

EN BANC

[ADM. CASE NO. 5439, January 22, 2007]

CLARITA J. SAMALA, COMPLAINANT, VS. ATTY. LUCIANO D. VALENCIA, RESPONDENT.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

Before us is a complaint^[1] dated May 2, 2001 filed by Clarita J. Samala (complainant) against Atty. Luciano D. Valencia (respondent) for Disbarment on the following grounds: (a) serving on two separate occasions as counsel for contending parties; (b) knowingly misleading the court by submitting false documentary evidence; (c) initiating numerous cases in exchange for nonpayment of rental fees; and (d) having a reputation of being immoral by siring illegitimate children.

After respondent filed his Comment, the Court, in its Resolution of October 24, 2001, referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.^[2]

The investigation was conducted by Commissioner Demaree Jesus B. Raval. After a series of hearings, the parties filed their respective memoranda^[3] and the case was deemed submitted for resolution.

Commissioner Wilfredo E.J.E. Reyes prepared the Report and Recommendation^[4] dated January 12, 2006. He found respondent guilty of violating Canons 15 and 21 of the Code of Professional Responsibility and recommended the penalty of suspension for six months.

In a minute Resolution^[5] passed on May 26, 2006, the IBP Board of Governors adopted and approved the report and recommendation of Commissioner Reyes but increased the penalty of suspension from six months to one year.

We adopt the report of the IBP Board of Governors except as to the issue on immorality and as to the recommended penalty.

On serving as counsel for contending parties.

Records show that in Civil Case No. 95-105-MK, filed in the Regional Trial Court (RTC), Branch 272, Marikina City, entitled "Leonora M. Aville v. Editha Valdez" for nonpayment of rentals, herein respondent, while being the counsel for defendant Valdez, also acted as counsel for the tenants Lagmay, Valencia, Bustamante and Bayuga^[6] by filing an Explanation and Compliance before the RTC.^[7]

In Civil Case No. 98-6804 filed in the Metropolitan Trial Court (MTC), Branch 75,

Marikina City, entitled "Editha S. Valdez and Joseph J. Alba, Jr. v. Salve Bustamante and her husband" for ejectment, respondent represented Valdez against Bustamante – one of the tenants in the property subject of the controversy. Defendants appealed to the RTC, Branch 272, Marikina City docketed as SCA Case No. 99-341-MK. In his decision dated May 2, 2000,^[8] Presiding Judge Reuben P. dela Cruz^[9] warned respondent to refrain from repeating the act of being counsel of record of both parties in Civil Case No. 95-105-MK.

But in Civil Case No. 2000-657-MK, filed in the RTC, Branch 273, Marikina City, entitled "Editha S. Valdez v. Joseph J. Alba, Jr. and Register of Deeds of Marikina City," respondent, as counsel for Valdez, filed a Complaint for Rescission of Contract with Damages and Cancellation of Transfer Certificate of Title No. 275500 against Alba, respondent's former client in Civil Case No. 98-6804 and SCA Case No. 99-341-MK.

Records further reveal that at the hearing of November 14, 2003, respondent admitted that in Civil Case No. 95-105-MK, he was the lawyer for Lagmay (one of the tenants) but not for Bustamante and Bayuga^[10] albeit he filed the Explanation and Compliance for and in behalf of the tenants.^[11] Respondent also admitted that he represented Valdez in Civil Case No. 98-6804 and SCA Case No. 99-341-MK against Bustamante and her husband but denied being the counsel for Alba although the case is entitled "Valdez **and Alba** v. Bustamante and her husband," because Valdez told him to include Alba as the two were the owners of the property^[12] and it was only Valdez who signed the complaint for ejectment.^[13] But, while claiming that respondent did not represent Alba, respondent, however, avers that he already severed his representation for Alba when the latter charged respondent with estafa.^[14] Thus, the filing of Civil Case No. 2000-657-MK against Alba.

Rule 15.03, Canon 15 of the Code of Professional Responsibility provides that a lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

A lawyer may not, without being guilty of professional misconduct, act as counsel for a person whose interest conflicts with that of his present or former client.^[15] He may not also undertake to discharge conflicting duties any more than he may represent antagonistic interests. This stern rule is founded on the principles of public policy and good taste.^[16] It springs from the relation of attorney and client which is one of trust and confidence. Lawyers are expected not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing for only then can litigants be encouraged to entrust their secrets to their lawyers, which is of paramount importance in the administration of justice.^[17]

One of the tests of inconsistency of interests is whether the acceptance of a new relation would prevent the full discharge of the lawyer's duty of undivided fidelity and loyalty to the client or invite suspicion of unfaithfulness or double-dealing in the performance of that duty.^[18]

The stern rule against representation of conflicting interests is founded on principles of public policy and good taste. It springs from the attorney's duty to represent his client with undivided fidelity and to maintain inviolate the client's confidence as well

as from the injunction forbidding the examination of an attorney as to any of the privileged communications of his client.^[19]

