

THIRD DIVISION

[A. C. No. 10408, October 16, 2019]

HERNANDO PETELO, COMPLAINANT, VS. ATTY. SOCRATES RIVERA, RESPONDENT.

D E C I S I O N

HERNANDO, J.:

This administrative complaint stemmed from the alleged unauthorized filing by respondent Atty. Socrates Rivera (Atty. Rivera) of a Complaint^[1] for *Declaration of Nullity of Real Estate Mortgage, Promissory Note, Certificate of Sale and Foreclosure Proceedings in Connection with TCT No. 455311 with Damages* before the Regional Trial Court (RTC) of Makati City, Branch 150, captioned as *Fe Mojica Petelo, represented by her Attorney-in-Fact Hernando M. Petelo, plaintiff, versus Emmer, Bartolome Ramirez, World Partners Bank, and as Necessary Parties, the Register of Deeds, Makati City and the Assessor's Office, Makati City, defendants*, and docketed thereat as Civil Case No. 13-580.

In the said Complaint, there was a declaration that Fe Mojica Petelo (Fe), thru her Attorney-in-Fact, Hernando Petelo (Petelo), engaged the legal services of Atty. Rivera and that Petelo himself caused the preparation of the Complaint.^[3]

Upon discovery of the pendency of the Complaint, Petelo filed on March 31, 2014 a Petition before this Court praying for the disbarment, suspension, or imposition of any disciplinary action against respondent Atty. Rivera for alleged commission of acts constituting malpractice of law, misconduct, and violation of the Code of Professional Responsibility. Petelo narrated that sometime in 2011, his sister, Fe, who was based in the United States of America, designated him as Attorney-in-Fact to enter into a Joint Venture Agreement with Red Dragon Builders Corporation for the construction of a townhouse on the lot owned by Fe, located at Brgy. Palanan, Makati City and covered by Transfer Certificate of Title (TCT) No. 455711. Complainant claimed that Jessie and Fatima Manalansan,^[4] the owners of Red Dragon Builders Corporation, inveigled him into surrendering to them the original copy of TCT No. 455711 which they eventually used as collateral for the Php8 million loan they contracted with World Partners Bank without the knowledge and consent of Petelo. According to Petelo, the Spouses Manalansan superimposed the name of a certain Emmer B. Ramirez to make it appear that he was the duly constituted attorney-in-fact of Fe in the Special Power of Attorney instead of Petelo. When the Spouses Manalansan failed to pay the monthly amortizations, World Partners Bank instituted foreclosure proceedings against the mortgage. During the auction sale, World Partners Bank emerged as the highest bidder and was issued a certificate of sale over TCT No. 455711.

When Petelo got wind of the foregoing transactions, he instructed his daughter to secure a certified true copy of TCT No. 455711 from the Register of Deeds of Makati

City. To his surprise, he learned that an entry of *lis pendens* pertaining to Civil Case No. 13-580 for *Declaration of Nullity of Real Estate Mortgage, Promissory Note, Certificate of Sale and Foreclosure Proceedings in Connection with TCT No. 455311 with Damages* before the Regional Trial Court of Makati City, Branch 150, was annotated at the back of the title. Upon further investigation with the RTC, Petelo found out that the civil complaint was filed by respondent Atty. Rivera purportedly on Petelo's and Fe's behalf.

Since he never engaged the services of Atty. Rivera, Petelo wrote the latter a letter^[5] seeking clarification/explanation as to how his services was engaged, but the same went unheeded. Consequently, and in order to draw out Atty. Rivera, Petelo filed a Manifestation^[6] with the RTC of Makati City stating that neither he nor his sister Fe authorized Atty. Rivera to file the aforementioned case. However, Petelo's ploy to draw out respondent Atty. Rivera was unsuccessful because the latter did not attend the hearing on Petelo's Manifestation before the RTC. Bothered by the turn of events, Petelo filed the instant administrative complaint charging Atty. Rivera with negligence in the performance of his duties as a lawyer, because he did not verify the identity of the person he was dealing with prior to the filing of the civil suit. Also, Petelo posited that if Atty. Rivera was in good faith, he should have responded to Petelo's letter and attended the hearing on the manifestation before the RTC. In fine, Petelo asserted that Atty. Rivera engaged in unlawful, dishonest and deceitful conduct in violation of the Code of Professional Responsibility.

