

EN BANC

[A.C. No. 2841, July 03, 2002]

RE: ADMINISTRATIVE CASE NO. 44 OF THE REGIONAL TRIAL COURT, BRANCH IV, TAGBILARAN CITY, AGAINST ATTY. SAMUEL C. OCCEÑA.

D E C I S I O N

PER CURIAM:

"Membership in the bar is in the category of a mandate to public service of the highest order. A lawyer is an oath-bound servant of society whose conduct is clearly circumscribed by inflexible norms of law and ethics, and whose primary duty is the advancement of the quest for truth and justice, for which he has sworn to be a fearless crusader."^[1] These were the eloquent words of the late Chief Justice Fred Ruiz Castro in exalting the sacred and honorable legal profession. But he laments the pathetic and deplorable fact that, "many a law practitioner, forgetting his sacred mission as a sworn public servant and his exalted position as an officer of the court, has allowed himself to become an instigator of controversy and a predator of conflict instead of a mediator for concord and a conciliator for compromise, a virtuoso of technicality in the conduct of litigation instead of a true exponent of the primacy of truth and moral justice, a mercenary purveying the benefits of his enlightened advocacy in direct proportion to a litigant's financial posture instead of a faithful friend of the courts in the dispensation of equal justice to rich and poor alike."^[2] Here, Atty. Samuel C. Occeña, as later shown by his disgraceful and outrageous conduct, is one such lawyer who has become an apostate to his exalted position as an officer of the court. He thus deserves to be weeded out from the legal profession to protect its sanctity and nobility.

This administrative case stemmed from the settlement of the estate of testator William C. Ogan which has since been pending in the Court of First Instance (CFI), now Regional Trial Court (RTC), Branch 4, Tagbilaran City, docketed as Special Proceedings No. 423. In 1976, Judge Fernando S. Ruiz took over the case from Judge Paulino S. Marquez who, in turn, inherited it from Judge Antonio Beldia. Noting that the proceedings have been pending for thirteen (13) years, Judge Ruiz then inquired into the principal causes of the delay. He found out, as will be shown later in detail, that Atty. Samuel C. Occeña caused the delay by disobeying lawful court orders and by willfully prolonging the litigation through his various maneuvers, in gross violation of his oath as a lawyer that he will not willingly sue any groundless, false, or unlawful suit, or delay any man's cause for money or malice.

Going back to Special Proceedings No. 423, under the terms of the Last Will and Testament of the late William C. Ogan, his residuary estate was divided among his seven children. One of them, Necitas Ogan-Occeña, was named in the will as executrix of the estate. As such, she retained her husband, Atty. Samuel C. Occeña, as her lawyer.

The estate consists of bank deposits, securities (both here and in the United States of America), and real estate in Cebu City and in Ohio, U.S.A. The deceased left no debt. Thus, the settlement of the estate should have been simple and speedy. However, since the death of the testator on February 1, 1963, the settlement of his estate has not yet been terminated owing largely to the dilatory tactics of Atty. Occeña.

Looking into the causes of the delay, Judge Ruiz learned that the executrix, Necitas Ogan-Occeña, filed a project of partition on August 4, 1967. On September 22, 1967, the probate court approved the project except certain portions. The executrix then interposed an appeal. In view of the delay caused by the pendency of the appeal, the other heirs filed several motions praying that the estate's remaining P250,000.00 cash as well as its shares of stocks in the Philippines and in the United States be distributed among all the heirs. The executrix, through her husband Atty. Occeña, vehemently opposed the motions, asserting that the P250,000.00 cash had already been earmarked for her husband's attorney's fee and other expenses, and that the shares of stocks could not be distributed among the heirs because the stock certificates were not in her possession. The dispute between the executrix, on the one hand, and the other heirs, on the other, which delayed the proceedings, centered mainly on the P250,000.00 cash and the shares of stocks.

Records also show that the executrix, through Atty. Occeña, interposed numerous appeals from the orders of the probate court. For their part, the heirs repeatedly prayed in their motions for the release of the shares of stocks and the remaining cash. But the executrix and Atty. Occeña opposed the same, thus prolonging the proceedings. In CA-GR No. 48716-R (December, 1974), the Court of Appeals, in remanding the case to the probate court, had this to say:

"It is, however, earnestly hoped, and the parties are urged, to settle their differences with the view to closing the estate which has been pending since 1963. The executrix, the heirs, and the lawyers, are reminded that the prolongation of administrative proceedings can only benefit the executor or administrator or the counsels for the contending parties. It always results in the diminution of the share of each of the heirs because the estate is burdened with the expenses of the administration proceedings, the heir must have to pay attorney's fee and the longer the proceedings the bigger the attorney's fee."^[3]

Obviously, the main causes of the delay in the probate proceedings were Atty. Occeña's claim for attorney's fee in the amount of P250,000.00 and the executrix's refusal, through her husband, to account for the shares of stocks belonging to the estate which, according to her, were not in her possession. The other heirs could not accept that explanation because as executrix, she was charged with the responsibility of collecting all the assets of the estate.

