for the latter to pay even a small amount of money for their daily living. The accusations though not true, caused the recurrence of his asthma [rendering] him unable to report for work for several days[.] He maintains that he is the administrator of the estate of his father Luis Capito (Former Mayor of Borongan, Eastern Samar for more than twenty [20] years) whose assets and properties is worth the amount of P10,000,000.00.[5] (*underscoring supplied*)

Leonora F. Diño, Executive Assistant at the OCAT, corroborated complainant Milagros' account of the September 30, 2008 incident that respondent, while engaged in a heated argument with Milagros, loudly uttered: "Nagpapakantot ka naman . . .!"[6]

Jose Torres, testifying for complainant, related that he one time drove Milagros and respondent to Pampanga; and that also at one time, while he was buying something at the store of Milagros, he saw respondent seated in her sala wearing a t-shirt.

Torres' wife Edeta declared that she once saw respondent knocking at the door of Milagros' house while she was at the latter's store buying some stuff.

Still testifying for Milagros, Toribio S. Balicot, Computer Operator IV, Records Division, OCAT, declared that respondent's cellphone number -- 09282037934 -- which is registered in his (Balicot's) cellphone, is the same number claimed by Milagros to be respondent's cellphone number.

Atty. Candelaria thereupon evaluated the case, parts of which are quoted below:

On the first issue, we give credence to the testimony of complainants that Atty. Capito indeed stayed in their house, vis-à-vis denial asserted by Atty. Capito. Mrs. Lee's claim was corroborated by her fifteen (15) year old daughter, Ms. Samantha Lee[.]

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Her testimony affirmed her sworn statement. Her personal account was answered in the first person and not stated as "told to her" or "as instructed to her". No words of uncertainty was reflected in her testimony of the

fact that Atty. Capito stayed in their house. A fifteen (15) year old girl would not usually lie on her personal knowledge of the incident.

Added to these was the text message presented by Mrs. Lee that came from cellphone number 09282037934[.]

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. . . Mr. Balicot who works in the same office, confirmed in his testimony that cellphone number 09282037934 belongs to Atty. Capito as the same number is registered in his cellphone in the name of Atty. Capito. . . .

Moreover, Mr. Torres testified that he saw Atty. Capito either once or twice in the sala of Mrs. Lee wearing a t-shirt.

On the issue of alleged indebtedness of P16,000.00, we are not inclined to recommend favorable action by the Court . . .

. . . The claim was neither raised and adjudicated in the First Level Court (Metropolitan Trial Court) nor is the existence and justness of the amount of debt undisputed by the respondent. Atty. Capito denied that he has any debt owing to Mrs. Lee, hence the latter must thresh out her claim before the small claims court[.][7] (italics in the original; underscoring supplied)

Respondent's alleged private practice of law was found unsubstantiated.[8]

Respondent's utterance of vulgar words[9] was found "uncalled for and totally abhorring" by Atty. Candelaria given that the words were uttered in the presence of Milagros' daughter and in public.[10]

Atty. Candelaria thus concluded that respondent is liable for gross discourtesy.[11]

The Court finds that respondent is indeed guilty of gross discourtesy amounting to conduct unbecoming of a court employee. By such violation, respondent failed to live up to his oath of office as member of the Integrated Bar of the Philippines and violated Rule 7.03 of the Code of Professional Responsibility.[12]

Gross discourtesy in the course of official duties is classified as less grave offense under the Revised Uniform Rules on Administrative Cases in the Civil Service,[13] punishable with suspension for one month and one day to six months for the first offense and dismissal for the second offense.[14]

In recommending the penalty for respondent, Atty. Candelaria found two mitigating circumstances in his favor: (1) his 17 years of service to the Court and (2) this being the first time that he has been administratively charged.

Atty. Candelaria thus gave the following recommendations:

(a) The case of willful failure to pay just debts be dismissed for failure of complainant to substantiate the charge. However, complainant Mrs. Lee is informed that the Court is not a collection agency. The sum of money representing the respondent's alleged indebtedness can be claimed before the regular court as a collection suit;

(b) Respondent . . . be suspended for three (3) months without pay for Gross Discourtesy, with a warning that a repetition of the same o[r] similar acts . . . will be dealt with more severely;

(c) For his demeanor which appears to be a violation of Rule 7.03 of the Code of Professional Responsibility, the same be referred to the Office of the Bar Confidant for appropriate action.[15] (underscoring supplied)

The Court has consistently been reminding officials and employees of the Judiciary that their conduct or behavior is circumscribed with a heavy burden of responsibility which, at all times, should be characterized by, among other things, strict propriety and decorum. As such, they should not use abusive, offensive, scandalous, menacing

and improper language. Their every act or word should be marked by prudence, restraint, courtesy and dignity.[16]

It appearing that aside from violating Rule 7.03 of the Code of Professional Responsibility, respondent appears to have also violated Rule 8.01[17] of the same Code, the recommendation to refer the case to the Office of the Bar Confidant for appropriate action is in order.

WHEREFORE, Atty. Gil Luisito R. Capito, Court Attorney IV, Office of the Chief Attorney, is, for Gross Discourtesy, **SUSPENDED** for Three Months without pay, with a **WARNING** that a repetition of the same or similar acts shall be dealt with more severely.

Let this case be referred to the Office of the Bar Confidant for appropriate action, it appearing that respondent has also violated Rules 7.03 and 8.01 of the Code of Professional Responsibility.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, and Mendoza, JJ.

[1] Rollo, pp. 1-15.

[2] Id. at 1-2.

[3] TSN, November 13, 2008, p. 5.

[4] Id. at 6.

[5] Rollo, pp. 6-7.

[6] Vide Testimony of Leonora F. Diño taken on November 21, 2008, id. at 40-45.

[7] Rollo, pp. 10-11.

[8] Id. at 12.

[9] Vide Testimony of Leonora Diño, November 21, 2008.

[10] Rollo, p. 12.

[11] Id. at 12-13.

[12] Rule 7.03 - A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

[13] CSC Resolution No. 99-1936, August 31, 1999.

[14] Section 52(B)(3).

[15] Rollo, p. 15.

[16] *Quilo v. Jundarino*, A.M. No. P-09-2644, July 30, 2009, 594 SCRA 259, 278-279.

[17] A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

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