

## **FIRST DIVISION**

**[ A.C. No. 5333, March 13, 2017 ]**

**ROSA YAP PARAS, COMPLAINANT, VS. JUSTO DE JESUS PARAS,  
RESPONDENT.**

### **R E S O L U T I O N**

**PERLAS-BERNABE, J.:**

This administrative case stemmed from the disbarment complaint<sup>[1]</sup> (1995 complaint) filed by Rosa Yap Paras (complainant) against her husband Justo de Jesus Paras (respondent) for which he was suspended from the practice of law for a year. The issues before the Court now are (a) whether respondent should be held administratively liable for allegedly violating his suspension order and (b) whether his suspension should be lifted.

#### **The Facts**

In a Decision<sup>[2]</sup> dated October 18, 2000, the Court suspended respondent from the practice of law for six (6) months for falsifying his wife's signature in bank documents and other related loan instruments, and for one (1) year for immorality and abandonment of his family, with the penalties to be served simultaneously.<sup>[3]</sup> Respondent moved for reconsideration<sup>[4]</sup> but the Court denied it with finality in a Resolution<sup>[5]</sup> dated January 22, 2001.

On March 2, 2001, complainant filed a Motion<sup>[6]</sup> to declare in contempt and disbar respondent and his associate, Atty. Richard R. Enojo (Atty. Enojo), alleging that respondent continued to practice law, and that Atty. Enojo signed a pleading prepared by respondent, in violation of the suspension order.<sup>[7]</sup> Moreover, complainant claimed that respondent appeared before a court in Dumaguete City on February 21, 2001, thereby violating the suspension order.<sup>[8]</sup> On March 26, 2001, complainant filed a second motion for contempt and disbarment,<sup>[9]</sup> claiming that, on March 13, 2001, Atty. Enojo again appeared for Paras and Associates, in willful disobedience of the suspension order issued against respondent.<sup>[10]</sup> Complainant filed two (2) more motions for contempt dated June 8, 2001<sup>[11]</sup> and August 21, 2001<sup>[12]</sup> raising the same arguments. Respondent and Atty. Enojo filed their respective comments,<sup>[13]</sup> and complainant filed her replies<sup>[14]</sup> to both comments. Later on, respondent filed a Motion to Lift Suspension<sup>[15]</sup> dated May 27, 2002, informing the Court that he completed the suspension period on May 22, 2002. Thereafter, respondent admitted that he started accepting new clients and cases after the filing of the Motion to Lift Suspension.<sup>[16]</sup> Also, complainant manifested that respondent appeared before a court in an election case on July 25, 2002 despite the pendency of his motion to lift suspension. In view of the foregoing, the

Court referred the matter to the Integrated Bar of the Philippines (IBP) for report and recommendation.<sup>[17]</sup>

On March 26, 2003, complainant filed an Ex-Parte Motion for Clarificatory Order<sup>[18]</sup> on the status of respondent's suspension, essentially inquiring whether respondent can resume his practice prior to the Court's order to lift his suspension.<sup>[19]</sup> Meanwhile, the Office of the Bar Confidant (OBC) received the same inquiry through a Letter<sup>[20]</sup> dated March 21, 2003 signed by Acting Municipal Circuit Trial Court (MCTC) Judge Romeo Anasario of the Second MCTC of Negros Oriental. Accordingly, the Court referred the foregoing queries to the OBC for report and recommendation.<sup>[21]</sup>

In a Report and Recommendation<sup>[22]</sup> dated June 22, 2004, the OBC recommended that the Court issue an order declaring that respondent cannot engage in the practice of law until his suspension is ordered lifted by the Court.<sup>[23]</sup> Citing case law, the OBC opined that the lifting of a lawyer's suspension is not automatic upon the end of the period stated in the Court's decision and an order from the Court lifting the suspension is necessary to enable him to resume the practice of his profession. In this regard, the OBC noted that: (a) respondent's suspension **became effective on May 23, 2001** upon his receipt of the Court resolution denying his motion for reconsideration with finality; and (b) considering that the suspensions were to be served simultaneously, the period of suspension **should have ended on May 22, 2002**.<sup>[24]</sup> To date, however, the Court has not issued any order lifting the suspension.

Soon thereafter, in a Resolution<sup>[25]</sup> dated August 2, 2004, the Court directed the IBP to submit its report and recommendation on the pending incidents referred to it. Since no report was received until 2013, the Court was constrained to issue a Resolution<sup>[26]</sup> dated January 20, 2014, requiring the IBP to submit a status report regarding the said incidents. In response, the IBP-Commission on Bar Discipline sent a letter<sup>[27]</sup> to the Court, conveying that the Board of Governors had passed a Resolution dated April 15, 2013 affirming respondent's suspension from the practice of law.<sup>[28]</sup> However, in view of the pendency of respondent's motion for reconsideration before it, the IBP undertook to transmit the case records to the Court as soon as said motion is resolved.<sup>[29]</sup> Thereafter, in a letter<sup>[30]</sup> dated September 22, 2015, the IBP advised the Court that it denied respondent's motion for reconsideration. The Court received the records and relevant documents only on February 15, 2016.<sup>[31]</sup>

