

## EN BANC

[ A.C. No. 12066, August 28, 2018 ]

**VICENTE FERRER A. BILLANES, COMPLAINANT, VS. ATTY. LEO S. LATIDO, RESPONDENT.**

### DECISION

#### PER CURIAM:

This administrative case stemmed from a complaint<sup>[1]</sup> dated February 14, 2013 filed by complainant Vicente Ferrer A. Billanes (complainant), before the Integrated Bar of the Philippines (IBP), against respondent Atty. Leo S. Latido (respondent), praying that the latter be administratively sanctioned for his alleged professional misconduct.

#### The Facts

Complainant alleged that sometime in 2009, he decided to engage respondent as counsel in order to have his marriage with his estranged Filipina wife, Meriam R. Arietta (Arietta), annulled. After undergoing a series of interviews with respondent and paying the appropriate legal fees, respondent told complainant to await the notice from the court where the former filed the petition.<sup>[2]</sup> About a month later, respondent informed complainant that his petition was filed before the Regional Trial Court of Ballesteros, Cagayan, Branch 33 (RTC-Ballesteros), docketed as Civil Case No. 33-306B-2008, and that, in fact, a Decision<sup>[3]</sup> dated May 14, 2009 (RTC Decision), penned by Executive Judge Francisco S. Donato (Judge Donato), was already rendered in his favor.<sup>[4]</sup> Complainant was then shown a copy of the said Decision; however, he doubted the authenticity of the same, given that: (a) regarding the venue of the case, he was a resident of Lipa City, Batangas and yet his petition was filed before the RTC-Ballesteros; and (b) the RTC-Ballesteros purportedly granted his petition, without him even participating in the proceedings therein. These concerns notwithstanding, respondent assured complainant of the RTC Decision's authenticity, claiming that "non-appearance" in annulment cases is already allowed.<sup>[5]</sup> Eventually, respondent caused the annotation<sup>[6]</sup> of the RTC Decision on complainant's marriage contract that was on file at the Office of the Civil Registrar of Dumaguete City (OCR-Dumaguete). Respondent also assisted in the celebration of complainant's marriage to Minh Anh Nguyen<sup>[7]</sup> (Nguyen), an Australian national, in San Jose, Batangas, sometime in September 2011.<sup>[8]</sup>

After his marriage to Nguyen, complainant filed an application for an Australian visa, attaching thereto the RTC Decision as a supporting document. In the process, complainant received an electronic mail<sup>[9]</sup> dated January 24, 2012 from the Australian Embassy, informing him that the RTC Decision was actually "fraudulent" and his submission of the same may result in the denial of his visa application.

Surprised, complainant himself verified the matter with the RTC-Ballesteros, which in turn, issued a Certification<sup>[10]</sup> dated June 15, 2012, stating that: (a) Civil Case No. 33-3068-2008,<sup>[11]</sup> entitled "*Vicente Ferrer A. Billanes, petitioner versus Meriam R. Arietta-Billanes, respondent*," is not filed in the said office; and (b) the signatures of Judge Donato and Clerk of Court VI Atty. Rizalina G. Baltazar-Aquino (COC Aquino) appearing on the RTC Decision and Certificate of Finality,<sup>[12]</sup> respectively, are fake.<sup>[13]</sup>

Aggrieved, complainant confronted respondent, who maintained that the RTC Decision was not spurious and that the RTC-Ballesteros just disowned the same. According to complainant, respondent's malpractice caused him prejudice as the RTC Decision not only caused the denial of his Australian visa application, but also forced him to incur more costs in undergoing annulment proceedings all over again.<sup>[14]</sup>

In his Answer<sup>[15]</sup> dated April 29, 2013, respondent denied any involvement with the procurement of the RTC Decision. He averred that sometime in 2009, complainant sought his assistance in annulling his marriage so he can re-marry an Australian citizen, and thereafter, migrate to Australia.<sup>[16]</sup> However, at that time, respondent was planning to give his all-out support to a local candidate, and thus, would require much of his time. Given the situation, respondent, with complainant's knowledge and consent, referred the case to another lawyer by the name of "Atty. Aris Panaligan" (Atty. Panaligan), who in turn, referred the same to another lawyer.<sup>[17]</sup> Since then, respondent claimed that he no longer had any active participation in complainant's case.<sup>[18]</sup> Later on, he found out that complainant already secured a favorable decision in connection with his annulment case.<sup>[19]</sup>

