

SECOND DIVISION

[A.C. No. 6681, June 17, 2015]

**VICTOR D. DE LOS SANTOS II, COMPLAINANT, VS. ATTY.
NESTOR C. BARBOSA, RESPONDENT.**

DECISION

BRION, J.:

We review Resolution No. XVIII-2008-705^[1] of the Board of Governors of the Integrated Bar of the Philippines (*IBP*) in Administrative Case No. 6681. This Resolution imposed on Atty. Nestor C. Barbosa (*respondent*) the penalty of three months suspension from the practice of law for violation of his oath as a lawyer and of the Code of Professional Responsibility.

Antecedent Facts

A complaint for Falsification of Public Document was filed by Melba D. De Los Santos Rodis (*Rodis*) against her father, Ricardo D. De Los Santos, Sr. (*De Los Santos, Sr.*) and Rosie P. Canaco (*Canaco*). Rodis alleged that Canaco made untruthful statements in the certificate of live birth of her son, Victor Canaco De Los Santos. Canaco indicated in her son's certificate of live birth that she was married to De Los Santos, Sr. on September 1, 1974 in San Fernando, Camarines Sur when no such marriage took place.

On April 24, 2002, an Information^[2] was filed against Canaco for violation of Sections 1 and 2 in relation with Section 9 of Presidential Decree No. 651.^[3] Particularly, Canaco was charged of "willfully, unlawfully and knowingly making false statements in the Certificate of Live Birth form for her son **Victor P. Delos Santos** who was born on June 30, 1982 by falsely stating that she was married to the father of her son, RICARDO P. DELOS SANTOS on September 1, 1974."^[4]

The case was docketed as Criminal Case No. 111152 and assigned to the Metropolitan Trial Court (*MeTC*), Branch 43 of Quezon City.

At the preliminary conference held on May 24, 2004, the respondent, as counsel *de parte* of Canaco, objected to the Prosecution's offer in evidence of the photocopy of the birth record of Victor Canaco Delos Santos. As a result, the MeTC issued an order resetting the preliminary conference to October 19, 2004 in order to give the prosecution time to file a certified true copy of the birth certificate.

On May 25, 2004, the respondent sent letters^[5] dated May 24, 2004 to the Office of the Civil Registrar of Quezon City, the National Census and Statistics Office, and St. Luke's Hospital. The pertinent portions of these letters state:

RE: ALLEGED CERTIFIED TRUE COPY OF CERTIFICATE OF LIVE BIRTH
CODED AS 6826111, COVERED BY REGISTERED NUMBER 2499 LOCAL
CIVIL REGISTRAR, QUEZON CITY.

There is being distributed by unauthorized person/s a purported copy of
Certificate of Live Birth above indicated which refers to one certain
VICTOR CANACO DE LOS SANTOS. In this connection, please be
guided by provisions of our existing laws regarding possible violation of
the secrecy and confidentiality of records.

Assuming without admitting that such facts of birth records exists, please
be guided that my client, VICTOR CANACO DE LOS SANTOS, has never
authorized anybody to secure a copy, Xerox or otherwise, and only upon
his written authority and with undersigned counsel's signature and
verification may a copy be officially reproduced, if any exist.

Under penalty of law. This May 24, 2004.

(signed)
ATTY. NESTOR C. BARBOSA
Counsel for Victor Canaco De Los Santos
Room 402, PNB Building,
City of Naga

Noted by:

(signed)
Victor C. De Los Santos" [Emphasis supplied.]

On October 19, 2004, the MeTC noted the manifestation of the complainant that
they failed to secure a certified true copy of the birth certificate of the accused's son
because of the respondent's letter. Thus, the MeTC issued an order for the issuance
of a subpoena duces tecum/ad testificandum ordering the Civil Registrar of Quezon
City to produce a certified true copy of the live birth of Victor Canaco delos Santos
who alleged to have been born on June 30, 1982 under Registry No. LCR 2499.

Canaco, through the respondent, filed a motion for reconsideration of the order
dated October 19, 2004 directing the issuance of a subpoena duces tecum/ad
testificandum. In its order dated July 8, 2005, the MeTC denied the motion for
reconsideration.