An attorney owes loyalty to his client not only in the case in which he has represented him but also after the relation of attorney and client has terminated.^[20] The bare attorney-client relationship with a client precludes an attorney from accepting professional employment from the client's adversary either in the same case^[21] or in a different but related action.^[22] A lawyer is forbidden from representing a subsequent client against a former client when the subject matter of the present controversy is related, directly or indirectly, to the subject matter of the previous litigation in which he appeared for the former client.^[23]

We held in *Nombrado v. Hernandez*^[24] that the termination of the relation of attorney and client provides no justification for a lawyer to represent an interest adverse to or in conflict with that of the former client. The reason for the rule is that the client's confidence once reposed cannot be divested by the expiration of the professional employment.^[25] Consequently, a lawyer should not, even after the severance of the relation with his client, do anything which will injuriously affect his former client in any matter in which he previously represented him nor should he disclose or use any of the client's confidences acquired in the previous relation.^[26]

In this case, respondent's averment that his relationship with Alba has long been severed by the act of the latter of not turning over the proceeds collected in Civil Case No. 98-6804, in connivance with the complainant, is unavailing. Termination of the attorney-client relationship precludes an attorney from representing a new client whose interest is adverse to his former client. Alba may not be his original client but the fact that he filed a case entitled "**Valdez and Alba v. Bustamante and her husband,**" is a clear indication that respondent is protecting the interests of both Valdez and Alba in the said case. Respondent cannot just claim that the lawyer-client relationship between him and Alba has long been severed without observing Section 26, Rule 138 of the Rules of Court wherein the written consent of his client is required.

In *Gonzales v. Cabucana, Jr.*,^[27] citing the case of *Quiambao v. Bamba*,^[28] we held that:

The proscription against representation of conflicting interests applies to a situation where the opposing parties are present clients in the same action or in an unrelated action. It is of no moment that the lawyer would not be called upon to contend for one client that which the lawyer has to oppose for the other client, or that there would be no occasion to use the confidential information acquired from one to the disadvantage of the other as the two actions are wholly unrelated. It is enough that the opposing parties in one case, one of whom would lose the suit, are present clients and the nature or conditions of the lawyer's respective retainers with each of them would affect the performance of the duty of undivided fidelity to both clients.^[29]

Respondent is bound to comply with Canon 21 of the Code of Professional Responsibility which states that "a lawyer shall preserve the confidences and secrets of his client even after the attorney-client relation is terminated."

The reason for the prohibition is found in the relation of attorney and client, which is one of trust and confidence of the highest degree. A lawyer becomes familiar with all the facts connected with his client's case. He learns from his client the weak points of the action as well as the strong ones. Such knowledge must be considered sacred and guarded with care.^[30]

From the foregoing, it is evident that respondent's representation of Valdez and Alba against Bustamante and her husband, in one case, and Valdez against Alba, in another case, is a clear case of conflict of interests which merits a corresponding sanction from this Court. Respondent may have withdrawn his representation in Civil Case No. 95-105-MK upon being warned by the court,^[31] but the same will not exculpate him from the charge of representing conflicting interests in his representation in Civil Case No. 2000-657-MK.

Respondent is reminded to be more cautious in accepting professional employments, to refrain from all appearances and acts of impropriety including circumstances indicating conflict of interests, and to behave at all times with circumspection and dedication befitting a member of the Bar, especially observing candor, fairness and loyalty in all transactions with his clients.^[32]

On knowingly misleading the court by submitting false documentary evidence.

Complainant alleges that in Civil Case No. 00-7137 filed before MTC, Branch 75 for ejectment, respondent submitted TCT No. 273020 as evidence of Valdez's ownership despite the fact that a new TCT No. 275500 was already issued in the name of Alba on February 2, 1995.

Records reveal that respondent filed Civil Case No. 00-7137 on November 27, 2000 and presented TCT No. 273020 as evidence of Valdez's ownership of the subject property.^[33] During the hearing before Commissioner Raval, respondent avers that when the Answer was filed in the said case, that was the time that he came to know that the title was already in the name of Alba; so that when the court dismissed the complaint, he did not do anything anymore.^[34] Respondent further avers that Valdez did not tell him the truth and things were revealed to him only when the case for rescission was filed in 2002.

Upon examination of the record, it was noted that Civil Case No. 2000-657-MK for rescission of contract and cancellation of TCT No. 275500 was also filed on November 27, 2000,^[35] before RTC, Branch 273, Marikina City, thus belying the averment of respondent that he came to know of Alba's title only in 2002 when the case for rescission was filed. It was revealed during the hearing before Commissioner Raval that Civil Case Nos. 00-7137 and 2000-657-MK were filed on the same date, although in different courts and at different times.

Hence, respondent cannot feign ignorance of the fact that the title he submitted was already cancelled in lieu of a new title issued in the name of Alba in 1995 yet, as proof of the latter's ownership.

Respondent failed to comply with Canon 10 of the Code of Professional