

SECOND DIVISION

[A.C. No. 8667, February 03, 2016]

INOCENCIO I. BALISTOY, PETITIONER, VS. ATTY. FLORENCIO A. BRON, RESPONDENT.

DECISION

BRION, J.:

We resolve the present petition for review on *certiorari*,^[1] to nullify the May 10, 2013 resolution^[2] of the Board of Governors (*BOG*) of the Integrated Bar of the Philippines (*IBP*) dismissing the *complaint-affidavit for disbarment*^[3] filed before the Office of the Bar Confidant (*OBC*) by the complainant Inocencio I. Balistoy (*Balistoy*) against the respondent Atty. Florencio A. Bron (*Atty. Bron*).

The Facts

Balistoy was the plaintiff in Civil Case No. 03-105743 (*civil case*), entitled *Inocencio I. Balistoy v. Paul L. Wee and Peter L. Wee*, for damages, pending with the Regional Trial Court (*RTC*), Branch 30, Manila. Atty. Bron was the counsel for the defendants, the Wee brothers.

On March 5, 2003, Atty. Bron filed a *Motion to Dismiss and Motion for Issuance of Order to Show Cause with Counterclaim*^[4] in the case. Paul and Peter executed the verification and certification of non-forum shopping for the motion, exhibiting. Community Tax Certificate (*CTC*) No. 12249877,^[5] issued on January 9, 2003 in Quezon City, for Paul, and CTC No. 1385810, issued on January 29, 2003,^[6] in Manila, for Peter. On January 20, 2004, Atty. Bron filed an Answer^[7] for the defendants who exhibited CTC No. 12249877^[8] for Paul and CTC No. 12249883 for Peter,^[9] both CTCs issued on January 9, 2003, in Manila.

Meantime, Balistoy discovered that the CTCs exhibited by Paul and Peter had already expired and that the CTC Paul used for the answer had the same number as the CTC he showed for the motion to dismiss, but the place of issue was changed from Manila to Quezon City.

Balistoy went to the Office of the Treasurer of the City of Manila and the Bureau of Internal Revenue in Quezon City to verify the discrepancies in the CTCs of Paul and Peter. Manila Treasurer Liberty M. Toledo issued a certification^[10] stating that CTC No. 12249877 "was not among those allotted by the BIR to the City of Manila in the year 2003." On the other hand, Eloisa C. Tamina, the Chief of the Accountable Forms Division of the BIR, Quezon City, certified^[11] that the CTCs bearing serial numbers **CC12003**12249877 to **CC12003**12249883, and **CC12002**12249877 to **CC12002**12249883 were issued to the Municipal Treasurer of Taguig, Metro Manila,

on September 26, 2003, and to the Provincial Treasurer of Pampanga, on October 2, 2002, respectively.

Regarding the civil case, Balistoy learned that Atty. Bron and his clients failed to appear at the hearing on September 6, 2006. This prompted Judge Lucia P. Purugganan of the RTC, Branch 30, to issue an order^[12] on the same day, declaring the defendants were deemed to have waived their right to present evidence, and that the case was considered submitted for decision. According to the order, when the case was called for the reception of evidence on September 6, 2006, Atty. Bron appeared in the morning of that day and manifested before the clerk of court that one of the defendants' nephews suffered injuries in a vehicular accident,^[13] thus, the reason for their failure to attend the hearing.

The defendants moved for reconsideration^[14] of the order. This time, Balistoy faulted Atty. Bron for his "inconsistent allegations" in the motion. He alluded to Atty. Bron's claim that at 9:00 o'clock in the morning of September 6, 2006, Paul told him by phone that he suffered knee injuries in a vehicular accident and had to be lifted to a clinic along Aurora Blvd., in Quezon City for medical attention.^[15] Atty. Bron attached to the motion the medical certificate (unsigned)^[16] dated November 27, 2006, of a Dr. Joy M. Villano who attended to Paul.

On June 20, 2007, Atty. Bron moved for a resetting of the hearing^[17] on the ground that Paul, who was scheduled to testify on that day and who had just arrived from Malaysia with a fever, was placed under quarantine. Judge Purugganan granted the motion^[18] subject to the submission of proof that Paul had indeed been quarantined on June 20, 2007. In compliance, Atty. Bron submitted a medical certificate^[19] dated June 18, 2007, stating that Paul had a fever and was under the care of a Dr. Pierette Y. Kaw.

Balistoy also verified the authenticity of the medical certificate and discovered that it did not come from the NAIA; and that the NAIA arrival logbook showed that Paul was not registered as a passenger coming from Malaysia on June 18, 2007.^[20]

Armed with his discoveries, Balistoy filed the present complaint.

Atty. Bron's Position

In a comment^[21] dated October 9, 2010, as required by the Court,^[22] Atty. Bron prayed for a dismissal of the complaint as it was filed, he claimed, in retaliation for his diligent discharge of his duties as counsel for the Wee brothers. He offered the following arguments:

1. *The notarial act of January 21, 2004*

Atty. Bron knows Paul and Peter Wee so well such that he could have notarized the *jurat* in the verification of the pleadings he filed in their defense with or without their community tax certificates (CTCs). To prove his point, he claimed that his law office assigned the Wee brothers to him as clients, but aside from that, they had engaged him (in 2001 and 2002) in their individual businesses as labor and business law consultant.

