

FIRST DIVISION

[A.C. No. 10465, June 08, 2016]

**SPOUSES LAMBERTO V. EUSTAQUIO AND GLORIA J. EUSTAQUIO,
COMPLAINANTS, VS. ATTY. EDGAR R. NAVALES, RESPONDENT.**

DECISION

PERLAS-BERNABE, J.:

For the Court's resolution is a Complaint^[1] dated January 16, 2010 filed by complainants spouses Lamberto V. Eustaquio and Gloria J. Eustaquio (complainants) against respondent Atty. Edgar R. Navales (respondent), praying that respondent be meted the appropriate disciplinary sanction/s for failing to pay rent and to vacate the apartment he is leasing despite demands.

The Facts

Complainants alleged that they are the owners of an apartment located at 4-D Cavite St., Barangay Paltok, SFDM, Quezon City, which they leased to respondent under a Contract of Lease^[2] dated April 16, 2005. However, respondent violated the terms and conditions of the aforesaid contract when he failed to pay monthly rentals in the aggregate amount of P139,000.00 and to vacate the leased premises despite repeated oral and written demands.^[3] This prompted complainants to refer the matter to barangay conciliation, where the parties agreed on an amicable settlement, whereby respondent promised to pay complainants the amount of P131,000.00 on July 16, 2009 and to vacate the leased premises on July 31, 2009. Respondent eventually reneged on his obligations under the settlement agreement, constraining complainants to file an ejectment case^[4] against him before the Metropolitan Trial Court (MeTC) of Quezon City, Branch 40 (MeTC-Br. 40), docketed as Civil Case No. 09-39689. Further, complainants filed the instant case before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP), contending that respondent miserably failed to exemplify honesty, integrity, and respect for the laws when he failed and refused to fulfil his obligations to complainants.^[5]

Despite notices,^[6] respondent failed to file his Answer, to appear in the mandatory conference, and to file his position paper.

Meanwhile, the MeTC-Br. 40 promulgated a Decision^[7] dated December 8, 2009 in the ejectment case in favor of the complainants and, accordingly, ordered respondent to vacate the leased premises and to pay complainants the following amounts: (a) P139,000.00 representing unpaid rentals as of July 2009; (b) further rental payments of P8,000.00 per month starting August 17, 2009 until the actual surrender of said premises to complainants; (c) attorney's fees in the amount of P20,000.00; and (d) cost of suit.^[8]

During the pendency of the case, respondent was appointed as an Assistant City Public Prosecutor of Quezon City.^[9]

The IBP's Report and Recommendation

In a Report and Recommendation^[10] dated February 8, 2011, the IBP Investigating Commissioner found respondent administratively liable and, accordingly, recommended that he be meted the penalty of suspension from the practice of law for a period of six (6) months, with a stern warning that a repetition of the same shall be dealt with more severely.^[11] It was found that respondent displayed unwarranted obstinacy in evading payment of his debts, as highlighted by his numerous promises to pay which he eventually reneged on. In this light, the IBP Investigating Commissioner concluded that respondent violated Rules 1.01 and 1.02, Canon 1 of the Code of Professional Responsibility (CPR) and, thus, should be held administratively liable.^[12]

In a Resolution^[13] dated September 28, 2013, the IBP Board of Governors adopted and approved the aforesaid report and recommendation. Thereafter, the Court issued a Resolution^[14] dated September 15, 2014 adopting and approving the findings of fact, conclusions of law, and recommendations of the IBP and, accordingly, meted respondent the penalty of suspension from the practice of law for a period of six (6) months, with a stern warning that a repetition of the same shall be dealt with more severely.

As per Registry Return Card No. 957,^[15] respondent received the Court's order of suspension on October 16, 2014.^[16] Records are bereft of any showing that respondent filed a motion for reconsideration and, thus, the Court's order of suspension against him became final and executory.

Events Following the Finality of Respondent's Suspension

On September 7, 2015 and upon request from the Office of the Court Administrator (OCA), a Certification^[17] was issued by the MeTC of Quezon City, Branch 38 (MeTC-Br. 38) stating that respondent has been appearing before it as an Assistant City Prosecutor since September 2014 up to the present. In connection with this, the MeTC-Br. 38 wrote a letter^[18] dated September 8, 2015 to the Office of the Bar Confidant (OBC), inquiring about the details of respondent's suspension from the practice of law. In view of the foregoing, the OCA indorsed the matter to the OBC for appropriate action.^[19]

Despite due notice from the Court,^[20] respondent failed to file his comment to the aforementioned Certification issued by MeTC-Br. 38.

The OBC's Report and Recommendation

In a Report and Recommendation^[21] dated February 10, 2016, the OBC recommended that respondent be further suspended from the practice of law and from holding the position of Assistant City Prosecutor for a period of six (6) months,

thus, increasing his total suspension period to one (1) year, effective immediately.^[22] It found that since respondent received the order of suspension against him on October 16, 2014 and did not move for its reconsideration, such order attained finality after the lapse of 15 days therefrom. As such, he should have already served his suspension. In this relation, the OBC ratiocinated that since respondent was holding a position .which requires him to use and apply his knowledge in legal matters and practice of law, *i.e.*, Assistant City Prosecutor, he should have ceased and desisted from acting as such. However, as per the Certification dated September 7, 2015 of the MeTC-Br. 38, respondent never complied with his order of suspension. In view thereof, the OBC recommended to increase respondent's suspension from the practice of law and from holding the position of Assistant City Prosecutor for an additional period of six (6) months.^[23]

The Issue Before the Court

The sole issue presented for the Court's resolution is whether or not respondent should be held administratively liable.

The Court's Ruling

After due consideration, the Court sustains the findings and recommendation of the OBC and adopts the same in its entirety.

It is settled that the Court has the exclusive jurisdiction to regulate the practice of law. As such, when the Court orders a lawyer suspended from the practice of law, he must desist from performing all functions requiring the application of legal knowledge within the period of suspension. This includes desisting from holding a position in government requiring the authority to practice law.^[24] The practice of law embraces any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training, and experience. It includes performing acts which are characteristic of the legal profession, or rendering any kind of service which requires the use in any degree of legal knowledge or skill.^[25]

In the instant case, the OBC correctly pointed out that the Court's Resolution^[26] dated September 15, 2014 suspending respondent from the practice of law for a period of six (6) months became final and executory fifteen (15) days after respondent received a copy of the same on October 16, 2014. Thus, respondent should have already commenced serving his six (6)-month suspension. However, respondent never heeded the suspension order against him as he continued discharging his functions as an Assistant City Prosecutor for Quezon City, as evidenced by the Certification^[27] issued by MeTC-Br. 38 stating that respondent has been appearing before it as an Assistant City Prosecutor since September 2014 up to the present.

Section 9 of Republic Act No. (RA) 10071,^[28] otherwise known as the "Prosecution Service Act of 2010," provides the powers and functions of prosecutors, to wit:

Section 9. Powers and Functions of the Provincial Prosecutor or City Prosecutor. - The provincial prosecutor or the city prosecutor shall:

(a) Be the law officer of the province of the city officer, as the case may