

DONNA MARIE S. AGUIRRE, COMPLAINANT, VS. EDWIN L. RANA, RESPONDENT.*Bar Matter No. 1036. June 10, 2003*

Ponente: CARPIO, J.

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CARPIO, J.:**The Case**

Before one is admitted to the Philippine Bar, he must possess the requisite moral integrity for membership in the legal profession. Possession of moral integrity is of greater importance than possession of legal learning. The practice of law is a privilege bestowed only on the morally fit. A bar candidate who is morally unfit cannot practice law even if he passes the bar examinations.

The Facts

Respondent Edwin L. Rana ("respondent") was among those who passed the 2000 Bar Examinations.

On 21 May 2001, one day before the scheduled mass oath-taking of successful bar examinees as members of the Philippine Bar, complainant Donna Marie Aguirre ("complainant") filed against respondent a Petition for Denial of Admission to the Bar. Complainant charged respondent with unauthorized practice of law, grave misconduct, violation of law, and grave misrepresentation.

The Court allowed respondent to take his oath as a member of the Bar during the scheduled oath-taking on 22 May 2001 at the Philippine International Convention Center. However, the Court ruled that respondent could not sign the Roll of Attorneys pending the resolution of the charge against him. Thus, respondent took the lawyer's oath on the scheduled date but has not signed the Roll of Attorneys up to now.

Complainant charges respondent for unauthorized practice of law and grave misconduct. Complainant alleges that respondent, while not yet a lawyer, appeared as counsel for a candidate in the May 2001 elections before the Municipal Board of Election Canvassers ("MBEC") of Mandaon, Masbate. Complainant further alleges that respondent filed with the MBEC a pleading dated 19 May 2001 entitled Formal Objection to the Inclusion in the Canvassing of Votes in Some Precincts for the Office of Vice-Mayor. In this pleading, respondent represented himself as "counsel for and in behalf of Vice Mayoralty Candidate, George Bunan," and signed the pleading as counsel for George Bunan ("Bunan").

On the charge of violation of law, complainant claims that respondent is a municipal government employee, being a secretary of the Sangguniang Bayan of Mandaon, Masbate. As such, respondent is not allowed by law to act as counsel for a client in any court or administrative body.

On the charge of grave misconduct and misrepresentation, complainant accuses respondent of acting as counsel for vice mayoralty candidate George Bunan ("Bunan") without the latter engaging respondent's services. Complainant claims that respondent filed the pleading as a ploy to prevent the proclamation of the winning vice mayoralty candidate.

On 22 May 2001, the Court issued a resolution allowing respondent to take the lawyer's oath but disallowed him from signing the Roll of Attorneys until he is cleared of the charges against him. In the same resolution, the Court required respondent to comment on the complaint against him.

In his Comment, respondent admits that Bunan sought his "specific assistance" to represent him before the MBEC. Respondent claims that "he decided to assist and advice Bunan, not as a lawyer but as a person who knows the law." Respondent admits signing the 19 May 2001 pleading that objected to the inclusion of certain votes in the canvassing. He explains, however, that he did not sign the pleading as a lawyer or represented himself as an "attorney" in the pleading.

On his employment as secretary of the Sangguniang Bayan, respondent claims that he submitted his resignation on 11 May 2001 which was allegedly accepted on the same date. He submitted a copy of the Certification of Receipt of Revocable Resignation dated 28 May 2001 signed by Vice-Mayor Napoleon Relox. Respondent further claims that the complaint is politically motivated considering that complainant is the daughter of Silvestre Aguirre, the losing candidate for mayor of Mandaon, Masbate. Respondent prays that the complaint be dismissed for lack of merit and that he be allowed to sign the Roll of Attorneys.

