

JUVY P. CIOCON-REER, ANGELINA P. CIOCON, MARIVIT P. CIOCON-HERNANDEZ, AND REMBERTO C. KARAAN, SR., COMPLAINANTS, VS. JUDGE ANTONIO C. LUBAO, REGIONAL TRIAL COURT, BRANCH 22, GE...

A.M. OCA IPI No. 09-3210-RTJ. June 20, 2012

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Juvy P. Ciocon-Reer, Angelina P. Ciocon, Marivit P. Ciocon-Hernandez, and Remberto C. Karaan, Sr. (complainants) filed an administrative complaint against Judge Antonio C. Lubao (Judge Lubao) of the Regional Trial Court of General Santos City, Branch 22, for gross ignorance of the law, rules or procedures; gross incompetence and inefficiency; violation of Section 3(e) of Republic Act No. 3019; violations of Articles 171 and 172 of the Revised Penal Code; violations of pertinent provisions of the Code of Judicial Conduct, The New Code of Judicial Conduct per A.M. No. 03-05-01-SC, and Canons of Judicial Ethics; and dishonesty and grave misconduct.

The Antecedent Facts

Complainants are the plaintiffs in Civil Case No. 7819 (Juvy P. Ciocon-Reer, et al. v. Gaspar Mayo, et al.) for Unlawful Detainer, Damages, Injunction, etc., an appealed case from the Municipal Trial Court of General Santos City, Branch 3. Complainants alleged that on 12 September 2008, Judge Lubao issued an Order directing the parties to submit their respective memoranda within 30 days from receipt of the order. Complainants further alleged that on 30 September 2008, a copy of the order was sent by registered mail to the defendants, which they should have received within one week or on 7 October 2008. Complainants alleged that the 30-day period within which to submit memoranda expired on 6 November 2008. Since the defendants failed to submit their memorandum on 6 November 2008, complainants alleged that they should be deemed to have waived their right to adduce evidence and Judge Lubao should have decided the case. Yet, four months passed from 6 November 2008 and Judge Lubao still failed to make his decision.

In his Comment, Judge Lubao explained that the parties were required to submit their respective memoranda on 12 September 2008. The Order was sent to the parties through registered mail on 30 September 2008. Judge Lubao alleged that the plaintiffs submitted their memorandum on 10 November 2008 but the court did not receive the registry return card on the notice to the defendants. On 10 December 2008, the branch clerk of court sent a letter-request to the Post Office of General Santos City asking for certification as to when the Order of 12 September 2008, sent under Registry Receipt No. 690, was received by the defendants. However, the court did not receive any reply from the Post Office.

Judge Lubao further explained that on 20 May 2009, for the greater interest of substantial justice, the defendants

were given their last chance to submit their memorandum within 30 days from receipt of the order. In the same order, he directed the plaintiffs to coordinate with the branch sheriff for personal delivery of the order to the defendants. However, the plaintiffs failed to coordinate with the branch sheriff and the order was sent to the defendants, again by registered mail, only on 17 June 2009.

Judge Lubao informed the Court that complainant Remberto C. Karaan, Sr. (Karaan) is engaging in the practice of law even though he is not a lawyer. Judge Lubao asked this Court to require Karaan to show cause why he should not be cited in contempt for unauthorized practice of law.

Karaan filed a supplemental complaint alleging that Judge Lubao's failure to submit his comment on time to complainants' administrative complaint is a violation of the existing rules and procedure and amounts to gross ignorance of the law. As regards his alleged unauthorized practice of law, Karaan alleged that Judge Lubao was merely trying to evade the issues at hand.

The Findings of the OCA

In its Memorandum dated 13 April 2010, the Office of the Court Administrator (OCA) reported that a verification from the Docket and Clearance Division of its Office revealed that Karaan also filed numerous administrative complaints[1] against judges from different courts, all of which were dismissed by this Court.

In its evaluation of the case, the OCA found that there was no evidence to show that the orders issued by Judge Lubao were tainted with fraud, dishonesty or bad faith. The OCA stated that the matters raised by complainants could only be questioned through judicial remedies under the Rules of Court and not by way of an administrative complaint. The OCA stated that Karaan could not simply assume that the order of 12 September 2008 had been received by the defendants without the registry return card which was not returned to the trial court.

The OCA found that based on the pleadings attached to the records, it would appear that Karaan was engaged in the practice of law. The OCA also noted the numerous frivolous and administrative complaints filed by Karaan against several judges which tend to mock the judicial system.

