794 Phil. 308

FIRST DIVISION

[A.C. No. 7045, September 05, 2016]

THE LAW FIRM OF CHAVEZ MIRANDA ASEOCHE REPRESENTED BY ITS FOUNDING PARTNER, ATTY. FRANCISCO I. CHAVEZ, COMPLAINANT, VS. ATTYS. RESTITUTO S. LAZARO AND RODEL R. MORTA, RESPONDENTS.

R E S O L U T I O N

SERENO, C.J.:

On 8 February 2006, the Law Firm of Chavez Miranda Aseoche (complainant), through its founding partner, Atty. Francisco M. Chavez, filed a Complaint-Affidavit[1] before this Court. Complainant sought the disbarment of Attys. Restitute S. Lazaro and Rodel R. Morta (respondents) for violation of Canons 8 and 10 of the Code of Professional Responsibility. It was alleged that respondents falsely and maliciously accused complainant and its lawyers of antedating a Petition for Review filed with the Department of Justice (DOJ) on 10 October 2005.[2]

FACTUAL ANTECEDENTS

The circumstances, which led to the filing of this administrative complaint, occurred in connection with Criminal Case No. Q-05-136678. The latter was a case for libel then pending against Eliseo F. Soriano before Branch 218 of the Regional Trial Court (RTC) of Quezon City.[3] Complainant acted as the legal counsel of Soriano in that case while respondents represented private complainant Michael M. Sandoval.[4]

On 11 October 2005, lawyers from complainant law firm, led by Atty. Chavez, appeared before the RTC to seek the cancellation of Soriano's scheduled arraignment.[5] During the hearing, Atty. Chavez informed the RTC that a Petition for Review had been filed before the Department of Justice (DOJ) on 10 October 2005. The Petition questioned the resolution of the Office of the City Prosecutor of Quezon City finding probable cause to indict Soriano for libel.[6] Atty. Chavez presented an extra copy of the Petition for Review before the RTC, and explained that the main copy of the Petition stamped received by the DOJ was still with the office messenger, who had personally filed the pleading the day before.[7] Citing the filing of the Petition for Review, Atty. Chavez moved for the suspension of the arraignment for a period of 60 days pursuant to Rule 116, Section 11 (c) of the Revised Rules of Criminal Procedure.[8] The RTC, however, denied the motion and proceeded with Soriano's arraignment.[9]

The events that transpired during the arraignment led complainant to conclude that Presiding Judge Hilario Laqui of Branch 218 was biased against its client.[10] Consequently, it filed a Motion for Inhibition on 18 October 2005 requesting Judge

Laqui to voluntary inhibit himself from the case.[11]

On 11 November 2005, respondents filed with the RTC a pleading entitled "A Vehement Opposition to the Motion for Inhibition"[12] (Vehement Opposition) to contradict complainant's motion. The following statements, which have become the subject of the instant disbarment complaint, were contained in that pleading:

> A Vehement Opposition to the Motion for Inhibition
>
> COMES NOW, private complainant, by and through the undersigned counsel, unto this Honorable Court respectfully states:
>
> 1. Allegedly, the Presiding Judge exhibited bias, partiality, prejudice and has pre-judged the case against the accused when he proceeded with the arraignment despite the pendency of a petition for review filed with the Department of Justice.
>
> 2. They alleged that on October 10, 2005, or the day before the scheduled arraignment, they have filed the petition.
>
> 3. They cited Rule 116, Section 11 (c) of the Revised Rules of Criminal Procedure, where it is provided that upon motion, the arraignment of the accused shall be suspended when a petition for review of the resolution of the prosecutor is pending.
>
> 4. We contemplated over this matter. **If indeed the petition was duly filed with the DOJ on October 10, 2005, why is it that the accused did not present a copy of the petition stamped "received" by the DOJ? Why did he not make a manifestation that he forgot to bring a copy? He could have easily convinced the Presiding Judge to suspend the arraignment upon a promise that a copy thereof will be filed with the court in the afternoon of October 11, 2005 or even the following day.**
>
> 5. **Thus, we come to the conclusion that the accused was able to antedate the filing or mailing of the petition.**[13] (Emphases supplied)

