

## THIRD DIVISION

[ A.C. No. 1900, June 13, 2012 ]

**RODRIGO A. MOLINA, COMPLAINANT, VS. ATTY. CEFERINO R. MAGAT, RESPONDENT.**

### DECISION

**MENDOZA, J.:**

Before the Court is the undated Resolution<sup>[1]</sup> of the Board of Governors of the Integrated Bar of the Philippines (*IBP*) finding Atty. Ceferino R. Magat (*Atty. Magat*) liable for unethical conduct and recommending that he be reprimanded.

#### **The Facts:**

The case stemmed from a complaint for disbarment<sup>[2]</sup> filed by Rodrigo A. Molina (*complainant*) against Atty. Magat before the Court on May 5, 1978. The complaint alleged, among others, that complainant filed cases of Assault Upon an Agent of a Person in Authority and Breach of the Peace and Resisting Arrest against one Pascual de Leon (*de Leon*) before the Court of First Instance (*CFI*) of Manila; that the counsel of record for accused de Leon in both cases was Atty. Magat; that a case for slight physical injuries was filed against him (*Molina*) by de Leon as a counter-charge and Atty. Magat was also the private prosecutor; that Atty. Magat subsequently filed a motion to quash the information on Assault upon an Agent of a Person in Authority on the sole ground of double jeopardy claiming that a similar case for slight physical injuries was filed in court by a certain Pat. Molina (*Molina*); that based on the record, no case of slight physical injuries was filed by Molina against de Leon; that Atty. Magat was very much aware of such fact as he was the counsel and private prosecutor on record of de Leon from the very start of the case way back on May 24, 1974; that Atty. Magat's act of filing the Motion to Quash was a malicious act done in bad faith to mislead the court, thus, a betrayal of the confidence of the court of which he is an officer; and that Atty. Magat likewise committed willful disobedience of the court order when he appeared as counsel for de Leon on two (2) occasions despite the fact that he was suspended from the practice of law.

In his Answer,<sup>[3]</sup> Atty. Magat averred that in so far as the filing of the motion to quash was concerned, he was really under the impression that a criminal case in lieu of the two (2) charges was indeed filed and that the said motion was opposed by the other party and was denied by the court. He admitted his appearances in court while under suspension. He explained that his appearance in the December 21, 1977 hearing was to inform the court that the accused was sick and to prevent the issuance of a warrant of arrest against the accused. In the January 9, 1978 hearing, he appeared because the accused had no money and pleaded that his testimony be finished. Atty. Magat begged for the indulgence of the court and conveyed his repentance and apology and promised that the same would not happen again.

The complaint was endorsed to the Office of the Solicitor General (*OSG*) for investigation, report and recommendation.<sup>[4]</sup> Thereafter, the *OSG* transmitted the records of the case to the *IBP* for proper disposition.

In his Report and Recommendation<sup>[5]</sup> dated March 20, 2009, the *IBP* Commission on Bar Discipline found merit in the complaint and recommended that Atty. Magat be reprimanded and fined P50,000.00. It stated that:

This Commission finds it hard to believe that respondent would have mistakenly been under the impression that a case for physical injuries was filed against his client when there was no such case filed. Respondent was either negligently reckless or he had mischievous intentions to deceive the trial court. In any case, he committed a transgression for which he should be punished.

However, the graver sin of respondent is, and this he admits, that he appeared as counsel before a trial court on at least two (2) occasions notwithstanding the fact that he had been suspended by the Supreme Court from the practice of law. Despite professing his contrition in his Answer, this Commission is not convinced. Otherwise, respondent should have had, at the onset of the proceedings, admitted to his misdeeds and put his fate squarely with the disciplinary body. Yet, he proceeded to fight the charges against him.

Moreover, if respondent was indeed moved by altruistic intentions when he made those appearances before the trial court despite having been suspended, he could have so informed the Presiding Judge of his plight and explained why the party he was representing could not attend. Yet, what he proceeded to do was to enter his appearance as counsel. Indeed, it is beyond doubt he trifled with the suspension order handed by the Supreme Court.

If there is one thing going for respondent, it is that the passage of time with which this case remains pending makes it difficult to impose a penalty of suspension on him. Under normal circumstances, this Commission would not have thought twice of suspending respondent. However, the acts committed by respondent occurred over TWENTY (20) YEARS ago. It would not be fair to now impose a suspension on respondent, more so considering that he is, in all likelihood, in the twilight of his career.

On the other hand, there is still a need to discipline respondent if only to set an example to other lawyers that suspension orders of the Supreme Court cannot simply be ignored. Thus, it is the recommendation of the undersigned that respondent be meted a fine of FIFTY THOUSAND PESOS (P50,000.00) and that he be heavily reprimanded for his actions, the passage of time notwithstanding.<sup>[6]</sup>

On May 14, 2011, the *IBP* Board of Governors passed its Resolution<sup>[7]</sup> adopting the