The OCA recommended the dismissal of the complaint against Judge Lubao for lack of merit. The OCA further recommended that Karaan be required to show cause why he should not be cited for contempt of court for violation of Section 3(e), Rule 71 of the Revised Rules of Court.

In its Resolution dated 24 November 2010, this Court dismissed the complaint against Judge Lubao for being judicial in nature and for lack of merit. This Court likewise directed Karaan to show cause why he should not be cited for contempt for violating Section 3(e), Rule 71 of the Revised Rules of Court.

Karaan filed a motion for reconsideration of the dismissal of the complaint against Judge Lubao. Karaan denied that he had been assuming to be an attorney or an officer of the court and acting as such without authority. He alleged that he did not indicate any PTR, Attorney's Roll, or MCLE Compliance Number in his documents. He further stated that A.M. No. 07-1674 filed against Judge Lindo was not actually dismissed as reported by the OCA.

Karaan thereafter filed Supplemental Arguments to the motion for reconsideration and compliance to the show cause order. Karaan reiterated that he never represented himself to anyone as a lawyer or officer of the court and that his paralegal services, rendered free of charge, were all for the public good. He stated that he assists organizations which represent the interests of senior citizens, the indigents, and members of the community with limited means.

In a Memorandum dated 8 November 2011, the OCA found no merit in the motion for reconsideration. The OCA

noted Judge Lubao's explanation that the case was summarily dismissed by the municipal trial court without service of summons on the defendants. Thus, Judge Lubao deemed it proper to issue the order requiring all parties to submit their memorandum to give all concerned the opportunity to be heard. The OCA stated that the remedy against Judge Lubao's action was judicial in nature. The OCA found that the claim of Karaan that he could prove the receipt of the order by one Mr. Mayo is immaterial because it was not in the records of the case where Judge Karaan based his order.

The OCA noted that Karaan, through the use of intemperate and slanderous language, continually attributed all sorts of malicious motives and nefarious schemes to Judge Lubao regarding the conduct of his official function but failed to substantiate his allegations. The OCA further noted that this case is just one of the many cases Karaan filed against various judges in other courts where the same pattern of accusations could be observed.

The OCA found Karaan's explanation on the show cause order unsatisfactory. The OCA noted Karaan's modus operandi of offering free paralegal advice and then making the parties execute a special power of attorney that would make him an agent of the litigants and would allow him to file suits, pleadings and motions with himself as one of the plaintiffs acting on behalf of his "clients." The OCA noted that Karaan's services, on behalf of the underprivileged he claimed to be helping, fall within the practice of law. The OCA recommended that Karaan be declared liable for indirect contempt and be sentenced to serve a term of imprisonment for 10 days at the Manila City Jail and to pay a fine of P1,000 with a warning that a repetition of any of the offenses, or any similar or other offense, against the courts, judges or court employees will merit more serious sanctions.

The Ruling of this Court

We agree with the OCA's recommendation that the motion for reconsideration of the Court's 24 November 2010 Resolution dismissing the complaint against Judge Lubao has no merit.

Not all administrative complaints against judges merit a corresponding penalty. In the absence of fraud, dishonesty or corruption, the acts of a judge in his judicial capacity are not subject to disciplinary action.[2] We agree with the OCA that the remedy of the complainants in this case is judicial in nature. Hence, the denial of their motion for reconsideration of this Court's 24 November 2010 Resolution dismissing the administrative case against Judge Lubao is in order. As the OCA stated, Karaan could not make assumptions as to when the defendants received the copy of Judge Lubao's order without the registry return receipt. While Karaan claimed that he knew when one of the parties received a copy of the order, this claim was unsupported by evidence and was not in the records of the case when Judge Lubao issued his 20 May 2009 Order giving the defendants their last chance to submit their memorandum. The records would also show that Judge Lubao had been very careful in his actions on the case, as his branch clerk of court even wrote the Post Office of General Santos City asking for certification as to when the Order of 12 September 2008, sent under Registry Receipt No. 690, was received by the defendants. There was no evidence that Judge Lubao acted arbitrarily or in bad faith. Further, Judge Lubao could not be faulted for trying to give all the parties an opportunity to be heard considering that the records of the case would show that the court a quo summarily dismissed the case without issuing summons to the defendants.

