

## SECOND DIVISION

[ G.R. No. 210554, August 05, 2015 ]

**DAVID YU KIMTENG, MARY L. YU, WINNIE L. YU, VIVIAN L. YU, ROSA GAN, LILIAN CHUA WOO YUKIMTENG, SANTOS YU, MARCELO YU, AND SIN CHIAO YU LIM, PETITIONERS, VS. ATTY. WALTER T. YOUNG, ANASTACIO E. REVILLA, JR., ATTY. JOVITO GAMBOL, AND ATTY. DAN REYNALD R. MAGAT, PRACTICING LAW UNDER THE FIRM NAME, YOUNG REVILLA GAMBOL & MAGAT, AND JUDGE OFELIA L. CALO, PRESIDING JUDGE OF BRANCH 211 OF THE REGIONAL TRIAL COURT, MANDALUYONG CITY, RESPONDENTS.**

### DECISION

#### LEONEN, J.:

A disbarred lawyer's name cannot be part of a firm's name. A lawyer who appears under a firm name that contains a disbarred lawyer's name commits indirect contempt of court.

Through this Petition,<sup>[1]</sup> petitioners ask that law firm, Young Revilla Gambol & Magat, and Judge Ofelia L. Calo (Judge Calo), be cited in contempt of court under Rule 71 of the Rules of Court.<sup>[2]</sup> Anastacio Revilla, Jr. (Revilla) was disbarred on December 2009 in an En Banc Resolution of this court in A.C. No. 7054 entitled *Que v. Atty. Revilla, Jr.*<sup>[3]</sup>

David Yu Kimteng, Mary L. Yu, Winnie L. Yu, Vivian L. Yu, Rosa Gan, Lilian Chua Woo Yukimteng, Santos Yu, Marcelo Yu, and Sin Chiao Yu Lim are the majority stockholders of Ruby Industrial Corporation.<sup>[4]</sup>

In *Majority Stockholders of Ruby Industrial Corporation v. Lim, et al.*,<sup>[5]</sup> this court ordered the liquidation of Ruby Industrial Corporation and transferred the case to the appropriate Regional Trial Court branch to supervise the liquidation.<sup>[6]</sup>

The liquidation was raffled to Branch 211 of the Regional Trial Court in Mandaluyong City,<sup>[7]</sup> presided by Judge Calo.<sup>[8]</sup>

Walter T. Young (Atty. Young), Jovito Gambol (Atty. Gambol), and Dan Reynald Magat (Atty. Magat) are lawyers practicing under the firm, Young Revilla Gambol & Magat.<sup>[9]</sup> They entered their appearance in the liquidation proceedings as counsels for the liquidator.<sup>[10]</sup>

An Opposition<sup>[11]</sup> was filed against the appearance of Young Revilla Gambol & Magat on the ground that Revilla was already disbarred in 2009.<sup>[12]</sup>

Young Revilla Gambol & Magat filed a Reply<sup>[13]</sup> to the Opposition stating that the firm opted to retain Revilla's name in the firm name even after he had been disbarred, with the retention serving as an act of charity.<sup>[14]</sup>

Judge Calo overruled the opposition to the appearance of Young Revilla Gambol & Magat and stated that Atty. Young could still appear for the liquidator as long as his appearance was under the Young Law Firm and not under Young Revilla Gambol & Magat.<sup>[15]</sup> Young Law Firm does not exist.

Thus, petitioners David Yu Kimteng, Mary L. Yu, Winnie L. Yu, Vivian L. Yu, Rosa Gan, Lilian Chua Woo Yukimteng, Santos Yu, Marcelo Yu, and Sin Chiao Yu Lim filed this Petition under Rule 71 to cite respondents Atty. Walter T. Young, Anastacio E. Revilla, Jr., Atty. Jovito Gambol, Atty. Dan Reynald R. Magat, and Judge Ofelia L. Calo in contempt.

This court required respondents to comment on the Petition.<sup>[16]</sup> Respondent law firm Young Revilla Gambol & Magat filed its Comment<sup>[17]</sup> on April 14, 2014, while respondent Atty. Gambol filed a separate Comment.<sup>[18]</sup>

On April 16, 2014, petitioners filed a Motion for Leave to File Consolidated Reply.<sup>[19]</sup> This was granted in the Resolution<sup>[20]</sup> dated June 18, 2014. In the same Resolution, this court denied petitioners' Motion to Consider Case Submitted without Comment from [Judge Calo]<sup>[21]</sup> and ordered the parties to await Judge Calo's comment.<sup>[22]</sup>

Counsel for petitioners subsequently filed a Manifestation,<sup>[23]</sup> informing this court that they have yet to receive a copy of Judge Calo's Comment.<sup>[24]</sup> No Comment was filed by Judge Calo.

Petitioners cite *San Luis v. Pineda*<sup>[25]</sup> and *United States v. Ney, et al.*<sup>[26]</sup> to support their argument that the use of a disbarred lawyer's name in the firm name is tantamount to contempt of court.<sup>[27]</sup>

Private Respondents Atty. Young and Atty. Magat counter that they maintained Revilla's name in the firm name for sentimental reasons.<sup>[28]</sup>

Atty. Young and Atty. Magat explained that they did not intend to deceive the public<sup>[29]</sup> and that in any case, the retention of Revilla's name "does not give added value to the [law firm] nor does it enhance the standing of the member lawyers thereof."<sup>[30]</sup>

They further argue that:

The non-deletion of [Anastacio E. Revilla's] name in the Young Law Firm's name is no more misleading than including the names of dead or retired partners in a law firm's name. It is more for sentimental reasons. It is a fraternal expression to a former brother in the profession that the Private Respondents fully understand, his [referring to Revilla] principled albeit quixotic advocacy.<sup>[31]</sup>