On 22 June 2001, complainant filed her Reply to respondent's Comment and refuted the claim of respondent that his appearance before the MBEC was only to extend specific assistance to Bunan. Complainant alleges that on 19 May 2001 Emily Estipona-Hao ("Estipona-Hao") filed a petition for proclamation as the winning candidate for mayor. Respondent signed as counsel for Estipona-Hao in this petition. When respondent appeared as counsel before the MBEC, complainant questioned his appearance on two grounds: (1) respondent had not taken his oath as a lawyer; and (2) he was an employee of the government.

Respondent filed a Reply (Re: Reply to Respondent's Comment) reiterating his claim that the instant administrative case is "motivated mainly by political vendetta."

On 17 July 2001, the Court referred the case to the Office of the Bar Confidant ("OBC") for evaluation, report and recommendation.

OBC's Report and Recommendation

The OBC found that respondent indeed appeared before the MBEC as counsel for Bunan in the May 2001 elections. The minutes of the MBEC proceedings show that respondent actively participated in the proceedings. The OBC likewise found that respondent appeared in the MBEC proceedings even before he took the lawyer's oath on 22 May 2001. The OBC believes that respondent's misconduct casts a serious doubt on his moral fitness to be a member of the Bar. The OBC also believes that respondent's unauthorized practice of law is a ground to deny his admission to the practice of law. The OBC therefore recommends that respondent be denied admission to the Philippine Bar.

On the other charges, OBC stated that complainant failed to cite a law which respondent allegedly violated when he appeared as counsel for Bunan while he was a government employee. Respondent resigned as secretary and his resignation was accepted. Likewise, respondent was authorized by Bunan to represent him before the MBEC.

The Court's Ruling

We agree with the findings and conclusions of the OBC that respondent engaged in the unauthorized practice of law and thus does not deserve admission to the Philippine Bar.

Respondent took his oath as lawyer on 22 May 2001. However, the records show that respondent appeared as counsel for Bunan prior to 22 May 2001, before respondent took the lawyer's oath. In the pleading entitled Formal

Objection to the Inclusion in the Canvassing of Votes in Some Precincts for the Office of Vice-Mayor dated 19 May 2001, respondent signed as "counsel for George Bunan." In the first paragraph of the same pleading respondent stated that he was the "(U)ndersigned Counsel for, and in behalf of Vice Mayoralty Candidate, GEORGE T. BUNAN." Bunan himself wrote the MBEC on 14 May 2001 that he had "authorized Atty. Edwin L. Rana as his counsel to represent him" before the MBEC and similar bodies.

On 14 May 2001, mayoralty candidate Emily Estipona-Hao also "retained" respondent as her counsel. On the same date, 14 May 2001, Erly D. Hao informed the MBEC that "Atty. Edwin L. Rana has been authorized by REFORMA LM-PPC as the legal counsel of the party and the candidate of the said party." Respondent himself wrote the MBEC on 14 May 2001 that he was entering his "appearance as counsel for Mayoralty Candidate Emily Estipona-Hao and for the REFORMA LM-PPC." On 19 May 2001, respondent signed as counsel for Estipona-Hao in the petition filed before the MBEC praying for the proclamation of Estipona-Hao as the winning candidate for mayor of Mandaon, Masbate.

All these happened even before respondent took the lawyer's oath. Clearly, respondent engaged in the practice of law without being a member of the Philippine Bar.

In *Philippine Lawyers Association v. Agrava*,^[1] the Court elucidated that:

The practice of law is not limited to the conduct of cases or litigation in court; it embraces the preparation of pleadings and other papers incident to actions and special proceedings, the management of such actions and proceedings on behalf of clients before judges and courts, and in addition, conveyancing. In general, all advice to clients, and all action taken for them in matters connected with the law, incorporation services, assessment and condemnation services contemplating an appearance before a judicial body, the foreclosure of a mortgage, enforcement of a creditor's claim in bankruptcy and insolvency proceedings, and conducting proceedings in attachment, and in matters of estate and guardianship have been held to constitute law practice, as do the preparation and drafting of legal instruments, where the work done involves the determination by the trained legal mind of the legal effect of facts and conditions. (5 Am. Jur. p. 262, 263). (Italics supplied) x x x

In *Cayetano v. Monsod*,^[2] the Court held 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. Generally, to practice law is to render any kind of service which requires the use of legal knowledge or skill.

