

## EN BANC

[ A.C. No. 6664, July 16, 2013 ]

**FERDINAND A. SAMSON, COMPLAINANT, VS. ATTY. EDGARDO O. ERA, RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

An attorney who wittingly represents and serves conflicting interests may be suspended from the practice of law, or even disbarred when circumstances so warrant.

#### Antecedents

Ferdinand A. Samson has brought this complaint for disbarment charging respondent Atty. Edgardo O. Era with violation of his trust and confidence of a client by representing the interest of Emilia C. Sison, his present client, in a manner that blatantly conflicted with his interest.

Samson and his relatives were among the investors who fell prey to the pyramiding scam perpetrated by ICS Exports, Inc. Exporter, Importer, and Multi-Level Marketing Business (ICS Corporation), a corporation whose corporate officers were led by Sison. The other officers were Ireneo C. Sison, William C. Sison, Mimosa H. Zamudio, Mirasol H. Aguilar and Jhun Sison.

Samson engaged Atty. Era to represent and assist him and his relatives in the criminal prosecution of Sison and her group. Pursuant to the engagement, Atty. Era prepared the demand letter dated July 19, 2002 demanding the return or refund of the money subject of their complaints. He also prepared the complaint-affidavit that Samson signed and swore to on July 26, 2002. Subsequently, the complaint-affidavit charging Sison and the other corporate officials of ICS Corporation with several counts of *estafa*<sup>[1]</sup> was presented to the Office of the City Prosecutor of Quezon City (OCPQC). After the preliminary investigation, the OCPQC formally charged Sison and the others with several counts of *estafa* in the Regional Trial Court, Branch 96 (RTC), in Quezon City.<sup>[2]</sup>

In April 2003, Atty. Era called a meeting with Samson and his relatives to discuss the possibility of an amicable settlement with Sison and her cohorts. He told Samson and the others that undergoing a trial of the cases would just be a waste of time, money and effort for them, and that they could settle the cases with Sison and her group, with him guaranteeing the turnover to them of a certain property located in Antipolo City belonging to ICS Corporation in exchange for their desistance. They acceded and executed the affidavit of desistance he prepared, and in turn they received a deed of assignment covering land registered under Transfer Certificate of Title No. R-4475 executed by Sison in behalf of ICS Corporation.<sup>[3]</sup>

Samson and his relatives later demanded from Atty. Era that they be given instead a deed of absolute sale to enable them to liquidate the property among themselves. It took some period of negotiations between them and Atty. Era before the latter delivered to them on November 27, 2003 five copies of a deed of absolute sale involving the property. However, Atty. Era told them that whether or not the title of the property had been encumbered or free from lien or defect would no longer be his responsibility. He further told them that as far as he was concerned he had already accomplished his professional responsibility towards them upon the amicable settlement of the cases between them and ICS Corporation.<sup>[4]</sup>

When Samson and his co-complainants verified the title of the property at the Registry of Deeds and the Assessor's Office of Antipolo City, they were dismayed to learn that they could not liquidate the property because it was no longer registered under the name of ICS Corporation but was already under the name of Bank Wise Inc.<sup>[5]</sup> Upon their urging, Atty. Era negotiated as their counsel with ICS Corporation.

Due to the silence of Atty. Era for sometime thereafter, Samson and his group wrote to him on September 8, 2004 to remind him about his guarantee and the promise to settle the issues with Sison and her cohorts. But they did not hear from Atty. Era at all.<sup>[6]</sup>

During the hearings in the RTC, Atty. Era did not anymore appear for Samson and his group. This forced them to engage another lawyer. They were shocked to find out later on, however, that Atty. Era had already been entering his appearance as the counsel for Sison in her other criminal cases in the other branches of the RTC in Quezon City involving the same pyramiding scam that she and her ICS Corporation had perpetrated.<sup>[7]</sup> In this regard, they established Atty. Era's legal representation of Sison by submitting several certified copies of the minutes of the proceedings in the criminal cases involving Sison and her group issued by Branch 102 and Branch 220 of the RTC in Quezon City showing that Atty. Era had appeared as the counsel of Sison in the cases for *estafa* pending and being tried in said courts.<sup>[8]</sup> They also submitted a certification issued on November 3, 2004 indicating that Atty. Era had visited Sison, an inmate in the Female Dormitory in Camp Karingal, Sikatuna Village, Quezon City as borne out by the blotter logbook of that unit.<sup>[9]</sup>

On January 20, 2005, Samson executed an affidavit alleging the foregoing antecedents, and praying for Atty. Era's disbarment on the ground of his violation of the trust, confidence and respect reposed in him as their counsel.<sup>[10]</sup>

Upon being required by the Court to comment on the complaint against him within 10 days from notice, Atty. Era several times sought the extension of his period to file the comment to supposedly enable him to collate documents relevant to his comment.<sup>[11]</sup> The Court granted his request and allowed him an extension totalling 40 days. But despite the lapse of the extended period, he did not file his comment.

