

## SECOND DIVISION

[ A.C. No. 12487, December 04, 2019 ]

**FE EUFEMIA E. VALMONTE, COMPLAINANT, VS. ATTY. JOSE C. QUESADA, JR., RESPONDENT.**

### DECISION

**HERNANDO, J.:**

Before the Court is a Complaint<sup>[1]</sup> disbarment dated November 11, 2014 filed by complainant Fe Eufemia Estalilla-Valmonte against respondent Atty. Jose C. Quesada, Jr. for violation of the Supreme Court's directive suspending him from the practice of law for a period of one (1) year pursuant to its December 2, 2013 Resolution in *Dagala v. Atty. Quesada, Jr.*<sup>[2]</sup>

The antecedent facts are as follows:

Complainant alleged that she the wife of Marcelo A. Valmonte, Jr.; that her husband was charged with murder of her brother, Manolo Estalilla (Manolo); that the murder case, docketed as Crim. Case No. 4573-BG, entitled *People of the Philippines v. Marcelo A. Valmonte, Jr.*, was raffled to the Regional Trial Court (RTC) of Bauang, La Union, Branch 33; that in March 2014, respondent entered his appearance in the said case as private prosecutor on behalf of the common-law wife of Manolo; that respondent filed several pleadings in the said case; and that complainant later learned that respondent entered his appearance and filed pleadings in court while he was serving his suspension from the practice of law.

Despite due notice, respondent failed to file a comment and to appear during the mandatory conference before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP).<sup>[3]</sup>

After considering the evidence presented by complainant, the Investigating Commissioner of the IBP submitted his Report and Recommendation<sup>[4]</sup> dated June 30, 2017 recommending that respondent be meted the penalty of suspension for another year from the practice of law for his unauthorized practice of law.

Finding the Report and Recommendation of the Investigating Commissioner fully supported by the evidence on record and the applicable laws and jurisprudence, the Board of Governors of the IBP, on June 28, 2018, resolved to adopt the same.<sup>[5]</sup>

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

The Court affirms the findings of the IBP, but with modifications as to its recommendations.

On December 2, 2013, the Court promulgated a Resolution in the case of *Dagala* suspending respondent from the practice of law for a period of one year effective from the date of his receipt of the said Resolution for failing to exercise the required diligence in handling the labor case of his client.<sup>[6]</sup> In the absence of any contrary evidence, a letter duly directed and mailed is presumed to have been received in the regular course of mail.<sup>[7]</sup> Here, respondent is presumed to have duly received the said Resolution.

In March 2014, or three months after the promulgation of the Resolution suspending him from the practice of law, respondent filed the following pleadings before the RTC of Bauang, La Union, in Crim. Case No. 4573-BG:

- 1) Notice of Appearance with Motion<sup>[8]</sup> on March 20, 2014;
- 2) Comment on the Opposition<sup>[9]</sup> on May 9, 2014; and
- 3) Motion to Withdraw Appearance as Private Prosecutor<sup>[10]</sup> on May 23, 2014.

Respondent's acts of signing and filing of pleadings for his client in Crim. Case No. 4573-BG months after the promulgation of the Resolution are clear proofs that he practiced law during the period of his suspension. And as aptly found by the IBP, respondent's unauthorized practice of law is considered a willful disobedience to lawful order of the court, which under Section 27,<sup>[11]</sup> Rule 138 of the Rules of Court is a ground for disbarment or suspension.

As to the penalty imposed, a review of recent jurisprudence reveals that the Court has consistently impose an additional suspension of six months on lawyers who continue to practice law despite their suspension.<sup>[12]</sup>

However, considering that the Court had already imposed upon respondent the ultimate penalty of disbarment for his gross misconduct and willful disobedience of the lawful orders of the court in an earlier complaint for disbarment filed against him in *Zarcilla v. Quesada, Jr.*,<sup>[13]</sup> the penalty of additional six months suspension from the practice of law can no longer be imposed upon him. The reason is obvious: "[o]nce a lawyer is disbarred, there is no penalty that could be imposed regarding his privilege to practice law."<sup>[14]</sup>

But while the Court can no longer impose the penalty upon the disbarred lawyer, it can still give the corresponding penalty only for the sole purpose of recording it in his personal file with the Office of the Bar Confidant (OBC), which should be taken into consideration in the event that the disbarred lawyer subsequently files a petition to lift his disbarment.<sup>[15]</sup>

In addition, the Court may also impose a fine<sup>[16]</sup> upon a disbarred lawyer found to have committed an offense prior to his/her disbarment as the Court does not lose its exclusive jurisdiction over other offenses committed by a disbarred lawyer while he/she was still a member of the Law Profession.<sup>[17]</sup> In fact, by imposing a fine, the Court is able "to assert its authority and competence to discipline all acts and actuations committed by the members of the Legal Profession."<sup>[18]</sup>