Complainant expressed to respondent that he was unfamiliar as to what follows when a court renders a decision declaring a marriage null and void. Because of that, respondent supposedly felt obliged to assist complainant. Relying on the Certificate of Finality, respondent caused the annotation of the RTC Decision in the records of the OCR-Dumaguete. In addition, respondent also assisted in the celebration of the civil wedding rites of complainant to Nguyen.<sup>[21]</sup>

Respondent maintained that he himself was surprised when complainant discovered that the RTC Decision was fake, and that the same resulted in the denial of complainant's Australian visa application. As respondent felt responsible for complainant's predicament, he: (a) assisted complainant in appealing the denial of his Australian visa application before the Australian Migration Review Tribunal (MRT), but to no avail; (b) offered to refer complainant's case to another lawyer, which complainant declined; and (c) voluntarily gave complainant the amount of P108,000.00 in an honest effort to rectify the situation and to share in the expenses for his new lawyer.<sup>[22]</sup>

Finally, respondent claimed that he had taken efforts to find out the circumstances surrounding the fabrication of the spurious RTC Decision. He averred that he contacted Atty. Panaligan, but failed to receive any valuable information from the latter.<sup>[23]</sup> Further, he made inquiries with the RTC-Ballesteros and the Office of the Civil Registrar of Ballesteros, Cagayan (OCR-Ballesteros), and found out that there

had already been previous instances where rulings in annulment cases purportedly issued by the RTC-Ballesteros were registered in the OCR-Ballesteros, but later on, the said court would disown the same.<sup>[24]</sup>

Accordingly, the administrative complaint was referred to the IBP-Commission on Bar Discipline for investigation. During the mandatory conference, however, only respondent appeared.<sup>[25]</sup>

### **The IBP's Report and Recommendation**

In a Report and Recommendation<sup>[26]</sup> dated February 24, 2015, the Investigating Commissioner recommended that respondent be reprimanded for failure to exercise the diligence required of a lawyer to his client.<sup>[27]</sup>

The Investigating Commissioner found that complainant failed to prove with "clear preponderant evidence" his allegations of respondent's malpractice and gross misconduct. On the other hand, the Investigating Commissioner gave credence to respondent's defense of good faith, considering that he had a genuine desire to help complainant by assisting him in the appeal process of his visa application and by giving him the amount of P108,000.00 in an effort to help rectify the situation and share in the additional expenses that may occur.<sup>[28]</sup>

Nevertheless, the Investigating Commissioner still found basis to hold respondent liable for violation of Canon 18 of the Code of Professional Responsibility (CPR). He explained that an attorney-client relationship was still formed between complainant and respondent, despite the latter's non-participation in the former's case. As such, respondent should have exercised reasonable care and diligence by verifying the authenticity of the RTC Decision with the issuing court, and his failure to do so resulted in his client spending more time and money regarding his legal matter.<sup>[29]</sup>

In a Resolution<sup>[30]</sup> dated April 19, 2015, the IBP Board of Governors adopted and approved with modification the Investigating Commissioner's Report and Recommendation, meting upon respondent the penalty of suspension from the practice of law for a period of two (2) years for violating Canon 18 of the CPR.

Aggrieved, respondent moved for reconsideration<sup>[31]</sup> which was, however, denied by the IBP Board of Governors in a Resolution<sup>[32]</sup> dated April 20, 2017.

### **The Issue Before the Court**

The essential issue in this case is whether or not respondent should be held administratively liable.

### **The Court's Ruling**

Essentially, complainant claims that he engaged respondent as his lawyer to handle the annulment of his marriage and was made to believe that they were following the

correct legal process. Notwithstanding the fact that complainant was a resident of Lipa City, Batangas, and that he never participated in any court proceedings, respondent eventually presented to him the RTC Decision issued by the RTC-Ballesteros purportedly granting his petition for annulment. As respondent assured complainant of the Decision's authenticity, the latter submitted a copy of the same as one of the supporting documents of his Australian visa application. To complainant's surprise, the Australian Embassy informed him of the spurious nature of the RTC Decision, which hence, caused him prejudice, not only in terms of jeopardizing his visa application, but also resulting in more legal expenses since he had to process the annulment of his marriage anew.

For his part, respondent disavows any knowledge of the RTC Decision's spurious nature. He invokes the defense of good faith, averring that he, in fact, had no participation in any court proceedings before the RTC-Ballesteros since he actually refused to take on complainant's case.

