

EN BANC

[A.C. No. 5624, January 20, 2004]

**NATASHA HUEYSUWAN-FLORIDO, COMPLAINANT, VS. ATTY.
JAMES BENEDICT C. FLORIDO, RESPONDENT.**

DECISION

YNARES-SATIAGO, J.:

This is an administrative complaint for the disbarment of respondent Atty. James Benedict C. Florido and his eventual removal from the Roll of Attorneys for allegedly violating his oath as a lawyer "by manufacturing, flaunting and using a spurious and bogus Court of Appeals Resolution/Order."^[1]

In her Complaint-Affidavit, Natasha V. Heysuwan-Florido averred that she is the legitimate spouse of respondent Atty. James Benedict C. Florido, but that they are estranged and living separately from each other. They have two children – namely, Kamille Nicole H. Florido, five years old, and James Benedict H. Florido, Jr., three years old – both of whom are in complainant's custody. Complainant filed a case for the annulment of her marriage with respondent, docketed as Civil Case No. 23122, before the Regional Trial Court of Cebu City, Branch 24. Meanwhile, there is another case related to the complaint for annulment of marriage which is pending before the Court of Appeals and docketed as CA-G.R. SP No. 54235 entitled, "*James Benedict C. Florido v. Hon. Pampio Abarientos, et al.*"

Sometime in the middle of December 2001, respondent went to complainant's residence in Tanjay City, Negros Oriental and demanded that the custody of their two minor children be surrendered to him. He showed complainant a photocopy of an alleged Resolution issued by the Court of Appeals which supposedly granted his motion for temporary child custody.^[2] Complainant called up her lawyer but the latter informed her that he had not received any motion for temporary child custody filed by respondent.

Complainant asked respondent for the original copy of the alleged resolution of the Court of Appeals, but respondent failed to give it to her. Complainant then examined the resolution closely and noted that it bore two dates: November 12, 2001 and November 29, 2001. Sensing something amiss, she refused to give custody of their children to respondent.

In the mid-morning of January 15, 2002, while complainant was with her children in the ABC Learning Center in Tanjay City, respondent, accompanied by armed men, suddenly arrived and demanded that she surrender to him the custody of their children. He threatened to forcefully take them away with the help of his companions, whom he claimed to be agents of the National Bureau of Investigation.

Alarmed, complainant immediately sought the assistance of the Tanjay City Police.

The responding policemen subsequently escorted her to the police station where the matter could be clarified and settled peacefully. At the police station, respondent caused to be entered in the Police Blotter a statement that he, assisted by agents of the NBI, formally served on complainant the appellate court's resolution/order.^[3] In order to diffuse the tension, complainant agreed to allow the children to sleep with respondent for one night on condition that he would not take them away from Tanjay City. This agreement was entered into in the presence of Tanjay City Chief of Police Juanito Condes and NBI Investigator Roger Sususco, among others.

In the early morning of January 16, 2002, complainant received information that a van arrived at the hotel where respondent and the children were staying to take them to Bacolod City. Complainant rushed to the hotel and took the children to another room, where they stayed until later in the morning.

On the same day, respondent filed with the Regional Trial Court of Dumaguete City, Branch 31, a verified petition^[4] for the issuance of a writ of *habeas corpus* asserting his right to custody of the children on the basis of the alleged Court of Appeals' resolution. In the meantime, complainant verified the authenticity of the Resolution and obtained a certification dated January 18, 2002^[5] from the Court of Appeals stating that no such resolution ordering complainant to surrender custody of their children to respondent had been issued.

At the hearing of the petition for habeas corpus on January 23, 2002, respondent did not appear. Consequently, the petition was dismissed.

Hence, complainant filed the instant complaint alleging that respondent violated his attorney's oath by manufacturing, flaunting and using a spurious Court of Appeals' Resolution in and outside a court of law. Furthermore, respondent abused and misused the privileged granted to him by the Supreme Court to practice law in the country.

After respondent answered the complaint, the matter was referred to the IBP-Commission on Bar Discipline for investigation, report and recommendation. The IBP-CBD recommended that respondent be suspended from the practice of law for a period of three years with a warning that another offense of this nature will result in his disbarment.^[6] On June 23, 2003, the IBP Board of Governors adopted and approved the Report and recommendation of the Commission with the modification that the penalty of suspension be increased to six years.

The issue to be resolved is whether or not the respondent can be held administratively liable for his reliance on and attempt to enforce a spurious Resolution of the Court of Appeals.

In his answer to the complaint, respondent claims that he acted in good faith in invoking the Court of Appeals Resolution which he honestly believed to be authentic. This, however, is belied by the fact that he used and presented the spurious resolution several times. As pointed out by the Investigating Commissioner, the assailed Resolution was presented by respondent on at least two occasions: first, in his Petition for Issuance of Writ of *Habeas Corpus* docketed as Special Proc. Case No. 3898,^[7] which he filed with the Regional Trial Court of Dumaguete City; and second, when he sought the assistance of the Philippine National Police (PNP) of