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

In the Report and Recommendation<sup>[32]</sup> dated January 16, 2012, instead of resolving only the pending incidents referred to the IBP, the IBP Investigating Commissioner examined anew the 1995 complaint filed against respondent which had been resolved with finality by the Court in its Decision dated October 18, 2000 and Resolution dated January 22, 2001. The Investigating Commissioner recommended that respondent be suspended from the practice of law for two (2) years for falsifying his wife's signature in the bank loan documents and for immorality.<sup>[33]</sup>

In a Resolution<sup>[34]</sup> dated April 15, 2013, the IBP Board of Governors adopted and approved the Report and Recommendation dated January 16, 2012, with modification decreasing the recommended penalty to suspension from the practice of law for one (1) year.<sup>[35]</sup> Aggrieved, respondent Filed a motion for reconsideration,<sup>[36]</sup> alleging that his administrative liability based on the charges in the 1995 complaint had been settled more than a decade ago in the Court's Decision dated October 18, 2000. He added that to suspend him anew for another year based on the same grounds would constitute administrative double jeopardy. He stressed that the post-decision referral of this case to the IBP was limited only to pending incidents relating to the motion to declare him in contempt and his motion to lift the suspension. Such motion was, however, denied in a Resolution dated June 7, 2015.<sup>[37]</sup>

### **The Issues Before the Court**

The core issues in this case are: (a) whether respondent should be administratively held liable for practicing law while he was suspended; and (b) whether the Court should lift his suspension.

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

At the outset, the Court notes that the instant matters referred to the IBP for investigation, report, and recommendation pertain to respondent's alleged violation of the suspension order and his request for the Court to lift the suspension order. However, the IBP Investigating Commissioner evidently did not dwell on such matters. Instead, the IBP Investigating Commissioner proceeded to determine respondent's liability based on the 1995 complaint filed by herein complainant – which was already resolved with finality by no less than the Court itself. To make things worse: (a) the IBP Board of Governors failed to see the IBP Investigating Commissioner's mishap, and therefore, erroneously upheld the latter's report and recommendation; and (b) it took the IBP more than a decade to resolve the instant matters before it. Thus, this leaves the Court with no factual findings to serve as its basis in resolving the issues raised before it.

Generally, the IBP's formal investigation is a mandatory requirement which may not be dispensed with, except for valid and compelling reasons,<sup>[38]</sup> as it is essential to accord both parties an opportunity to be heard on the issues raised.<sup>[39]</sup> Absent a valid fact-finding investigation, the Court usually remands the administrative case to the IBP for further proceedings.<sup>[40]</sup> However, in light of the foregoing circumstances, as well as respondent's own admission that he resumed practicing law even without a Court order lifting his suspension, the Court finds a compelling reason to resolve the matters raised before it even without the IBP's factual findings and recommendation thereon.

According to jurisprudence, the "practice of law embraces any activity, in or out of court, which requires the application of law, as well as legal principles, practice or procedure[,] and calls for legal knowledge, training[,] and experience."<sup>[41]</sup> During the suspension period and before the suspension is lifted, a lawyer must desist from practicing law.<sup>[42]</sup> It must be stressed, however, that a lawyer's suspension is not automatically lifted upon the lapse of the suspension period.<sup>[43]</sup> The lawyer must

submit the required documents and wait for an order from the Court lifting the suspension before he or she resumes the practice of law.<sup>[44]</sup>

In this case, the OBC correctly pointed out that respondent's suspension period became effective on May 23, 2001 and lasted for one (1) year, or until May 22, 2002. Thereafter, respondent filed a motion for the lifting of his suspension. However, soon after this filing and without waiting for a Court order approving the same, respondent admitted to accepting new clients and cases, and even working on an amicable settlement for his client with the Department of Agrarian Reform.<sup>[45]</sup> Indubitably, respondent engaged in the practice of law without waiting for the Court order lifting the suspension order against him, and thus, he must be held administratively liable therefor.

Under Section 27, Rule 138 of the Rules of Court, willful disobedience to any lawful order of a superior court and willfully appearing as an attorney without authority to do so – acts which respondent is guilty of in this case – are grounds for disbarment or suspension from the practice of law,<sup>[46]</sup> to wit:

*Section 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. — **A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court** for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or **for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do.** The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphases and underscoring supplied)*

Anent the proper penalty to be imposed on respondent, prevailing case law<sup>[47]</sup> shows that the Court consistently imposed an additional suspension of six (6) months on lawyers who continue practicing law despite their suspension. Thus, an additional suspension of six (6) months on respondent due to his unauthorized practice of law is proper. The Court is mindful, however, that suspension can no longer be imposed on respondent considering that just recently, respondent had already been disbarred from the practice of law and his name had been stricken off the Roll of Attorneys in *Paras v. Paras*.<sup>[48]</sup> In *Sanchez v. Torres*,<sup>[49]</sup> the Court ruled that the penalty of suspension or disbarment can no longer be imposed on a lawyer who had been previously disbarred.<sup>[50]</sup> Nevertheless, it resolved the issue on the lawyer's administrative liability for recording purposes in the lawyer's personal file in the OBC. Hence, the Court held that respondent therein should be suspended from the practice of law, although the said penalty can no longer be imposed in view of his previous disbarment. In the same manner, the Court imposes upon respondent herein the penalty of suspension from the practice of law for a period of six (6) months, although the said penalty can no longer be effectuated in view of his previous disbarment, but nonetheless should be adjudged for recording purposes. That being said, the issue anent the propriety of lifting his suspension is already moot and academic.