

THIRD DIVISION

[A.C. No. 5377, June 30, 2014]

VICTOR C. LINGAN, COMPLAINANT, VS. ATTYS. ROMEO CALUBAQUIB AND JIMMY P. BALIGA, RESPONDENTS.

R E S O L U T I O N

LEONEN, J.:

This court has the exclusive jurisdiction to regulate the practice of law. When this court orders a lawyer suspended from the practice of law, the lawyer 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.

For our resolution is respondent Atty. Jimmy P. Baliga's motion to lift one-year suspension from the practice of law.^[1]

In the resolution^[2] dated June 15, 2006, this court found Attys. Romeo I. Calubaquib and Jimmy P. Baliga guilty of violating Rule 1.01, Canon 1 of the Code of Professional Responsibility^[3] and of the Lawyer's Oath.^[4] Respondents allowed their secretaries to notarize documents in their stead, in violation of Sections 245^[5] and 246^[6] of the Notarial Law. This court suspended respondents from the practice of law for one year, revoked their notarial commissions, and disqualified them from reappointment as notaries public for two years.

Complainant Victor C. Lingan filed his motion for reconsideration,^[7] praying that respondents be disbarred, not merely suspended from the practice of law. In the resolution^[8] dated September 6, 2006, this court denied complainant Lingan's motion for reconsideration for lack of merit.

On March 22, 2007, Atty. Baliga, also the Regional Director of the Commission on Human Rights Regional Office for Region II, filed the undated ex parte clarificatory pleading with leave of court.^[9]

In his ex parte clarificatory pleading, Atty. Baliga alleged that on July 14, 2006, complainant Lingan wrote the Commission on Human Rights. Lingan requested the Commission to investigate Atty. Baliga following the latter's suspension from the practice of law.

After this court had suspended Atty. Baliga from the practice of law, the Commission on Human Rights En Banc issued the resolution^[10] dated January 16, 2007, suspending him from his position as Director/Attorney VI of the Commission on Human Rights Regional Office for Region II. According to the Commission on Human Rights En Banc, Atty. Baliga's suspension from the practice of law

"prevent[ed] [him] from assuming his post [as Regional Director] for want of eligibility in the meantime that his authority to practice law is suspended."^[11]

Atty. Baliga argued that he cannot be suspended for acts not connected with his functions as Commission on Human Rights Regional Director. According to Atty. Baliga, his suspension from the practice of law did not include his suspension from public office. He prayed for clarification of this court's resolution dated June 15, 2006 "to prevent further injury and prejudice to [his] rights."^[12]

This court noted without action Atty. Baliga's ex parte clarificatory pleading as this court does not render advisory opinions.^[13]

On May 8, 2009, this court received a letter from complainant Ligan. In his letter^[14] dated May 4, 2009, Ligan alleged that Atty. Baliga continued practicing law and discharging his functions as Commission on Human Rights Regional Director, in violation of this court's order of suspension.

Complainant Ligan allegedly received a copy of the Commission on Human Rights En Banc's resolution suspending Atty. Baliga as Regional Director. On Atty. Baliga's motion, the Commission reconsidered Atty. Baliga's suspension and instead admonished him for "[violating] the conditions of his commission as a notary public."^[15] According to complainant Ligan, he was not served a copy of Atty. Baliga's motion for reconsideration.^[16]

Complainant Ligan claimed that the discharge of the functions of a Commission on Human Rights Regional Director necessarily required the practice of law. A Commission on Human Rights Regional Director must be a member of the bar and is designated as Attorney VI. Since this court suspended Atty. Baliga from the practice of law, Atty. Baliga was in effect "a non-lawyer . . . and [was] disqualified to hold the position of [Regional Director] [during the effectivity of the order of suspension]."^[17] The Commission on Human Rights, according to complainant Ligan, should have ordered Atty. Baliga to desist from performing his functions as Regional Director. Complainant Ligan prayed that this court give "favorable attention and action on the matter."^[18]

This court endorsed complainant Ligan's letter to the Office of the Bar Confidant for report and recommendation.^[19]

In its report and recommendation^[20] dated June 29, 2009, the Office of the Bar Confidant found that the period of suspension of Attys. Calubaquib and Baliga had already lapsed. It recommended that respondents be required to file their respective motions to lift order of suspension with certifications from the Integrated Bar of the Philippines and the Executive Judge of the court where they might appear as counsel and state that they desisted from practicing law during the period of suspension.

