

EN BANC

[A.C. No. 10781 [Formerly CBD Case No. 10-2764], April 12, 2016]

COBALT RESOURCES, INC., COMPLAINANT, VS. ATTY. RONALD AGUADO, RESPONDENT.

DECISION

PER CURIAM:

This is an administrative complaint for disbarment filed by Cobalt Resources, Inc. (CRI) against respondent Atty. Ronald C. Aguado (*Atty. Aguado*) before the Integrated Bar of the Philippines (IBP) for violation of Rules 1.01 and 1.02 of the Code of Professional Responsibility and the lawyer's oath.

The Antecedents

In its Complaint,^[1] CRI alleged that on March 5, 2010, a group of armed men, clad in vests bearing the mark "PASG" and pretending to be agents of the Presidential Anti-Smuggling Group (PASG), hi-jacked its delivery van which was then loaded with cellular phones worth P1.3 million; that Dennis Balmaceda (*Balmaceda*), the driver of the delivery van, and his companions were all forcibly taken away at gun point and were dropped at the Country Hill and Golf Club; that Balmaceda called Antonio Angeles (*Angeles*), the Security Director of CRI, who immediately reported the incident to the Philippine National Police-Criminal Investigation Detection Unit (PNP-CIDU); that with the use of Global Positioning Satellite (GPS) Tracking Device installed in the cellular phones, Angeles and the PNP-CIDU tracked down the location of the cellular phones to be in front of Pegasus Bar along Quezon Avenue, Quezon City; that the PNP-CIDU, together with Angeles proceeded to Pegasus Bar and found three (3) vehicles parked in front of the bar: (1) Toyota Fortuner with Plate No. UNO-68 owned by Atty. Aguado, (2) Chevrolet Optra with Plate No. ZDW-764 and (3) a motorcycle with Plate No. NK-1180; that when the PNP-CIDU approached the vehicles, Anthony Palmes (*Palmes*) ran but he was chased by the police officers and was arrested; that Atty. Aguado who was then standing in the reception area of Pegasus Bar was not arrested as none of the police officers knew, at that time, of his participation in the crime; that the PNP-CIDU searched the vehicles and found the cellular phones, the Identification Card (ID) showing Atty. Aguado as Legal Consultant of the PASG, the Mission Order identifying Atty. Aguado as the Assistant Team Leader, and a vest bearing the mark PASG.

CRI further averred that the men who hijacked its delivery van used the fake mission order when it flagged down the delivery van; that the mission order identified Atty. Aguado as the assistant team leader and authorized the armed men to seize CRTs cellular phones; that the PASG issued a certification stating that the mission order was fake; that Atty. Aguado carried an ID bearing his picture and name which showed that he was a PASG legal consultant; and that this ID was

likewise fake as evidenced by a certification issued by the PASG.

Based on the *Sinumpaang Salaysay*,^[2] dated September 8, 2010, executed by Palmes, CRI concluded that it was Atty. Aguado who prepared the fake mission order and masterminded the crime as he was the one who conceived it and laid down the nitty-gritty details of its execution; and that it was; he who recruited the armed men who actually executed the hijacking.

Eventually, two separate Informations for Robbery^[3] and Caraapping^[4] were filed against Atty. Aguado and several others.

The IBP directed Atty. Aguado to submit his answer but, despite several extensions, he failed to do so.

The IBP then set the case for mandatory conference.

In his Conference Brief,^[5] Atty. Aguado denied the allegations. He averred that "on March 5, 2010, at about 11:00 to 12:00 in the afternoon,"^[6] his Toyota Fortuner with Plate No. UNO-68 was carnapped along Scout Mandarin while in the custody of his driver; that he reported the incident to the police authorities; that on March 7, 2010, he was awakened by relatives informing him that his name was on the front page of several tabloids in a story connecting him to the alleged hijacking; and that he was indicted in the case because of the ID found hanging in his carnapped vehicle.

In its Report and Recommendation,^[7] dated May 3, 2011, the IBP-Commission on Bar Discipline (CBD) found Atty. Aguado liable for unlawful, dishonest, immoral, and deceitful conduct in falsifying the ID and mission order showing him as the Legal Consultant and the Assistant Team Leader, respectively, of the PASG. The IBP-CBD recommended that he be suspended for two (2) years. It, however, deferred the issue of Atty. Aguado's purported participation in the alleged hijacking incident as the issue pertained to a judicial function.

