

FIRST DIVISION

[A.C. No. 5738, February 19, 2008]

WILFREDO M. CATU, Complainant, vs. ATTY. VICENTE G. RELLOSA, Respondent.

R E S O L U T I O N

CORONA, J.:

Complainant Wilfredo M. Catu is a co-owner of a lot^[1] and the building erected thereon located at 959 San Andres Street, Malate, Manila. His mother and brother, Regina Catu and Antonio Catu, contested the possession of Elizabeth C. Diaz-Catu^[2] and Antonio Pastor^[3] of one of the units in the building. The latter ignored demands for them to vacate the premises. Thus, a complaint was initiated against them in the *Lupong Tagapamayapa* of Barangay 723, Zone 79 of the 5th District of Manila^[4] where the parties reside.

Respondent, as *punong barangay* of Barangay 723, summoned the parties to conciliation meetings.^[5] When the parties failed to arrive at an amicable settlement, respondent issued a certification for the filing of the appropriate action in court.

Thereafter, Regina and Antonio filed a complaint for ejectment against Elizabeth and Pastor in the Metropolitan Trial Court of Manila, Branch 11. Respondent entered his appearance as counsel for the defendants in that case. Because of this, complainant filed the instant administrative complaint,^[6] claiming that respondent committed an act of impropriety as a lawyer and as a public officer when he stood as counsel for the defendants despite the fact that he presided over the conciliation proceedings between the litigants as *punong barangay*.

In his defense, respondent claimed that one of his duties as *punong barangay* was to hear complaints referred to the barangay's *Lupong Tagapamayapa*. As such, he heard the complaint of Regina and Antonio against Elizabeth and Pastor. As head of the *Lupon*, he performed his task with utmost objectivity, without bias or partiality towards any of the parties. The parties, however, were not able to amicably settle their dispute and Regina and Antonio filed the ejectment case. It was then that Elizabeth sought his legal assistance. He acceded to her request. He handled her case for free because she was financially distressed and he wanted to prevent the commission of a patent injustice against her.

The complaint was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. As there was no factual issue to thresh out, the IBP's Commission on Bar Discipline (CBD) required the parties to submit their respective position papers. After evaluating the contentions of the parties, the IBP-CBD found sufficient ground to discipline respondent.^[7]

According to the IBP-CBD, respondent admitted that, as *punong barangay*, he presided over the conciliation proceedings and heard the complaint of Regina and Antonio against Elizabeth and Pastor. Subsequently, however, he represented Elizabeth and Pastor in the ejectment case filed against them by Regina and Antonio. In the course thereof, he prepared and signed pleadings including the answer with counterclaim, pre-trial brief, position paper and notice of appeal. By so doing, respondent violated Rule 6.03 of the Code of Professional Responsibility:

Rule 6.03 – A lawyer shall not, after leaving government service, accept engagement or employment in connection with any matter in which he intervened while in said service.

Furthermore, as an elective official, respondent contravened the prohibition under Section 7(b)(2) of RA 6713:^[8]

SEC. 7. *Prohibited Acts and Transactions.* – In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

xxx xxx xxx

(b) *Outside employment and other activities related thereto.* – Public officials and employees during their incumbency shall not:

xxx xxx xxx

(2) **Engage in the private practice of profession unless authorized by the Constitution or law**, provided that such practice will not conflict or tend to conflict with their official functions; xxx (emphasis supplied)

According to the IBP-CBD, respondent's violation of this prohibition constituted a breach of Canon 1 of the Code of Professional Responsibility:

CANON 1. A LAWYER SHALL UPHOLD THE CONSTITUTION, **OBEDIENT TO THE LAWS OF THE LAND, PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.** (emphasis supplied)

For these infractions, the IBP-CBD recommended the respondent's suspension from the practice of law for one month with a stern warning that the commission of the same or similar act will be dealt with more severely.^[9] This was adopted and approved by the IBP Board of Governors.^[10]

We modify the foregoing findings regarding the transgression of respondent as well as the recommendation on the imposable penalty.

**Rule 6.03 of the Code
of Professional Responsibility
Applies Only to Former
Government Lawyers**

Respondent cannot be found liable for violation of Rule 6.03 of the Code of Professional Responsibility. As worded, that Rule applies only to a lawyer who has *left government service* and in connection "with any matter in which he intervened while in said service." In *PCGG v. Sandiganbayan*,^[11] we ruled that Rule 6.03 **prohibits former government lawyers** from accepting "engagement or employment in connection with any matter in which [they] had intervened while in said service."

Respondent was an incumbent *punong barangay* at the time he committed the act complained of. Therefore, he was not covered by that provision.

**Section 90 of RA 7160, Not
Section 7(b)(2) of RA 6713,
Governs The Practice of
Profession of Elective Local
Government Officials**

Section 7(b)(2) of RA 6713 prohibits public officials and employees, during their incumbency, from engaging in the private practice of their profession "unless authorized by the Constitution or law, provided that such practice will not conflict or tend to conflict with their official functions." This is the general law which applies to all public officials and employees.

For elective local government officials, Section 90 of RA 7160^[12] governs:

SEC. 90. *Practice of Profession.* – (a) All governors, city and municipal mayors are prohibited from practicing their profession or engaging in any occupation other than the exercise of their functions as local chief executives.

(b) *Sanggunian* members may practice their professions, engage in any occupation, or teach in schools except during session hours: *Provided, That sanggunian* members who are members of the Bar shall not:

(1) Appear as counsel before any court in any civil case wherein a local government unit or any office, agency, or instrumentality of the government is the adverse party;

(2) Appear as counsel in any criminal case wherein an officer or employee of the national or local government is accused of an offense committed in relation to his office;

(3) Collect any fee for their appearance in administrative proceedings involving the local government unit of which he is an official; and

(4) Use property and personnel of the Government except when the *sanggunian* member concerned is defending the interest of the Government.

(c) Doctors of medicine may practice their profession even