The allegation of antedating was reiterated by respondents in a Comment/Opposition to the Accused's Motion for Reconsideration filed with the RTC on 6 December 2006:

> 4. **It is our conclusion that the accused and his lawyers were able to antedate the filing or mailing of the petition.** We cannot conclude otherwise, unless the accused and his battery of lawyers will admit that on October 11, 2005 that they suddenly or temporarily became amnesiacs. They forgot that they filed the Petition for Review the day before.[14] (Emphasis supplied)

In the Complaint-Affidavit it filed with this Court, complainant vehemently denied the allegation of antedating.[15] As proof that the Petition for Review was personally

filed with the DOJ on 10 October 2005, complainant attached to its Complaint-Affidavit a copy of the Petition bearing the DOJ stamp.[16]

In their Comment dated 4 May 2006,[17] respondents alleged that the filing of the disbarment complaint against them was a mere harassment tactic. As proof, they cited the non-inclusion of another signatory to the Vehement Opposition, Public Prosecutor Nadine Jaban-Fama, as a respondent in the Complaint.[18] They also contended that the statements they had made in their pleadings were covered by the doctrine of privileged communication.[19]

In a Resolution dated 7 August 2006, the Court referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[20]

REPORT AND RECOMMENDATION OF THE IBP

In his Report and Recommendation dated 7 July 2008,[21] Commissioner Rico A. Limpingco found respondents guilty of violating the Code of Professional Responsibility:

> We agree with the complainant that the accusation that they antedated the mailing of the DO.I petition is violative of the Code of Professional Responsibility and the duty of all lawyers to observe civility and propriety in their pleadings. It was somewhat irresponsible for the respondents to make such an accusation on the basis of pure speculation, considering that they had no proof to support their accusation and did not even make any attempt to verify from the DO.I the date and the manner by which the said petition was filed. Moreover, as held in Asa, we will have to disagree with the respondents argument on privileged communication, the use of offensive language in pleadings filed in the course of judicial proceedings, constitutes unprofessional conduct subject to disciplinary action.
>
> x x x x
>
> In *Asa*, the Supreme Court found Atty. Ginger Anne Castillo guilty of breach of Canon 8 of the Code of Professional Responsibility and admonished her to refrain from using offensive and improper language in her pleadings. Considering that the respondents' accusation that the complainant and its lawyers antedated the mailing of Bro. Eliseo Soriano's DOJ Petition is somewhat more serious than an allegation of wanting additional attorney's fees for opening doors and serving coffee, we believe that the penalty of reprimand would be proper in this case.
>
> Wherefore, premises considered, it is respectfully recommended that respondent Attys. Restituto Lazaro and Rodel Morta be reprimanded for using improper language in their pleadings with a warning that a repetition of the same will be dealt with more severely.[22]

On 14 August 2008, the IBP Board of Governors issued Resolution No. XVIII-2008-391, which adopted and approved Commissioner Limpingco's Report and Recommendation:

> RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for using improper language in their pleadings Atty. Restituto Lazaro and Atty. Rodel Morta are REPRIMANDED with a Warning that a repetition of the same will be dealt with more severely.[23]

On 14 November 2008, respondents filed a Motion for Reconsideration of the Resolution dated 14 August 2008. They argued that the Complaint against them should have been dismissed on the following grounds: (a) complainant's failure to implead the public prosecutor, who must be considered an indispensable party to the case, since the pleading in question could not have been filed without her conformity; (b) as the subject pleadings had been signed by the public prosecutor, their contents enjoyed the presumption of regularity and legality, upon which respondents were entitled to rely; (c) respondents relied in good faith on the review, supervision and direction of the public prosecutor in the filing of the pleading in question; and (d) the statements in the pleading were covered by the doctrine of privileged communication.[24] Respondents also contended that Atty. Chavez should be disciplined for the derogatory statements made against them in the pleadings he submitted during the IBP investigation.

