

EN BANC

[A.C. No. 8208, January 10, 2018]

**RET. JUDGE VIRGILIO ALPAJORA, COMPLAINANT, VS. ATTY.
RONALDO ANTONIO V. CALAYAN, RESPONDENT.**

DECISION

GESMUNDO, J.:

Before the Court is a Counter-Complaint^[1] filed by complainant (Ret.) Judge Virgilio Alpajora (*Complainant*) against respondent Atty. Ronaldo Antonio V. Calayan (*Respondent*), which originated from an administrative complaint filed by the latter against the former before the Office of the Court Administrator (OCA) for ignorance of the law and/or issuance of undue order. The administrative complaint against Judge Alpajora was dismissed by the Court in a Resolution,^[2] dated March 2, 2009, on the ground that the matters raised therein were judicial in nature.

In his Comment/Opposition with Counter-Complaint to Discipline Complainant,^[3] complainant charged respondent with (a) filing a malicious and harassment administrative case, (b) propensity for dishonesty in the allegations in his pleadings, (c) misquoting provisions of law, and (d) misrepresentation of facts. Complainant prayed for respondent's disbarment and cancellation of his license as a lawyer.

The Antecedents

Prior to this case, an intra-corporate case docketed as Civil Case No. 2007-10 and entitled "*Calayan Educational Foundation Inc. (CEFI), Dr. Arminda Calayan, Dr. Bernardita Calayan-Brion and Dr. Manuel Calayan vs. Atty. RONALDA A.V. Calayan, Susan S. Calayan and Deanna Rachelle S. Calayan*," was filed before the Regional Trial Court (RTC) of Lucena City designated as commercial court and presided by Judge Adolfo Encomienda. Respondent was President and Chairman of the Board of Trustees of CEFI. He signed and filed pleadings as "Special Counsel *pro se*" for himself. Court proceedings ensued despite several inhibitions by judges to whom the case was re-raffled until it was finally re-raffled to complainant. Thereafter, complainant issued an Omnibus Order,^[4] dated July 11, 2008 for the creation of a management committee and the appointment of its members. That Order prompted the filing of the administrative case against the Judge Alpajora.

The administrative case against complainant was dismissed. The Court, however, referred the comment/opposition with counter-complaint filed by complainant in the administrative case against him to the Office of the Bar Confidant (OBC) for appropriate action.

The OBC deemed it proper to re-docket the counter-complaint as a regular administrative case against respondent. Thus, in a Resolution,^[5] dated June 3,

2009, upon recommendation of the OBC, the Court resolved to require respondent to submit his comment on the counter-complaint.

In its Resolution,^[6] dated September 9, 2009, the Court noted respondent's comment and referred the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

After a mandatory conference before the IBP, both parties were directed to submit their respective verified position papers.

Position of complainant

Complainant alleged that he partially tried and heard Civil Case No. 2007-10, an intra-corporate case filed against respondent, when he later voluntarily inhibited himself from it on account of the latter's filing of the administrative case against him.

The intra-corporate case was previously tried by Presiding Judge Adolfo Encomienda (*Presiding Judge Encomienda*) until he voluntarily inhibited after respondent filed an Urgent Motion to Recuse and a Supplement to Defendant's Urgent Motion to Recuse on the grounds of undue delay in disposing pending incidents, gross ignorance of the law and gross inefficiency.^[7] The motions came after Presiding Judge Encomienda issued an order appointing one Atty. Antonio Acyatan (*Atty. Acyatan*) as receiver, who was directed to immediately take over the subject corporation.

After Presiding Judge Encomienda inhibited himself, the case was reraffled to the sala of Executive Judge Norma Chionglo-Sia, who also inhibited herself because she was about to retire. The case was referred to Executive Judge Eloida R. de Leon-Diaz for proper disposition and reraffle.^[8] The case was finally raffled to complainant.^[9]

Complainant averred that the administrative case against him by respondent was brought about by his issuance of the omnibus order, dated July 11, 2008, where he ordered the creation of a management committee and appointment of its members. Meanwhile, the RTC resolved that Atty. Acyatan continue to discharge his duties and responsibilities with such powers and authority as the court-appointed receiver. The trial court also authorized the foundation to pay Atty. Acyatan reimbursement expenses and professional charges. Complainant claimed that his order was not acceptable to respondent because he knew the import and effect of the said order that he, together with his wife and daughter, would lose their positions as Chairman, Treasurer and Secretary, respectively, and as members of the Board of Trustees of the CEFI.^[10]