While the Investigating Commissioner found merit in respondent's asseverations, the Court is, however, inclined to do otherwise. Upon an assiduous scrutiny of this case, it has observed that respondent's own account of the events is not only unsupported by any credible evidence; it is, in fact, riddled with key inconsistencies that ultimately belie the truth of his defense. The following circumstances are revelatory:

**(1)** As earlier mentioned, respondent denies handling the annulment case of complainant because of another engagement involving a local candidate in Batangas for which he pledged his all-out support. As such, he allegedly referred complainant's case to a certain Atty. Panaligan, who, in turn, referred the same to another lawyer. However, records fail to show that an Atty. Panaligan or any other lawyer indeed took up complainant's case. Other than respondent's self-serving declaration, no other evidence was presented on this score. Verily, if respondent's assertions were indeed true, then he could have easily secured corroborating statements from such lawyers or any other person connected to these lawyers who supposedly took complainant's case, in order to prove his point.

**(2)** Moreover, respondent failed to disclose the circumstances on how he had come to return to complainant's cause, process the annotation of the RTC Decision before the OCR-Dumaguete, and furthermore, arrange complainant's marriage with Nguyen. In the natural course of things, it should have been the original handling lawyer, who procured the RTC Decision, who would be tasked to do these things. And yet, respondent, who had already begged-off from the engagement, suddenly re-entered the picture and admittedly took upon the task of fixing complainant's consequential affairs.

**(3)** Even on the assumption that respondent was re-engaged by complainant to take-over the matter left by the original handling lawyer, respondent would have necessarily inquired about the antecedents of the RTC Decision and thereupon, noticed that it was tainted by a glaring flaw, particularly on the venue<sup>[33]</sup> of the subject annulment case. Records reveal that neither complainant nor his spouse was a resident of Ballesteros, Cagayan;<sup>[34]</sup> yet, it was purportedly the RTC-Ballesteros that granted the petition. This palpable circumstance should have reasonably alerted respondent, and accordingly, prompted him to confront the original handling lawyer

about the case, which he failed to do so. Instead, respondent proffered that upon learning from complainant that a Decision had already been issued in his favor, he immediately caused its annotation on complainant's marriage certificate. Either respondent was grossly negligent when he, without any semblance of hesitation, took-over complainant's case or was the one who actually procured the fake RTC Decision. To the Court, the latter scenario seems to be more plausible, in light of the fact that: (a) on the one hand, complainant, who had no motive at all to implicate respondent unless he was telling the truth, adamantly claimed that it was respondent who solely handled his case and presented him with a copy of the RTC Decision; and (b) on the other hand, respondent presented no proof at all of any engagement between complainant and any other lawyer.

**(4)** What further diminishes the credibility of respondent's defense was his own admission that he went on to handle the appeal of complainant's visa application before the Australian MRT, and more so, voluntarily shouldered a portion of complainant's legal expenses in the fairly significant amount of P108,000.00. Respondent argued that he did such "noble" things on his own volition because he felt obligated to rectify the situation. However, it, once more, goes against the grain of ordinary human experience for respondent to feel so obligated and exert such magnanimous efforts if his only participation was to refer complainant's case to another lawyer. Instead, it is more reasonable to conclude that respondent went to such great lengths for complainant because he was the one who actually handled the latter's annulment case since its very inception and hence, responsible for any impropriety attending the same.

**(5)** And finally, respondent attempted to cover up his faults by claiming that he tried to investigate the circumstances behind the fabrication of the RTC Decision. He maintained that he contacted Atty. Panaligan to seek clarification regarding complainant's case; and that he even inquired with the OCR-Ballesteros, where he supposedly found out that there had already been irregularities occurring with annulment cases resolved by the RTC-Ballesteros. However, same as above, respondent only bases these assertions on bare allegations, without any other evidence to substantiate the same. "The basic rule is that mere allegation is not evidence, and is not equivalent to proof."<sup>[35]</sup>

Thus, based on the afore-mentioned circumstances, the Court is satisfied that there exists substantial evidence to hold respondent administratively liable for procuring the spurious RTC Decision which caused great prejudice to complainant as his client.

According to jurisprudence, substantial evidence is "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."

<sup>[36]</sup> Contrary to the finding of the Investigating Commissioner, substantial evidence – and not "clear preponderant evidence" – is the proper evidentiary threshold to be applied in disciplinary cases against lawyers. In the recent case of *Reyes v. Nieva*, <sup>[37]</sup> the Court had the opportunity to clarify that the proper evidentiary threshold in disbarment cases is substantial evidence. It explained that:

[T]he evidentiary threshold of substantial evidence — as opposed to preponderance of evidence — is more in keeping with the primordial purpose of and essential considerations attending [to these types] of