On Balistoy's claim that the CTCs exhibited by Paul and Peter were falsified, Atty. Bron maintained that he did not "procure" the subject CTCs, nor had he the opportunity, at the time of the execution of the notarial act, to verify whether the CTCs were duly issued by the proper authorities. Moreover, he added, Balistoy had already filed a criminal complaint regarding the disputed CTCs.

2. *The Motion for Reconsideration*

Atty. Bron moved to reconsider the RTC's September 6, 2006 order to clarify why he asked for a resetting of the hearing. His failure to present evidence on that day was due to lack of witnesses and not because he was unprepared for the hearing. He claimed he was at the court premises as early as 10:00 o'clock in the morning of that day waiting for Paul to testify, but the latter figured in an accident on his way to the court; the other witness, a Ms. Concepcion Ramos, was not also available as she was not aware that she would be presented on that day. Likewise, he did not "procure" Paul's accident or his medical certificate.

3. *The June 20, 2007 resetting*

The same predicament, Atty. Bron stressed, may be said of the June 20, 2007 incident—he was present in court, while his witness (Paul) was not available. Paul's executive secretary, a Ms. Jacqueline Francisco, informed him that Paul had just arrived from Malaysia and was advised to go on self-quarantine. Again, he said he did not "procure" the medical certificate Paul presented to the court and had no opportunity to verify its authenticity. Neither did he manifest before the court that the NAIA issued a medical certificate to Paul or that the court ordered him (Atty. Bron) to secure a medical certificate from the NAIA.

4. *Respondent in good faith*

In conclusion, Atty. Bron stressed that in performing the notarial act for his clients, or moving for reconsideration of the September 6, 2006 RTC order and asking for the postponement of the June 20, 2007 hearing, he had acted in good faith and without the slightest intention to cause prejudice to Balistoy.

Referral to the Integrated Bar of the Philippines

In a resolution^[23] dated January 13, 2011, the Court referred the complaint to the IBP for investigation, report, and recommendation. The IBP's Commission on Bar Discipline assigned the case to Commissioner Oliver A. Cachapero.

Comm. Cachapero required the parties to submit position papers on the case. In his submission,^[24] Balistoy reiterated the allegations in his complaint-affidavit. He insisted that Atty. Bron committed deceit, gross misconduct, malpractice, and clear violations of the law and the rules on notarial practice.

For his part,^[25] Atty. Bron again asked for a dismissal of the complaint on grounds that (1) his performance of notarial functions in 2003 and January 2004 is not a violation of the notarial rule which took effect on August 1, 2004;^[26] and (2) the complaint has no basis, it being just a manifestation of Balistoy's obsession to get

even with those who, he believed, did him wrong like the Wee brothers who, allegedly, were responsible for his loss of livelihood, and their lawyer, who ruined his life.

Atty. Bron argued that even if the notarization of a document presented by parties whose CTCs had expired is an offense punishable by the rules, he cannot be penalized for his performance of notarial acts before the effectivity of the rules in August 2004.

Even on the assumption that the notarial rules can be given retroactive effect, Atty. Bron argued, he cannot be made liable for violating the rules; neither is he guilty of gross misconduct in handling the civil case against the Wee brothers. Regarding the CTC issue, Atty. Bron clarified that it was not he, but the secretary in his law office, who indicated the particulars of the subject CTCs in the verification and certification attached to the motion to dismiss the civil case.

On the other hand, in the preparation of the answer which he himself encoded, he asked for the presentation of the current CTCs of the Wee brothers, but no new CTCs were produced; he was thus compelled to accept their old CTCs as he was pressed for time for the filing of the pleading. In any case, he stressed, the CTCs were merely exhibited to him and he had no hand in securing them.

In regard to his alleged misrepresentations in relation to the non-appearance of the defendants at the hearings of the civil case, Atty. Bron maintained that in the two instances when the hearing was postponed, Paul Wee gave him medical certificates which he had no hand in obtaining and the physicians who issued the certificates were not known to him. At any rate, he explained, the reconsideration of the RTC's September 6, 2006 order was addressed to the sound discretion of the court.

The IBP Action

In his report and recommendation^[27] dated September 26, 2011, Comm. Cachapero recommended that the complaint be dismissed for lack of merit.

While he was convinced that Paul Lee or someone acting in his behalf "rigged" his CTC No. 12249877, particularly the actual place where it was issued, Comm. Cachapero found Balistoy to have failed to adduce evidence that Atty. Bron was aware of his client's fraudulent, deceitful or dishonest act. He also failed to present proof that Atty. Bron had discovered the same fraud or deception and failed to rectify it by advising his client, or if his client refuses, by doing something such as informing the injured person or his counsel so that they may take appropriate steps.
^[28]

The same is true with respect to the submission of two medical certificates to the RTC which Balistoy described were falsified. Comm. Cachapero found no clear and convincing proof of Atty. Bron's participation in the supposed falsification.

On May 10, 2013, the IBP Board of Governors (*BOG*) passed Resolution N. XX-2013-565^[29] adopting and approving Comm. Cachapero's recommendation and dismissing the complaint.