

SPOUSES DEOGRACIAS VILLALUZ JR. & BELMA MAGANA VILLALUZ, COMPLAINANT, VS. JUDGE WENIFREDO A. ARMIENTA, ATTY. PIO L. VILLALUZ, RESPONDENT.

A.M. No. RTJ-98-1397. January 26, 1998

Ponente: NARVASA, C.J.

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NARVASA, C.J.:

In the sala of Judge Wenifredo Armenta (since retired), Branch 41 of the Regional Trial Court of Daet, Camarines Norte, there was instituted by Conrado Bacuño, Juanito Domingo and Ernesto Mojal an action for the vindication of their easement of right of way over property belonging to the spouses, Deogracias Villaluz and Belma M. Villaluz. The action, docketed as Civil Case No. 5628, resulted in a judgment rendered on September 29, 1994 by Judge Armenta which:

- (a) held that “competent and relevant preponderance of evidence ** (showed “clearly and distinctly”) that the plaintiffs are entitled to the relief prayed for” in accordance with Articles 650 and 652 of the Civil Code, and
- (b) accordingly ordered defendant spouses:
 - 1) “ ** to grant the plaintiffs ** an easement of right of way with width of 4 meters.”
 - 2) “ ** to remove, dismantle the fence they erected and the portion of their house encroaching over and upon the 4 meters easement of right of way in favor of the plaintiffs;” and
 - 3) “ ** (to) pay P10,000.00 moral damages to the plaintiffs, for in the exercise of the former’s right and duty (they) failed to act with justice, give everyone his due and observe good faith.”

No appeal was ever taken or attempted to be taken from the decision which, in consequence, became final and executory. Thereafter the plaintiffs sought to execute it in the face of the stubborn recalcitrance of the defendants.

On January 5, 1995 an administrative complaint, drawn up by Atty. Pio L. Villaluz, was filed in behalf of his above named clients against Judge Wenifredo Armenta, charging him with “Knowingly Rendering an Unjust Judgment.” The judgment alluded to as “unjust” was, of course, that rendered on September 29, 1994 in Civil Case No. 5628; and the arguments adduced by Atty. Villaluz before Judge Armenta and found to be without merit were used as basis for the theory that the decision had been unjustly rendered. In this complaint, Atty. Villaluz drew a parallel between Judge Armenta and two Judges who had earlier been “removed and dismissed” by this Court, and averred “that as an aftermath of the rendition of this unjust and unlawful judgment ** rumors (were) circulating and pervading that money had played into limelight, which is why, this unjust and unlawful judgment likewise resulted to the filing of a case before the Ombudsman” (sic). Atty. Villaluz ended his complaint with the prayer not only that “the corresponding sanctions of law be applied” against His Honor, but also “that the said unjust and unlawful decision in Civil Case No. 5628 be disregarded, it being void ab initio.”

Atty. Villaluz also filed with the Provincial Prosecution Office at Daet, Camarines Norte a criminal complaint, in

behalf of his clients, accusing Judge Arment of a “violation of Article 204 of the Revised Penal Code,” based on substantially the same grounds as his administrative complaint. The case was docketed as I.S. No. 95-5550.

On requirement of the Deputy Court Administrator, Judge Armenta submitted his COMMENT on the administrative complaint, by “2nd Indorsement, March 10, 1995.” His Honor denied the allegations of, and confuted the arguments in the complaint, maintaining that his decision was in accord with law and jurisprudence, “rendered justly and not motivated by hatred, envy and/or revenge;” asserted that Atty. Villaluz failed to appeal from the judgment adverse to his clients on account of “negligence or ignorance of procedural remedies,” and “having lost face and unashamedly exposed to himself ** (as) being incompetent, and ignorant of **laws, instigated this baseless, whimsical and unmitigated complaint to satisfy his clients who incidentally are his relatives, hoping to placate them;” and appointed out that for “a mere case of an easement involving a small piece of property ** (he) would not compromise a judge’s noble position.”

After study of the complaint and the comment thereon, in relation to the relevant records, the Deputy Court Administrator presented a report to the Court dated August 3, 1995 recommending that Atty. Villaluz’s “complaint be DISMISSED for utter lack of merit ** (and that said lawyer) be REQUIRED to explain ** why he should not be administratively dealt with for filing such a baseless and unfounded complaint which undeniably taxed the valuable time of the Court.”