On September 27, 2005, Samson reiterated his complaint for disbarment against Atty. Era.<sup>[12]</sup>

By its resolution dated March 1, 2006,<sup>[13]</sup> the Court required Atty. Era to show

cause why he should not be disciplinarily dealt with or held in contempt for such failure to submit his comment.

In the comment that he subsequently filed on April 11, 2006 in the Office of the Bar Confidant,<sup>[14]</sup> Atty. Era alleged that the conclusion on April 23, 2002 of the compromise settlement between Samson and his group, on one hand, and Sison and her ICS Corporation, on the other, had terminated the lawyer-client relationship between him and Samson and his group; and that on September 1, 2003, he had been appointed as counsel *de officio* for Sison by Branch 102 of the RTC in Quezon City only for purposes of her arraignment.

On July 17, 2006, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.<sup>[15]</sup>

In his report and recommendation dated October 1, 2007,<sup>[16]</sup> the Investigating Commissioner of the IBP Commission on Bar Discipline (IBP-CBD) found Atty. Era guilty of misconduct for representing conflicting interests, for failing to serve his clients with competence and diligence, and for failing to champion his clients' cause with wholehearted fidelity, care and devotion.

The Investigating Commissioner observed that the evidence did not sustain Atty. Era's claim that his legal services as counsel for Samson and his group had terminated on April 23, 2003 upon the execution of the compromise settlement of the criminal cases; that he even admitted during the mandatory conference that there was no formal termination of his legal services;<sup>[17]</sup> that his professional obligation towards Samson and his group as his clients did not end upon execution of the settlement agreement, because he remained duty-bound to see to it that the settlement was duly implemented; that he also had the obligation to appear in the criminal cases until their termination; and that his acceptance of the engagement to appear in behalf of Sison invited suspicion of his double-dealing and unfaithfulness.

The Investigating Commissioner recommended that Atty. Era be suspended from the practice of law for six months, *viz*:

From the foregoing, it is clear that respondent is guilty of misconduct for representing conflicting interests, failing to serve his client, complainant herein, with competence and diligence and champion the latter's cause with wholehearted fidelity, care and devotion. It is respectfully recommended that respondent be SUSPENDED from the practice of law for a period of six (6) months and WARNED that a repetition of the same or similar act would merit a more severe penalty.<sup>[18]</sup>

In Resolution No. XVIII-2007-195 passed on October 19, 2007,<sup>[19]</sup> the IBP Board of Governors adopted and approved the report and recommendation of the Investigating Commissioner of the IBP-CBD, with the modification that Atty. Era be suspended from the practice of law for two years.

On June 9, 2012, the IBP Board of Governors passed Resolution No. XX-2012-180,<sup>[20]</sup> denying Atty. Era's motion for reconsideration and affirming Resolution No.

The IBP Board of Governors then forwarded the case to the Court pursuant to Section 12(b), Rule 139-B of the *Rules of Court*.<sup>[21]</sup>

On October 17, 2012, Atty. Era filed a Manifestation and Motion (With Leave of Court).<sup>[22]</sup> However, on November 26, 2012, the Court merely noted the manifestation, and denied the motion for its lack of merit.<sup>[23]</sup>

### **Ruling**

We affirm the findings of the IBP.

In his petition for disbarment, Samson charged Atty. Era with violating Canon 15 of the *Code of Professional Responsibility* for representing conflicting interests by accepting the responsibility of representing Sison in the cases similar to those in which he had undertaken to represent Samson and his group, notwithstanding that Sison was the very same person whom Samson and his group had accused with Atty. Era's legal assistance. He had drafted the demand letters and the complaint-affidavit that became the bases for the filing of the *estafa* charges against Sison and the others in the RTC in Quezon City.

Atty. Era's contention that the lawyer-client relationship ended when Samson and his group entered into the compromise settlement with Sison on April 23, 2002 was unwarranted. The lawyer-client relationship did not terminate as of then, for the fact remained that he still needed to oversee the implementation of the settlement as well as to proceed with the criminal cases until they were dismissed or otherwise concluded by the trial court. It is also relevant to indicate that the execution of a compromise settlement in the criminal cases did not *ipso facto* cause the termination of the cases not only because the approval of the compromise by the trial court was still required, but also because the compromise *would have* applied only to the civil aspect, and excluded the criminal aspect pursuant to Article 2034 of the *Civil Code*.<sup>[24]</sup>

Rule 15.03, Canon 15 of the *Code of Professional Responsibility* provides that: "A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts." Atty. Era thus owed to Samson and his group entire devotion to their genuine interest, and warm zeal in the maintenance and defense of their rights.<sup>[25]</sup> He was expected to exert his best efforts and ability to preserve the clients' cause, for the unwavering loyalty displayed to his clients likewise served the ends of justice.<sup>[26]</sup>

In *Hornilla v. Atty. Salunat*,<sup>[27]</sup> the Court discussed the concept of conflict of interest in this wise:

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is "whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the