Thus, on August 8, 1977, Judge Ruiz issued an order directing the executrix to comment why the securities were not in her possession. She filed her comment, through her husband, that some Philippine and American securities were not in her possession. To determine which securities were in her possession, Judge Ruiz on October 22, 1977, issued an order requiring her to submit within 30 days the latest inventory of all the securities of the estate. However, she failed to comply with the

order. Judge Ruiz then issued another order on February 6, 1978, "directing her to take possession of all certificates of stocks or their replacements belonging to the estate and to make an up-to-date inventory thereof with a statement of their nature and their value." Again, she did not comply with the order.

Determined to block the release of the P250,000.00 to the heirs, the executrix, through Atty. Occeña, appealed the numerous interlocutory orders of the probate court to the Court of Appeals, hence, adding to the delay. Because of the propensity of the executrix, through Atty. Occeña, to elevate interlocutory orders to the Court of Appeals, Judge Ruiz issued an order on June 16, 1978 directing her to "refrain from instituting any action or proceeding without first informing the court." The executrix and her husband disobeyed this order. In fact, he filed six cases with the Court of Appeals and one with this Court.

On August 15, 1979, Judge Ruiz issued an order authorizing Nancy Ogan-Gibson, one of the heirs, to go to Vinton County, Ohio, U.S.A., to take proper action on the five parcels of land owned by the estate and to submit a report to the probate court. To provide money for the purpose, the court ordered the executrix to release to Nancy Ogan-Gibson the sum of \$1,000.00 from the estate fund, the same to be liquidated with supporting receipts upon her submission of her report on or before September 30, 1979. The executrix assailed the order before the Court of Appeals in a petition for prohibition and certiorari, docketed therein as CA-G. R. No. SP-10326. Dismissing the petition on January 13, 1981 for lack of merit, the Court of Appeals said:

"Indeed it is surprising why petitioner as executrix should oppose such an order of the court which is and would be for the benefit of the estate and the heirs. All the other heirs completely agreed with what the trial court did. xxx

"Thus, rather than accuse respondent judge of grave abuse of discretion in issuing the questioned orders he should be complimented in finding ways and means of promptly and expeditiously determining the assets of the estate to be ultimately distributed among the heirs."

On May 12, 1981, Judge Ruiz cited the executrix for contempt of court for her failure to obey the orders of October 22, 1977, December 8, 1977, February 6, 1978 and October 16, 1979 and directed her to report to the court which securities were and were not in her possession and to give the reason therefor.

On February 11, 1982, the executrix and Atty. Occeña were held in contempt of court and fined P250.00 each for disobeying the court order of August 15, 1979 requiring the executrix to release \$1,000.00 to Nancy Ogan-Gibson. Both were given the chance to explain their failure to comply with the order, but they did not submit any explanation. On January 13, 1981, this order was affirmed by the Court of Appeals in CA-G. R. No. SP-10326. It bears emphasis that this incident delayed the proceedings for four (4) years.

On October 16, 1979, the probate court issued an order requiring the executrix to distribute immediately among the heirs all the shares of stocks of the estate in the Batangas-Laguna Transportation Co., the Masonic Hall, Inc. and the Motor Service Co.; to report her compliance within 10 days from notice; and within the same

period, to file a written report to the court stating (a) what other certificates of stocks belonging to the estate are in her possession; and (b) which certificates of stocks are not with her, giving the reasons therefor. Again, the executrix and her husband, Atty. Occeña, did not comply with the said order. The probate court thus ordered her to explain why she should not be punished for contempt of court. After several postponements at her instance and that of her husband, the incident was set for hearing on April 20, 1981. But neither of them appeared, thus delaying the proceedings for about a year and a half. Finding the executrix unfaithful in the performance of her duties, the probate court, on May 12, 1981, adjudged her in contempt of court.

Forthwith, Atty. Occeña and his wife, filed with the then CFI of Davao City, Civil Case No. 14456 for damages (P200,000.00 as moral damages and expenses of litigation) against Judge Ruiz. But, on October 13, 1981, the court dismissed the complaint for lack of merit.