In the meantime, Victor D. De Los Santos II [herein *complainant* (brother of Rodis
and son of Delos Santos, Sr.)] filed a complaint with the prosecutor charging the
respondent for obstruction of justice.^[6]

In defense, the respondent argued, among others, that the name of his client
Canaco's son is VICTOR C. DE LOS SANTOS and not VICTOR P. DE LOS SANTOS as
stated in the Information charging Canaco with violation of Presidential Decree No.
651. Thus, the respondent vehemently denied that he intentionally intended to
delay and obstruct the proceedings in the MeTC.^[7]

The prosecutor dismissed the obstruction of justice complaint for insufficiency of

evidence.^[8]

The Case

On February 22, 2005, the complainant filed a Petition for Disbarment^[9] with the Court, charging the respondent with multiple gross violations of his oath as a lawyer and Canons of Professional Ethics for unlawfully obstructing and delaying the proceedings in Criminal Case No. 111152 against Canaco.

The complainant alleged that the respondent's act of sending out the letters dated May 24, 2004 was criminally and maliciously done to delay, impeded, obstruct, or otherwise frustrate the prosecution of Canaco, who is the respondent's client.^[10]

The complainant further contended that the respondent's letters were not justified by any tenable and lawful defense^[11] and were made to suppress and conceal the subject birth record to impair its availability, authenticity, verity, or admissibility as evidence in Criminal Case No. 111152 before the MeTC.

Lastly, the complainant submitted that the acts of respondent constituted multiple gross violations of his oath as a lawyer, of the Canons of Professional Ethics, and of his duties as an attorney under the Rules of Court.^[12]

In his Comment-Opposition^[13] dated June 8, 2005, the respondent argued that the complainant is a disgruntled litigant whose series of cases, filed together with his group, had all been dismissed and the respondent was the opposing counsel in these dismissals.^[14]

The respondent further asserted that this case is a violation of the rule on forum shopping since it is the tenth case pending on the same set of facts.

The Findings of the Investigating Commissioner

In our Resolution^[15] dated August 24, 2005, we referred the case to the IBP for investigation, report, and recommendation. In her Report and Recommendation,^[16] IBP Commissioner Lolita A. Quisumbing found the respondent administratively liable for violating his oath as a lawyer and the Code of Professional Responsibility. The IBP Commissioner opined that:

Respondent's acts of objecting to the offer in evidence of a photocopy of the birth certificate of Victor C. De Los Santos which necessitated the postponement of the preliminary conference in order to afford the prosecution the opportunity to secure a certified true copy thereof was a calculated ploy to delay the successful prosecution of the case. To guarantee its further delay, on the same day of the preliminary conference; *i.e.*, on 24 May 2004, he prepared the letter addressed to the Office of the Civil Registrar, National Census and Statistics Office and St. Luke's Hospital to prevent or delay the issuance of the certified true copy of the birth certificate. Such conduct is unethical, improper and inexcusable.^[17]

In view of the foregoing, **we find respondent acts of (1) writing and sending out the letter dated 24 May 2004 and of (2) deliberately misleading the MeTC, the Supreme Court and this Commission into believing that Victor Canaco De Los Santos (accused's son whose birth certificate is at issue in the criminal case) and Victor P. De Los Santos (named in the Information) are two (2) different persons as constituting gross violation of his oath as a lawyer and of the Code of Professional Responsibility.** Respondent's acts were unethical, improper and committed with no other prompt and efficient disposition of the case. Lawyers are reminded that as officers of the court, they have a responsibility to assist in the proper administration of justice.^[18] [Emphasis supplied.]

The IBP Commissioner recommended that Atty. Barbosa be suspended from the practice of law for a period of one (1) year.

The Findings of the IBP Board of Governors

In a Resolution^[19] dated May 26, 2006, the IBP Board of Governors (BOG) resolved to adopt and approve the Report and Recommendation of the IBP Commissioner after finding it to be fully supported by the evidence on record, the applicable laws and rules. However, the IBP Board of Governors modified the IBP Commissioner's recommended penalty of suspension from the practice of law for a period of one (1) year to six (6) months.

Atty. Barbosa moved to reconsider the BOG resolution. In a Resolution^[20] dated December 11, 2008, the BOG denied the motion but modified the respondent's suspension from the practice of law to a period of only three months.

The Court's Ruling

After a careful study of the records, the Court approves the findings of the IBP Commission and the IBP Board of Governors, but resolves to modify the recommended penalty of suspension from the practice of law to a period of one (1) year.

Unduly Delaying the Proceedings

Under Canon 1 of the Code of Professional Responsibility, lawyers should uphold the Constitution, obey the laws of the land, and promote respect for the law and legal processes.

Specifically, Rule 1.01 of Canon 1 states that "[a] lawyer shall **not engage in unlawful, dishonest, immoral or deceitful conduct.**" Rule 1.03 also provides that "[a] lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause."

Rule 12.04 of Canon 12 of the Code of Professional Responsibility likewise states that "[a] lawyer shall not unduly delay a case, impede the execution of a judgment