

## EN BANC

[ A.C. No. 3731, September 07, 2007 ]

**MANUEL S. SEBASTIAN, COMPLAINANT, VS. ATTY. EMILY A. BAJAR, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

On 18 October 1991, Manuel S. Sebastian (complainant) filed a disbarment complaint against Atty. Emily A. Bajar (respondent) for "obstructing, disobeying, resisting, rebelling, and impeding final decisions of Regional Trial Courts, the Court of Appeals and of the Honorable Supreme Court, and also for submitting those final decisions for the review and reversal of the DARAB, an administrative body, and for contemptuous acts and dilatory tactics."

#### The Facts

Complainant alleged the following:

1. Respondent is a lawyer of the Bureau of Agrarian Legal Assistance (BALA) of the Department of Agrarian Reform who represented Fernando Tanlioco (Tanlioco) in numerous cases which raised the same issues.<sup>[1]</sup> Tanlioco is an agricultural lessee of a land owned by complainant's spouse and sister-in-law (landowners). The landowners filed an Ejectment case against Tanlioco on the basis of a conversion order of the land use from agricultural to residential. The Regional Trial Court (RTC) rendered judgment ordering Tanlioco's ejectment subject to the payment of disturbance compensation.<sup>[2]</sup> The RTC's judgment was affirmed by the Court of Appeals<sup>[3]</sup> and the Supreme Court.<sup>[4]</sup>
2. Respondent, as Tanlioco's counsel, filed another case for Specific Performance to produce the conversion order. The RTC dismissed the complaint due to res judicata and lack of cause of action.<sup>[5]</sup>
3. Respondent filed a case for Maintenance of Possession with the Department of Agrarian Reform Adjudication Board. The case raised the same issues of conversion and disturbance compensation.<sup>[6]</sup>
4. Respondent has violated Rule 10.03 of the Code of Professional Responsibility since she misused the rules of procedure through forum-shopping to obstruct the administration of justice.<sup>[7]</sup>

On 18 November 1991, the Court issued a resolution requiring respondent to comment on the complaint lodged against her.<sup>[8]</sup>

After a second Motion for Extension of Time to Submit Comment,<sup>[9]</sup> respondent submitted her Comment alleging the following:

1. Complainant is not the real party-in-interest. He is also not authorized to prosecute the disbarment suit.<sup>[10]</sup>
2. Respondent has fulfilled allegiance to the "Attorney's Oath" and performed duties in accordance with Section 20 of Rule 138 of the Revised Rules of Court.<sup>[11]</sup>
3. Respondent's client, Tanlioco, merely availed of all legal remedies to obtain benefits secured for him by law.<sup>[12]</sup>

On 10 March 1992, complainant filed his Reply. Complainant alleged that respondent did not confront the issues of her disbarment squarely but raised issues that were decided upon with finality by the courts.<sup>[13]</sup>

On 25 March 1992, the Court issued a Resolution requiring respondent to file a Rejoinder within 10 days from notice.<sup>[14]</sup>

On 3 June 1992, complainant filed a Manifestation dated 2 June 1992 stating that respondent failed to comply with the 25 March 1992 Court Resolution to file a Rejoinder.<sup>[15]</sup>

On 7 October 1992, the Court ordered respondent to show cause why she should not be subjected to disciplinary action for failure to comply with the Court's 25 March 1992 Resolution. The Court also required respondent to Comment on the complainant's 2 June 1992 Manifestation.<sup>[16]</sup>

On 3 February 1993, respondent filed a Manifestation alleging that she had substantially complied with the Court's orders relative to her defenses. She advised the Court that she had transferred to the Public Attorney's Office and since she was no longer a "BALA lawyer," the cases involved in this proceeding had become moot and academic.<sup>[17]</sup>

On 1 March 1993, the Court issued a Resolution stating that the administrative case against respondent "has not been mooted and nothing set out in her 'Manifestation' excuses her failure to obey this Court's Resolutions of 25 March 1992 and 7 October 1992."<sup>[18]</sup> The Court had also resolved to impose a fine of P500 or imprisonment of five days and to require respondent to comply with the 25 March 1992 and 7 October 1992 Resolutions.<sup>[19]</sup>

On 24 August 1993, complainant filed a Manifestation stating that respondent had not complied with the Court's orders.<sup>[20]</sup>

On 29 September 1993, the Court issued a Resolution ordering the arrest of respondent for detention at the National Bureau of Investigation (NBI) for five days.

