

FIRST DIVISION

[A.C. No. 4355, January 08, 2020]

ATTY. PEDRO B. AGUIRRE, COMPLAINANT, VS. ATTY. CRISPIN T. REYES, RESPONDENT.

DECISION

LAZARO-JAVIER, J.:

The Case

Almost a quarter of century ago, complainant Atty. Pedro B. Aguirre charged respondent Atty. Crispin T. Reyes with multiple violations of the Code of Professional Responsibility (CPR), *i.e.* Rule 3.01, Rule 8.01 in relation to Rule 19.01, and Rule 10.03 in relation to Rule 12.02.

Antecedents

Atty. Aguirre's Complaint^[1] dated December 1, 1994

Atty. Aguirre essentially stated:

Atty. Reyes violated Rule 3.01^[2] by making false claims in his memo^[3] dated December 20, 1993 addressed to the Board of Directors of Banco Filipino, which partly reads:

X X X

(5) Undersigned counsel was also mainly instrumental in winning the Supreme Court case (GR 70054) to reopen BF. He also made "a special arrangement" that is quite confidential which should not be divulged to "small men" like Mr. Gatmaitan. His Memo of Feb. 8, 1991, Aide Memoire of March 24, 1991 etc addressed to Don Tomas B. Aguirre attest to his modest but effectively fruitful professional services.

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These false statements, *i.e.*, that he was "*instrumental in winning the Supreme Court case*" and he made "*special arrangements*" put the Supreme Court in a bad light. They amounted to "*false, fraudulent, misleading, deceptive, undignified, self-laudatory or unfair statement or claim regarding his qualifications or legal services.*"

Atty. Reyes also violated Rule 8.01^[4] in relation to Rule 19.01^[5] when he drafted the following: 1) confidential/restricted memo^[6] dated March 28, 1994 addressed to all Banco Filipino directors and executive officers; and 2) Amended Complaint^[7] dated May 10, 1994 in SEC Case No. 04-94-4750 entitled "*Eduardo Rodriguez, et al. v. Tala Realty Services Corp., et al.*" He wrote the same on behalf of the minority

stockholders of Banco Filipino and addressed it to all concerned individuals at Tala Realty Corporation. He stated:

X X X

11. Truly, we have here the biggest bank fraud involving over P1 Billion of Banco Filipino properties sold by simulated contracts to Tala controlled by parties who were then BF Directors and now want the properties for themselves. Once litigated, the bank will be affected and damaged, while the good name, reputation, honesty and integrity of the 3 principal parties behind this sophisticated "plunder" will be destroyed. Hence, litigation should be avoided. This delicate case has to be resolved now confidentially and amicably to avoid disastrous scandal for all parties concerned.

12. The 3 principals behind/controlling Tala Realty Corporation should now be guided by their conscience. They are already very very rich. Their immense fortune can neither be taken beyond the grave while their children's children will still continue to live in abundance and luxury for all time.^[8]

X X X

In the amended complaint which Atty. Reyes filed with the SEC, he also averred:

33.3 Further, they also fraudulently covet and misappropriate for their own benefit these properties/funds/receivables belonging to Banco Filipino blatantly without the least shame or moral scruples to the great prejudice and gargantuan damage of the bank, hence, they are likewise criminally liable for related grave crimes punishable by the Revised Penal Code and the General Banking Act.^[9]

These statements were "*abusive, offensive, or otherwise improper.*" The same transcended the permissible bounds of legitimate criticism, hence, were violative of Rule 8.01.

Atty. Reyes, too, violated Rule 19.01 because he "*presented unfounded criminal charges to obtain an improper advantage in any case or proceeding*" when he filed criminal cases for estafa (against Nancy Ty, Pedro Aguirre, Elizabeth Palma, Rolando Salonga, Rubencito del Mundo, Virgilio Gesmundo, Pilar Ongking, Dolly Lim, Cynthia Mesina, John Does and Jane Does) and falsification (against Nancy Ty, Pedro Aguirre, John Doe, Peter Doe, Richard Doe and Jane Doe) with the prosecution services of Rizal, Makati, and Manila. By engaging in forum-shopping, Atty. Reyes committed malpractice.

