

THIRD DIVISION

[A.C. No. 9090, August 31, 2016]

TEODORO B. CRUZ, JR., COMPLAINANT, VS. ATTY. JOHN G. REYES, ROQUE BELLO AND CARMENCITA A. ROUS-GONZAGA, RESPONDENTS.

RESOLUTION

PEREZ, J.:

This is a Motion for Reconsideration^[1] of the Resolution^[2] of the Court dated 22 August 2012 finding respondent Atty. John G. Reyes guilty of "negligence of contumacious proportions" and suspending him from the practice of law for a period of one (1) year.

The Facts

The present case arose out of a petition for disbarment filed by Atty. Teodoro B. Cruz, Jr. (complainant) charging respondent Atty. John G. Reyes (respondent) with intentional misrepresentation, knowingly handling a case involving conflict of interest, falsification, knowingly alleging untruths in pleadings and unethical conduct, based on the following incidents:

The First Incident

(Intentional Misrepresentation and Knowingly Handling a Case Involving Conflict of Interest)

Complainant alleged that respondent entered his appearance as counsel for Mayor Rosito Velarde (Mayor Velarde) of Tinambac, Camarines Sur, in an election protest case that was on appeal before the Commission on Elections (COMELEC). The case, entitled "Racquel 'BIBI' Reyes de Guzman, Protestant, versus Mayor Rosito Velarde, Protestee," originated from the Regional Trial Court (RTC) of Calabanga, Branch 63, Camarines Sur. According to the petition for disbarment, "an incident occurred" in the course of the trial which forced Mayor Velarde to bring an incident up to the COMELEC on *certiorari*.^[3]

While the case was being tried at the RTC level, protestant Raquel Reyes De Guzman (De Guzman) was represented by the Sales Law Office of Naga City, although Atty. Roque Bello (Atty. Bello), who indicated in the pleadings that his address is in Cainta, Rizal, was the chief counsel. Mayor Velarde, on the other hand, was represented by Atty. Gualberto Manlagnit (Atty. Manlagnit) from Naga City. Atty. Manlagnit prepared the pleadings in connection with the appeal to the COMELEC but, according to complainant, unknown to Atty. Manlagnit, another pleading was filed before the COMELEC, which pleading was apparently prepared in Cainta, Rizal but was signed by respondent whose given address is in Quezon City.^[4]

Complainant explained that De Guzman used to be allied with former Speaker Arnulfo Fuentebella (Speaker Fuentebella) under the Nationalist People's Coalition (NPC) party, whereas Mayor Velarde was a member of the Laban ng Demokratikong Pilipino (LDP) party, led by Camarines Sur Governor Luis R. Villafuerte (Gov. Villafuerte). The Fuentebellas and the Villafuertes are known to be politically at odds with each other. However, De Guzman subsequently changed her political allegiance and became affiliated with the Villafuertes by transferring to the LDP party. Mayor Velarde, on the other hand, became an ally of the Fuentebellas under the NPC.^[5]

According to complainant, Atty. Bello agreed to represent De Guzman in the election protest case because she was a political ally of Speaker Fuentebella. Complainant emphasized that Atty. Bello has always represented the political interests of the Fuentebellas. There is, therefore, no doubt that Atty. Bello is the lawyer of the Fuentebellas.^[6] As a result, with the sudden shifting of the political loyalty of De Guzman and Mayor Velarde, Atty. Bello suddenly stopped appearing for De Guzman in the protest case without formally withdrawing as her counsel.^[7] Mayor Velarde now had to be defended by Atty. Bello because he is already an ally of the Fuentebellas. However, Atty. Bello cannot actively defend Mayor Velarde because he appeared for De Guzman before the RTC.^[8] Thus, complainant concluded, Atty. Bello found the expedient of passing the case to his clandestine partner, respondent Atty. Reyes, making the latter guilty of representing conflicting interests,^[9] in violation of Rule 15.03 of the Code of Professional Responsibility.