On the claim that the Commission on Human Rights allowed Atty. Baliga to perform his functions as Regional Director during the period of suspension, the Office of the Bar Confidant said that the Commission "deliberate[ly] disregard[ed]"^[21] this court's order of suspension. According to the Office of the Bar Confidant, the

Commission on Human Rights had no power to “[alter, modify, or set aside any of this court’s resolutions] which [have] become final and executory.”^[22]

Thus, with respect to Atty. Baliga, the Office of the Bar Confidant recommended that this court require him to submit a certification from the Commission on Human Rights stating that he desisted from performing his functions as Regional Director while he was suspended from the practice of law.^[23]

The Office of the Bar Confidant further recommended that Atty. Baliga and the Commission on Human Rights be required to comment on complainant Ligan’s allegation that Atty. Baliga continued to perform his functions as Regional Director while he was suspended from the practice of law.

On July 17, 2009, Atty. Baliga filed a manifestation,^[24] arguing that his suspension from the practice of law did not include his suspension from public office. Atty. Baliga said, “[t]o stretch the coverage of [his suspension from the practice of law] to [his] public office would be tantamount to [violating] his constitutional rights [sic] to due process and to the statutory principle in law that what is not included is deemed excluded.”^[25]

In the resolution^[26] dated September 23, 2009, this court required respondents to file their respective motions to lift order of suspension considering the lapse of the period of suspension. This court further ordered Atty. Baliga and the Commission on Human Rights to comment on complainant Ligan’s allegation that Atty. Baliga continued performing his functions as Regional Director while he was suspended from the practice of law. The resolution dated September 23, 2009 provides:

Considering that the period of suspension from the practice of law and disqualification from being commissioned as notary public imposed on respondents have [sic] already elapsed, this Court resolves:

- (1) to require both respondents, within ten (10) days from notice, to FILE their respective motions to lift relative to their suspension and disqualification from being commissioned as notary public and SUBMIT certifications from the Integrated Bar of the Philippines and Executive Judge of the Court where they may appear as counsel, stating that respondents have actually ceased and desisted from the practice of law during the entire period of their suspension and disqualification, unless already complied with in the meantime;
- (2) to require Atty. Jimmy P. Baliga to SUBMIT a certification from the Commission on Human Rights [CHR] stating that he has been suspended from office and has stopped from the performance of his functions for the period stated in the order of suspension and disqualification, within ten (10) days from notice hereof;
- (3) to require respondent Atty. Baliga and the CHR to COMMENT on the allegations of complainant against them, both within ten (10) days from receipt of notice hereof; . . . ^[27]
(Emphasis in the original)

In compliance with this court's order, Attys. Calubaquib and Baliga filed their respective motions to lift order of suspension.^[28] Atty. Baliga also filed his comment on complainant Lingan's allegation that he continued performing his functions as Regional Director during his suspension from the practice of law.

In his comment^[29] dated November 13, 2009, Atty. Baliga alleged that as Regional Director, he "perform[ed], generally, managerial functions,"^[30] which did not require the practice of law. These managerial functions allegedly included "[supervising] . . . the day to day operations of the regional office and its personnel";^[31] "monitoring progress of investigations conducted by the [Commission on Human Rights] Investigation Unit";^[32] "monitoring the implementation of all other services and assistance programs of the [Commission on Human Rights] by the different units at the regional level";^[33] and "[supervising] . . . the budgetary requirement preparation and disbursement of funds and expenditure of the [Regional Office]." ^[34] The Commission allegedly has its own "legal services unit which takes care of the legal services matters of the [Commission]." ^[35]

Stating that his functions as Regional Director did not require the practice of law, Atty. Baliga claimed that he "faithful[ly] [complied] with [this court's resolution suspending him from the practice of law]." ^[36]