On March 20, 2013, the IBP Board of Governors adopted and approved the report of the CBD, as follows:

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 considering that Respondent committed unlawful, dishonest, immoral and deceitful conduct by falsifying the ID and Mission Order, Atty. Ronaldo Aguado is hereby **SUSPENDED from the practice of law for two (2) years.**^[8]

Not satisfied, CRI filed a motion for reconsideration^[9] praying that the May 3, 2011 report of the IBP-CBD be set aside and that a new resolution ordering the disbarment of Atty. Aguado be issued. CRI claimed that Atty. Aguado deserved the ultimate penalty of disbarment as the falsification of public documents was sufficiently established and, as the CBD knew, he masterminded the hijacking using

his profession to commit the crime.

On July 25, 2013, Atty. Aguado also filed a motion for reconsideration^[10] of the March 20, 2013 Resolution praying that it be set aside and a new one be issued dismissing the complaint. He averred that the charges of usurpation of authority and falsification filed against him had been dismissed by the Office of the City Prosecutor of Quezon City; that he could not be presumed to be the author of the falsification because he was never in possession of the falsified ID and mission order; and that he never used, took advantage or profit therefrom. Atty. Aguado asserted that this case should, at the very least, be suspended pending the resolution of the robbery and carnapping charges against him.

In a Resolution,^[11] dated September 27, 2014, the IBP Board of Governors denied both motions and affirmed its March 20, 2013 Resolution.

Pursuant to Section 12(c), Rule 139-B of the Rules of Court, CRI filed a petition for review^[12] before the Court. CRI was firm in its stand that Atty. Aguado be meted out the penalty of disbarment for his falsification of a PASG mission order and ID and for his involvement in the hijacking of the CIR delivery van and its cargo.

Similarly, Atty. Aguado filed a petition for review insisting on his innocence and praying for the dismissal of the complaint.

The Court's Ruling

The Court finds merit in the petition of CRI.

It must be emphasized that a disbarment proceeding, being administrative in nature, is separate and distinct from a criminal action filed against a lawyer and they may proceed independently of each other.^[13] A finding of guilt in the criminal case does not necessarily mean a finding of liability in the administrative case.^[14] In the same way, the dismissal of a criminal case on the ground of insufficiency of evidence against an accused, who is also a respondent in an administrative case, does not necessarily exculpate him administratively because the quantum of evidence required is different. In criminal cases, proof beyond reasonable doubt is required.^[15] "In administrative cases for disbarment or suspension against lawyers, the quantum of proof required is clearly preponderant evidence and the burden of proof rests upon the complainant."^[16] Preponderance of evidence means "evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto."^[17]

Clearly, Atty. Aguado committed the act complained of as it was established that he was in possession of a falsified ID showing him as a legal consultant of the PASG and mission order identifying him as the Assistant Team Leader of the anti-smuggling operation. Although Atty. Aguado claimed in his Conference Brief that he was indicted merely on the basis of an ID found hanging in his carnapped Toyota Fortuner,^[18] his counsel, Atty. Letecia Amon (*Atty. Amon*), during the mandatory conference held on February 25, 2011, acknowledged that the ID and *mission order* were found in the Toyota Fortuner owned by Atty. Aguado, thus:

ATTY. HARON:

Is she willing to admit that respondent is the same person referred to in the document called mission order marked as Annex "F" issued by the PASG.

ATTY. AMON:

I have no exact knowledge on that, Your Honor.

ATTY. HARON:

I'm showing counsel for respondent with a copy of a mission order marked as Annex "F"....

COMM. CACHAPERO:

Machine copy.

ATTY. HARON:

This is the copy.

COMM. CACHAPERO:

Take a look, is that a machine copy?

ATTY. HARON:

Yes, Your Honor. Annex "F" states that Atty. Ronald C. Aguado is the assistant team leader of the team by mission order.

COMM. CACHAPERO:

He is only asking, the respondent is the one who owns that document. He is not yet asking whether that document is authentic or not.

ATTY. AMON:

Yes, Your Honor, as written here.

COMM. CACHAPERO:

Yes, he is the one.

ATTY. HARON:

Would the respondent also like to admit that the identification card and the mission order were found inside his Toyota Fortuner, Plate No. UNO-68.