The Court then considered and discussed the case after which it promulgated the following Resolution on September 6, 1995, viz:

“After deliberating on the report of the Deputy Court Administrator who conducted the ** preliminary inquiry on the matter at bar, as well as the allegations of the complaint and the comment thereon, and it appearing that the plain and patent remedy of the complainant spouses – as defendants in an action for easement of right-of-way tried and decided by respondent Judge – was an appeal; that the remedy was lost to them by the unexplained and unjustified failure of their counsel, Atty. Pio L. Villaluz, to take an appeal from the Trial Court’s judgment within the time and in the manner prescribed by law; and that ** the administrative complaint in this case is being used as a substitute for the lost remedy of appeal, the Court RESOLVED to DISMISS the complaint for lack of merit, and to ORDER Atty. Pio L. Villaluz to SHOW CAUSE, within ten (10) days from notice of this Resolution, why he should not be subjected to disciplinary action for filing the complaint at bar in behalf of his clients, the complaint being characterized as ‘baseless and unfounded’ and as having ‘undeniably taxed the valuable time of the Court.’”

Atty. Villaluz failed to comply with the Resolution despite his receipt of notice thereof on October 2, 1995, by registered mail.

In the meantime, his criminal complaint in the Office of the Public Prosecutor, Daet, Camarines Norte was also summarily dismissed in a Resolution rendered by Assistant Provincial Prosecutor W.R. Pante on September 26, 1995 and approved by the Provincial Prosecutor. The Public Prosecutors found no “evidenciary foundation for any erroneous error imputed against the respondent-Judge as alleged in the affidavit-complaint” (sic) and stressed, contrariwise, “that the filing of this complaint against the respondent Judge who will be retiring under the Force Retirement Law is but a scheme designed ** as a last ditch resort by reason of the adverse decision ** in Civil Case No. 5628 which was already become final and executory” (sic). This resolution was brought to the Court’s attention by Judge Armenta through an “Urgent Manifestation with Motion” dated December 2, 1995, in which he also asked that Atty. Villaluz be suspended for his “gross violation of the Code of Ethics and Professional Conduct.”

Also brought to the Court’s attention was Villaluz’s failure to comply with the resolution of September 6, 1995. This prompted it by Resolution dated 18 March 1996, to require Villaluz to show cause why he should not be

disciplinary dealt with for such failure, and to comply with said directive.

Villaluz eventually submitted his Compliance under date of March 30, 1996 -- some six months late. He admitted having received notice of the Resolution of September 6, 1995 on October 2, 1995 but sought to excuse his failure to obey it by the avowal that his services as complainant's counsel had been terminated even prior to the Court's Resolution of September 6, 1995, as a result of a serious quarrel with the latter who had since retained other counsel; and that he believed the case had been mooted by respondent Judges' compulsory retirement in the interim. He declared that the institution of this administrative case was his client's sole responsibility; his participation was limited to the preparation and filing of the complaint; and he had merely been "enticed to do so when ordered and requested by the complainant, and older brother" (sic).

Atty. Villaluz's brother, Deogracias and the latter's wife, Belma Magna-Villaluz -- thereafter filed a "Comment on the Compliance of Atty. Pio L. Villaluz" dated May 3, 1996, in which they alleged under oath:

- 1.) that there was "no iota of truth to claim" that they had removed Atty. Villaluz as their lawyer, or that he had ever withdrawn his appearance; and that it "was all his indifference to his duty as counsel that he neglected to inform his clients of his receipt of the Decision of the Court on October 19, 1994 and allowed the appeal period to expire;"
- 2.) that the filing of the administrative and criminal complaints against Judge Armenta was not their idea; they were prevailed upon by Atty. Villaluz to sign the complaint "just to absolve himself from any responsibility for failure to appeal **;"
- 3.) that they had been compelled to engage the services of Atty. Luis D. Dictado -- who had earlier defended their son (and procured his acquittal) in a criminal action instituted by Atty. Villaluz -- when the latter ceased to "appear anymore in our cases."

On July 1, 1996, this Court -- "(b)efore resolving the matter on the merits" -- "Resolved to GRANT Atty. ** Villaluz an additional period of ten (10) days from notice ** within which to submit additional arguments, if he be so minded;" and on September 23, 1996, on observing that Atty. Villaluz had not had the opportunity to deal with the spouses' comment of May 3, 1996 as well as Judge Armenta's "Urgent Manifestation with Motion" dated December 2, 1995, directed the Clerk of Court to furnish him with copies thereof and ordered him "to comment thereon within ten (10) days **."