The Second Incident

(Falsification, Knowingly Alleging Untruths in Pleadings and Unethical Conduct)

On or before 15 December 2003, former Speaker Fuentebella filed his Certificate of Candidacy (COC) for Congressman of the 3rd District of Camarines Sur. Complainant also filed a COC for the same position. Subsequently, a certain Ebeta P. Cruz (Ebeta) and a certain Marita Montefalcon Cruz-Gulles (Marita) likewise filed their respective COCs for the aforementioned position. The former is an indigent laundry woman from San Jose, Camarines Sur, while the latter was a former casual laborer of the municipal government of Tigaon, Camarines Sur.^[10] Clearly, both Ebeta Marita had no real intention of running for the position for which they filed their COC, but were merely instigated to do so in order to confuse the electorate of the district, to the disadvantage of complainant. Consequently, complainant filed a petition to declare Ebeta and Marita as nuisance candidates.^[11]

In connection with the petition to declare Ebeta and Marita as nuisance candidates, complainant filed a Memorandum with the COMELEC through the Office of the Camarines Sur Provincial Election Supervisor (PES). Pertinent portions of the Memorandum were quoted by the complainant in his petition for disbarment,^[12] to wit:

1. Complainant received a copy of the Verified Answer of Marita signed by respondent as counsel, whose given address is in Quezon City;

2. From the Answer, it was made to appear that Marita caused the preparation thereof, read the allegations therein contained, and understood them. It was also made to appear that Marita signed the verification;

3. During the hearing at the PES in San Jose, Pili, Camarines Sur, on 23 January 2004, respondent appeared and:

a.) on record, admitted that the signature appearing on the Verified Answer is his;

b.) officially manifested that he was hired by Marita as her counsel to prepare the Verified Answer;

c.) officially confirmed that the allegations in the Verified Answer were supplied by Marita; and

d.) said that Marita was in his office in Quezon City when she "signed" the Verified Answer.

4. Marita arrived at the hearing to file a formal withdrawal of her COC. She was immediately put on the witness stand wherein she testified that:

a.) she did not know respondent;

b.) she never solicited his legal services, particularly, to file the Verified Answer;

c.) she never supplied the allegations contained in the Answer;

d.) the signature appearing in the Answer is not her signature; and

e.) she could not have signed the verification in the Answer in Quezon City on 15 January 2004 because she was in Bicol on that date.^[13]

The petition for disbarment also alleged that respondent admitted to Attys. Adan Marcelo Botor and Atty. Manlagnit - complainant's counsels in the petition for disqualification before the PES-COMELEC — that Atty. Bello merely gave the Verified Answer to him already signed and notarized.^[14]

For his part, respondent narrated the following version of the events:

Anent the first incident, respondent alleged that he first met Atty. Bello sometime in May, 2003 when the latter was introduced to him by a friend. A few months after their meeting, Atty. Bello called him up to ask if he could handle a case to be filed with the COMELEC since Atty. Bello had so many cases to handle. The case would be to secure a Temporary Restraining Order (TRO) with application for a Writ of Preliminary Injunction from the COMELEC.^[15]

According to respondent, he informed Atty. Bello that he has never before handled an election case, much less one with an application for a TRO with Preliminary Injunction. Atty. Bello assured him that things would be difficult at first, but he would assist respondent and things will turn out easier. Due to the assurance given

and his desire for a more comprehensive experience in law practice, respondent agreed to accept the case. Since he made it clear from the start that he has no knowledge or experience in election cases, he was never part of the preparations in connection with the case. Atty. Bello simply called him up for a meeting when the pleading was ready so that he could sign the same. They agreed to meet somewhere in Timog, Quezon City and after he read the pleading and sensing that there was no problem, he signed the same inside Atty. Bello's car. Thereafter, he attended the initial hearing of the case, during which, the parties were required to submit their respective Memoranda.^[16]

Respondent claimed that up to that point, there were no indications about the true nature of the case. However, when he was preparing the required Memorandum, he found telltale signs. After his two appearances before the COMELEC and the submission of the Memorandum, respondent declared that he never knew what happened to the case as he formally withdrew therefrom immediately upon knowing the circumstances of the case. He maintained that he cannot be held guilty of representing conflicting interests because he never handled any previous case involving either of the parties in the COMELEC case. Moreover, he was not properly apprised of the facts and circumstances relative to the case that would render him capable of intelligently deciding whether or not to accept the case. He likewise did not receive a single centavo as attorney's, acceptance or appearance fees in connection with the case. He agreed to handle the same simply to accommodate Atty. Bello and to improve his skills as a lawyer and never for monetary considerations.^[17]