Atty. Reyes's Comment and Counter Complaint

In his Comment with Counter Complaint for Disbarment,^[10] Atty. Reyes asserted in the main:

On October 6, 1993, his legal services were engaged to intervene in SEC Case Nos. 2693 and 219 specifically through a derivative suit purposely to protect the interests of BF Homes, which was being plundered by billions of pesos worth of assets. The measures he took in the SEC case were brought to the attention of BF Homes'

directors and management officers, yet, he was viciously subjected to all sorts of blame, ridicule, and aspersion.^[11]

On December 13, 1993, BF Homes Vice President Rodrigo Gatmaitan, Jr. issued a defamatory memo against him, prompting him, in turn, to issue a retaliatory memo on December 20, 1993. The memo was in defense of his good name, integrity, and honor as a man and as a professional. He was being blamed for the company's water shortage and the withdrawal of Balgos and Perez as BF Homes' counsel.^[12]

The language he used in his memo and amended complaint was not abusive nor offensive. The words were apt, vivid, picturesque, proper, and elegant.^[13] He did not initiate unfounded criminal charges to gain improper advantage. The criminal charge was an aspect of the efforts to recover eighteen (18) major Banco Filipino branches from Tala Realty Services Corporation. He pursued the complaints for estafa in Makati and for falsification of public documents in Manila on his client's instructions.^[14]

Atty. Aguirre should be the one disbarred for gross violation of the CPR: a) Canon 1 and Rules 1.01, 1.02; b) Canon 7 and Rule 7.03; and c) Canon 10 and Rule 10.01.

Atty. Aguirre was a major stockholder of Tala Realty Services Corporation through his dummy Rubencito del Mundo, a member of the company's board of directors. Sometime between 1979 and 1980, Banco Filipino assets were placed in trust with Tala. Together with other major stockholders, Atty. Aguirre used Tala to plunder and inflict irreparable damage on Banco Filipino. They sold some of its assets, specifically its major branches and pocketed the profits as their own. Atty. Aguirre had already received millions of pesos from renting out Banco Filipino properties and from selling Banco Filipino's properties situated in Parañaque, Recto, and Cervantes. Atty. Aguirre and his cohorts did not even render a complete accounting of the transactions involving Banco Filipino assets.^[15]

Atty. Aguirre's Comment

In his Comment^[16] dated May 19, 1995, Atty. Aguirre essentially riposted: the matters raised by Atty. Reyes including Tala's alleged ownership of the controversial properties should be threshed out in appropriate judicial proceedings. The counter-complaint for disbarment against him is another harassment suit which should be dismissed outright.

Proceedings Before the Integrated Bar of the Philippines - Commission on Bar Discipline (IDP-CBD)

By Resolution^[17] dated June 7, 1995, the Court referred the case to the Integrated Bar of the Philippines - Commission on Bar Discipline (IBP - CBD). After due proceedings, the IBP-CBD under Order^[18] dated February 2, 2006 directed the parties to manifest if they were still interested in pursuing the cases. In their respective manifestations,^[19] the parties expressed interest to continue with the case. Atty. Reyes also moved for consolidation of the complaint and the counter[-]complaint.^[20] Another round of proceedings was held, after which, the parties submitted their respective memoranda.^[21]

Report and Recommendation of the IBP-CBD

By its Report and Recommendation^[22] dated September 20, 2016, the IBP-CBD recommended the dismissal of both the complaint and the counter complaint by reason of the death of Atty. Aguirre (ADM Case No. 4355) and for failure of Atty. Reyes to substantiate his charge against Atty. Aguirre who, as stated, had already died (CBD Case No. 06-1664) thus:

Adm. Case No. 4355

(Atty. Pedro B. Aguirre v. Atty. Crispin T. Reyes)

The complainant [Atty. Pedro B. Aguirre] filed his Memorandum in July, 2007. The respondent [Atty. Crispin T. Reyes] filed his Memorandum in August, 2007. Since then, nothing has come out of this case. No proceedings of any kind were held in this case, and the parties alternated in having this case moved from one setting to another.