ATTY. AMON:

Of which he is the owner, yes.

ATTY. HARON:

Admitted also, Your Honor.

ATTY. HARON:

Would the respondent also like to admit the certifications Annexes "G" and "H" issued by the PASG are genuine and duly executed. I'm showing counsel copies of the certifications, Your Honor, marked as Annexes "G" and "H" which bears the seal of that office, Your Honor.

COMM. CACHAPERO:

What is your proposal Atty. Haron?

x x x.^[19] [Emphasis supplied]

Moreover, the *Sinumpaang Salaysay*^[20] of Palmes explicitly described Atty. Aguado's participation in the crime as follows:

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2. Alam ko kung sinu-sino ang mga taong kasama sa pagplano at pagsasagawa ng nasabing 'hijacking'. Bagamat may partisipasyon ako sa krimen, hindi ko alam na ang gagawing paghuli sa mga nasabing cellphone ay labag sa batas dahil ako ay pinaniwala na ang gagawin naming paghuli sa mga cellphone ng Cobalt ay isang lehitimong

operasyon ng PASG.

3. Bago pa man naganap ang nasabing hijacking ay dati akong empleyado ng Cobalt na nakatalaga sa Delivery Section/Pull Out Service. Ngunit hindi nagtagal ay nag-resign ako.

4. Noong ikalawang lingo ng Pebrero, nilapitan ako ni Jaime "James" Abedes at sinabi sa akin ng kung pwede ay i-monitor ko daw ang ruta ng delivery van ng Cobalt at ako ay bibgyan niya ng "budget" upang ang kanyang grupo ay makapagsagawa ng 'seizure operations.'

5. Noong una ay nag-alangan akong sumangayon sa mungkahi ni James ngunit ako ay pinapanatag niya na lahat ng dokumento at papeles ay kumpleto. Sabi pa ni James, "Si Atty. Aguado ang magbibigay ng complete documents at Mission Order dahil naka-direkta siya sa PASG Malacanang para ma-flag down ang delivery van".

6. Ako ay naniwala sa kanyang sinabi dahil sa pagbanggit niya na may kasama kaming abogado. Dahil dito ay pumayag ako sa mungkahi ni James.

7. Kinabukasan ay nagkita kami ni James sa Caltex Pioneer corner Shaw Boulevard. Nalaman ko kay James na may hawak siyang Security Guard doon. Pinakilala niya ako kay Eliseo De Rosas alias Nonoy na isa ring tauhan ni James. Siya ay may gamit na Honda na motorsiklo na kulay berde na may plakang 1180 NK. Noong araw din na iyon ay nagtungo kami sa Brixton Street upang i-monitor ang warehouse ng Cobalt dahil may warehouse ang Cobalt sa Brixton Street.

8. Pagkatapos naming pumunta sa Brixton Street ay nagtungo naman kami sa P. Tuazon Street kung saan may mga clients ang Cobalt, at doon naming nakita ang delivery van na Mitsubishi L-300 ng Cobalt.

9. Sinimulan namin ni Nonoy ang pagmonitor ng ruta ng delivery van ng Cobalt. Sa aming ginawang pag-monitor ay napansin naming madalas magpakarga ng gas ang nasabing delivery van sa Petron Station sa Ortigas Avenue corner B. Serrano Street. Isang lingo kaming nag-monitor ni Nonoy sa ruta ng Cobalt.

Ipinaalam naming kay James ang nakakalap naming impormasyon. Noong natiyak naming ang ruta ng delivery van ay nagpaschedule si James ng 'meeting' kay Atty. Aguado.

10. Ika-22 ng Pebrero 2010 alas-6 ng gabi sa McDonald's Quezon Avenue ay nag meeting kami. Ang mga kasama sa meeting ay si James, Atty. Aguado, Joe Almonte, at Nonoy. Noong kami ay nandoon ay lumipat ng lamesa si Atty. Aguado, James at Joe Almonte at sila ay nagusap.

11. Pagkatapos ng usapan nila ay pumunta sa amin si James at sinabi sa amin kung ano ang kanilang napagusapan. Sinabi sa amin ni James na mag-iisue daw ng Mission Order si Atty. Aguado. Si Atty. Aguado na rin daw ang magbubuo ng grupo ng mga lalake upang i-flag down ang