

EN BANC

[A.C. No. 2614, June 29, 2000]

MAXIMO DUMADAG, COMPLAINANT, VS. ATTY. ERNESTO L. LUMAYA, RESPONDENT.

R E S O L U T I O N

YNARES-SANTIAGO, J.:

On the basis of an administrative complaint for Unethical Practices, Conflict of Interest and Disloyalty To Clients dated December 22 1983^[1] filed by complainant against respondent praying that the corresponding disciplinary action be imposed on the latter, the case was referred to Office of the Solicitor General (OSG) by the Court^[2] for investigation and report.

On February 26, 1990, the OSG submitted a Report^[3] finding respondent culpable for infidelity and disloyalty to his client, negligence of duty, unethical practices and violation of his lawyer's oath.^[4] As penalty, the OSG recommended that after due hearing, "respondent be suspended from the practice of law for not less than five (5) years."^[5]

Thereafter, in a Resolution dated May 21, 1991^[6] the Court found that respondent made a "clear breach of the canons of professional responsibility"^[7] and suspended respondent indefinitely from the practice of law.^[8]

A "Petition For Reinvestigation and Reconsideration,"^[9] filed on July 8, 1991, was subsequently denied by the Court per its Resolution dated January 13, 1992.^[10]

The records show that thereafter, respondent sent a letter dated February 17, 1992.^[11] Stressing in the said letter that he was not seeking a reconsideration of the denial of his petition for reinvestigation, respondent averred in sum that he was a "not very healthy" sixty-two (62) year old who merely wanted to know how long he would stay suspended and if he was disqualified to be issued a commission as a notary public considering that his commission was not renewed. This letter was noted by the Court in a Resolution dated March 30, 1992.^[12]

On June 18, 1992, respondent filed a Manifestation dated May 15, 1992^[13] where he prayed that the Court issue a resolution or decision on his averments that:

- 1.] he has been suspended from the practice of law and denied a notarial commission for more than one (1) year already;
- 2.] for lack of practicing lawyers and notaries public in the Municipality of Baganga, Davao Oriental where Branch VII of the Regional Trial Court and the Second Municipal Court

- set a popular public clamor which constrained the undersigned to file the manifestation;
- 3.] more than fifty percent (50%) of the pending civil and criminal cases were cases handled by the respondent and these cases are still pending resolution especially due to the lack of lawyers in the municipality considering that most of the litigants are poor and could not afford to hire lawyers from Mati, the capital town of Davao Oriental or from Davao City where plane fare coming from said places is Six Hundred Pesos (P600.00) one way with no hotels nor lodges in Baganga;
 - 4.] there is no regular judge in Baganga after the retirement of Judge Osias Y. Verano last March 5, 1992 and many detained accused are in jail without hope for an early resolution of their cases coupled with the fact that respondent is still under suspension and they cannot hire "exorbitant" lawyers;
 - 5.] he has been advised to secure petitions to be signed by all Barangay Chairmen in the Eighteen (18) Barangays of the municipality, the Seventy-Four (74) Chapters of the GKK, all NGOs, other religious and civic organizations and to submit them to the Supreme Court to request the Court to lift his indefinite suspension so that he may help those who are actually helpless and so that he may be issued a notarial commission in order to help those who need notarial assistance without fear of being charged beyond their capacity to pay;
 - 6.] the Court can refer to the records of Branch VII, RTC, Baganga, Davao Oriental and the same would show that most of the civil and criminal cases resolved or decided therein were cases handled by respondent;
 - 7.] the filing of the Manifestation is for the purpose of requesting the Court to provide him with advice as to whether the filing of a petition was necessary to lift the order of his indefinite suspension as well as the issuance of a notarial commission.

The foregoing manifestation was noted by the Court in a Resolution dated July 15, 1992.^[14]

On July 26, 1994, respondent filed a Petition For The Lifting Of Respondent's Suspension From The Practice Of Law^[15] which the Court referred to the Integrated Bar of the Philippines (IBP) for evaluation, report and recommendation in a Resolution dated March 13, 1995.^[16]

In a Report and Recommendation dated August 14, 1998, the Investigating Commissioner recommended the lifting of the indefinite suspension of respondent. On November 5, 1998, the Board of Governors of the IBP passed Resolution No. XIII-98-171 adopting the recommendation of the Investigating Commissioner. In acting favorably on respondent's petition, the Investigating Commissioner pointed out that:

Respondent's plea is anchored on the following allegations:

4. That respondent accepted his suspension as God's grace but due to respondent's knowledge in law, he has been continuously approached for legal advice or assistance and what respondent could do is prepare for them pleadings or documents and to secure practitioners to do what I am suspended from doing;

5. That respondent has remained busy in his desire to save and as a matter of fact, with humility, respondent is the Elected Federation President of the Federation of Senior Citizens and the Invalid[s]. He is a member of the Lupong Tagapayapa and has performed duties as Chairman of the Pangkat Tagapayapa of Barangay Central, Baganga, Davao Oriental;

6. That respondent, however, has observed that there are poor people who actually need the services of a Lawyer, and whose hunger for justice hang mercifully on a cloud of uncertainties (*sic*), as they say, here is the jurisdiction of Branch VII at Baganga, Davao Oriental;

7. That actually there are no permanent resident lawyer[s] in the Municipalities of Boston, Cateel, Baganga and Caraga, all in the First District of Davao Oriental. The three practicing lawyer[s] come only to Baganga during court hearings and since they reside in the City of Davao their fees are high. Notarial services could not be rendered regularly;

8. That I feel capable to fill the vacuum and be able to serve the poor people but there is need for the undersigned to request and pray the Supreme Court to lift the suspension imposed.

In a letter addressed to the Chief Justice dated January 10, 2000, respondent who turned Seventy-One (71) years old last October 25, 1999, once again implores and at the same time chides the Court for 'slumbering' on acting upon the IBP Resolution to lift his indefinite suspension, although he still insists on his innocence.

The insolence of respondent's remonstrations that the Court has been sleeping on its job in acting upon his case not only underscores his callous disregard of the myriad administrative and judicial travails the Court has to contend with as the Tribunal of Last Resort, among them, the chronic problem of an overflowing docket of which his case is but one additional aggravation; it also betrays his absolute lack of appreciation and disrespect for the efforts and measures undertaken by the Court to cope with these concerns. Needless to state, such presumptuousness is only too deserving of rebuke.

Respondent must know that the Court is neither bound by the findings of the IBP nor, much less, obliged to accept the same as a matter of course^[17] because as the Tribunal which has the final say on the proper sanctions to be imposed on errant