

## SECOND DIVISION

**[ A.C. No. 7687, December 03, 2014 ]**

**RAUL C. LANUZA AND REYNALDO C. RASING, COMPLAINANTS,  
VS. ATTYS. FRANKIE O. MAGSALIN III AND PABLO R. CRUZ,  
RESPONDENTS.**

**[A.C. No. 7688]**

**RAUL C. LANUZA AND REYNALDO C. RASING, COMPLAINANTS,  
VS. ATTYS. FRANKIE O. MAGSALIN III, PETER ANDREW S. GO  
AND PABLO R. CRUZ, RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

Before the Court are two (2) separate administrative cases for disbarment filed by complainants Raul C. Lanuza (*Lanuza*) and Reynaldo C. Rasing (*Rasing*), docketed as A.C. No. 7687, against lawyers Frankie O. Magsalin III (*Atty. Magsalin*) and Pablo R. Cruz (*Atty. Cruz*) and A.C. No. 7688 against Atty. Magsalin, Atty. Cruz and Atty. Peter Andrew Z. Go (*Atty. Go*) for alleged fraud, deceit, malpractice, and gross misconduct in violation of Section 27, Rule 138 of the Rules of Court and the Code of Professional Responsibility (*CPR*).

The Court eventually consolidated the two cases as they both involve the same parties, revolve around the same set of facts, and raise exactly the same issues.

#### **The Facts**

These disbarment cases stemmed from a labor case filed by complainant Lanuza against Philippine Hoteliers, Inc. (*PHI*), which operated the Dusit Hotel Nikko (*Dusit Hotel*), a client of respondents Atty. Magsalin, Atty. Cruz and Atty. Go, all from the law firm, P.R. Cruz Law Offices (*PRC Law Office*). Both the Labor Arbiter and the National Labor Relations Commission (*NLRC*) decided in favor of PHI. Lanuza appealed the NLRC decision before the Court of Appeals (*CA*).

#### **A.C. No. 7688**

On March 23, 2007, the CA rendered a decision in CA-G.R. SP No. 92642, favoring Lanuza and directing PHI to reinstate him with full backwages.

According to Lanuza, his legal counsel, Atty. Solon R. Garcia (*Atty. Garcia*), received the Notice of Judgment and their copy of the CA Decision on March 28, 2007 at his law office located in Quezon City. Subsequently, Atty. Garcia received by registered mail the Compliance<sup>[1]</sup> and Motion for Reconsideration,<sup>[2]</sup> both dated April 12, 2007, filed by PHI and signed by Atty. Magsalin. In the said pleadings, PHI stated that it

received Notice of Judgment with a copy of the CA decision on April 10, 2007. This information caused Atty. Garcia to wonder why the postman would belatedly deliver the said Notice of Judgment and the CA decision to the PRC Law Office, which was also located in Quezon City, thirteen (13) days after he received his own copies.

Afterwards, Atty. Garcia requested the Quezon City Central Post Office (QCCPO) for a certification as to the date of the actual receipt of the Notice of Judgment with the CA decision by the PRC Law Office. In the October 31, 2007 Certification,<sup>[3]</sup> issued by Llewelyn F. Fallarme (*Fallarme*), Chief of the Records Section, QCCPO, it was stated that the Registered Letter No. S-1582 addressed to Atty. Magsalin was delivered by Postman Rosendo Pecante (*Postman Pecante*) and duly received by Teresita Calucag on March 29, 2007, supposedly based on the logbook of Postman Pecante.

With the October 31, 2007 Certification as basis, the complainants lodged the disbarment complaint against Attys. Magsalin, Go and Cruz, which was docketed as A.C. No. 7688.

#### A.C. No. 7688

In A.C. No. 7688, the complainants alleged that Teresita "Tess" Calucag (*Calucag*), secretary of PRC Law Office, altered the true date of receipt of the Notice of Judgment with the CA decision when she signed and stamped on the registry return receipt the date, April 10, 2007, to mislead the CA and the opposing party that they received their copy of the CA decision on a later date and not March 29, 2007. The complainants added that the alteration was very evident on the registry return receipt which bore two (2) stamped dates of receipt, with one stamped date "snowpaked" or covered with a liquid correction fluid to conceal the true date written on the registry return receipt. They inferred that Calucag concealed what could probably be the true date of receipt, and that the respondents must have induced Calucag to alter the true date of receipt because they stood to benefit from the additional thirteen (13) days to prepare their motion for reconsideration.

