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THIRD DIVISION

[A.M. No. MTJ-95-1063, August 09, 1996]

ALFONSO C. CHOA, COMPLAINANT, VS. JUDGE ROBERTO S. CHIONGSON, RESPONDENT.

R E S O L U T I O N

DAVIDE, JR., J.:

In the resolution of 9 February 1996, this Court dismissed the instant complaint for want of merit and directed Atty. Raymundo A. Quiroz, counsel for the complainant, to show cause within fifteen days from notice why he should not be disciplinary dealt with for his apparent failure to comply with the duties and responsibilities of a member of the Bar. Such duties and responsibilities were noted in the following paragraph of the resolution:

> Atty. Raymundo A. Quiroz, counsel for the complainant, must have been aware of the utter lack of merit of the charges against the respondent. As a Member of the Philippine Bar he is bound: (1) by his oath, not to, wittingly or willingly, promote or sue any groundless, false, or unlawful suit nor give aid nor consent to the same; (2) by Section 20(c), Rule 138 of the Rules of Court, to counsel or maintain such actions or proceedings only as appear to him to be just; and (3) to uphold the Code of Professional Responsibility. It was incumbent upon him to give a candid and honest opinion on the merits and probable results of the complainant's case (Rule 15.05, Canon 15, Code of Professional Responsibility) with the end in view of promoting respect for the law and legal processes (Canon 1, Id.). He should, therefore, be required to show cause why no disciplinary action should be taken against him for his apparent failure to observe the foregoing duties and responsibilities.

Atty. Quiroz received a copy of the foregoing resolution on 16 February 1996, and on 2 March 1996, he filed a Motion for Extension of Time wherein he prayed that he be given an extension of six days from 2 March 1996 - the expiry date of the original period to file his compliance to the show-cause order - within which to file his compliance to or motion for reconsideration of the resolution.

In the resolution of 25 March 1996, this Court granted Atty. Quiroz's motion but only insofar as the filing of his compliance was concerned, as clearly shown in the notice of the resolution sent to him reading as follows:

Quoted hereunder, for your information, is a resolution of the Third Division of this Court dated MAR. 25, 1996:

> Administrative Matter MTJ-95-1063 (*Alfonso C. Choa vs. Judge Roberto S. Chiongson, etc.*) - The first motion of Atty. Raymundo A. Quiroz, counsel for complainant, for extension of six (6) days from March 2, 1996

> or until March 8, 1996 within which to file compliance with the resolution of February 9, 1996 which directed him to show cause, why he should not be disciplinary dealt with for his apparent failure to comply with his duties and responsibilities, is GRANTED, with WARNING that no further extension will be given.

It appears that on 8 March 1996 Atty. Quiroz filed with the Office of the Court Administrator a pleading entitled Compliance/Motion for Reconsideration. This pleading is more of a motion for reconsideration. It was filed on the last day of the period he solicited in his motion for extension. Since the resolution of 25 March 1996 granted only an extension of the period to submit his compliance, it necessarily follows that the motion for reconsideration was filed beyond the reglementary period. It bears stressing that paragraph 5 of this Court's en banc resolution of 7 April 1988 provides that, as a general policy, no motion for extension of time to file a motion for reconsideration shall be granted after the Court has rendered its judgment. Accordingly, the **motion for reconsideration** must forthwith be **DENIED for having been filed late.** In any event, it has **no merit** whatsoever except, perhaps, as to its sophistry.

The only issue then left is the sufficiency and adequacy of his explanation which is, nevertheless, inexorably linked to the motion for reconsideration. Atty. Quiroz asserts that he never had the intention to prosecute or sue any groundless, false, or unlawful suit or to file the instant complaint in addition to the appeal or in lieu thereof; that he assisted the complainant in the honest belief that the latter has really a cause of action against the respondent; and that he "was not ventilating in the instant case the complainant's grievances relative to the respondent's judgment finding [the complainant] guilty of perjury but was only raising the matter to show that indeed the respondent was biased because of such next-door-neighbor relationship."