Verily, respondent was engaged in the practice of law when he appeared in the proceedings before the MBEC and filed various pleadings, without license to do so. Evidence clearly supports the charge of unauthorized practice of law. Respondent called himself "counsel" knowing fully well that he was not a member of the Bar. Having held himself out as "counsel" knowing that he had no authority to practice law, respondent has shown moral unfitness to be a member of the Philippine Bar.^[3]

The right to practice law is not a natural or constitutional right but is a privilege. It is limited to persons of good moral character with special qualifications duly ascertained and certified. The exercise of this privilege presupposes possession of integrity, legal knowledge, educational attainment, and even public trust^[4] since a lawyer is an officer of the court. A bar candidate does not acquire the right to practice law simply by passing the bar examinations. The practice of law is a privilege that can be withheld even from one who has passed the bar examinations, if the person seeking admission had practiced law without a license.^[5]

The regulation of the practice of law is unquestionably strict. In *Beltran, Jr. v. Abad*,^[6] a candidate passed the bar examinations but had not taken his oath and signed the Roll of Attorneys. He was held in contempt of court for practicing law even before his admission to the Bar. Under Section 3 (e) of Rule 71 of the Rules of Court, a

person who engages in the unauthorized practice of law is liable for indirect contempt of court.[7]

True, respondent here passed the 2000 Bar Examinations and took the lawyer's oath. However, it is the signing in the Roll of Attorneys that finally makes one a full-fledged lawyer. The fact that respondent passed the bar examinations is immaterial. Passing the bar is not the only qualification to become an attorney-at-law.[8] Respondent should know that two essential requisites for becoming a lawyer still had to be performed, namely: his lawyer's oath to be administered by this Court and his signature in the Roll of Attorneys.[9]

On the charge of violation of law, complainant contends that the law does not allow respondent to act as counsel for a private client in any court or administrative body since respondent is the secretary of the Sangguniang Bayan.

Respondent tendered his resignation as secretary of the Sangguniang Bayan prior to the acts complained of as constituting unauthorized practice of law. In his letter dated 11 May 2001 addressed to Napoleon Relox, vice-mayor and presiding officer of the Sangguniang Bayan, respondent stated that he was resigning "effective upon your acceptance." [10] Vice-Mayor Relox accepted respondent's resignation effective 11 May 2001. [11] Thus, the evidence does not support the charge that respondent acted as counsel for a client while serving as secretary of the Sangguniang Bayan.

On the charge of grave misconduct and misrepresentation, evidence shows that Bunan indeed authorized respondent to represent him as his counsel before the MBEC and similar bodies. While there was no misrepresentation, respondent nonetheless had no authority to practice law.

WHEREFORE, respondent Edwin L. Rana is DENIED admission to the Philippine Bar.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., and Azcuna, JJ., concur.

[1] 105 Phil. 173 (1959).

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

[3] Yap Tan v. Sabandal, 211 Phil. 252 (1983).

[4] In the Matter of the Petition for Authority to Continue Use of the Firm Name Ozaeta, Romulo, etc., 30 July 1979, 92 SCRA 1.

[5] Ui v. Bonifacio, Administrative Case No. 3319, 8 June 2000, 333 SCRA 38.

[6] Bar Matter No. 139, 28 March 1983, 121 SCRA 217.

[7] People v. Santocildes, Jr., G.R. No. 109149, 21 December 1999, 321 SCRA 310.

[8] Diao v. Martinez, Administrative Case No. 244, 29 March 1963, 7 SCRA 475.

[9] Beltran, Jr. v. Abad, B.M. No. 139, 28 March 1983, 121 SCRA 217.

[10] Respondent's Comment, Annex "A".

[11] Ibid., Annex "B".

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