

EN BANC

[A.C. No. 7594, February 09, 2016]

ADELPHA E. MALABED, COMPLAINANT, VS. ATTY. MELJOHN B. DE LA PEÑA, RESPONDENT.

D E C I S I O N

CARPIO, J.:

The Case

Before the Court is an administrative complaint filed by Adelpha E. Malabed (complainant) against Atty. Meljohn B. De la Peña (respondent) for dishonesty and grave misconduct.

The Facts

In her Complaint^[1] dated 7 August 2007, complainant charged respondent with dishonesty for "deliberately and repeatedly making falsehood" that "misled the Court." First, complainant claimed that the Certificate to File Action in the complaint filed by respondent refers to a different complaint, that is the complaint filed by complainant's brother against Fortunato Jadulco. In effect, there was no Certificate to File Action, which is required for the filing of a civil action, in the complaint filed by respondent on behalf of his client Fortunato Jadulco.

Second, complainant alleged that respondent did not furnish her counsel with a copy of the free patent covered by Original Certificate of Title (OCT) No. 1730, but respondent forwarded a copy to the Court of Appeals. Complainant claimed that she could not properly defend herself without a copy of the title. She further claimed that the title presented by respondent was fabricated. To support such claim, complainant presented Certifications from the Department of Environment and Natural Resources (DENR) and the Registry of Deeds in Naval, Biliran, allegedly confirming that there is no file in their offices of OCT No. 1730.

Complainant also alleged that respondent was guilty of conflict of interest when he represented the occupants of the lot owned by complainant's family, who previously donated a parcel of land to the Roman Catholic Church, which deed of donation respondent notarized.

Complainant further accused respondent of conniving with Regional Trial Court (RTC), Naval, Biliran, Branch 16 Judge Enrique C. Asis, who was his former client in an administrative case, to rule in his clients' favor. Complainant narrated the outcomes in the "cases of Estrellers which were filed in the [Municipal Circuit Trial Court (MCTC)] and reversed by the RTC, in the exercise of its appellate jurisdiction to favor respondent x x x and his client[s] x x x."

Complainant charged respondent with grave misconduct when he defied the accessory penalty of his dismissal as a judge. Respondent worked as Associate Dean and Professor of the Naval Institute of Technology (NIT) - University of Eastern Philippines College of Law, which is a government institution, and received salaries therefor, in violation of the accessory penalty of dismissal which is his perpetual disqualification from reemployment in any government office.

In his Comment^[2] dated 16 December 2007, respondent basically denied the charges against him. Respondent alleged that "the [Certificate to File Action] he used when he filed Civil Case No. [B-] 1118 for quieting of title before the Regional Trial Court, Branch 16, Naval, Biliran was the certification of Lupon Chairman, the late Rodulfo Catigbe, issued on May 9, 2001."^[3]

Respondent also claimed that the free patent title was attached to the folio of the records in Civil Case No. B-1118 and he furnished a copy of the same to complainant's counsel. Assuming opposing counsel was not furnished, respondent wondered why he raised this matter only upon filing of the instant complaint.

Respondent argued that notarization of the deed of donation had no relation to the case filed against the occupants of the lot. Respondent likewise stressed that the matter regarding Judge Asis's rulings favorable to his clients should be addressed to Judge Asis himself.

As regards the charge of grave misconduct for defying the accessory penalty of dismissal from the service, respondent admitted that he accepted the positions of Associate Dean and Professor of the NIT - University of Eastern Philippines College of Law, which is a government institution. However, respondent countered that he was no longer connected with the NIT College of Law; and thus, this issue had become moot. Respondent further claimed that his designation as Assistant Dean was only temporary, and he had not received any salary except honorarium. Respondent stated that he even furnished the Office of the Bar Confidant (OBC) and the MCLE Office a copy of his designation as Associate Dean, and since there were no objections, he proceeded to perform the functions appurtenant thereto. He likewise submitted an affidavit from Edgardo Garcia, complainant in the administrative case against him, who interposed no objection to his petition for judicial clemency filed before this Court.

Complainant filed a Reply-Affidavit^[4] on 22 January 2008. Respondent filed a Rejoinder to Reply^[5] on 20 February 2008. Complainant filed a Surrejoinder to the Rejoinder to Reply^[6] on 20 February 2008. All these submissions basically reiterated the respective arguments of the parties and denied each other's allegations.

