

## EN BANC

[ A.C. No. 7314, August 25, 2015 ]

**MARY ANN T. FLORES, COMPLAINANT, VS. ATTY. JOVENCIO LL. MAYOR, JR., RESPONDENT.**

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

#### PER CURIAM:

In a Resolution<sup>[1]</sup> dated 21 March 2014 in Administrative Case No. 7314, *Mary Ann T. Flores v. Atty. Jovencio LL. Mayor, Jr.*, the Board of Governors (Board) of the Integrated Bar of the Philippines (IBP) adopted and approved the Report and Recommendation<sup>[2]</sup> of the Investigating Commissioner<sup>[3]</sup> finding respondent guilty of violation of his sworn duty not to delay any man's cause for money or malice and disbaring him from the practice of law.

#### Facts

This administrative case stemmed from the Complaint for illegal dismissal filed with the National Labor Relations Commission (NLRC) by Jose Roberto Flores (Flores), the husband of herein complainant, against JMJB International Services, Inc. The case, docketed as NLRC Case No. 99-06-0972, was raffled to respondent, who is a Labor Arbiter.<sup>[4]</sup>

In a Decision<sup>[5]</sup> dated 23 July 2001, respondent dismissed the case on a finding that Flores had voluntarily resigned from employment.<sup>[6]</sup>

Flores elevated the case to the NLRC, but the appeal was dismissed for having been filed out of time. The case was then brought to the Court of Appeals (CA).<sup>[7]</sup>

The CA, in its Decision<sup>[8]</sup> dated 21 October 2002, ruled that the appeal to the NLRC had been timely filed.<sup>[9]</sup> The appellate court set aside the NLRC Resolution for being null and void and granted monetary awards to Flores.<sup>[10]</sup> On 19 February 2003, the CA Decision became final and executory.<sup>[11]</sup>

On 24 July 2003, Flores filed before respondent a Motion for Execution of the CA Decision.<sup>[12]</sup>

On 15 November 2003, complainant claimed that the counsel of her husband received from the CA a Notice of Transmittal of Records of Case dated 19 August 2003 addressed to the Clerk of Court of the NLRC.

As respondent was not acting on the Motion for Execution, the counsel of Flores filed an Urgent Ex-Parte Manifestation on 20 September 2004 praying that the motion be

resolved with dispatch.

Upon inquiry with respondent's labor arbitration associate, the counsel learned that the records of the case were still being requested from the Records Section of the NLRC.<sup>[13]</sup> Apparently, as shown in the Certification<sup>[14]</sup> dated 13 October 2004 issued by a Records Officer of the NLRC, the case records had been sent for archiving sometime in 2003 and were difficult to retrieve.

On 16 November 2005, respondent finally issued a Writ of Execution against JMJB International Services, Inc. By that time, the corporation had not yet been dissolved, but had already amended its name to F.O. Maidin International Services, Inc.<sup>[15]</sup> This amendment prompted the counsel of Flores to file a Motion to Amend Writ of Execution. Respondent, however, refused to act on the motion, reasoning that F.O. Maidin International Services, Inc. was not a party to the case.<sup>[16]</sup>

Accordingly, complainant filed an administrative case against respondent, citing that the latter's act of archiving the records of the labor case and refusal to amend the Writ of Execution constituted a violation of the Lawyer's Oath, the Code of Professional Responsibility, and other ethical standards.<sup>[17]</sup>

In a Resolution<sup>[18]</sup> dated 11 April 2007, this Court referred the administrative case to the IBP for investigation, report, and recommendation.

The IBP's Investigating Commissioner, in a Report and Recommendation<sup>[19]</sup> dated 21 July 2008, found respondent guilty and recommended his disbarment. The gist of the report reads:<sup>[20]</sup>

We find as unacceptable the respondent's gross delay in performing what is supposedly a purely ministerial act on his part, his unexplained and unsanctioned resort to "archiving" which led to the disappearance of the case records, and his gross ignorance of the law in refusing to issue a writ of execution against what the SEC has essentially certified to be a company hiding under a new name. We believe that the respondent's actions were not a product of ignorance, indolence, or negligence, but rather, were clearly borne out of a willful, deliberate, and wholly malicious intent to misuse his position by favoring one of the parties in NLRC Case No. 99-06-0972, thus causing no small degree of serious injury to the complainant therein and to the integrity of the legal process as a whole.

In a Resolution<sup>[21]</sup> dated 14 August 2008, the IBP Board adopted and approved the Report and Recommendation with modification, lowering the penalty to suspension from the practice of law for three years.

Respondent filed a Motion for Reconsideration,<sup>[22]</sup> but it was denied in the IBP Board Resolution<sup>[23]</sup> dated 21 March 2014. The Board affirmed its previous Resolution with modification, reverting the penalty to disbarment.<sup>[24]</sup>

Neither party has filed a motion for reconsideration or petition for review thereafter.  
[25]

## ISSUE

Whether or not respondent is guilty of violation of the Lawyer's Oath, the Code of Professional Responsibility, and other ethical standards.

## DISCUSSION

We adopt the IBP Board Resolution.

There is a clear neglect of duty and ignorance of the law on the part of respondent on account of his failure to immediately act on the Motion for Execution, as well as his refusal to amend the Writ of Execution despite having been informed of the amendment of the name - but not the dissolution — of the corporation against which the writ was issued.

The justification offered by respondent to explain his delay in acting on the motion cannot be countenanced, as it was through his fault that the records of the case were lost. That he archived the case records at the NLRC Records Section, not on the basis of official or sanctioned guidelines but only because it was the common practice in his office, reflects his lack of due diligence and care in the custody of official documents.

While delay in the processing of documents normally occurs, it was inexcusable and out of the ordinary for respondent to allow a period of more than two years to lapse before acting on the motion. This omission amounts to gross misconduct as the unnecessary delay has caused prejudice to complainant. As defined, gross misconduct is any inexcusable, shameful or flagrant unlawful conduct on the part of a person concerned with the administration of justice; *i.e.*, conduct prejudicial to the rights of the parties or to the right determination of the cause.<sup>[26]</sup>

Respondent also erroneously interprets jurisprudence when he insists that the writ could not have been issued against F.O. Maidin International Services, Inc., because it was not a party to the case. His argument contravenes the pronouncement of the Court in *Republic Planters Bank v. Court of Appeals*,<sup>[27]</sup> in which it said that "a change in the corporate name does not make a new corporation, and whether effected by special act or under general law, has no effect on the identity of the corporation, or on its property, rights, or liabilities."

As a Labor Arbiter, respondent is a public officer<sup>[28]</sup> who must at all times be accountable to the people, whom he must serve with utmost responsibility, integrity, loyalty, and efficiency.<sup>[29]</sup> The unjustified delay in his actions and his failure to act according to law constituted a breach of his accountability not only to complainant, but also to the public in general.

Further, respondent violated his oath as a lawyer to delay no man for money or malice,<sup>[30]</sup> and abandoned his professional responsibility to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.<sup>[31]</sup>