Private respondents point out that the Balgos Law Firm is derailing the liquidation of Ruby Industrial Corporation by filing this Petition for contempt because the Balgos Law Firm resents that its nominee was not elected as liquidator.<sup>[32]</sup> Private respondents add that petitioners have continuously blocked Ruby Industrial Corporation's unsecured creditors from obtaining relief, as shown by the number of times that Ruby Industrial Corporation's cases have reached this court.<sup>[33]</sup>

Private respondents also raise the issue of forum shopping in their Comment because petitioners allegedly filed a disbarment Complaint against them before the Commission on Bar Discipline, Integrated Bar of the Philippines. One of the grounds for disbarment cited by petitioners was the use of Revilla's name in their firm name.<sup>[34]</sup>

Private respondent Atty. Gambol filed a separate Comment,<sup>[35]</sup> arguing that from the time Revilla was disbarred, he no longer practiced law.<sup>[36]</sup>

Private respondent Atty. Gambol stated that he passed the 1990 Bar Examination but took his oath in July 2006.<sup>[37]</sup> He is a junior member of the Young Revilla Magat & Gambol law firm and "has no power and/or authority [to decide] who should be removed from the firm's name[.]"<sup>[38]</sup>

Private respondent Atty. Gambol argues that in all the cases he handled after Revilla's disbarment, he omitted Revilla's name from the firm name in the pleadings that he signed. Such deletion was through his own initiative.<sup>[39]</sup>

Petitioners filed their Reply,<sup>[40]</sup> with petitioners addressing respondents' allegations that they remained silent on the disbarment case they had filed by citing Rule 139-B, Section 18 of the Rules of Court,<sup>[41]</sup> which provides that:

Rule 139-B. Disbarment and Discipline of Attorneys

. . . .

Section 18. Confidentiality. — Proceedings against attorneys shall be private and confidential. However, the final order of the Supreme Court shall be published like its decisions in other cases.

Petitioners argue that liability for contempt is separate from disciplinary action; hence, no forum shopping was committed.<sup>[42]</sup>

Petitioners did not address private respondents' allegations regarding the delay in the liquidation of Ruby Industrial Corporation.

The issues in this case are:

First, whether private respondents Atty. Walter T. Young, Atty. Jovito Gambol, and Atty. Dan Reynald R. Magat are in contempt of court when they continued to use respondent Anastacio E. Revilla, Jr.'s name in their firm name even after his disbarment;

Second, whether private respondents Atty. Walter T. Young, Atty. Jovito Gambol, and Atty. Dan Reynald R. Magat are in contempt of court for deliberately allowing a disbarred lawyer to engage in the practice of law;

Third, whether private respondent Anastacio E. Revilla, Jr. is in contempt of court for continuing to practice law even after disbarment;

Fourth, whether public respondent Judge Ofelia L. Calo is in contempt of court when she held that respondent Atty. Walter T. Young can appear in court as long as it is under the Young Law Firm, which is a non-existent firm; and

Lastly, whether the filing of this Petition despite the pendency of a disbarment complaint before the Integrated Bar of the Philippines constitutes forum shopping.

## II

Rule 71, Section 3 of the 1997 Rules of Civil Procedure provides:

**SEC. 3. Indirect contempt to be punished after charge and hearing.**— After charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;

*(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;*

*(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;*

(f) Failure to obey a subpoena duly served;

(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him. (Emphasis supplied)

This court has defined contempt of court as:

a willful disregard or disobedience of a public authority. In its broad sense, contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court. The phrase *contempt of court* is generic, embracing within its legal signification a variety of different acts.<sup>[43]</sup> (Emphasis in the original, citations omitted)

In this case, respondents committed acts that are considered indirect contempt under Section 3 of Rule 71. In addition, respondents disregarded the Code of Professional Responsibility when they retained the name of respondent Revilla in their firm name.

Canon 3, Rule 3.02 states:

Rule 3.02. In the choice of a firm name, no false, misleading or assumed name shall be used. The continued use of the name of a deceased partner is permissible provided that the firm indicates in all its communications that said partner is deceased.

Respondents argue that the use of respondent Revilla's name is "no more misleading than including the names of dead or retired partners in a law firm's name."<sup>[44]</sup>

### III

Maintaining a disbarred lawyer's name in the firm name is different from using a deceased partner's name in the firm name. Canon 3, Rule 3.02 allows the use of a deceased partner's name as long as there is an indication that the partner is deceased. This ensures that the public is not misled. On the other hand, the retention of a disbarred lawyer's name in the firm name may mislead the public into believing that the lawyer is still authorized to practice law.

The use of a deceased partner's name in the firm name was the issue in the consolidated cases *Petition for Authority to Continue Use of the Firm Name "Sycip, Salazar, Feliciano, Hernandez & Castillo"* and *In the matter of the Petition for Authority to Continue Use of the Firm Name "Ozaeta, Romulo, De Leon, Mabanta & Reyes."*<sup>[45]</sup> Petitioners prayed that they be allowed to continue including Atty. Alexander Sycip's and Atty. Herminio Ozaeta's names in their firm names.<sup>[46]</sup> This court denied the petitions, explaining that there is a possibility of deception in the use of a deceased partner's name.<sup>[47]</sup> Also, Article 1815 of the Civil Code<sup>[48]</sup> shows that the partners in a partnership should be "living persons who can be subjected to liability."<sup>[49]</sup> Further, the use of a deceased partner's name is not a custom in the Philippines.<sup>[50]</sup> On the contrary, the local custom shows that the firm name usually identifies the senior members or partners of a law firm.<sup>[51]</sup> Justice Aquino dissented, stating that:

I am of the opinion that the petition may be granted with the condition that it be indicated in the letterheads of the two firms (as the case may