The complainant died on September 6, 2013. Proof of his death was received by the Commission. He died without being able to submit proof in support of his charges against the respondent.

On the other hand, the respondent is now a centenarian and long retired from professional practice. He had paid his dues, so to speak.

For the reasons that the complainant is already dead, that complainant had not completed his chore of submitting proof in support of his charges against the respondent, and that the respondent is already a centenarian long retired from the practice of the legal profession, it is hereby recommended that this case against respondent Atty. Crispin T. Reyes be dismissed.

CBD Case No. 06-1664

(Atty. Crispin T Reyes v. Atty. Pedro B. Aguirre)

In view of the death of respondent Atty. Pedro B. Aguirre on September 6, 2013, a fact established by a verified Certificate of Death submitted by respondent Aguirre's own counsel, it is respectfully recommended that the case against him [Atty. Pedro B. Aguirre] be dismissed for being moot and academic.

RESPECTFULLY SUBMITTED.^[23] *(italics supplied)*

Proceedings before this Court

By Resolution^[24] dated February 12, 2018, the Court, in A.C. No. 11903, adopted and approved the recommendation of the IBP-CBD, dismissing the complaint against Atty. Aguirre by reason of the latter's death (CBD Case No. 06-1664).

The only unresolved case now is A.C. No. 4355 which Atty. Aguirre filed against Atty. Reyes.

Issue

Should the complaint for disbarment against Atty. Reyes still proceed despite the death of complainant Atty. Aguirre?

Ruling

A disbarment case is sui generis

At the threshold, the Court emphasizes anew that a disbarment case, being *sui generis*, may proceed despite a complainant's desistance or failure to prosecute, thus:

A disbarment case is *sui generis* for it is neither purely civil nor purely criminal, but is rather an investigation by the court into the conduct of its officers. The issue to be determined is whether respondent is still fit to continue to be an officer of the court in the dispensation of justice. **Hence, an administrative proceeding for disbarment continues despite the desistance of a complainant, or failure of the complainant to prosecute the same**, or in this case, the failure of respondent to answer the charges against him despite numerous notices.

[25] (Emphasis supplied)

Further, lawyers are officers of the court who are empowered to appear, prosecute, and defend the causes of their clients. The law imposes on them peculiar duties, responsibilities and liabilities. Membership in the bar imposes on them certain obligations. They are duty bound to uphold the dignity of the legal profession. They must act honorably, fairly and candidly towards each other and otherwise conduct themselves beyond reproach at all times.^[26] Being, thus, officers of the court, complainants in cases against lawyers are treated as mere witnesses. Thus, complaints against lawyers may still proceed despite complainants' death. ***Tudtud v. Judge Coliflores***^[27] is relevant:

We do not agree with the recommendation. The death of the complainant herein does not warrant the non-pursuance of the charges against respondent Judge. In administrative cases against public officers and employees, the complainants are, in a real sense, only witnesses. **Hence, the unilateral decision of a complainant to withdraw from an administrative complaint, or even his death, as in the case at bar, does not prevent the Court from imposing sanctions upon the parties subject to its administrative supervision.** (Emphasis supplied)

Verily, Atty. Aguirre's death will not automatically warrant the dismissal of the disbarment complaint against Atty. Reyes.

We now resolve.

Quantum of evidence required in disbarment suits

In administrative proceedings, such as disbarment, the quantum of proof necessary for a finding of guilt is substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. Complainants have the burden of proving by substantial evidence the allegations in their complaints. The basic rule is that mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.^[28]