

## **FIRST DIVISION**

**[ A.C. No. 3548, July 04, 2002 ]**

**JOSE A. RIVERA, COMPLAINANT, VS. ATTY. NAPOLEON CORRAL,  
RESPONDENT.**

### **R E S O L U T I O N**

**YNARES-SANTIAGO, J.:**

On September 1, 1990,<sup>[1]</sup> Jose A. Rivera instituted a Complaint for Disbarment<sup>[2]</sup> charging Atty. Napoleon Corral with Malpractice and Conduct Unbecoming a Member of the Philippine Bar. The complaint alleges, inter alia -

1. That on February 12, 1990, a Decision was penned by the Honorable Presiding Judge Gorgonio Y. Ybañez on (sic) Civil Case No. 17473 for Ejectment.<sup>[3]</sup>
2. That such decision was received by Annaliza Superio, Secretary of Atty. Napoleon Corral, on February 23, 1990.<sup>[4]</sup>
3. That on March 13, 1990, a "NOTICE OF APPEAL" was filed in court by Atty. Napoleon Corral, a copy of which was served on plaintiff's counsel.<sup>[5]</sup>
4. That on March 14, 1990, [at] about 1:50 p.m. Atty. Napoleon Corral came to the Office of the Clerk of Court, Branch 7, Bacolod City and changed the date February 23, 1990 to February 29, 1990. Realizing later that there is no 29th in February 1990, he filed a "REPLY TO PLAINTIFF'S MANIFESTATION" claiming therein that he received the Decision not on the 29th in (sic) February 1990 but on the 28th of February 1990.<sup>[6]</sup>
5. That Atty. Napoleon Corral violated the proper norms/ethics as a lawyer by tampering with particularly by personally and manually changing entries in the court's record without the Court's prior knowledge and permission, conduct unbecoming of a member of the Philippine Bar much more so because in so doing he was found to have been motivated by the desire of suppressing the truth.
6. That on July 13, 1990 Atty. Napoleon Corral filed a "MOTION TO DISMISS", among other things he stated that the court is without jurisdiction to try and decide the case at issue.

In his defense, respondent claimed that the correction of the date was done on the paper prepared by him. He also alleged that the correction was initiated and done in the presence and with the approval of the Clerk of Court and the other court employees. According to respondent, the correction was made because of typographical error he committed. He denied that Annaliza Superio, who received the decision in his behalf, is his secretary.

In a Resolution dated January 20, 1993, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.<sup>[7]</sup> Thereafter, Investigating Commissioner Victor C. Fernandez submitted his report on August 21, 1997 finding respondent guilty as charged and recommended his suspension from the practice of law for six (6) months.

On October 25, 1997, the IBP Board of Governors passed a Resolution approving and adopting the report and recommendation of the Investigating Commissioner.

Respondent thereafter filed a motion for reconsideration of the IBP Board's decision. The Board, however, subsequently issued a Resolution on March 28, 1998 denying the motion for reconsideration and further pointed out that the pleading is improper because his remedy was to file the same with this Court within fifteen (15) days from notice thereof pursuant to Section 2 of Rule 139-B of the Rules of Court.

Thus, on May, 19, 1999, respondent filed with the Court a Motion for Reconsideration alleging -

1. THAT THERE WAS NO DUE PROCESS OR HEARING WHICH HAVE BEEN REQUESTED BY RESPONDENT FROM THE BEGINNING;
2. COMPLAINANT RIVERA COMMITTED PERJURY WHEN HE CLAIMED THAT RESPONDENT ALTERED THE COURT RECORDS;
3. THAT THE MUNICIPAL TRIAL COURT IN BACOLOD CITY UNDER JUDGE IBANEZ COMMITTED MISREPRESENTATION OF FACTS.