The Court reiterated that respondent should comply with the 25 March 1992 and 7 October 1992 Resolutions.<sup>[21]</sup>

On 20 October 1993, the NBI arrested respondent. The NBI detained respondent for five days and released her on 25 October 1993.<sup>[22]</sup>

On 10 November 1993, the Court issued a Resolution referring the case to the Integrated Bar of the Philippines (IBP) for hearing and decision.<sup>[23]</sup>

On 11 November 1993, respondent filed a Rejoinder. Respondent claimed that complainant had no legal personality to file this case.<sup>[24]</sup> Respondent also alleged that she was merely protecting the interest of Tanlioco as she was sworn to do so in her oath of office. Respondent contended that "she had comported herself as [an] officer of the court, at the risk of being disciplined by the latter if only to impart truth and justice."<sup>[25]</sup>

On 22 November 1995, Investigating Commissioner Plaridel C. Jose (Investigating Commissioner Jose) submitted his report and recommendation to the IBP. Investigating Commissioner Jose enumerated respondent's violations of the Code of Professional Responsibility that rendered her unfit to continue the practice of law:

1. Respondent appealed a case for purposes of delay which amounted to an obstruction of justice.<sup>[26]</sup>
2. Respondent abused her right of recourse to the courts. The duplication or multiplication of suits should be avoided,<sup>[27]</sup> and respondent's acts were tantamount to forum-shopping which is a reprehensible manipulation of court processes and proceedings.<sup>[28]</sup>
3. Respondent uttered disrespectful language and shouted at everybody during the hearing on 25 May 1995.<sup>[29]</sup> The want of intention is not an excuse for the disrespectful language used.

On 4 October 1996, the IBP transmitted to the Court a copy of IBP Resolution No. XII-96-149 dated 30 March 1996. The IBP Board of Governors adopted and approved Investigating Commissioner Jose's recommendation that respondent be "SUSPENDED INDEFINITELY from the practice of law for Unethical Practices and attitude showing her propensity and incorrigible character to violate the basic tenets and requirements of the Code of Professional Responsibility rendering her unfit to continue in the practice of law."<sup>[30]</sup> Governor Angel R. Gonzales recommended her "outright disbarment."<sup>[31]</sup>

In its 20 January 1997 Resolution, the Court noted the IBP Resolution suspending respondent indefinitely.<sup>[32]</sup>

On 13 April 1999, the Court issued a Resolution directing the Office of the Court Administrator (OCA) to circularize the resolution of the IBP dated 30 March 1996 suspending respondent indefinitely from the practice of law.<sup>[33]</sup>

On 7 June 1999, the OCA, through Court Administrator Alfredo L. Benipayo, issued

Circular No. 30-99 informing all courts that respondent had been suspended indefinitely.

On 30 January 2003, respondent filed a Motion to Consider the Case Closed and Terminated. Respondent apologized for her demeanor and prayed that the suspension be lifted.<sup>[34]</sup>

On 16 June 2003, the Court issued a Resolution referring the case to the IBP for report and recommendation.<sup>[35]</sup>

On 29 August 2003, Investigating Commissioner Demaree J.B. Raval (Investigating Commissioner Raval) conducted a hearing. Respondent claimed that she did not receive any notice of the OCA's Circular on her indefinite suspension.<sup>[36]</sup> Respondent alleged that the Court Resolution which she received merely noted the IBP's Resolution on her indefinite suspension.<sup>[37]</sup> Respondent claimed that she only knew of the suspension when she filed an application for a judicial position in Mandaluyong City.<sup>[38]</sup>

