

SECOND DIVISION

**[A.C. No. 9257 (Formerly CBD Case No. 12-3490),
March 05, 2018]**

**EDGAR M. RICO, COMPLAINANT, V. ATTY. REYNALDO G.
SALUTAN, RESPONDENT.**

D E C I S I O N

PERALTA, J.:

The present case was initiated through a letter complaint to Judge Antonio P. Laolao, Sr., Presiding Judge of Municipal Trial Court, Branch 6, Davao City, against respondent Atty. Reynaldo G. Salutan for purportedly misleading the court and for contempt of court.

The factual and procedural antecedents of the case are as follows:

Complainant Edgar M. Rico explained that his relatives were plaintiffs in a civil case for Forcible Entry before the Municipal Trial Court in Cities (MTCC), Branch 4, Davao City. The court had ordered the defendants to restore plaintiffs' possession of the subject properties, remove all structures that had been introduced on the same, and to pay reasonable sum for their occupation of the properties.

Milagros Villa Abrille, one of the defendants in the aforementioned case, filed a separate case for Unlawful Detainer against Rico covering the same property. On November 6, 2001, the MTCC ordered Rico to vacate the premises. Subsequently, the Regional Trial Court (RTC) affirmed the MTCC ruling and issued a Writ of Execution.

On July 9, 2004, the court's sheriff executed a Return Service stating that the writ could not be served on Rico since the property subject of the case was different from the lot which Rico was occupying. Thereafter, Villa Abrille, through her counsel, respondent Atty. Salutan, filed a motion for the issuance of an Alias Writ of Execution. On May 15, 2007, the sheriff executed a Return of Service again since the alias writ could not be enforced for the same reason as the first time. On April 4, 2008, Villa Abrille once again filed a motion for the issuance of another Alias Writ of Execution, which, this time, the MTCC denied. Hence, Villa Abrille went to the Court for the issuance of a Writ of *Mandamus* to compel the MTCC to issue another Writ of Execution and for the sheriff to implement the same. The Court, however, dismissed the case.

For the fourth (4th) time, Villa Abrille filed another motion for the issuance of a Writ of Execution. This time, the MTCC granted it. Consequently, the court sheriff issued a Final Notice to Vacate to Rico on June 10, 2010. On June 15, 2010, the same sheriff led the demolition of the house and other improvements on the property. Thus, Rico filed the administrative complaint against Atty. Salutan.

For his part, Atty. Salutan denied the charges and argued that he merely advocated for his client's cause and did the same within the bounds of the law and of the rules. He merely did what a zealous lawyer would naturally do in representation of his client.

On January 2, 2013, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) recommended the dismissal of the administrative complaint against Atty. Salutan, to wit:

Foregoing premises considered, the undersigned believes and so holds that the complaint is without merit. Accordingly, he recommends DISMISSAL of the same.^[1]

On March 21, 2013, the IBP Board of Governors passed Resolution No. XX-2013-357,^[2] which adopted the abovementioned recommendation, thus:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, the case is hereby **DISMISSED**.*

Thereafter, Rico moved for reconsideration of said Resolution. On March 23, 2014, the IBP Board of Governors passed another resolution, Resolution No. XXI-2014-183,^[3] denying said motion for reconsideration and approving its 2013 Resolution, to wit:

*RESOLVED to DENY Complainant's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XX-2013-357 dated March 21, 2013 is hereby **AFFIRMED**.*

The Court's Ruling

The Court finds no cogent reason to depart from the findings and recommendation of the IBP that the instant administrative complaint against Atty. Salutan must be dismissed.

In administrative proceedings, the burden of proof rests upon the complainant. For the court to exercise its disciplinary powers, the case against the respondent must be established by convincing and satisfactory proof.^[4]

Here, despite the charges hurled against Atty. Salutan, Rico failed to show any badge of deception on the lawyer's part. There was no court decision declaring that Villa Abrille's title was fake or that it had encroached on Rico's property. All that Atty. Salutan did was to zealously advocate for the cause of his client. He was not shown to have misled or unduly influenced the court through misinformation. He merely persistently pursued said cause and he did so within the bounds of the law and the existing rules. He succeeded at finally having the writ of execution, albeit at the fourth (4th) time, implemented.