Complainant further claimed that before the records of Civil Case 2007-10 was transmitted to his sala and after he had inhibited from said case, respondent filed thirteen (13) civil and special actions before the RTC of Lucena City.^[11] Atty. Calayan also filed two (2) related intra-corporate controversy cases - violating the rule on splitting causes of actions - involving the management and operation of the foundation. According to complainant, these showed the propensity and penchant of respondent in filing cases, whether or not they are baseless, frivolous or unfounded, with no other intention but to harass, malign and molest his opposing parties,

including the lawyers and the handling judges. Complainant also revealed that respondent filed two (2) other administrative cases against a judge and an assisting judge in the RTC of Lucena City, which were dismissed because the issues raised were judicial in nature.^[12]

Complainant also disclosed that before his sala, respondent filed eighteen (18) repetitious and prohibited pleadings.^[13] Respondent continuously filed pleadings after pleadings as if to impress upon the court to finish the main intra-corporate case with such speed. To complainant's mind, the ultimate and ulterior objective of respondent in filing the numerous pleadings, motions, manifestation and explanations was to prevent the takeover of the management of CEFI and to finally dismiss the case at the pre-trial stage.

Complainant further revealed that due to the series of motions for recusation or inhibition of judges, there is no presiding judge in Lucena City available to try and hear the Calayan cases. Moreover, respondent filed nine (9) criminal charges against opposing lawyers and their respective clients before the City Prosecutor of Lucena City. In addition, there were four (4) administrative cases filed against opposing counsels pending before the IBP Commission on Bar Discipline.^[14]

Based on the foregoing, complainant asserted that respondent committed the following: (1) serious and gross misconduct in his duties as counsel for himself; (2) violated his oath as lawyer for [a] his failure to observe and maintain respect to the courts (Section 20(b), Rule 138, Rules of Court); [b] by his abuse of judicial process thru maintaining actions or proceedings inconsistent with truth and honor and his acts to mislead the judge by false statements (Section 20(d), Rule 138); (3) repeatedly violated the rules of procedures governing intra-corporate cases and maliciously misused the same to defeat the ends of justice; and (4) knowingly violated the rule against the filing of multiple actions arising from the same cause of action.

Position of respondent

In his Position Paper,^[15] respondent countered that the subject case is barred by the doctrine of *res judicata*.

According to him, the counter-complaint was integrated with the Comment/Opposition of complainant in the administrative case docketed as A.M. OCA I.P.I. No. 08-2968-RTJ filed by respondent against the latter. He stressed that because no disciplinary measures were levelled on him by the OCA as an outcome of his complaint, charges for malpractice, malice or bad faith were entirely ruled out; moreso, his disbarment was decidedly eliminated.^[16] Respondent argued that the doctrine of *res judicata* was embedded in the OCA's finding that his complaint was judicial in nature.^[17] He likewise averred that the conversion of the administrative complaint against a judge into a disbarment complaint against him, the complaining witness, was hideously adopted to deflect the charges away from complainant. Respondent insisted that the counter-complaint was not sanctioned by the Rules of Court on disbarment and the Rules of Procedure of the Commission on Bar Discipline.^[18]

Respondent also claimed that the counter-complaint was unverified and thus, without complainant's own personal knowledge; instead, it is incontrovertible proof of his lack of courtesy and obedience toward proper authorities and fairness to a fellow lawyer.^[19]

Further, respondent maintained that complainant committed the following: 1) grossly unethical and immoral conduct by his impleading a non-party;^[20] (2) betrayal of his lawyer's oath and the Code of Professional Responsibility (CPR);^[21] (3) malicious and intentional delay in not terminating the pre-trial,^[22] in violation of the Interim Rules because he ignored the special summary nature of the case;^[23] and (4) misquoted provisions of law and misrepresented the facts.^[24]

