

## **THIRD DIVISION**

**[ A.C. No. 11119, November 04, 2020 ]**

**ATTY. JOSEPH VINCENT T. GO, COMPLAINANT, VS. ATTY.  
VIRGILIO T. TERUEL, RESPONDENT.**

### **D E C I S I O N**

**HERNANDO, J.:**

This is a Complaint<sup>[1]</sup> for disbarment for violation of Rules 12.02 and 12.04 as well as Canon 8 of the Code of Professional Responsibility (CPR) filed by Atty. Joseph Vincent T. Go (Atty. Go) against Atty. Virgilio T. Teruel (Atty. Teruel).

#### **The Antecedents:**

This administrative complaint for disbarment stemmed from Civil Case Nos. 1172 and 1176 for Forcible Entry with Damages pending before Branch 68 of the Regional Trial Court (RTC) of Dumangas, Iloilo,<sup>[2]</sup> where Atty. Go and Atty. Teruel were the opposing counsels for the parties.

Atty. Go filed a Complaint<sup>[3]</sup> dated April 4, 2011 for Falsification and Perjury, and for violation of Canons 8, 10, and 11 of the CPR against Atty. Teruel before the Integrated Bar of the Philippines (IBP) which was docketed as IBP-CBD Case No. 11-2989 (CBD Case No. 11-2989). Atty. Go claimed that Atty. Teruel maliciously charged him with deliberate misrepresentation and intellectual dishonesty. Apparently, Atty. Teruel alleged that Atty. Go's associate in the law office misrepresented the date of receipt of the Notice of Appealed Case in Civil Case No. 1176 to supposedly mislead Branch 68 of the RTC of Dumangas, Iloilo that the law office timely filed its Memorandum of Appeal.<sup>[4]</sup> Atty. Teruel filed his Answer<sup>[5]</sup> on May 13, 2011<sup>[6]</sup> while Atty. Go filed a Reply<sup>[7]</sup> on June 3, 2011. Afterwards, Atty. Teruel filed a Rejoinder to Reply and Counter-Complaint<sup>[8]</sup> on June 22, 2011 which charged Atty. Go with violations of Section 20(b) and (f), Rule 138 of the Rules of Court, and of Canon 11 as well as Rules 11.03 and 11.04 of the CPR. In response, Atty. Go filed a Sur-Rejoinder and Motion for Severance<sup>[9]</sup> dated July 14, 2011.

Significantly, on June 21, 2011, a day before Atty. Teruel filed his Rejoinder to Reply and Counter-Complaint, Atty. Teruel's client, Rev. Fr. Antonio P. Reyes (Fr. Reyes), initiated a Complaint<sup>[10]</sup> for grave professional misconduct against Atty. Go which was docketed as IBP-CBD Case No. 11-3105 (CBD Case No. 11-3105). Notably, Atty. Teruel prepared the complaint of Fr. Reyes against Atty. Go. The Commission on Bar Discipline (CBD) of the IBP (IBP-CBD) then directed Atty. Go to submit his answer therein in an Order<sup>[11]</sup> dated July 29, 2011. Atty. Go filed separate motions<sup>[12]</sup> in CBD Case Nos. 11-2989 and 11-3105 praying that Atty. Teruel and Fr. Reyes be cited for contempt and that both Atty. Teruel's Counter-Complaint and Fr. Reyes'

Complaint be dismissed on the ground of forum shopping.<sup>[13]</sup>

In view of these developments, Atty. Go filed another verified Complaint<sup>[14]</sup> dated October 13, 2011 and docketed as IBP-CBD No. 11-3225 (the case at bench) against Atty. Teruel. Atty. Go alleged that Atty. Teruel's Counter-Complaint and Fr. Reyes' Complaint were substantially the same except for the complainants, and both pleadings were prepared by Atty. Teruel. Atty. Go further alleged that Atty. Teruel violated Rules 12.02 and 12.04 as well as Canon 8 of the CPR for filing multiple actions arising from the same cause, a violation of the rule against forum shopping.

