

## **SPECIAL THIRD DIVISION**

**[ A.C. No. 10671, December 05, 2016 ]**

**JOSEPH C. CHUA, COMPLAINANT, VS. ATTY. ARTURO M. DE CASTRO, RESPONDENT.**

### **RESOLUTION**

**REYES, J.:**

Before the Court is a Motion for Reconsideration<sup>[1]</sup> (MR) filed by respondent Atty. Arturo M. De Castro (Atty. De Castro) of the Court's Resolution<sup>[2]</sup> dated November 25, 2015 which found him liable for violation of the Code of Professional Responsibility (CPR) and was meted out the penalty of suspension from the practice of law for a period of three (3) months.

The Court recalls the antecedents that brought the instant case to the fore as follows:

Chua alleged that his company, Nemar Computer Resources Corp. (NCRC) filed a collection case against Dr. Concepcion Aguila Memorial College, represented by its counsel, Atty. De Castro.

According to Chua, since the filing of the collection case on June 15, 2006, it took more than five (5) years to present one witness of NCRC due to Atty. De Castro's propensity to seek postponements of agreed hearing dates for unmeritorious excuses. Atty. De Castro's flimsy excuses would vary from simple absence without notice, to claims of alleged ailment unbacked by any medical certificates, to claims of not being ready despite sufficient time given to prepare, to the sending of a representative lawyer who would profess non-knowledge of the case to seek continuance, to a plea for the postponement without providing any reason therefore.

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For his defense, Atty. De Castro countered that his pleas for continuance and resetting were based on valid grounds. Also, he pointed out that most of the resetting were [sic] without the objection of the counsel for NCRC, and that, certain resettings were even at the instance of the latter.

On April 10, 2013, the CBD submitted its Report and Recommendation addressing the charge against Atty. De Castro. The CBD found Atty. De Castro to have violated Canons 10, 11, 12 and 13 of the [CPR] when he deterred the speedy and efficient administration of justice by deliberately employing delaying tactics in Civil Case No. 7939. The CBD recommended that he be suspended from the practice of law for a period

of six (6) months from notice, with a warning that a similar lapse in the future may warrant more severe sanctions.

On April 16, 2013, the IBP Board of Governors issued a Resolution adopting and approving with modification the Report and Recommendation of the CBD. The Board of Governors modified the penalty meted out to [Atty. De Castro] [by] reducing the period of suspension from six (6) months to three (3) months. Both Chua and Atty. De Castro filed their respective motions for reconsideration dated August 28, 2013 and August 23, 2013 but the same were denied in a Resolution dated May 3, 2014.<sup>[3]</sup> (Citations omitted)

On November 25, 2015, the Court affirmed the recommendation of the Integrated Bar of the Philippines (IBP) Board of Governors. The Court held that Atty. De Castro violated his oath of office in his handling of the collection case filed against his client.

Undaunted with the Court's ruling, Atty. De Castro filed the present motion for reconsideration alleging that the findings of malice, bad faith, and deliberate intent on his part were merely based on the Summary of Hearings and Reports of the Court, a self-serving and misleading evidence submitted by the complainant, Joseph C. Chua (Chua). He argues that it is not an official document, but merely a narration of the accusations of Chua. He strongly disputes the allegations of Chua averring that the long delay in the disposition of the collection case before the Regional Trial Court (RTC) was due to the several postponements which were found meritorious by the RTC. In fact, some postponements were at the motions and at the instance of Chua's counsel.<sup>[4]</sup>

Moreover, Atty. De Castro asseverates that he will soon be a septuagenarian. He has been active in the academe, teaching law subjects and preparing bar candidates for the Bar examinations. His record as a lawyer is untarnished. He states that if indeed he has committed professional lapses in his schedules, these were not deliberate, dishonest, malicious and with no ill motives.<sup>[5]</sup>

On June 1, 2016, the Court issued a Resolution<sup>[6]</sup> directing Chua to comment on the motion within 10 days from receipt thereof.

In his Comment,<sup>[7]</sup> Chua states that the motion for reconsideration is just a rehash of Atty. De Castro's previous answers and motion to the Commission on Bar Discipline of the IBP, and is awash with lies. He insists that Atty. De Castro's unethical practice of law calls for his disbarment permanently.<sup>[8]</sup>

### **Ruling of the Court**

After a second hard look at the facts of the case, relevant laws, and jurisprudence, the Court finds merit in the motion for reconsideration.

There is no debate that lawyers are instruments of the Court in the administration of justice throughout the country. Accordingly, they are expected to maintain not only legal proficiency but also a high standard of ethics, honesty, integrity and fair dealing. Only in this way will the people's faith and confidence in the judicial system

be ensured.<sup>[9]</sup>

A lawyer indubitably owes fidelity to the cause of his clients, and is thus expected to serve the client with competence and utmost diligence. He is enabled to utilize every honorable means to defend the cause of his client and secure what is due the latter. Under the CPR, every lawyer is required to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice. Yet, this obligation is not without limitations. There are professional rules that define the limits of a lawyer's zeal for the client's benefit. The CPR obliges him to employ only fair and honest means to attain the lawful objectives of the client.<sup>[10]</sup> The lawyer must then strike an even balance between his fidelity to the Court and the legal profession on one hand, and his commitment to the cause of his client, on the other.

The Court has the authority to impose the proper disciplinary sanctions on any member of the Bar found culpable for misconduct. In line with its authority, however, the Court has the responsibility to protect the reputation of any member of the Bar who is wrongfully or improperly charged. Towards this end, the burden of proving unethical conduct in every case of disbarment or other administrative sanction rests on the complainant, who is then bound to establish the charge by clear, convincing and satisfactory evidence before the Court wields its disciplinary power.

Here, Atty. De Castro professed only good intentions from the very moment he accepted to defend, allegedly *pro bono*, the Dr. Concepcion Aguila Memorial College of Batangas City, his *alma mater*, in Civil Case No. 7939. He initially moved for and obtained the dismissal of the complaint, but such dismissal was eventually reversed on motion of the plaintiff. Thereafter, according to Chua, Atty. De Castro caused various postponements and delays resulting in taking more than five (5) years to present one witness of Nemar Computer Resources Corporation.<sup>[11]</sup>

Upon careful consideration of the circumstances, the Court finds that the delay in the disposition of Civil Case No. 7939 was not solely attributable to Atty. De Castro. The trial court itself, either at its own initiative or at the instance of Chua's counsel, allowed the delays. Consequently, if not all of such delays were attributable to Atty: De Castro's doing, it would be unfair to hold him solely responsible for the delays caused in the case. Moreover, it appears that the trial court granted Atty. De Castro's several motions for resetting of the trial; and that at no time did the trial court sanction or cite him for contempt of court for abuse on account of such motions. Verily, if his explanations for whatever delays he might have caused were accepted by the trial court without any reservations or conditions, there would be no legitimate grievance to be justly raised against him on the matter.

Initially, the IBP and the Court similarly found Atty. De Castro guilty of professional misconduct. The basis for the finding was Rule 1.03 and Rule 10.3 of the CPR, to wit:

Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

Rule 10.3 - A lawyer shall observe the rules of procedure and shall not misuse them to defeat the ends of justice.