

FIRST DIVISION

[A.C. NO. 6549, September 22, 2006]

ROBERTO POON, COMPLAINANT, VS. ATTY. JANETTE BASSIG-CHUA, RESPONDENT.

D E C I S I O N

YNARES-SANTIAGO, J.:

Roberto Poon (Roberto) was the defendant in a case entitled "Metro Central Mercantile Corporation (MCMC) v. Robert Poon," for unlawful detainer and docketed as Civil Case No. 174709 before the Metropolitan Trial Court (MTC) of Manila, Branch 23, presided by Judge Tingaraan U. Guiling. Atty. Janette Bassig-Chua (respondent), on the other hand, was the counsel of the plaintiff, MCMC.

In a sworn complaint^[1] dated July 23, 2004, Roberto charged respondent with grave professional misconduct for deliberately failing to furnish his (Roberto) counsel, Atty. Antonio R. Tupaz (Atty. Tupaz) of the pleadings and motions she filed in Civil Case No. 174709. Roberto prays that respondent be disbarred for grave professional misconduct and for the total disregard of his right to due process.

Roberto alleged that when respondent filed a Complaint^[2] in behalf of her client, the same was deficient because it did not contain any Annex "B." Thus, Atty. Tupaz, filed a Motion to Complete the Complaint.^[3] Respondent filed an Opposition^[4] stating that the annexes were complete and that the Annex "B" referred to was a statement of account which had already been furnished to him before the filing of the complaint. Copy of said Opposition was served by respondent to Atty. Tupaz.

On March 18, 2003, respondent filed a Motion to Render Judgment^[5] contending that Roberto failed to file his answer within the reglementary period. Copy thereof was sent only to Roberto. On April 2, 2002, the MTC treated said motion as one to declare Roberto in default and directed respondent to show proof of service thereof to the latter. Indicated in the said order were the address of both Roberto and his counsel, Atty. Tupaz.^[6] In her Compliance dated April 10, 2003, respondent informed the MTC that the Motion to Render Judgment was personally served to Roberto. Again, copy of said compliance was furnished only to the latter but not to Atty. Tupaz.^[7]

On April 15, 2003, the MTC granted the Motion to Render Judgment^[8] and subsequently rendered a judgment^[9] in favor of MCMC on July 1, 2003. The MTC served copy of the said decision and April 15, 2003 order only to Roberto and not to Atty. Tupaz.

On September 23, 2003, Roberto filed a Petition for Certiorari and Injunction^[10] with Branch 33 of the Regional Trial Court (RTC) of Manila, but was denied for lack

of merit on December 4, 2003.^[11] Pending the resolution of Roberto's motion for reconsideration, respondent filed a motion for execution dated January 19, 2004 of the MTC decision. The same was granted by the MTC which issued a writ of execution directing Roberto to vacate the leased premises within five (5) days from receipt thereof.

Atty. Tupaz filed a Very Urgent Manifestation and Motion to Recall Order of Execution,^[12] to which respondent filed an Opposition.^[13] Roberto claimed that for the fourth time, respondent did not furnish Atty. Tupaz with a copy of the said Opposition. The MTC denied the Very Urgent Manifestation and Motion to Recall Order of Execution, hence, Roberto was ousted from the leased premises.

In sum, Roberto maintained that respondent failed to live up to a lawyer's duty to uphold the rights of the parties in a case, even that of the adverse party. Roberto asserts that respondent violated his right to due process by repeatedly and deliberately failing to furnish his counsel of the following pleadings: (1) Plaintiff's (Respondent) Motion to Render Judgment; (2) Compliance; (3) Motion for Execution; and (4) Opposition to the Very Urgent Manifestation and Motion to Recall Order of Execution.

Respondent argued that she did not commit any professional misconduct in not furnishing Roberto's counsel of the abovementioned pleadings. She averred that when she filed the Motion to Render Judgment on March 21, 2003, there was no legal basis to know that Roberto was represented by Atty. Tupaz because she received the Motion to Complete Complaint filed by the latter only on March 24, 2003, and prior to this, there was no formal appearance filed by the latter. Likewise, she claimed that Atty. Tupaz never appeared in the MTC case to represent the complainant.

Respondent added that she sent her Opposition to the Very Urgent Manifestation and Motion to Recall Order of Execution to Roberto because Atty. Tupaz again failed to indicate in the Notice of Hearing of said motion, the date and time of the setting of the hearing.

On October 4, 2005, Lydia A. Navarro, Investigating Commissioner of the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline recommended that respondent be suspended from the practice of law for a period of three months. Commissioner Navarro found that respondent admitted that she failed to furnish Atty. Tupaz with the pleadings she filed.

In a Resolution dated March 20, 2006,^[14] the IBP Board of Governors adopted and approved the recommendation of Commissioner Navarro.

The only issue for resolution is whether respondent should be held administratively liable for failure to furnish Atty. Tupaz of the pleadings she filed.

Section 2, Rule 13 of the Revised Rules of Court provides that service is the act of providing a party with a copy of the pleading or paper concerned. If any party has appeared by counsel, service upon him shall be made upon his counsel or one of them, unless service upon the party himself is ordered by the court. Moreover, an attorney is presumed to be properly authorized to represent any cause in which he