

SECOND DIVISION

[A.C. No. 6403 (CBD 00-779), August 31, 2004]

RUDECON MANAGEMENT CORPORATION AND ATTY. RUDEGELIO D. TACORDA, COMPLAINANTS, VS. ATTY. MANUEL N. CAMACHO, RESPONDENT.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

On November 23, 2000, Rudecon Management Corporation and Atty. Rudegelio D. Tacorda filed with the Integrated Bar of the Philippines (IBP) a verified complaint for disbarment or suspension from the practice of law against Atty. Manuel N. Camacho for knowingly committing forum-shopping, in violation of Supreme Court Administrative Circular No. 04-94 in relation to the provisions of Section 5, Rule 7, 1997 Rules of Civil Procedure and the Canons of the Code of Professional Responsibility.

The factual antecedents leading to the instant complaint are as follows:

On September 3, 1998, Sisenando Singson, represented by herein respondent Atty. Manuel N. Camacho, filed with the Regional Trial Court (RTC) of Quezon City a complaint against herein complainant Rudecon Management Corporation for damages and reconveyance, docketed as Civil Case No. Q-98-35444.^[1] The case was originally raffled to Branch 79, RTC, Quezon City (Branch 79 for brevity) but was eventually re-raffled to Branch 85 of the same court.

On September 21, 1998, Singson, again represented by Atty. Camacho, filed with Branch 78, RTC, Quezon City (Branch 78 for brevity) a "Motion for Intervention (With Attached Answer in Intervention With Affirmative Defenses and Compulsory Counterclaim)" in Civil Case No. Q-98-35326, entitled, "Rudecon Management Corporation, *plaintiff-appellee* vs. Ramon M. Veluz, *defendant-appellant*," a case for unlawful detainer on appeal before said court.^[2]

On October 1, 1998, Rudecon filed a motion before Branch 78 seeking to cite Singson and his counsel, Atty. Camacho, for contempt for having allegedly violated the rule against forum shopping. Rudecon contends that the answer-in-intervention filed before Branch 78 involves the same issues already raised in the complaint filed with Branch 79.

On November 6, 1998, Branch 78, issued an order, with the following dispositive portion:

WHEREFORE, finding appellee's herein Motion to be well taken, this Court finds would-be-intervenor, Sisenando Singson and his counsel, Atty. Manuel N. Camacho to have violated the rule on forum-shopping and

holds them liable for contempt of Court under Circular No. 04-94 and Section 5, Rule 7, Rules of Court in relation to Rule 71 and hereby reprimands both of them without prejudice to any administrative and appropriate action against would-be-intervenor's counsel.

SO ORDERED.^[3]

Singson and Camacho did not appeal the order.

On the basis of the above-cited order, Rudecon and Tacorda filed the instant complaint for disbarment or suspension against Atty. Camacho. Complainants submit that aside from disregarding the rule against forum shopping, contained in Supreme Court Administrative Circular No. 04-94 and Section 5, Rule 7 of the 1997 Rules of Court, respondent is also guilty of violating Rules 1.01 and 1.02, Canon 1 and Rule 10.01, Canon 10 of the Code of Professional Responsibility.^[4]

Respondent filed his Answer to the instant complaint. He denies the allegations of complainant and contends that he is not guilty of forum shopping. He claims that the Answer in Intervention filed with Branch 78 in Civil Case No. Q-98-35326 and the Complaint filed with Branch 79 in Civil Case No. Q-98-35444 do not involve the same issues and reliefs prayed for and that he did not resort to the filing of both actions in order to increase the chances of his client obtaining a favorable decision.^[5]

The case was docketed by IBP as CBD Case No. 00-779 and was referred by the Commission on Bar Discipline of the IBP to an Investigating Commissioner for investigation, report and recommendation.

On October 24, 2003, Investigating Commissioner Julio C. Elamparo submitted his report to the IBP Board of Governors with the following findings and recommendation:

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Two court cases gave rise to the present complaint. The first is Sisenando Singson vs. Rudecon Management Corp., Civil Case No. Q-98-35444 before Quezon City, RTC Branch 79 and the other case is Rudecon Management Corp. vs. Ramon M. Veluz, Civil Case No. Q-98-35326 before Quezon City, RTC Branch 78.

The respondent does not deny the existence of an Order dated November 6, 1998 issued by RTC Branch 78 of Quezon City in the case entitled Rudecon Management Corp. vs. Ramon M. Veluz, Civil Case No. Q-98-35326. Respondent does not deny also that this Order has become final and executory. What the respondent asserts is that he is not guilty of forum shopping because the cause of action and the reliefs prayed for in Civil Case No. Q-98-35326 are different from the cause of action and reliefs prayed for in Civil Case No. Q-98-35444 are different.

When respondent failed to contest the Order dated November 6, 1998, the same was rendered final and executory. This office is therefore devoid of any jurisdiction to review the factual finding of the trial court

which give rise to said order finding the respondent guilty of forum shopping. This office has no other option but to recognize the validity of said order.

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Accordingly, it is respectfully recommended that the penalty of warning be meted out against the respondent for violating the prohibition against forum shopping, specifically, Supreme Court Adm. No. 04-94, paragraph 2 and Section 5, Rule 7, paragraph 2 of the 1997 Rules of Civil Procedure.^[6]

On February 27, 2004, the IBP Board of Governors passed Resolution No. XVI-2004-43 adopting and approving the report and recommendation of Investigating Commissioner Elamparo.^[7]

We do not entirely agree with the IBP Resolution.

Based on the records, there are two issues to be resolved: (1) whether respondent is guilty of forum shopping; and (2) whether respondent may be held administratively liable for violation of the Code of Professional Responsibility. As to the first issue, we rule in the affirmative. As to the second issue, we rule in the negative.

Anent the first issue.

Respondent maintains that he is not guilty of forum shopping. However, it is not disputed that the RTC found respondent and his client guilty of forum shopping, on the basis of which it held both of them in contempt. This order has become final and executory for failure of respondent to appeal the same. The general rule is that once an issue has been adjudicated in a valid final judgment of a competent court, it can no longer be controverted anew and should be finally laid to rest.^[8] When a final judgment becomes executory, it becomes immutable and unalterable. The judgment may no longer be modified in any respect, directly or indirectly, even if the modification is meant to correct what is perceived to be an erroneous conclusion of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by this Court.^[9] The only recognized exceptions are the correction of clerical errors or the making of so called *nunc pro tunc* entries which cause no prejudice to any party, and, of course where the judgment is void.^[10] The instant case does not fall under any of these exceptions. Indeed, it has been held that controlling and irresistible reasons of public policy and of sound practice in the courts demand that at the risk of occasional error, judgments of courts determining controversies submitted to them should become final at some definite time fixed by law, or by a rule of practice recognized by law, so as to be thereafter beyond the control even of the court which rendered them for the purpose of correcting error of fact or of law, into which, in the opinion of the court it may have fallen.^[11] In the present case, since the order of the trial court dated November 6, 1998 has already attained finality, we are now precluded from seeking otherwise.

Anent the second issue.