

**TOMAS G. TAN & CST ENTERPRISES INC., REPRESENTED BY
NELSON G. TAN, PETITIONERS, VS. IBP COMMISSION ON BAR
DISCIPLINE AND ATTY. JAIME N. SORIANO, RESPONDENTS**

G.R. NO. 173940 (Formerly CBD Case No. 02-967). September 05, 2006

Ponente: TINGA, J.

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TINGA, J.:

This petition stemmed from a pending disbarment case before the Integrated Bar of the Philippines.

Sometime in January of 2002, petitioner Tomas G. Tan (petitioner Tan), stockholder and director of co- petitioner CST Enterprises, Inc. (CST), discovered that two parcels of land owned by the corporation were used to obtain loans from Philippine Business Bank (PBB), with the real estate mortgage annotated at the back of the titles covering the properties. Upon verification, he learned that a certain John Dennis Chua, representing CST, mortgaged the properties. Chua was purportedly authorized by the Board of Directors of the corporation as shown by the Corporate Secretary's Certificate dated 04 April 2001 signed by Atty. Jaime N. Soriano (respondent).

On 28 May 2002, petitioner Tan filed in his personal capacity and as minority stockholder of CST under a derivative action, a letter-complaint with the IBP charging respondent of deceit, malpractice, falsification of public documents, gross misconduct and violation of oath of office.[1] According to petitioners, respondent has never been elected as corporate secretary nor acted as such for CST, and in fact no board meeting was held on 30 March 2001 to so authorize John Dennis Chua because on the said date two of three directors, petitioner Tan and Felipe Chua, were out of the country. Furthermore, John Dennis Chua has never been connected in any capacity with CST, petitioners aver.[2]

Petitioners also filed with the Regional Trial Court (RTC) of Makati a civil case docketed as Civil Case No. 02-299 and captioned as one for "Declaration of Unenforceability of Promissory Notes and Mortgage, Nullity of Secretary's Certificate, Injunction," Damages, etc. with Prayer for Issuance of TRO/ Preliminary Injunction, against respondent, Atty. Stephen Z. Taala and PBB, along with other persons.[3]

In the course of the proceedings in the said civil case, petitioners claim to have gathered more information and seen the "extent of the plot or machinations" of respondent and the participation of other individuals, including Atty. Taala who was the Assistant Vice President for Legal Services of PBB.[4] Atty. Taala had testified in Civil Case No. 02-299 that Felipe Chua personally delivered to him CST's titles to the mortgaged lots and that Felipe Chua assured him that respondent is the Corporate Secretary of CST.[5] Thus, CST's loan application was recommended for favorable consideration.

On 16 June 2003, petitioners filed with the IBP, Commission on Bar Discipline (Commission) a Motion to Amend/Supplement the Complaint with Motion to Admit Amended/Supplemental Complaint,[6] claiming that respondent and Atty. Taala had facilitated and recommended the approval of the allegedly spurious loans and mortgage entered into by John Dennis Chua. The Commission, however, denied the motion on 28 December 2003 on the ground that the amendments/supplements involve proceedings pending before the trial courts and that the

determination of the matters presented belong to said courts which have already acquired jurisdiction over them.[7]

Petitioners sought reconsideration of the order, but the Commission denied the motion, ruling that the Commission cannot make a premature finding on and/or investigation of the alleged acts of Atty. Taala since the same are the subject of a pending civil case. Anent the alleged untruthful statements of respondent, the Commission ruled that there is no need to amend the complaint since the said statements may be refuted in the ensuing proceedings in the case.[8]

Assailing the denial of the motion for the admission of the Amended/Supplemental Complaint, petitioners filed before this Court a petition for certiorari under Rule 65, wherein they impute grave abuse of discretion on the part of the Commission. Petitioners submit that respondent and Atty. Taala through false testimonies intend to bind CST to the spurious loans and real estate mortgage to its damage and prejudice.[9] They claim that the denial to admit the Amended/Supplemental Complaint would have the effect of preventing petitioners from filing a new complaint against respondent along with Atty. Taala for their conspiratorial illegal acts involving the same loan transactions, as any judgment of the Commission on the original complaint may serve as *res judicata* to bar judgment on the other acts complained of in the Amended/Supplemental Complaint.[10] Likewise, limiting the facts and issues to those defined in the original complaint would make respondent answerable only for the less serious charges subject of the original complaint but not for the graver charges in the Amended/Supplemental Complaint regarding respondent's untruthful allegations.[11]