By Resolution^[7] dated April 21, 2014, the Court required Atty. Rivera to file his Comment on the complaint. Citing his busy schedule and other similar urgent pleadings to prepare, Atty. Rivera moved for additional period of time within which to submit his comment.^[8]

However, when Atty. Rivera eventually submitted his Comments, We noticed that he committed a number of legal somersaults equivalent to the number of comments he submitted. Stated otherwise, Atty. Rivera presented a different version each time he submitted a comment. For example, in his Comment^[9] dated July 31, 2014 filed before the Court, Atty. Rivera narrated that during the first week of May 2013, a person representing himself to be Hernando Petelo sought to engage his legal services regarding the filing of the civil suit. In effect, Atty. Rivera admitted authorship of the Complaint filed before the RTC of Makati City, which a certain Hernando Petelo supposedly caused to be prepared and filed thereat. However, even after being informed that it was not the real Petelo who caused the preparation and the filing of the Complaint, Atty. Rivera still saw nothing wrong in what he did and even prayed for the dismissal of the administrative complaint for lack of merit. Incidentally, he also informed the Court that the RTC of Makati City already dismissed Civil Case No. 13-580 on the ground of lack of jurisdiction over the matter. Indeed, in its Order^[10] dated May 23, 2014, the RTC of Makati City ordered the dismissal of the complaint, it being deemed not filed by the proper party in interest. Moreover, the RTC of Makati City held that "[i]t appearing that the lawyer who signed the complaint was not authorized by the real Hernando Petelo, the alleged Attorney-in-Fact of Fe Mojica Petelo who disowned knowing him, then, it can be safely concluded that the lawyer who signed the pleading violated Section 3, Rule 7 of the Rules of Court."^[11]

On August 18, 2014, the Court required Petelo to file a Reply to respondent's Comment.^[12] The Court, however, dispensed with the filing of the Reply by Resolution^[13] dated July 4, 2016. At the same time, the Court referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. Thereafter, the Investigating Commissioner scheduled the case for mandatory conference/hearing^[14] and, likewise, required Atty. Rivera to file his Answer.

In compliance with the Order^[15] of the Investigating Commissioner, Atty. Rivera filed a Comment.^[16] Perhaps forgetting that he had earlier admitted having filed the complaint in behalf of Petelo, Atty. Rivera this time presented a totally different version. He vehemently denied any participation in the preparation and the filing of the complaint. He even disowned the signatures affixed therein and even went to the extent of having them labelled as forgeries; he also alleged that he never attended any of the hearings in the said case.

Thereafter, the parties submitted their respective Position Papers. In his Position Paper, Petelo pointed out that during one of the scheduled mandatory conferences before the Investigating Commissioner, Atty. Rivera made the following admission: "that he learned about the case thru a disbarred lawyer, Bede Tabalingcos,^[17] with whom he had previous collaborations; that his details were still being used by Tabalingcos' office because before, he allowed them to sign for him on 'minor' pleadings."^[18] When asked by the Investigating Commissioner on how he came to know about the case, he said that he received a call from Tabalingcos' office. During the same hearing, petitioner admitted that he remained in contact with the office of Tabalingcos and that said office have been using his signature/details without his authority.^[19]

In his yet another Comment^[20] dated June 23, 2014 filed before the IBP, and again forgetting his protestation on non-participation in the preparation and filing of the complaint, Atty. Rivera reversed himself and reverted to his earliest version wherein he admitted that he was the one who filed the civil complaint.^[21] Nonetheless, he disavowed having committed any unethical conduct, and thus moved for the dismissal of the administrative complaint.^[22] Atty. Rivera, however, again executed another turnabout by changing his theory in his Position Paper^[23] when he denied any hand in the filing of the complaint before the RTC of Makati City and claimed that the signatures therein were forgeries.