After the dismissal of Civil Case No. 14456, Atty. Occeña filed with the Tanodbayan a letter-complaint against Judge Ruiz, charging him with knowingly rendering unjust interlocutory orders, in that without prior notice and hearing, he punished the executrix for indirect contempt of court and censured her for non-compliance with the probate court's order of October 16, 1979. For lack of merit, Atty. Occeña's complaint was dismissed by then Tanodbayan Bernardo P. Fernandez in a Resolution dated November 19, 1984.

On November 13, 1979, Atty. Occeña filed with this Court Administrative Case No. 2345-CFI against Judge Ruiz for gross inefficiency and dishonesty. In a Resolution dated October 11, 1982, this Court dismissed the complaint for failure of Atty. Occeña to substantiate his charges during the investigation.

Unhappy with what Judge Ruiz stated in his comment on the said administrative complaint, Atty. Occeña and his wife filed with the CFI of Davao City Civil Case No. 14957 for damages against the former. The couple alleged that they suffered damages upon reading the judge's comment filed with the Supreme Court. On June 11, 1982, the CFI dismissed the complaint for lack of cause of action, the comment being an absolutely privileged communication.

By filing the said civil actions, criminal charge, and administrative complaints, found to be groundless, Atty. Occeña further delayed with malice the probate proceedings and inflicted hardship and pain upon Judge Ruiz.

More telling is the fact that by deliberately delaying the proceedings, Atty. Occeña has inflicted greater harm to the other heirs, with the executrix herself as his willing partner.

From the start of the testate proceedings in 1963, no less than 13 petitions were filed with this Court and the Court of Appeals by Atty. Occeña, questioning the interlocutory orders of the probate court. But most, if not all, were without merit.

Aside from Judge Ruiz, his predecessor, the late Judge Antonio Beldia, in the same probate proceedings, was also harassed by Atty. Occeña with groundless administrative charges and suits, both criminal and civil. These cases, while pending, were then utilized by Atty. Occeña in securing restraining orders from the

Court of Appeals or as grounds for the judge's inhibition.

Pursuant to Section 28, Rule 138 of the Revised Rules of Court providing *inter alia* that the CFI may suspend an attorney from the practice of law for cause, Judge Ruiz, on May 26, 1982, filed with the same probate court Administrative Case No. 44 charging Atty. Occeña with gross misconduct, violation of his oath as a lawyer and willful disobedience of lawful court orders. Instead of filing an answer, he submitted a motion praying for the inhibition of Judge Ruiz. This motion was denied. Atty. Occeña was then directed to file his answer within 15 days from notice which was extended to another 15 days upon his motion. Still, he did not file an answer. What he submitted was a motion to dismiss the complaint for lack of jurisdiction. But it was denied for lack of merit.

Administrative Case No. 44 was set for hearing on December 2 and 3, 1982, morning and afternoon. Upon Atty. Occeña's motion, he was given an extension of 15 days from November 3, 1982 within which to file his answer. However, he did not comply. Neither did he appear during the hearing.

Eventually, further hearing of the case was suspended when this Court issued a temporary restraining order in G. R. No. 62453, "*Samuel Occeña vs. District Judge Fernando S. Ruiz, CFI-4, Bohol*" for prohibition. However, on August 15, 1983, this Court dismissed Atty. Occeña's petition for lack of merit. The hearing of the administrative case was set on January 30 and 31, 1984, but again, he did not appear.

The hearing was reset but once more, Atty. Occeña failed to appear. Upon his telegraphic request, the hearing was reset on December 13 and 14, 1984. On December 7, 1984, he filed his Answer and Motion for Referral to the Solicitor General or the Integrated Bar of the Philippines. His motion was denied. The hearing was reset on May 8 and 9, 1985. Upon another telegraphic request of Atty. Occeña, the hearing was postponed to August 14 and 15, 1985. Again, he did not appear. Thus, in its order of August 15, 1985, the probate court considered his failure to appear as a waiver of his right to present evidence.^[4]

On November 14, 1985, based on the evidence presented ex parte, showing that Atty. Occeña has "abused, misused and overused the judicial system,"^[5] Judge Ruiz rendered a decision suspending^[6] him from the practice of law for three (3) years. The decision^[7] unfolded a long list of his administrative offenses, thus:

I

Willful disobedience of lawful orders of the court; gross misconduct in office

During the probate proceedings, respondent Occeña, on behalf of his wife executrix, filed with the Court of Appeals six (6) cases; and with the Supreme Court one (1) case, assailing the order of the probate court directing the said executrix to provide Nancy Ogan, authorized to determine the assets of the estate in the U.S., \$1,000.00 to be taken from the estate; and the order ordering the same executrix to report to the probate court the securities belonging to the estate. Atty. Occeña's