In their defense, the respondents denied the complainants' allegations and countered that they actually received the Notice of Judgment and their copy of the CA Decision on April 10, 2007 based on the Registry Return Receipt<sup>[4]</sup> (*1<sup>st</sup> return receipt*) that was sent back to CA. Stamped on the 1<sup>st</sup> return receipt was "RECEIVED APRIL 10 2007" and signed by Calucag in front and within the full view of Postman Pecante. The respondents claimed that examining and finding that the return receipt had been faithfully accomplished and the date indicated therein to be true and accurate, Postman Pecante accepted the said return receipt. As borne out by the records, the 1<sup>st</sup> return receipt pertaining to the CA decision was duly returned to the CA as the sender. Eventually, Atty. Magsalin filed the required Compliance. Considering that Atty. Cruz was out of the country from April 5, 2007, to May 6, 2007, based on a Bureau of Immigration certification,<sup>[5]</sup> Atty. Magsalin requested Atty. Go, a senior associate in their law office, to review PHI's motion for reconsideration of the decision. Afterwards, Atty. Go signed the said motion for reconsideration and had it filed with the CA.

Relying on the date indicated in the return receipt, respondents stated the date, April 10, 2007, in the filed compliance and motion for reconsideration .

To oppose complainants' assertion of Calucag's application of "snowpake" in the 1<sup>st</sup> return receipt allegedly to conceal the true date of receipt of the CA decision, the respondents secured a Certification<sup>[6]</sup> from the CA, which stated the following:

This is to certify that the Registry Return Receipt dated March 23, 2007, attached to the dorsal portion of page 209 of the rollo of the above-captioned case, as per careful observation, reveals no "snowpaked" portion and that the white mark that appears on the upper, center portion of the subject Registry Return Receipt bearing the stamp mark of receipt of P.R. Cruz Law Offices is a part of the white envelope that contained the decision of this Court which stuck to the said Return Receipt.

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As the records would show, PHI moved for reconsideration of the said CA decision, but the CA denied the motion in its July 4, 2007 Resolution.

On July 10, 2007, Atty. Garcia received by registered mail the Notice of Resolution from the CA. Thereafter, Atty. Garcia received by registered mail the Compliance,<sup>[7]</sup> dated July 26, 2007, filed by PHI, through the PRC Law Office. In the said Compliance, it was stated that the Notice of Resolution was received on July 23, 2007 based on the Registry Return Receipt<sup>[8]</sup> (2<sup>nd</sup> return receipt) sent back to the CA.

Again wondering about the delay in the delivery of the registered mail to the respondents, Atty. Garcia requested the QCCPO to issue a certification as to the date of the actual receipt of the said Notice of Resolution by the PRC Law Office. In the October 25, 2007 Certification<sup>[9]</sup> issued by the QCCPO, Chief of the Records Section Fallarme, stated that the Registered Letter No. S-114 addressed to Atty. Magsalin was delivered by Postman Pecante and duly received by Calucag on July 16, 2007, based on the logbook of Postman Pecante.

The October 25, 2007 Certification became the basis of the other disbarment complaint against Attys. Magsalin and Cruz docketed as A.C. No. 7687.

In A.C. No. 7687, the complainants claimed that Attys. Magsalin and Cruz must have induced Calucag to alter the true date of receipt of the Notice of Resolution or at least had the knowledge thereof when she signed and stamped on the 2<sup>nd</sup> return receipt the date - July 23, 2007. They contended that Attys. Magsalin and Cruz stood to benefit from the additional seven (7) days derived from the alleged altered date as they, in fact, used the altered date in their subsequent pleading. Attys. Magsalin and Cruz falsely alleged such in the compliance filed before the CA; the motion for extension of time to file a petition for review on *certiorari*;<sup>[10]</sup> and the petition for review on *certiorari*<sup>[11]</sup> filed before this Court. The complainants insinuated that Atty. Magsalin and Atty. Cruz deliberately misled the CA and this Court by filing the above-mentioned pleadings with the full knowledge that they were already time barred.

In their defense, Attys. Magsalin and Cruz denied the allegations in the complaint