On May 17, 2019, the Investigating Commissioner submitted his Report with recommendation that Atty. Rivera be suspended from the practice of law for **at least** one (1) year. The Investigating Commissioner gave credence to the version of Petelo finding the same in accord with normal human experience and straightforward, while he found the version of Atty. Rivera to have failed the test of factual consistency, common sense and logic. The Investigating Commissioner noted the tendency of Atty. Rivera to shift versions of his factual narrations, particularly with regard to whether he had a hand in the filing of the complaint or not. In the end, the Investigating Commissioner concluded that the submissions of Atty. Rivera were "factually implausible if not outrightly erroneous."^[24] He opined that "[t]here is no need to belabor the obvious, [that is,] the unauthorized filing of a Civil Complaint and effecting a Notice of *Lis Pendens* for and in behalf of a party is an act

which constitutes, at the very least, dishonest and deceitful conduct and at the same time an act intended to mislead a court of law."^[25] The defense of Atty. Rivera that the filing of the complaint and the affixing of his "signatures" therein might have been orchestrated by the staff of disbarred lawyer Bede Tabalingcos was given short shrift because it would not serve to exculpate Atty. Rivera; on the contrary, if given credence, it would even constitute unauthorized practice of law proscribed under Canon 9, Rule 9.01 of the Code of Professional Responsibility.^[26] The Board of Governors (BOG) of the IBP, in its Resolution^[27] dated June 29, 2018 resolved to adopt the findings of the Investigating Commissioner with modification that Atty. Rivera must be meted the penalty of suspension from the practice of law for **a period** of one (1) year with a stern warning that repetition of a similar act would be dealt with more severely.

Our Ruling

We adopt the findings and recommendation of the IBP there being reasonable grounds to hold him administratively liable. Indeed, Atty. Rivera's flip-flopping version deserves no credence at all. What is apparent in his narration is that he was indeed the one who filed the subject civil suit by allowing somebody to use his signature and other details in the preparation of pleadings and filing the same before the court. As correctly pointed out by Petelo, Atty. Rivera's act of allowing persons other than himself to use his signature in signing papers and pleadings, in effect, allowed non-lawyers to practice law. Worse, he failed to display or even manifest any zeal or eagerness to unearth the truth behind the events which led to his involvement in the filing of the unauthorized civil suit, much less to rectify the situation. Although he claimed that the signatures were forgeries, there was nary a display of willingness on his part to pursue any legal action against the alleged forgers. On the contrary, he openly admitted his association with a disbarred lawyer and their ongoing agreement to allow the latter to use his signature and "details" in the preparation of pleadings. By so doing, Atty. Rivera not only willingly allowed a non-lawyer to practice law; worse, he allowed one to continue to practice law notwithstanding that this Court already stripped him of his license to practice law.

Clearly, the foregoing acts of Atty. Rivera constituted violations of the Code of Professional Responsibility, particularly Rule 9.01, Canon 9, Rule 1.10, Canon 1 and Rule 10.01, Canon 10, which read:

Rule 9.01, Canon 9: A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.

Rule 1.10, Canon 1: A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 10.01, Canon 10: A lawyer shall not do any falsehood, nor consent to the doing of any in court; now shall he mislead, or allow the Court to be misled by any artifice.

It bears to stress at this juncture that membership to the Bar has always been jealously guarded such that only those who have successfully hurdled the stringent examinations, possessed and maintained the required qualifications are allowed to enjoy the privileges appurtenant to the title. Thus, it has been said that "[t]he title of 'attorney' is reserved to those who, having obtained the necessary degree in the