In addition, petitioners claim that respondent's allegations in his Verified Answer are untruthful and perjurious as he knowingly cited untruthful testimonies and affidavits from the records of the civil case with the RTC of Makati. One such untruthful testimony is that of Atty. Taala to the effect that Felipe Chua personally delivered the original titles of the Muntinlupa properties to PBB in compliance with the loan requirements.[12] According to petitioners, Atty. Taala's twin claims that he met with Felipe Chua on 05 April 2001 and that Felipe Chua submitted the Secretary's Certificate on the same date are untruthful since Felipe was out of the country on the said date. Likewise, Felipe Chua could not have attended the meeting with respondent in January 2001 because he was also abroad at that time.[13]

Finally, petitioners aver that the proceeds of the spurious loans amounting to P91.1 Million Pesos covered by the real estate mortgage on CST's real estate properties were funneled to the Mabuhay Sugar Central, Inc., a corporation where respondent is the incorporator, stockholder and President.[14]

Petitioners thus pray of this Court to set aside the Commission's order denying admission of the Amended/Supplemental Complaint, or in the alternative, allow petitioner to file a new complaint against respondent and Atty. Taala based on the same loan transactions.[15]

In his Comment[16] before the Court, respondent claims that petitioners breached the rule that proceedings against attorneys should be kept private and confidential, when the latter disclosed in Civil Case No. 02-299 the contents of his Verified Answer filed before the Commission, quoting almost verbatim said contents. This had the effect of announcing to the whole world the pending disbarment case, respondent stresses, and is meant to harass and vex him, as well as to damage his reputation even before a final verdict is reached by the Commission. Respondent questions petitioners' motive in not filing a separate case before the IBP against Atty. Taala and accordingly having him tried separately. Finally, respondent posits that the Commission did not commit grave abuse of discretion in denying petitioner's motion to amend its complaint since the nullity or regularity of the mortgage loan in CST's name is not an issue in the administrative case against him.

The crux of the petition is whether the Commission committed grave abuse of discretion when it denied

petitioner's Amended/Supplemental Complaint.

The Commission did not. The petition must be dismissed.

Petitioners have filed Civil Case No. 02-299, seeking the declaration of unenforceability of promissory notes and mortgage, nullity of secretary's certificate, injunction, damages, and the issuance of a temporary restraining order or preliminary injunction. In the said case, petitioners allege that the loans contracted by CST from PBB were not sanctioned nor ratified by the CST Board of Directors and/ or stockholders, but were only facilitated by respondent and Atty. Taala, as well as by other persons through the use of the spurious Secretary's Certificate. Likewise pending is another case against respondent and John Dennis Chua, et al. for estafa through falsification of public documents, docketed as Criminal Case No. 04-3776 of the RTC of Makati which appears to involve the same allegedly unauthorized mortgage.[17]

The Court notes that petitioners are seeking similar, if not identical, reliefs from the regular courts and the Commission. Thus, in addition to the prayer to disbar respondent and Atty. Taala, petitioners implore the Commission to make a finding that respondent lawyers be found liable for using untruthful statements under oath, conspiracy to commit estafa, employing deceit and other manipulative acts as well as fraud, and falsification of public documents — charges which are included in his allegations in the civil and criminal cases.

Obviously, the Commission is not empowered to resolve matters which are pending resolution by the regular courts to which jurisdiction properly pertains. The IBP, particularly the Commission on Bar Discipline, is merely tasked to investigate and make recommendations on complaints for disbarment, suspension and discipline of lawyers. It is not a regular court and thus is not endowed with the power to investigate and resolve judicial matters pending before the regular courts.

To cite a specific vital aspect. In the proposed Amended/Supplemental Complaint, petitioners seek to hold respondent administratively liable for his "untruthful and perjurious" statements in his Verified Answer in the administrative case. Precisely, however, the truth or falsity of said statements are still to be litigated in the civil case.

Disbarment proceedings are sui generis, they belong to a class of their own, and are distinct from that of civil or criminal actions.[18] To be sure, a finding of liability in a civil case or a conviction in a criminal case is not necessary for finding a member of the bar guilty in an administrative proceeding. However, in the instant case, the civil and criminal cases involving the acts referred to in the proposed amended/supplemental complaint are still pending adjudication before the regular courts. Prudence dictates that the action of the Commission related to the proposed amended/supplemental complaint in the administrative case be sustained in order to avoid contradictory findings in that case and in the court cases.[19]

The call for judiciousness stems from the need to ensure the smooth and orderly disposition of the related cases pending before the courts and the Commission and avert conflict in the rulings in the bar discipline case and in the judicial cases. Preemption of the regular courts by an administrative case is a worrisome spectacle.

