

FIRST DIVISION

[A.C. No. 7686, July 31, 2013]

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

R E S O L U T I O N

VILLARAMA, JR., J.:

Before this Court is an administrative complaint^[1] for disbarment filed by Jaime Joven and Reynaldo C. Rasing against Attys. Pablo R. Cruz and Frankie O. Magsalin III for deceit, malpractice, gross misconduct and falsification of public documents.

The disbarment complaint stemmed from NLRC NCR CA No. 039270-04, a labor case filed by complainant Jaime Joven against Phil. Hoteliers, Inc. and/or Dusit Hotel Nikko, a client of respondents' law firm, P.R. Cruz Law Offices.

On July 16, 2007, the National Labor Relations Commission (NLRC) rendered a decision in NLRC NCR CA No. 039270-04. Joven's counsel, Atty. Solon R. Garcia, received their copy of the decision on August 14, 2007. As to respondents, they received a copy of the decision on August 24, 2007 based on the Registry Return Receipt^[2] that was sent back to the NLRC. Stamped thereon was "RECEIVED AUG 24 2007" and signed by "tess."

On September 5, 2007, Atty. Garcia received by registered mail at his law office located in Quezon City the Partial Motion for Reconsideration^[3] of Phil. Hoteliers, Inc. and/or Dusit Hotel Nikko. The motion was dated August 29, 2007 and signed by respondents in behalf of their client. The opening statement on page 1 of the Motion reads:

Respondents-Appellants, through counsel, unto this Honorable Commission, by way of their Partial Motion for Reconsideration assailing the Decision dated 18 (sic) July 2007 in the above-entitled case, **copy of which was received on August 24, 2007**, most respectfully submit:^[4]

x x x x (Emphasis in the original; underscoring supplied.)

As Atty. Garcia found it unusual for the postman to belatedly deliver a copy of the NLRC decision to respondents (whose law office is also located in Quezon City) on August 24, 2007 or 10 days after he received his copy on August 14, 2007, he requested Larry Javier, Vice-President of National Union of Workers in Hotel Restaurant and Allied Industries (NUWHRAIN)- Dusit Hotel Nikko Chapter, to secure a post office certification of the actual date respondents received a copy of said

decision. Through a letter-request of Angelito V. Vives, NLRC Board Secretary IV, Javier was able to secure the following Quezon City Central Post Office (QCCPO) Certification dated September 17, 2007:

CERTIFICATION

Reference

To Whom It May Concern:

This is to certify that per records of this Office, **Registered Letter No. 6452 as per record 6463** address[ed] to Atty. Frankie O. Magsalin III Unit 2A & RD, [Genesis] Condo., #26 E. Rodriguez Sr. Avenue, Q.C. and which was posted at NLRC PO on Aug. 6, 2007

{ / } was delivered by Postman/Window Delivery Clerk/Lock Box In-Charge Rosendo Pecante and **duly received** by Henry Agillon on **Aug. 14, 2007**.

{ } was return to sender on _____ for reason _____ despite due notices issued 1st on _____ 2nd on _____ last notice on _____.

This certification is issued this 17th day of Sept. 2007 upon request of Mr. Angelito V. Vives for whatever legal purpose it may serve.

Mr. LLEWELYN F. FALLARME

(Sgd.)

x x x

(Emphasis supplied.)

Chief, Records Section^[5]

The above certification was supposedly based on the logbook of Postman Rosendo Pecante.

Based on the certification of the QCCPO, complainants lodged the instant disbarment complaint against respondents. They allege that Teresita "Tess" Calucag, secretary of respondents' law firm, altered the true date of receipt of the NLRC decision when she signed and stamped on the Registry Return Receipt the date August 24, 2007 to make it appear and to mislead the NLRC and the opposing party that the decision was received on such later date and not on August 14, 2007. They conclude that respondents caused the alteration of the true date of their actual receipt with the intention of extending by ten days the period within which to file a motion for reconsideration. Complainants submit that the alteration of the true date of receipt done on the registry return card (a public document), the use of the altered date and the making of untruthful statements in a narration of facts in the Partial Motion for Reconsideration (also a public document) constitute falsification of public document on several counts, deception and gross professional misconduct.

On February 6, 2008, this Court issued a Resolution^[6] requiring respondents to comment on the disbarment complaint.

In their Comment with Motion to Dismiss,^[7] respondents denied complainants' allegations and alleged that the subject NLRC decision was received under the following circumstances:

On August 14, 2007, P.R. Cruz Law Offices received four registered mails through one of its office staff, Henry A. Agellon. Agellon received Registered Mail Nos. 938, 005, 061 and 13497. As evidence of receipt of the four registered mails, Agellon signed the Postman's Logbook. On a page on the Postman's Logbook corresponding to August 14, 2007, a bracket enclosed the lines corresponding to the four registered mails. As evidence of receipt of said mails, Agellon signed after the bracket and stamped thereon "AUG 14 2007." The next line after Registered Mail No. 13497 corresponds to Registered Mail No. 6463, which is addressed to "F. Magsalin" and supposedly pertains to the subject NLRC decision.

According to respondents, Agellon receives the mails when the firm secretary, Tess Calucag, is busy or is out of the office. According to Agellon, he makes sure that he writes the correct date of receipt on the Registry Return Cards attached to the registered mails he receives. He then stamps "Received" and the actual date of receipt on the mails and turns them over to Calucag so she can record them in her logbook before she distributes them to the lawyers.

On August 24, 2007, P.R. Cruz Law Offices received another batch of registered mails. Based on the Postman's Logbook, nine registered mails were for delivery to the firm. On said date, it was Calucag who received the registered mails based on the signature beside the bracket enclosing the lines corresponding to the nine registered mails. She then stamped "RECEIVED AUG 24 2007" and signed all the Registry Return Cards in front of the postman who in turn checked the same. It appears, however, that the subject NLRC decision was among the registered mails delivered on August 24, 2007 and its Registry Return Card was among those stamped and signed by Calucag, even if it was not among the nine registered mails listed in the postman's logbook. After receiving all the registered mails, Calucag recorded them in her logbook. A copy of the page pertaining to August 24, 2007 of Calucag's logbook shows that the subject NLRC decision was among those received on even date.

On the other hand, records would show that the Registry Return Card pertaining to the subject NLRC decision signed and stamped with the date August 24, 2007 was duly returned to the NLRC as sender.

Respondents, relying on the date August 24, 2007 as the actual date of receipt of the subject NLRC decision as indicated by their secretary, stated said date in their Partial Motion for Reconsideration of said decision.

Respondents submit that complainants did not present any clear, convincing or satisfactory proof that they induced or ordered their secretary to alter the true date of receipt and such allegation was merely based on pure assumption and self-serving conjectures. They further argue that their reliance on their secretary's actual receipt of the subject NLRC decision as corroborated by the entries of the law