These explanations deserve scant consideration. The claim of "honest belief," which amounts to a claim of good faith, fails to convince us in light of what follows.

Nothing is further from the truth than the claim of Atty. Quiroz that he "was not ventilating in the instant case the complainant's grievances relative to the respondent's judgment finding [the complainant] guilty of perjury but was only raising the matter to show that indeed the respondent was biased because of such next-door-neighbor relationship." He was in fact, attacking the judgment of conviction by asserting that the trial court's only recourse was to acquit the complainant because (a) the allegations in the information do not constitute the offense of perjury; (b) the complainant's petition for naturalization, which was the basis for the charge of perjury, having been withdrawn with finality, had become *functus officio*, i.e., as if the petition was not filed at all, and, therefore, whatever false statement contained therein was no longer required by law and had ceased to be on a material matter; (c) the respondent had admitted in evidence exhibits which are obviously inadmissible; and (d) the respondent had sentenced the complainant with the penalty higher than that provided by law without applying the Indeterminate Sentence Law.

The upshot of these allegations is that the complainant's (Mr. Choa's) conviction of the crime of perjury is baseless or unfounded in law and in fact and is nothing but the product of the respondent's prejudice against Mr. Choa because the respondent

happens to be a "next-door neighbor" of Mr. Choa's wife, the private complainant in the perjury case. Considering that Mr. Choa seasonably appealed from the judgment of conviction, Atty. Quiroz knew or ought to know that all the matters which he may find relevant or material for the reversal of the judgment and the consequent acquittal of his client, Mr. Choa, may be raised with the appellate court, and that this Court, not being the venue for such appeal, cannot resolve the appeal even by way of an administrative complaint against the judge who convicted Mr. Choa.

If Atty. Quiroz then assisted Mr. Choa in the preparation of this case, he had nothing in mind but to harass the respondent Judge and to unduly influence the course of the appeal in the criminal case by injecting into the mind of the appellate judge that, indeed, something was definitely wrong with the appealed decision because the ponente thereof is now facing a serious administrative complaint arising from his improper conduct therein. It might even be said that the filing of this case was to send a signal to the appellate judge in the criminal case that an affirmance of the challenged decision would clearly be erroneous, if not equally baseless and unfounded as that of the trial court below.

While a lawyer owes absolute fidelity to the cause of his client, full devotion to his genuine interest, and warm zeal in the maintenance and defense of his rights, as well as the exertion of his utmost learning and ability,[1] he must do so only within the bounds of the law.[2] He must give a candid and honest opinion on the merits and probable results of his client's case[3] with the end in view of promoting respect for the law and legal processes,[4] and counsel or maintain such actions or proceedings only as appear to him to be just, and such defenses only as he believes to be honestly debatable under the law.[5] He must always remind himself of the oath he took upon admission to the Bar that he "will not wittingly or willingly promote or sue any groundless, false or unlawful suit nor give aid nor consent to the same"; and that he "will conduct [himself] as a lawyer according to the best of [his] knowledge and discretion with all good fidelity as well to the courts as to [his] clients." Needless to state, the lawyer's fidelity to his client must not be pursued at the expense of truth and the administration of justice,[6] and it must be done within the bounds of reason and common sense.[7] A lawyer's responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions against the other party.[8]

As an officer of the court and its indispensable partner in the sacred task of administering justice, graver responsibility is imposed upon a lawyer than any other to uphold the integrity of the courts and to show respect to its officers. This does not mean, however, that a lawyer cannot criticize a judge. As we stated in *Tiongco vs. Hon. Aguilar.*[9]

> It does not, however, follow that just because a lawyer is an officer of the court, he cannot criticize the courts. That is his right as a citizen, and it is even his duty as an officer of the court to avail of such right. Thus, in In Re: Almacen (31 SCRA 562, 579-580 [1970]), this Court explicitly declared:

Hence, as a citizen and as officer of the court, a lawyer is expected not only to exercise the right, but also to consider it his duty to avail of such right. No law may abridge this right. Nor is he "professionally answerable to a scrutiny into the official