In the hearing, respondent admitted that she continued to practice law as a Prosecutor in Mandaluyong City despite her suspension because she believed that a notation by the Court in the 20 January 1997 Resolution did not mean an implementation of the IBP's Resolution on her indefinite suspension.<sup>[39]</sup>

Due to the absence of complainant and his counsel, another hearing was held on 19 September 2003. Complainant's counsel asserted that respondent had been practicing law in the midst of her suspension and this constituted a violation of the suspension order which she wanted to be lifted.<sup>[40]</sup> Investigating Commissioner Raval asked respondent to present a valid ground to lift the suspension order.<sup>[41]</sup> Respondent requested that her detention for five days at the NBI be converted into a five-year suspension, one year for every day of detention such that she would have served five years of indefinite suspension.<sup>[42]</sup>

Investigating Commissioner Raval then directed the parties to file simultaneously their Verified Position Papers.<sup>[43]</sup>

In his Position Paper and Comment, complainant posited that respondent's motion did not state valid grounds to convince the Court to lift the suspension order. Complainant stated that by continuing to practice law, "she is flaunting her defiance of the Supreme Court by showing that she can hoodwink another branch of government."<sup>[44]</sup> Complainant also prayed for respondent's disbarment due to the gravity of her offense.<sup>[45]</sup>

In respondent's Position Paper, she reiterated that complainant is not the real party-in-interest since the property that was litigated was owned by complainant's wife. She asserted that she never betrayed her client's cause, she was never unfaithful to her oath, and it was complainant who filed this case for harassment. Respondent prayed that the case be considered closed and terminated due to lack of merit.<sup>[46]</sup>

Respondent also sent a letter to Investigating Commissioner Raval and attached a

copy of a Resolution in a Preliminary Investigation case which she handled. Respondent contended that in this Preliminary Investigation case, she recommended its dismissal because the offended party was not the real party-in-interest.<sup>[47]</sup>

Respondent insisted that complainant did not have the personality to file the disbarment complaint against her; hence, it should have been dismissed outright.<sup>[48]</sup>

After the parties filed their position papers, the IBP Board of Governors issued Resolution No. XVI-2004-229 dated 16 April 2004. The IBP adopted Investigating Commissioner Raval's Report and Recommendation that respondent be disbarred for her "manifest flagrant misconduct in disobeying the SC Order of her Indefinite Suspension."<sup>[49]</sup>

As culled from the records, the Court had merely noted IBP Resolution No. XII-96-149 which recommended respondent's indefinite suspension. "The term 'noted' means that the Court has merely taken cognizance of the existence of an act or declaration, without exercising a judicious deliberation or rendering a decision on the matter — it does not imply agreement or approval."<sup>[50]</sup> Hence, the penalty of indefinite suspension imposed by the IBP Board of Governors has not attained finality. Section 12 of Rule 139-B provides:

Section 12. *Review and Decision by the Board of Governors.* —

x x x

(b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of **the case, shall forthwith be transmitted to the Supreme Court for final action.** (Emphasis supplied)

Necessarily, the Court will now give its "final action" on this complaint.

### **The Ruling of the Court**

After a careful review of the records, the Court finds the evidence on record sufficient to support the IBP's findings. However, the Court disagrees with the penalty imposed on respondent.

Administrative proceedings against lawyers are *sui generis*<sup>[51]</sup> and they belong to a class of their own.<sup>[52]</sup> They are neither civil nor criminal actions but rather investigations by the Court into the conduct of its officer.<sup>[53]</sup> They involve no private interest and afford no redress for private grievance.<sup>[54]</sup>

A disciplinary action against a lawyer is intended to protect the administration of justice from the misconduct of its officers. This Court requires that its officers shall be competent, honorable, and reliable men in whom the public may repose confidence.<sup>[55]</sup> "Lawyers must at all times faithfully perform their duties to society, to the bar, to the courts, and to their clients. Their conduct must always reflect the