Complainant filed a Comment/Opposition[25] to respondents' Motion for Reconsideration on 8 January 2009.

On 22 March 2014, the IBP Board of Governors issued Resolution No. XXI-2014-146 granting respondent's Motion for Reconsideration and recommending the dismissal of the instant case on the basis of complainant's failure to implead an indispensable party:

> RESOLVED to GRANT Respondent's Motion for Reconsideration, considering that complainant's non-joinder of an indispensable party makes the presumption that Respondents acted according to regulations and in good faith in the performance of their official duties. Thus, Resolution No. XVIII-2008-391 dated August 14, 2008 is hereby SET ASIDE. Accordingly, the case against Respondents is hereby DISMISSED with stern Warning to be more circumspect.

To date, this Court has not received any petition from complainant or any other interested party questioning Resolution No. XXI-2014-146 of the IBP Board of Governors. However, pursuant to Section 12, Rule 139-B of the Rules of Court as amended by Bar Matter No. 1645,[26] we must ultimately decide disciplinary proceedings against members of the bar, regardless of the acts of the complainant.[27] This rule is consistent with our obligation to preserve the purity of the legal profession and ensure the proper and honest administration of justice.[28] In accordance with this duty, we now pass upon the recommendation of the IBP.

OUR RULING

After a judicious examination of the records of this case, the Court resolves to **SET**

ASIDE Resolution No. XXI-2014-146 of the IBP Board of Governors. Not only are the grounds cited as bases for the dismissal of the complaint inapplicable to disbarment proceedings. We are also convinced that there is sufficient justification to discipline respondents for violation of the Code of Professional Responsibility.

Non-joinder of a party is not a ground to dismiss a disciplinary proceeding.

In Resolution No. XXI-2014-146, the IBP Board of Governors dismissed the instant case because of complainant's purported failure to implead an indispensable party. Although this ground for dismissal was not explained at length in its resolution, the IBP Board of Governors appeared to have given credence to the argument proffered by respondents. They had argued that the public prosecutor was an indispensable party to the proceeding, and that her non-joinder was a ground for the dismissal of the case. That ruling is patently erroneous.

In previous cases, the Court has explained that disciplinary proceedings against lawyers are *sui generis*.[29] These proceedings are neither purely civil nor purely criminal,[30] but are rather investigations by the Court into the conduct of its officers.[31] Technical rules of procedure are not strictly applied,[32] but are construed in a manner that allows us to determine whether lawyers are still fit to fulfill the duties and exercise the privileges of their office.[33]

We cannot countenance the dismissal of the case against respondents merely because the public prosecutor has not been joined as a party. We emphasize that in disbarment proceedings, the Court merely calls upon members of the bar to account for their actuations as officers of the Court.[34] Consequently, only the lawyer who is the subject of the case is indispensable. No other party, not even a complainant, is needed.[35]

In this case, respondents are only called upon to account for their own conduct. Specifically, their pleadings contain the accusation that complainant antedated the filing of a petition before the DOJ. The fact that Public Prosecutor Jaban-Fama also signified her conformity to the pleadings containing these statements is irrelevant to the issue of whether respondents' conduct warrants the imposition of disciplinary sanctions.

Respondents cannot utilize the presumption of regularity accorded to acts of the public prosecutor as a defense for their own misconduct.

Respondents cannot excuse their conduct by invoking the presumption of regularity accorded to official acts of the public prosecutor. It must be emphasized that the act in question, *i.e.* the preparation of the pleadings subject of the Complaint, was performed by respondents and not by the public prosecutor. Hence, any impropriety in the contents of or the language used in these pleadings originated from respondents. The mere fact that the public prosecutor signed the pleadings after they were prepared could not have cured any impropriety contained therein. The presumption that the public prosecutor performed her duties regularly and in accordance with law cannot shield respondents from liability for their own conduct.

The claim of respondents that they relied in good faith on the approval of the public prosecutor is likewise untenable. As lawyers, they have a personal obligation to