We likewise agree with the OCA that Karaan was engaged in unauthorized practice of law.

In *Cayetano v. Monsod*,[3] the Court ruled that "practice of law" means any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training and experience. To engage in the practice of law is to perform acts which are usually performed by members of the legal profession.[4] Generally, to practice law is to render any kind of service which requires the use of legal knowledge or skill.[5] Here, the OCA was able to establish the pattern in Karaan's unauthorized practice of law. He would require the parties to execute a special power of attorney in his favor to allow him to join them as one of the plaintiffs as their attorney-in-fact. Then, he

would file the necessary complaint and other pleadings “acting for and in his own behalf and as attorney-in-fact, agent or representative” of the parties. The fact that Karaan did not indicate in the pleadings that he was a member of the Bar, or any PTR, Attorney’s Roll, or MCLE Compliance Number does not detract from the fact that, by his actions, he was actually engaged in the practice of law.

Under Section 3(e), Rule 71 of the 1997 Rules of Civil Procedure, a person “[a]ssuming to be an attorney or an officer of a court, and acting as such without authority,” is liable for indirect contempt of court. Under Section 7 of the same rules, a respondent adjudged guilty of indirect contempt committed against a Regional Trial Court or a court of equivalent or higher rank “may be punished by a fine not exceeding thirty thousand pesos or imprisonment not exceeding six (6) months, or both.” If a respondent is adjudged guilty of contempt committed against a lower court, he “may be punished by a fine not exceeding five thousand pesos or imprisonment not exceeding one (1) month, or both.”

Following the ruling of this Court in *In re: Joaquin T. Borromeo*,^[6] the OCA recommended that Karaan be cited for indirect contempt and be sentenced to serve an imprisonment of ten days at the Manila City Jail, and to pay a fine of P1,000 with a warning that a repetition of any of the offenses, or any similar or other offense against the courts, judges or court employees will merit further and more serious sanctions. The OCA further recommended that a memorandum be issued to all courts of the land to notify the judges and court employees of Karaan’s unauthorized practice of law and to report to the OCA any further appearance to be made by Karaan. However, the records would show that Karaan is already 71 years old. In consideration of his old age and his state of health, we deem it proper to remove the penalty of imprisonment as recommended by the OCA and instead increase the recommended fine to P10,000.

WHEREFORE, we DENY the motion for reconsideration of the Court’s Resolution dated 24 November 2010 dismissing the complaint against Judge Antonio C. Lubao for being judicial in nature. We find REMBERTO C. KARAAN, SR. GUILTY of indirect contempt under Section 3(e), Rule 71 of the 1997 Rules of Civil Procedure and impose on him a Fine of Ten Thousand Pesos (P10,000).

Let a copy of this Resolution be furnished all courts of the land for their guidance and information. The courts and court employees are further directed to report to the Office of the Court Administrator any further appearance by Remberto C. Karaan, Sr. before their sala.

SO ORDERED.

Brion, Peralta,^[*] Sereno, and Reyes, JJ., concur.

[*] Designated additional member per Raffle dated 18 June 2012.

[1] OCA IPI No. 08-2053-MTJ, Re: Sps. Hospicio D. Santos, et al., represented by Remberto C. Karaan, Sr. v. Judge Manodon; OCA IPI No. 08-2025-MTJ, Re: Remberto C. Karaan, Sr., et al. v. Judge Buenaventura, et al.; OCA IPI No. 08-2041, Re: Remberto C. Karaan, Sr., et al. v. Judge Bravo; A.M. No. 07-1674 (formerly OCA IPI No. 04-1550-MTJ), Re: Remberto C. Karaan, Sr. v. Judge Lindo, et al.; OCA IPI No. 05-1796-MTJ, Re: Remberto C. Karaan, Sr. v. Judge Ortiz; OCA IPI No. 08-1974-MTJ, Re: Remberto C. Karaan, Sr. v. Judge Ocampo; and 02-1203-MTJ, Re: Remberto C. Karaan, Sr. v. Judge Lindo, et al.

[2] *Fortune Life Insurance Company, Inc. v. Luczon, Jr.*, A.M. No. RTJ-05-1901, 30 November 2006, 509 SCRA 65.

[3] G.R. No. 100113, 3 September 1991, 201 SCRA 210.

[4] Aguirre v. Rana, 451 Phil. 428 (2003).

[5] Id.

[6] 311 Phil. 441 (1995).

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