

## THIRD DIVISION

**[ A.C. NO. 6125, September 19, 2006 ]**

**SIMON D. PAZ, COMPLAINANT, VS. ATTY. PEPITO A. SANCHEZ,  
RESPONDENT**

### **D E C I S I O N**

**CARPIO, J.:**

#### **The Case**

This is a disbarment complaint filed by Simon D. Paz ("complainant") against Atty. Pepito A. Sanchez ("respondent") for representing conflicting interests and violation of the lawyer's oath.

#### **The Facts**

In his complaint dated 23 July 2003, complainant stated that sometime in 1995, complainant and his partners, Alfredo Uyecio and Petronila Catap, engaged the services of respondent to assist them purchase, as well as document the purchase, of several parcels of land from tenant- farmers in Pampanga. Respondent was also tasked to defend complainant's claim on the properties against the claim of a certain George Lizares ("Lizares").

The complaint arose because respondent, allegedly after the termination of his services in May 2000, filed a complaint before the Department of Agrarian Reform Board ("DARAB case") in behalf of one Isidro Dizon ("Dizon") for annulment of Transfer Certificate Title No. 420127-R ("TCT No. 420127-R") in the name of complainant and his partners. <sup>[1]</sup> Complainant explained that Dizon's property, covered by Emancipation Patent No. 00708554/Transfer Certificate Title No. 25214 ("TCT No. 25214"), was among those properties purchased by complainant with respondent's assistance. Complainant alleged that respondent is guilty of representing conflicting interests when he represented Dizon in a case involving the same properties and transactions in which he previously acted as complainant's counsel. Complainant added that respondent filed the DARAB case with "malicious machination" because respondent used complainant's old address to serve the complaint and summons, enabling respondent to obtain a judgment by default in Dizon's favor.

Complainant also stated that on 23 June 2003, respondent, despite knowledge of complainant's pending petition for review of judgment in the DARAB case, filed a civil case ("RTC case") against complainant and Sycamore Venture Corporation<sup>[2]</sup> ("Sycamore") before the Regional Trial Court of San Fernando, Pampanga, for annulment of Transfer Certificate of Title No. 483629-R ("TCT No. 483629-R").<sup>[3]</sup> Complainant pointed out that respondent should be punished for forum shopping and preparing a false certification of non-forum shopping because respondent failed

to disclose complainant's pending petition before the DARAB. Complainant also charged respondent with violation of the lawyer's oath because, "with malice and full knowledge of the real facts," respondent filed groundless and false suits against complainant, his partners and Sycamore.

In his comment dated 2 October 2003, respondent stated that he has been representing the tenant-farmers, including Dizon, in their cases before the DARAB and the courts since 1978. Respondent also represented the tenant-farmers against the claims of Lizares, who filed cases for the cancellation of their emancipation patents.

Respondent confirmed that in 1995, complainant and his partners expressed interest in acquiring Dizon's property. Respondent also explained that complainant and his partners, as buyers of the tenant-farmers' properties, were impleaded as defendants in the Lizares cases. Respondent came to represent complainant and his partners because they "did not get a lawyer of their own and allowed respondent to represent them too."<sup>[4]</sup>

On the DARAB case, respondent clarified that the complaint <sup>[5]</sup> was filed on 15 May 1997 and not, as complainant claimed, after respondent's services was terminated in May 2000. Respondent declared that he was compelled to file the case because he felt responsible for the cancellation of TCT No. 25214. Respondent explained that he lent Dizon's title to complainant and his partners enabling them to transfer the title in their names. Denying that there was "malicious machination" in the filing of the DARAB case, respondent stated that the address he placed was the address of complainant in 1997. The 20 August 2002 DARAB decision<sup>[6]</sup> specifically stated that a copy of the complaint, summons and notices were duly served and received by complainant and his partners. However, complainant and his partners ignored the complaint, summons and notices, which led to the issuance of a judgment in Dizon's favor. Moreover, there was entry of judgment<sup>[7]</sup> on 21 November 2002 and the writ of execution<sup>[8]</sup> was issued on 10 December 2002.

On the RTC case, respondent explained that he was compelled to file the case when he discovered that TCT No. 420127-R, in the name of complainant and his partners, was transferred in the name of Sycamore. Respondent pointed out that unless TCT No. 483629-R is nullified, the Register of Deeds cannot execute the DARAB decision. Respondent denied that he violated the prohibition on forum shopping.<sup>[9]</sup> Respondent also maintained that the cases he filed were "justifiable, tenable and meritorious."

In a Resolution dated 12 November 2003, the Court referred the case to the Integrated Bar of the Philippines ("IBP") for investigation, report and recommendation.

Commissioner Milagros V. San Juan ("Commissioner San Juan") set the case for mandatory conference on 4 March 2004. Both parties appeared and were given ten days to submit their position papers. Both parties complied.

### **The IBP's Report and Recommendation**

The IBP Board of Governors issued Resolution No. XVI-2005-78 dated 12 March

2005 adopting, with modification,<sup>[10]</sup> Commissioner San Juan's Report and Recommendation finding respondent guilty of violating the prohibition against representing conflicting interests. The IBP Board of Governors recommended the imposition on respondent of a penalty of one year suspension from the practice of law with a warning that a similar offense in the future will be dealt with more severely.

The IBP Board of Governors forwarded the case to the Court as provided under Section 12(b), Rule 139-B<sup>[11]</sup> of the Rules of Court.

### **The Court's Ruling**

The Court finds insufficient evidence to hold respondent liable for forum shopping and for filing groundless suits. However, the Court finds respondent liable for violation of the prohibition on representing conflicting interests.

#### ***On Respondent's Violation of the Rules on Non-Forum Shopping***

Forum shopping takes place when a litigant files multiple suits, either simultaneously or successively, involving the same parties to secure a favorable judgment.<sup>[12]</sup> Forum shopping exists if the actions raise identical causes of action, subject matter and issues.<sup>[13]</sup> The mere filing of several cases based on the same incident does not necessarily constitute forum shopping.<sup>[14]</sup>

The Court notes that the certification against forum shopping did not form part of the records of the case. However, a comparison of the two cases reveal that there was no forum shopping. Although both cases are related because Dizon's property is involved, the reliefs prayed for are different. In the DARAB case, Dizon prayed for the cancellation of TCT No. 420127-R in the name of complainant and his partners. In the RTC case, Dizon's widow prayed for the cancellation of TCT No. 483629-R in the name of Sycamore. Respondent cannot be held liable for forum shopping.

#### ***On Respondent's Violation of the Lawyer's Oath***

Lawyers take an oath that they will not wittingly or willingly promote any groundless, false or unlawful suit, nor give aid or consent to the same. The Court notes that the cases are still pending before the DARAB and the RTC. The Court, therefore, does not have any basis for ruling if there was a violation of the oath.

#### ***On Respondent's Violation of the Prohibition against Representing Conflicting Interests***

Rule 15.03 of the Code of Professional Responsibility provides that "a lawyer shall not represent conflicting interests except by written consent of all concerned given after full disclosure of the facts." Lawyers are deemed to represent conflicting interests when, in behalf of one client, it is their duty to contend for that which duty to another client requires them to oppose.<sup>[15]</sup> The proscription against representation of conflicting interest applies to a situation where the opposing parties are present clients in the same action or in an unrelated action.<sup>[16]</sup>