The Commission on Human Rights filed its comment^[37] dated November 27, 2009. It argued that "the penalty imposed upon Atty. Baliga as a member of the bar is separate and distinct from any penalty that may be imposed upon him as a public official for the same acts." ^[38] According to the Commission, Atty. Baliga's suspension from the practice of law is a "bar matter" ^[39] while the imposition of penalty upon a Commission on Human Rights official "is an entirely different thing, falling as it does within the exclusive authority of the [Commission as] disciplining body." ^[40] Nevertheless, the Commission manifested that it would defer to this court's resolution of the issue and would "abide by whatever ruling or decision [this court] arrives at on [the] matter." ^[41]

In reply^[42] to Atty. Baliga's comment, complainant Lingan argued that Atty. Baliga again disobeyed this court. Atty. Baliga failed to submit a certification from the Commission on Human Rights stating that he was suspended from office and desisted from performing his functions as Regional Director.

As to Atty. Baliga's claim that he did not practice law while he held his position as Regional Director and only performed generally managerial functions, complainant Lingan countered that Atty. Baliga admitted to defying the order of suspension. Atty. Baliga admitted to performing the functions of a "lawyer-manager," ^[43] which under the landmark case of *Cayetano v. Monsod* ^[44] constituted practice of law. Complainant Lingan reiterated that the position of Regional Director/Attorney VI requires the officer "to be a lawyer [in] good standing." ^[45] Moreover, as admitted by Atty. Baliga, he had supervision and control over Attorneys III, IV, and V. Being a "lawyer-manager," Atty. Baliga practiced law while he held his position as Regional Director.

With respect to Atty. Baliga's claim that he was in good faith in reassuming his position as Regional Director, complainant Ligan countered that if Atty. Baliga were really in good faith, he should have followed the initial resolution of the Commission on Human Rights suspending him from office. Atty. Baliga did not even furnish this court a copy of his motion for reconsideration of the Commission on Human Rights' resolution suspending him from office. By "playing ignorant on what is 'practice of law', twisting facts and philosophizing,"^[46] complainant Ligan argued that Atty. Baliga "[no longer has that] moral vitality imperative to the title of an attorney."^[47] Complainant Ligan prayed that Atty. Baliga be disbarred.

On February 17, 2010, this court lifted the order of suspension of Atty. Calubaquib.^[48] He was allowed to resume his practice of law and perform notarial acts subject to compliance with the requirements for issuance of a notarial commission.

On the other hand, this court referred to the Office of the Bar Confidant for evaluation, report, and recommendation Atty. Baliga's motion to lift one-year suspension and the respective comments of Atty. Baliga and the Commission on Human Rights.^[49]

In its report and recommendation^[50] dated October 18, 2010, the Office of the Bar Confidant stated that Atty. Baliga "should not [have been] allowed to perform his functions, duties, and responsibilities [as Regional Director] which [required acts constituting] practice of law."^[51] Considering that Atty. Baliga claimed that he did not perform his functions as Regional Director which required the practice of law, the Office of the Bar Confidant recommended that the Commission on Human Rights be required to comment on this claim. The Office of the Bar Confidant also recommended holding in abeyance the resolution of Atty. Baliga's motion to lift suspension "pending [the Commission on Human Rights' filing of comment]."^[52]

In the resolution^[53] dated January 12, 2011, this court held in abeyance the resolution of Atty. Baliga's motion to lift one-year suspension. The Commission on Human Rights was ordered to comment on Atty. Baliga's claim that he did not practice law while he held his position as Regional Director.

In its comment^[54] dated April 6, 2011, the Commission on Human Rights reiterated that the penalty imposed on Atty. Baliga as a member of the bar is separate from the penalty that might be imposed on him as Regional Director. The Commission added that it is "of honest belief that the position of [Regional Director] is managerial and does not [require the practice of law]."^[55] It again manifested that it will "abide by whatever ruling or decision [this court] arrives on [the] matter."^[56]

The issue for our resolution is whether Atty. Baliga's motion to lift order of suspension should be granted.

We find that Atty. Baliga violated this court's order of suspension. We, therefore, suspend him further from the practice of law for six months.

Practice of law is "any activity, in or out of court, which requires the application of