The Ruling of the IBP

In his Report and Recommendation,^[7] Integrated Bar of the Philippines (IBP) Commissioner Norberto B. Ruiz noted the foul language used by respondent in his pleadings submitted before the IBP. Respondent described complainant's counsel as "silahis" and accused complainant of "cohabiting with a married man x x x before the wife of that married man died." According to the IBP Commissioner, such offensive language "[is a] clear manifestation[]" of respondent's gross misconduct that seriously affect his standing and character as an officer of the court."

With respect to the charges of dishonesty and grave misconduct, the IBP Commissioner found that respondent is guilty of the same "as evidenced by the numerous documents attached by complainant in all the pleadings she has submitted." Respondent committed acts of dishonesty and grave misconduct (1) for using a Certificate to File Action which was used in a complaint filed by complainant's brother Conrado Estreller against Fortunato Jadulco, who is respondent's client; (2) for not furnishing complainant's counsel with a copy of the free patent covered by OCT No. 1730 which was attached to the Comment respondent filed with the Court of Appeals; and (3) for accepting the positions of Associate Dean and Professor of the NIT - University of Eastern Philippines College of Law and receiving salaries therefor, in violation of the accessory penalty of prohibition on reemployment in any government office as a result of his dismissal as a judge.

The IBP Commissioner recommended that respondent be suspended from the practice of law for one year.^[8]

On 28 October 2011, the IBP Board of Governors issued a Resolution adopting the IBP Commissioner's recommendation. The Resolution reads:

RESOLUTION NO. XX-2011-137

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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, and finding Respondent guilty of dishonesty and grave misconduct, Atty. Meljohn B. De La Peña is hereby SUSPENDED from the practice of law for one (1) year.^[9]

The Issue

The sole issue in this case is whether respondent is guilty of dishonesty and grave misconduct.

The Ruling of the Court

Respondent is guilty of gross misconduct.

Using foul language in pleadings

In his Comment, respondent called complainant's counsel "silahis by nature and complexion"^[10] and accused complainant of "cohabiting with a married man x x x before the wife of that married man died."^[11] In his Rejoinder, respondent maintained that such language is not foul, but a "dissertation of truth designed to debunk complainant's and her counsel's credibility in filing the administrative case."^[12]

We are not convinced. Aside from such language being inappropriate, it is irrelevant to the resolution of this case. While respondent is entitled and very much expected to defend himself with vigor, he must refrain from using improper language in his pleadings. In *Saberon v. Larong*,^[13] we stated:

x x x [W]hile a lawyer is entitled to present his case with vigor and courage, such enthusiasm does not justify the use of offensive and abusive language. Language abounds with countless possibilities for one to be emphatic but respectful, convincing but not derogatory, illuminating but not offensive.

On many occasions, the Court has reminded members of the Bar to abstain from all offensive personality and to advance no fact prejudicial to the honor or reputation of a party or witness, unless required by the justice of the cause with which he is charged. In keeping with the dignity of the legal profession, a lawyers language even in his pleadings must be dignified.

For using improper language in his pleadings, respondent violated Rule 8.01 of Canon 8 of the Code of Professional Responsibility which states:

Rule 8.01 - A lawyer shall not, in his professional dealings, use language which is abusive, offensive or otherwise improper.

Non-submission of certificate to file action

The submission of the certificate to file action, which evidences the non-conciliation between the parties in the barangay, is a pre-condition for the filing of a complaint in court.^[14] Complainant claims that there is no such certificate in the complaint filed by respondent on behalf of Fortunato Jadulco, et al. Instead, what respondent submitted was the certificate to file action in the complaint filed by complainant's brother, Conrado Estreller, against Fortunato Jadulco.^[15]

Respondent counters that what he used "when he filed Civil Case No. [B-] 1118 for Quieting of Title, etc. x x x was the certification x x x issued on May 9, 2001, x x x."

Based on the records, the complaint for quieting of title in Civil Case No. B-1118 was filed with the RTC on 18 October 2000. The Certificate of Endorsement, which respondent claimed was the certificate to file action he used in Civil Case No. B-1118, was issued on 9 May 2001, or after the filing of the complaint on 18 October 2000. It is apparent that the Certificate of Endorsement did not exist yet when the complaint in Civil Case No. B-1118 was filed. In other words, there is no truth to respondent's allegation that the subject matter of Civil Case No. B-1118 was brought before the Lupon Tagapamayapa and that a certificate to file action was issued prior to the filing of the complaint. Clearly, respondent misrepresented that he filed a certificate to file action when there was none, which act violated Canon 10, Rule 10.01, and Rule 10.02 of the Code of Professional Responsibility, to wit:

CANON 10. A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 - A lawyer shall not do any falsehood; nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be