

EN BANC

[A.C. No. 8481 [Formerly B.M. No. 1524], August 03, 2010]

**ATTY. JOSABETH V. ALONSO AND SHALIMAR P. LAZATIN,
COMPLAINANTS, VS. ATTY. IBARO B. RELAMIDA, JR.,
RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Before us is a Complaint^[1] dated October 13, 2005 for disciplinary action against respondent Atty. Ibaro B. Relamida, Jr. filed by Attys. Josabeth V. Alonso and Shalimar P. Lazatin, counsel of Servier Philippines, Incorporated for violating the rules on forum shopping and *res judicata*.

The antecedent facts of the case are as follows:

In March 2001, Jennifer Ebanen filed a Complaint for illegal dismissal against Servier Philippines, Incorporated (Servier) docketed as NLRC-NCR-Case No. 30-03-01583-01, alleging constructive dismissal with prayer for reinstatement or payment of separation pay, backwages, moral and exemplary damages.

On July 5, 2002, the Labor Arbiter ruled in favor of Servier.^[2] It held that Ebanen voluntarily resigned from Servier and was, therefore, not illegally dismissed.

Ebanen appealed at the National Labor Relations Commission (NLRC). On March 31, 2003, the NLRC-Third Division affirmed the Decision of the Labor Arbiter.^[3]

Thus, Ebanen moved for reconsideration. However, the NLRC denied the same in a Resolution^[4] dated May 5, 2003.

Unsatisfied, Ebanen filed a Petition for *Certiorari* before the Court of Appeals which was docketed as CA-G.R. SP No. 77968. In a Decision^[5] dated January 16, 2004, the Court of Appeals (CA) affirmed the findings of the NLRC that Ebanen voluntarily resigned and that there was no constructive dismissal. Ebanen moved anew for reconsideration, but was denied in a Resolution^[6] dated April 30, 2004.

Unrelenting, Ebanen filed a Petition for Review before the Supreme Court. However, in a Resolution^[7] dated August 4, 2004, the Court found no reversible error on the part of the CA, thus, denied said petition. Ebanen filed a motion for reconsideration, but was denied with finality in a Resolution^[8] dated October 11, 2004.

Ebanen filed a Motion for Leave to Admit Second Motion for Reconsideration of the Resolutions dated August 4, 2004 and October 11, 2004, respectively. On January

19, 2005, the Court denied her motion.^[9]

Persistent, Ebanen filed a Motion to Admit a Third Motion for Reconsideration of the Resolution dated January 19, 2005. On April 20, 2005, the Court denied her motion for being a prohibited pleading and noted without action Ebanen's third motion for reconsideration.^[10]

On July 27, 2005, the Second Division of the Supreme Court noted without action Ebanen's Motion for Leave to Admit Supplemental Third Motion for Reconsideration dated June 1, 2005, in view of the entry of judgment on February 17, 2005.^[11]

On February 17, 2005, the Court's Resolution dated August 4, 2004 has already become final and executory; thus, a corresponding Entry of Judgment^[12] has been issued.

However, despite said entry of judgment, Ebanen, thru her counsel, Atty. Relamida, filed a second complaint on August 5, 2005 for illegal dismissal based on the same cause of action of constructive dismissal against Servier, now docketed as NLRC-NCR Case No. 00-08-07222-05.

Thus, on October 13, 2005, Servier, thru counsel, filed a letter-complaint addressed to the then Chief Justice Hilario Davide, Jr., praying that respondents be disciplinary sanctioned for violation of the rules on forum shopping and *res judicata*.

Subsequently, in a Resolution^[13] dated November 15, 2005, the Court required both Ebanen and Atty. Relamida to comment on the letter-complaint against them.

On January 16, 2006, respondents filed their Comments.^[14] Both respondents admitted the filing of the second complaint against Servier. They claimed that the judgment rendered by the Labor Arbiter was null and void for want of due process, since the motion for the issuance of *subpoena duces tecum* for the production of vital documents filed by the complainant was ignored by the Labor Arbiter. They opined that the dismissal did not amount to *res judicata*, since the decision was null and void for lack of due process. As a result, they claimed that there was also no violation of the rule on forum shopping.^[15]

On February 7, 2006, the Court referred the instant bar matter to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.^[16]

On January 22, 2007, the Labor Arbiter dismissed the second complaint on the grounds of *res judicata* and forum shopping. It further reiterated that Ebanen voluntarily resigned from employment and was not constructively dismissed.

On March 14, 2008, during the mandatory conference before the IBP, complainants failed to appear. Ebanen manifested that she is not a lawyer.

Both parties were required to submit their respective position papers.

Atty. Relamida reiterated that Ebanen is not a lawyer and that she is the daughter of Atty. Leonardo Aurelio (Atty. Aurelio), the senior partner of A.M. Sison Jr. and

Partners Law Offices where he is employed as associate lawyer.

He narrated that on March 28, 2001, Ebanen filed a Complaint for illegal dismissal against Servier. He claimed that in the beginning, Atty. Aurelio was the one who prepared and reviewed all the pleadings and it was Atty. Lapulapu Osoteo who stood as counsel for Ebanen in the said labor case. Atty. Relamida admitted, however, that during the filing of the second complaint he took over as counsel of Ebanen, as requested by Atty. Aurelio.^[17] He also admitted that during the pendency of the first complaint, he occasionally examined pleadings and signed as counsel for Ebanen.^[18]

Atty. Relamida reasoned out that as a courtesy to Atty. Aurelio and Ebanen, he had no choice but to represent the latter. Moreover, he stressed that his client was denied of her right to due process due to the denial of her motion for the issuance of a *subpoena duces tecum*. He then argued that the decision of the Labor Arbiter was null and void; thus, there was no *res judicata*.^[19] He maintained that he did not violate the lawyer's oath by serving the interest of his client.

Servier, on the other hand, argued that the filing of the second complaint is a violation of the rights of Servier, since the issue has already attained finality. It contended that Atty. Relamida violated the rules on forum shopping for the same act of filing a second complaint. As a consequence, they are being made to defend themselves in a case that has been settled before the labor tribunals and courts. Likewise, Servier insisted that the filing of the second complaint was also a blatant violation of the rule on *res judicata*. Hence, Servier prayed that Atty. Relamida be disciplinary dealt with due to his abuse of the processes of the courts.

On April 19, 2008, the IBP-Commission on Bar Discipline (IBP-CBD) recommended that respondent Atty. Relamida be suspended from the practice of law for six (6) months. It imposed no sanction on Ebanen for being a non-lawyer.

In its Report, the IBP found that by filing the second complaint, Atty. Relamida was guilty of violating the rules on *res judicata* and forum shopping. It concluded that Atty. Relamida abused his right of recourse to the courts by filing a complaint for a cause that had been previously rejected by the courts.

On June 5, 2008, the IBP Board of Governors resolved to adopt and approve with modification as to penalty the report of the IBP-CBD. Instead, it recommended that Atty. Relamida be suspended from the practice of law for one (1) month for his violation of the rules on *res judicata* and *forum shopping*.

On December 7, 2009, the Office of the Bar Confidant recommended that the instant complaint be re-docketed as a regular administrative case against Atty. Relamida.

We sustain the findings of the IBP-CBD.

All lawyers must bear in mind that their oaths are neither mere words nor an empty formality. When they take their oath as lawyers, they dedicate their lives to the pursuit of justice. They accept the sacred trust to uphold the laws of the land. As the first Canon of the Code of Professional Responsibility states, "[a] lawyer shall