Respondent's claim that he was not afforded due process deserves scant consideration. The essence of due process is simply an opportunity to be heard or, as applied to administrative proceedings, an *opportunity to seek a reconsideration of the action or ruling complained of*.<sup>[8]</sup> In fact—

. . . a respondent in an administrative proceeding is not entitled to be informed of the findings and recommendations of any investigating committee created to inquire into charges filed against him. He is entitled only to the administrative decision based on substantial evidence made of record, and a reasonable opportunity to meet the charges and the evidence presented against him during the hearings of the investigating committee.<sup>[9]</sup>

Respondent can not feign he was denied an opportunity to be heard in this case because as borne out by the records, hearings had to be re-scheduled several times by the investigating commissioner to afford him the chance to present his evidence. The records disclose that when the case was referred to the IBP by Resolution of the Court dated January 30, 1993,<sup>[10]</sup> Investigating Commissioner Victor C. Fernandez issued a Notice of Hearing dated July 12, 1993 ordering complainant and respondent to appear before the IBP Commission on Bar Discipline on August 19, 1993.

In response, complainant, who is based in Sta. Fe, Bacolod City, sent a letter dated August 10, 1993 informing the Commission that owing to his limited finances as a Baptist Pastor he could not afford the expenses involved in attending the hearings and in view thereof, he requested that the hearings be held without his presence and that the case be decided based on the evidence submitted. Nothing was heard from respondent, although the records show that he was furnished a copy of the notice.

On the scheduled hearing of August 19, 1993, both complainant and respondent did not appear. The investigator, however, noted the letter of complainant dated August 10, 1993. As there was no showing that respondent received the notice of hearing, the investigator reset the hearing of the case for reception of respondent's evidence to September 30, 1993. Both parties, who were duly furnished copies of the order, again did not appear on said date. The hearing was again reset to November 8, 1993. Both parties likewise failed to appear on November 8, 1993 hearing, which was re-scheduled on January 6, 1994. However, complainant sent a letter dated November 4, 1993 addressed to the investigator requesting that the hearings be continued even in his absence for the reasons he stated in his previous letter of August 10, 1993. Again nothing was heard from respondent although he and complainant were furnished copies by registered mail.

Neither complainant nor respondent appeared on the January 6, 1994 hearing, for which reason the investigator issued an order re-scheduling the hearing for the last time to February 24, 1994 giving respondent "a last chance to present his evidence" with the warning that respondent's failure to do so will compel the Commission to render a ruling based on the evidence submitted by the complainant. The investigator, however, noted the complainant's letter of November 4, 1993 wherein the latter manifested that he was resting his case based on the evidence submitted by him together with the complaint.

On February 15, 1994, respondent filed a Motion to Dismiss on the grounds that: 1.] the complaint filed is not verified; 2.] in the hearings set by the Commission, complainant failed to appear; 3.] unless complainant appears personally, be sworn to and questioned personally under oath, the complaint is defective; 4.] the complaint which could be filed by anybody is a form of harassment; 5.] in view of the repeated failure of complainant to appear and be sworn to, the letter-complaint is merely hearsay.

On March 3, 1994, the investigator denied the motion to dismiss for lack of merit and set for the last time the hearing on April 21, 1994 for the reception of respondent's evidence.

On April 4, 1994, respondent filed a Motion for Postponement praying that the hearing be reset on the last week of July 1994. Accompanying said motion was an "Answer To The Order Of The Commission Dated March 3, 1994" where he averred, among others, that: 1.] it was his right to cross-examine complainant with respect to the allegations in the complaint; 2.] the allegations in the complaint are not true and complainant's use of the name "Reverend" was made to deceive the Commission; 3.] what respondent actually did was to correct the date of his pleading which was erroneously typed by his secretary and this was done in the presence of the court employees with their knowledge and consent; complainant made it appear that respondent falsified the records; 4.] the correction of the date in the pleading was done in good faith; 5.] this is not the first time complainant filed complaints to harass people and to misrepresent himself as a "Reverend"; 6.] in fact, complainant was nearly stabbed to death by families whom he ejected from their lands using donations of the church to buy the properties in his name; 7.] respondent intended to file a complaint with the Bible Baptist Association of America and the Philippines to investigate complainant's activities.

To accommodate respondent, the Investigating Commissioner reset the hearing on July 28, 1994 with the warning that said setting is intransferable and that the Commission will proceed with its investigation on said date with or without