Atty. Teruel, in his Answer<sup>[15]</sup> dated November 4, 2011, countered that he did not commit forum shopping. He clarified that his Counter-Complaint, being undocketed, had yet to be acted upon and thus could not be treated as a complaint for the purpose of applying the rule against forum shopping.<sup>[16]</sup> He added that Fr. Reyes filed the Complaint in his personal capacity and that he (Fr. Reyes) was not a party in the first administrative case (CBD Case No. 11-2989) which Atty. Go filed and which Atty. Teruel answered with a Rejoinder to Reply and Counter-Complaint. Additionally, Atty. Teruel argued that he expressly stated in the Verification and Certification portion of his Rejoinder to Reply and Counter-Complaint the existence of Fr. Reyes' Complaint against Atty. Go (in CBD Case No. 11-3105).<sup>[17]</sup>

In his Reply<sup>[18]</sup> dated November 18, 2011, Atty. Go contended that it is not the admission or docketing of Atty. Teruel's Counter-Complaint which should be considered in determining whether there was forum shopping, but the act of filing multiple actions involving the same or identical cause/s of action, which Atty. Teruel clearly committed when he prepared and filed Fr. Reyes' Complaint and subsequently his own Counter-Complaint.<sup>[19]</sup>

### **Report and Recommendation of the IBP:**

In a Report and Recommendation<sup>[20]</sup> dated July 6, 2013, the Investigating Commissioner<sup>[21]</sup> of the IBP-CBD found that, indeed, Atty. Teruel committed forum shopping; however, Atty. Go failed to prove that it was willful and deliberate considering Atty. Teruel's disclosure in the Verification and Certification portion of his Counter-Complaint that Fr. Reyes also filed a Complaint against Atty. Go. According to the Investigating Commissioner, such disclosure proved good faith on the part of Atty. Teruel. Hence, he recommended the dismissal of Atty. Go's Complaint against Atty. Teruel with a warning that he (Atty. Teruel) should exercise more prudence in the drafting and filing of pleadings in the future to avoid willful and deliberate forum shopping.<sup>[22]</sup>

In its Resolution<sup>[23]</sup> No. XXI-2014-579 dated September 27, 2014, the Board of Governors (BOG) of the IBP (IBP-BOG) adopted and approved the Report and Recommendation of the Investigating Commissioner. It affirmed that Atty. Go's Complaint against Atty. Teruel should be dismissed for lack of merit but with a reminder on the latter to be more cautious in the preparation of pleadings and attachments.

Aggrieved, Atty. Go filed a Motion for Reconsideration<sup>[24]</sup> dated March 30, 2015,

clarifying that willful and deliberate forum shopping was not the sole issue that he raised. He averred that the issues are whether or not Atty. Teruel violated Rules 12.02 and 12.04 as well as Canon 8 of the CPR and committed forum shopping when he knowingly filed two identical complaints for disbarment against Atty. Go. [25] Atty. Go posited that if Atty. Teruel was a real party-in-interest, he could have just joined Fr. Reyes as a complainant in CBD Case No. 11-3105 instead of filing a separate but significantly identical Counter-Complaint. Atty. Go opined that by filing multiple administrative complaints, Atty. Teruel should be adjudged guilty of employing harassing tactics against him. [26]

In Resolution [27] No. XXI-2015-359 dated June 5, 2015, the IBP-BOG denied Atty. Go's motion for reconsideration and affirmed its ruling dismissing the Complaint against Atty. Teruel.

Undeterred, Atty. Go filed a Petition [28] assailing the IBP-BOG's Resolution Nos. XXI-2014-579 dated September 27, 2014 and XXI-2015-359 dated June 5, 2015 which dismissed the instant administrative complaint against Atty. Teruel.

In a Resolution [29] dated June 20, 2016, We referred this administrative case to the Office of the Bar Confidant (OBC) for its report and recommendation.