Atty. Villaluz was served by registered mail with notice of the foregoing Resolutions; that of September 23, 1996 was received by him on October 9, 1996. He responded thereto only five (5) months later, on March 10, 1997, on which day he filed his "Comment with Prayer to Dismiss" dated February 17, 1997.

In his comment, Atty. Villaluz professed dismay that complainants had turned against him and charged him with "dereliction of duty." He called his brother and sister-in-law "ingrates, untruthful and congenital liars," asserting that it was they who had stubbornly refused to appeal even as he had strongly urged this recourse to them, and had opted, instead, to try to oust respondent Judge from his office or consign his fate to the NPA with whom Deogracias Villaluz claimed to have become "very close" (in view of his long stay in the remote Barangays of Labo, Camarines Norte as a Public School teacher). He alleged that, through a sister, he had sent a "Motion to Withdraw as Counsel" to complainants, but it was not filed in court.

All things considered, the Court cannot accord credence to respondent Villaluz's explanation that the institution of administrative and criminal proceedings against Judge Armenta was his client's brainchild, which they had adopted as an alternative to taking an appeal from the Judge's adverse decision, supposedly in spite of their own lawyer's earnest importunities. And even assuming that the adverse judgment had generated so great a resentment in the Villaluzes as to motivate them to seek the judge's ouster, it taxes credulity to assume either that their

lawyer had not advised taking an appeal at the same time, or such advice having been proffered, that they had not taken it. The improbability of respondents postulation is amplified by three other factors: first, his total failure to give an explanation for preparing and filing a second complaint against the Judge, this time criminal in nature; second, his attempt to embellish his story -- that not only did his clients wish to remove the Judge from the office, but also to have him dealt with by the NPA the latter course appearing to be simply an afterthought; for if the NPA could indeed be induced to mete out "justice" to the Judge, what need would there be to undertake the cumbersome procedure for his administrative removal? And third, the inconsistency in his own narrative respecting his attempt to formally withdraw as his brother's counsel: for whereas he first stated (in his Compliance [pp. 2, 3], and Supplemental Manifestation [p. 2]) that it was in August, 1995 that he sent to the Villaluz Spouses his supposed "Motion to Withdraw as Counsel," on the occasion of their unceremonious termination of his services and retrieval of all the case folders from him, he later declared (in his Comment [p.7]) that it was in October, 1994 when he had done so, "well within the period to appeal" (quoting his own words) from the judgment of September 29, 1994 in Civil Case No. 5628.

Moreover, if indeed the records of Civil Case No. 5628 had been abruptly retrieved from him and his services thus rudely terminated, he does not explain why he had not taken the most obvious, prudent and tenable course under the circumstances: of filing his motion to withdraw as counsel directly with the Court.

Neither does his conduct in the proceeding at bar enhance his credibility, disclosing as it does an unwillingness to promptly confront the issues raised against him or delay coming to grips with them. He ignored the Court's first directive (Resolution of September 6, 1995) for him to show cause why he should not be disciplinary dealt with (for filing a supposedly unmeritorious complaint against a Judge), obeying it only when admonished to comply therewith some five or six months later, when the normal reaction of the innocent lawyer that he portrays himself to be would have been quick exposition of the facts -- e.g., his services had been suddenly and unjustifiably terminated, etc. The same curious dilatoriness is observed in Atty. Villaluz's compliance with the Resolutions of July 1, 1996 and September 23, 1996: all of five (5) months expired before he responded thereto, by filing his "Comment with Prayer to Dismiss" dated February 17, 1997.

In sum, the Court finds that the administrative complaint against Judge Armenta was instituted by Atty. Villaluz as a substitute for the lost remedy of appeal. The Court considers Atty. Villaluz's avowed explanation for failing to appeal unworthy of belief. In the case of *Guiang v. Antonio*, 218 SCRA 381, the Court suspended a lawyer for six months upon a filing that his failure to perfect an appeal was inexcusable and persuasively demonstrative of negligence and malpractice, a violation of Rule 18.03 of the code of ethical canons which declares that "A lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable." Respondent lawyer in this proceeding merits no less.

Accordingly, the Court RESOLVED to suspend Atty. Pio Villaluz from the practice of law for six months effective upon receipt of this decision.

SO ORDERED.

Romero, Melo, Francisco, and Panganiban, JJ., concur.

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