With respect to the second incident, respondent related that he was at home in Pangasinan on 17 January 2004 when he received a call from Atty. Bello asking him to attend a hearing in Camarines Sur. He declined the request three times due to his tight schedule. Atty. Bello pleaded, saying that even on Saturdays, hearings could be scheduled. Thus, even if he did not want to attend the hearing due to its distance and because of his full calendar, he could not refuse because he really did not schedule appointments and/or hearings on Saturdays. All that was told him regarding the case was that a congressional candidate was being disqualified and a lawyer is needed to defend him and his candidacy. Respondent alleged that according to Atty. Bello, the candidate was qualified and financially capable of funding his campaign. Nevertheless, he clarified from Atty. Bello if the candidate is not a nuisance candidate and Atty. Bello allegedly replied: "Qualified na qualified naman talaga eh." Respondent added that it was not disclosed to him that the disqualification case involved a candidate for the third congressional district of Camarines Sur. He was simply informed that the scheduled hearing of the disqualification case would be on 23 January 2004 in Naga City.^[18]

Since respondent was in Pangasinan and due to the fact that the deadline for the filing of the necessary pleading was nearing, Atty. Bello advised respondent that he would just prepare the Answer and sign for respondent's name in the pleading. Respondent maintained that he would not have agreed to Atty. Bello's proposal, had it not been for the pressed urgency, trusting that he would not get into any trouble.^[19]

While waiting for the scheduled date of the hearing to arrive, he wondered why he has not been furnished a copy of the pleading or given additional instructions

relative to the case. Atty. Bello, in the meantime;, has ceased to communicate with him and suddenly became inaccessible. He thus toyed with the impression that he was being left out of the case for reasons he could not then understand.^[20]

According to respondent, he was able to get a copy of the Answer only when he was already in Naga City and it was only then and there, while reading it, that he realized that the case was, in reality, about a nuisance candidate and that the client he was to appear for was, indeed, a nuisance candidate. What was even more surprising to him was that the copy of the Answer that was given to him was unsigned: neither by him nor by his supposed client. It was likewise not notarized. Finding the indefensibility of his client and in order not to make matters worse, he opted to appear and just submit the case for resolution. To prove this point, respondent alleged that all he had with him for the hearing were only the unsigned and unnotarized Answer, the petition to declare Ebeta and Marita as nuisance candidates, his case calendar and nothing else. Fie had not in his person any evidence whatsoever in support of the defense of his client. Respondent added that even at this point, he had no knowledge that his supposed client "had already jumped ship." More importantly, he did not know that her signature on the Answer was forged, precisely because the copy of the Answer that¹ was given to him was unsigned.^[21]

Before the start of the hearing, respondent started looking for his client but she could not be found. He, nevertheless, proceeded to the hearing for it was immaterial to him whether she was present or not as ho had already planned to simply submit the case for resolution. Unfortunately, respondent claimed, the proceedings before the PES started as a casual conversation with the lawyers for herein complainant and went on to a full trial, "wittingly or unwittingly."^[22]

Respondent admitted that, during the hearing, he acknowledged; that the signature appearing on the Answer was his. He alleged that despite his personal aversion and objection to certain allegations in the Answer, he could not anymore deny the signature above his printed name, even if it was only signed for and in his behalf, because he had previously agreed, although unwillingly, that his name be signed in the pleading. It, therefore, came as a surprise to him that of all the questions that can be asked of him during the trial, he was questioned about his signature. Belatedly he realized that he should have objected to the line of questioning as he was being presented as an unwilling witness for therein petitioner. However, without sufficient exposure in the legal practice and wanting of the traits of a scheming lawyer, he failed to seasonably object to the line of questioning.^[23]

Nevertheless, respondent vehemently denied complainant's allegation that he admitted having seen Marita sign the document in his presence. According to him, he vividly recalls his response to the then query whether or not Marita signed the document in his presence as: "I suppose that is her signature." Likewise, when queried further on the ideal that the pleading should be signed by Marita in his presence as her counsel, he allegedly responded: "While it is the ideal, sometimes we lawyers, like you and I, sign documents even if the client is not around due to our busy schedules." He pointed out to the two lawyers of herein complainant that whether Marita signed the Answer in his presence or not is inconsequential since he was not the notary public who notarized the Answer. He argued that his signature pertains to the allegations in the Answer, while the signature of his client forms part