### **Report and Recommendation of the OBC:**

In a Report and Recommendation [30] dated October 11, 2018, the OBC recommended that Atty. Teruel be suspended from the practice of law for a period of six (6) months. It found that contrary to the findings of the IBP-BOG, Atty. Teruel actually committed forum shopping since he had a hand in the preparation of Fr. Reyes' Complaint and in the filing of a Counter-Complaint merely a day after with the same tenor against Atty. Go. The OBC further noted that Atty. Teruel was the counsel of Fr. Reyes in his Complaint against Atty. Go which underscored his active participation in the drafting of the said Complaint. Additionally, both Fr. Reyes' Complaint and Atty. Teruel's Counter-Complaint contained the same allegations. [31]

The OBC likewise stated that "[m]ere substantial identity of parties, or a community of interests between a party in the first case and a party in the subsequent case, even if the latter was not impleaded in the first case, is sufficient." [32] It noted that Atty. Teruel filed the Counter-Complaint pertaining to the same issues with full knowledge that Fr. Reyes had already filed a similar Complaint against Atty. Go a day earlier. Moreover, Atty. Teruel's disclosure in the Verification and Certification portion of his knowledge of the existence of Fr. Reyes' Complaint would not negate his liability for knowingly committing forum shopping because as a lawyer, he is tasked to assist the courts in the speedy administration of justice and not to resort to forum shopping as doing so clogs the dockets of the courts. [33]

The OBC concluded that the filing of another action on the same subject matter in contravention of the doctrine of *res judicata* violates Canon 12 of the CPR which requires a lawyer to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice. It additionally found that by his actions, Atty. Teruel likewise violated Rules 12.02 and 12.04 of the CPR as well as

the mandate in the Lawyer's Oath "to delay no man for money or malice."<sup>[34]</sup>

### Our Ruling

The Court adopts the findings of the OBC and its recommendation that Atty. Teruel be suspended from the practice of law for six months.

Integral to the resolution of the case at bench is the determination of whether Atty. Teruel committed forum shopping when he filed the Complaint of Fr. Reyes followed by his own Counter-Complaint a day after, both against Atty. Go. After a perusal of both pleadings, there is no doubt that the significant portions were almost completely the same, save for the parts wherein the complainant's name or personal circumstances were provided in order for the documents to be cohesive. In fact, Atty. Teruel admitted having prepared and filed the two administrative complaints, as he even specified in the Verification and Certification portion of his Counter-Complaint that Fr. Reyes had earlier filed a Complaint against Atty. Go.

It is well-settled that "[t]he essence of forum shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. It exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion in another, or when he institutes two or more actions or proceedings grounded on the same cause to increase the chances of obtaining a favorable decision. An important factor in determining its existence is the vexation caused to the courts and the parties-litigants by the filing of similar cases to claim substantially the same reliefs. Forum shopping exists where the elements of *litis pendentia* are present or **where a final judgment in one case will amount to *res judicata* in another.**"<sup>[35]</sup>

Evidently, Atty. Teruel willfully committed forum shopping when he instituted two actions grounded on the same cause, even if strictly speaking, he was not included as a "complainant" in Fr. Reyes' Complaint. This is because he prepared and filed both administrative actions with full knowledge that they have the same cause of action and contained nearly exactly the same allegations. Simply put, the outcome in one case would necessarily have an effect in the other since both cases share the same cause of action and involve the same parties.

Section 5, Rule 7 of the Rules of Court provides:

SEC. 5 *Certification against forum shopping.* — The plaintiff or principal party shall certify under oath in the complaint or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he has not theretofore commenced any action or **filed** any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of his knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he should thereafter learn that the same or similar action or claim has been filed or is pending, he shall report that fact within five (5) days therefrom to the court wherein his aforesaid complaint or initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the complaint or other initiatory pleading but shall be cause for the