Now we turn to a significant sidelight.

Respondent charges petitioners with divulging what is essentially confidential information, which is a violation of Section 18,[20] Rule 139-B of the Rules of Court. He alleges that petitioners even made the basis of his amended complaint in the civil case the allegations contained in respondent's Verified Answer before the Commission.

A review of the records disclose that petitioners lifted and cited most of the amendatory averments in respondent's Verified Answer in the administrative case as the core of their Amended Complaint in the civil case. In fact,

petitioners even identified the Verified Answer and the disbarment proceedings itself as the sources of the averments in the Amended Complaint before the trial court, thus:

47. On May 28, 2002, disbarment/disciplinary proceedings were filed with the Commission on Bar Discipline of the Integrated Bar of the Philippines against Defendant Soriano for having executed such null and void secretary's certificate, among others. This disbarment case was docketed as CBD Case No. 02-967.

48. The averments of Defendant Soriano in his Verified Answer ("Soriano Verified Answer" for brevity) dated September 27, 2002 filed in said disbarment case, as well as the pertinent papers and earlier testimonies in this case and the results of the ongoing investigation and inquiries of Plaintiff Tan, further reveal: x x x.[21]

Disciplinary proceedings against a lawyer are private and confidential until its final determination.[22] The confidential nature of the proceedings has a three-fold purpose, to wit: (i) to enable the court and the investigator to make the investigation free from any extraneous influence or interference; (ii) to protect the personal and professional reputation of attorneys from baseless charges of disgruntled, vindictive and irresponsible persons or clients by prohibiting the publication of such charges pending their resolution; and (iii) to deter the press from publishing the charges or proceedings based thereon.[23]

Petitioners had in effect announced to the world the pending disbarment case against respondent. Not only did they disclose the ongoing proceedings, they also divulged most, if not all of the contents of respondent's Verified Answer. Clearly, petitioners' acts impinged on the confidential nature of the disbarment proceedings against Atty. Soriano.

WHEREFORE, the petition is DISMISSED. Petitioners are REMINDED to preserve the confidentiality of the administrative proceedings. The IBP is ordered to resume its hearings in CBD No. 02-267 consistently with this resolution. Costs against petitioners.

SO ORDERED.

Quisumbing, (Chairman), Carpio, Carpio-Morales, and Velasco, Jr. JJ., concur

[1] IBP records, Vol. IV, pp. 1-3.

[2] Id. at 2.

[3] IBP records, Vol. VI, pp. 137-178. Civil Case No. 02-299 was raffled to Branch 142 of the RTC, Makati.

[4] Rollo, p. 3.

[5] Id. at 32-33, citing the 24 October 2002 Order of the Makati RTC Branch 142 in Civil Case No. 02-299.

[6] Amended/Supplemental Complaint, rollo, pp. 15-82.

[7] IBP records, Vol. IV, p. 309.

[8] Id. at 346.

[9] Rollo, p. 8.

[10] Id. at 5.

[11] Id.

[12] Id. at 7.

[13]Id.

[14]Id. at 8.

[15]Petitioners did not seek this alternative relief in their Amended/Supplemental Complaint.

[16]Rollo, pp. 109-113.

[17]IBP records, Vol. VI, pp. 546-555. Attached to petitioner's Provisional Position Paper are copies of John Dennis Chua's Counter Affidavit and Rejoinder Affidavit, which form part of the records of Criminal Case No. 04-3776, entitled "People of the Philippines v. Jaime N. Soriano, et al.," pending before Makati RTC, Branch 139. From the contents of the said affidavits, it can be gathered that the allegations against the accused concern the procurement of the loans and the execution of the real estate mortgage over the properties of CST.

[18] Roldan v. Panganiban, A.C. No. 4552, 14 December 2004, 446 SCRA 249, 263.

[19]See Gerona v. Datingaling, A.C. No. 4801, 27 February 2003, 398 SCRA 148.

[20] Sec. 18. Confidentiality- Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decision in other cases.

[21] IBP records, Vol. VI, pp. 147-148.

[22] Supra note 21.

[23] R.A. Agpalo, The Code of Professional Responsibility for Lawyers, (1st ed. 1991) p. 347, citations omitted.

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