Lastly, it was respondent's submission that the counter-complaint failed to adduce the requisite quantum of evidence to disbar him, even less, to cite him in contempt of court assuming *ex gratia* the regularity of the referral of the case.^[25]

Report and Recommendation of the IBP Commission on Bar Discipline

In its Report and Recommendation,^[26] the Investigating Commissioner noted that, instead of refuting the allegations and evidence against him, respondent merely reiterated his charges against complainant. Instead of asserting his defense against complainant's charges, the position paper for the respondent appeared more to be a motion for reconsideration of the Resolution dated March 2, 2009 rendered by the Supreme Court, dismissing the administrative case against complainant.^[27]

In any case, based on the parties' position papers, the Investigating Commissioner concluded that respondent violated Section 20, Rule 138 of the Rules of Court,^[28] Rules 8.01, 10.01 to 10.03, 11.03, 11.04, 12.02 and 12.04 of the CPR^[29] and, thus, recommended his suspension from the practice of law for two (2) years,^[30] for the following reasons:

First, respondent did not deny having filed four (4) cases against the counsel involved in the intra-corporate case from which the subject administrative cases stemmed, and nine (9) criminal cases against the opposing parties, their lawyers, and the receiver before the Office of the Prosecutor of Lucena City all of which were subject of judicial notice. The Investigating Commissioner opined that such act manifested respondent's malice in paralyzing these lawyers from exerting their utmost effort in protecting their client's interest.^[31]

Second, respondent committed misrepresentation when he cited a quote from former Chief Justice Hilario Davide, Jr. as a thesis when, in fact, it was a dissenting opinion. The Investigating Commissioner further opined that describing the supposed discussions by the judge with respondent's adverse counsels as contemplated crimes and frauds is not only grave but also unfounded and irrelevant to the present case.^[32]

Third, respondent grossly abused his right of recourse to the courts by the filing of multiple actions concerning the same subject matter or seeking substantially identical relief.^[33] He admitted filing pleadings indiscriminately, but argued that it

was within his right to do so and it was merely for the purpose of saving CEFI from imminent downfall.^[34] The Investigating Commissioner opined that the filing of multiple actions not only was contemptuous, but also a blatant violation of the lawyer's oath.^[35]

Fourth, respondent violated Canon 11 of the CPR by attributing to complainant ill-motives that were not supported by the record or had no materiality to the case.^[36] He charged complainant with coaching adverse counsel on account of their alleged close ties, inefficiency in dealing with his pleadings, acting with dispatch on the adverse party's motions, partiality to the plaintiffs because he was a townmate of Presiding Judge Encomienda, and arriving at an order without predicating the same on legal bases under the principle of *stare decisis*.^[37] According to the Investigating Commissioner, these charges are manifestly without any basis and also established respondent's disrespect for the complainant.^[38]

Based on the findings, the Investigating Commissioner ultimately concluded:

As a party directly involved in the subject intra-corporate controversy, it is duly noted that Respondent was emotionally affected by the ongoing case. His direct interest in the proceedings apparently clouded his judgment, on account of which he failed to act with circumspect in his choice of words and legal remedies. Such facts and circumstances mitigate Respondent's liability. Hence, it is hereby recommended that Respondent be suspended from the practice of law for two (2) years.^[39]

Consequently, the IBP Board of Governors issued a Resolution^[40] adopting and approving the report and recommendation of the Investigating Commissioner. It recommended the suspension of respondent from the practice of law for two (2) years.

Aggrieved, respondent moved for reconsideration.

In a Resolution,^[41] dated May 4, 2014, the IBP Board of Governors denied respondent's motion for reconsideration as there was no cogent reason to reverse the findings of the Commission and the motion was a mere reiteration of the matters which had already been threshed out.

Hence, pursuant to Section 12(b), Rule 139-B of the Rules of Court,^[42] the Resolution of the IBP Board of Governors, together with the whole record of the case, was transmitted to the Court for final action.

Ruling of the Court

The Court adopts the findings of the Investigating Commissioner and the recommendation of the IBP Board of Governors.

It bears stressing that membership in the bar is a privilege burdened with conditions. It is bestowed upon individuals who are not only learned in law, but also known to possess good moral character. Lawyers should act and comport themselves with honesty and integrity in a manner beyond reproach, in order to