

EN BANC

[A.M. No. 10-10-4-SC, June 07, 2011]

RE: LETTER OF THE UP LAW FACULTY ENTITLED RESTORING INTEGRITY: A STATEMENT BY THE FACULTY OF THE UNIVERSITY OF THE PHILIPPINES COLLEGE OF LAW ON THE ALLEGATIONS OF PLAGIARISM AND MISREPRESENTATION IN THE SUPREME COURT

RESOLUTION

LEONARDO-DE CASTRO, J.:

For disposition of the Court are the following:

(a) the Motion for Reconsideration ^[1] dated April 1, 2011 filed by respondent University of the Philippines (UP) law professors Tristan A. Catindig and Carina C. Laforteza; and

(b) the Manifestation ^[2] dated April 1, 2011 filed by respondents Dean Marvic M.V.F. Leonen and Prof. Theodore O. Te.

In support of their Motion for Reconsideration, Professors Catindig and Laforteza relied on the following grounds:

GROUND

A. THIS PROCEEDING, WHILE OSTENSIBLY DOCKETED AS AN ADMINISTRATIVE MATTER, IS PREMISED ON A FINDING OF INDIRECT CONTEMPT. ACCORDINGLY, WITH ALL DUE RESPECT, THE HONORABLE COURT ERRED IN FINDING THAT THE RESPONDENTS BREACHED THEIR ETHICAL OBLIGATIONS WITHOUT OBSERVANCE OF THE DUE PROCESS SAFEGUARDS GUARANTEED IN AN INDIRECT CONTEMPT PROCEEDING.

B. WITH DUE RESPECT, THE HONORABLE COURT ERRED IN RULING THAT (1) THE PLAGIARISM AND MISREPRESENTATION ISSUES IN THE *VINUYA* CASE AND IN A.M. NO. 10-7-17-SC HAVE NO RELATION TO THE *RESTORING INTEGRITY STATEMENT* AND THE SHOW CAUSE RESOLUTION, AND THEREFORE (2) THE RESPONDENTS ARE NOT ENTITLED TO ACCESS AND ADDRESS THE EVIDENCE PRESENTED IN A.M. NO. 10-7-17-SC, TO PRESENT THEIR OWN EVIDENCE IN RESPECT OF THE PLAGIARISM AND MISREPRESENTATION ISSUES, AND TO SUPPORT THEIR RESPONSE TO THE SHOW CAUSE RESOLUTION WITH SUCH EVIDENCE.

C. WITH DUE RESPECT, THE HONORABLE COURT ERRED IN FINDING

THAT THE RESPONDENTS ARE IN BREACH OF THEIR ETHICAL OBLIGATIONS FOR HAVING ISSUED THE *RESTORING INTEGRITY STATEMENT*. [3]

In their Motion for Reconsideration, respondents pray that (a) the Court's Decision dated March 8, 2011 be reconsidered and set aside and the respondents' Compliance dated November 18, 2010 be deemed satisfactory, and (b) the Court expunge the reference in A.M. No. 10-7-17-SC to the respondents (*i.e.*, "joined by some faculty members of the University of the Philippines school of law") effectively finding them guilty of making false charges against Associate Justice Mariano C. del Castillo (Justice Del Castillo). In the alternative, they pray that they be afforded their full rights to due process and provided the full opportunity to present evidence on the matters subject of the Show Cause Resolution dated October 19, 2010. [4]

Anent the first ground, Professors Catindig and Laforteza insist that, notwithstanding the docketing of this matter as an administrative case, there was purportedly a **finding** that respondents were guilty of indirect contempt in view of (1) the mention made in the Show Cause Resolution dated October 19, 2010 of *In re Kelly*, [5] a case involving a contempt charge; and (2) the references to respondents' "contumacious language" or "contumacious speech and conduct" and to several authorities which dealt with contempt proceedings in the Decision dated March 8, 2011.

The shallowness of such argument is all too easily revealed. It is true that contumacious speech and conduct directed against the courts done by any person, whether or not a member of the Bar, may be considered as indirect contempt under Rule 71, Section 3 of the Rules of Court, to wit:

Sec. 3. Indirect contempt to be punished after charge and hearing. -
After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

x x x x

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

A charge of indirect contempt, if proven in due proceedings, carry with it penal sanctions such as imprisonment or a fine or both. [6]

The very same contumacious speech or conduct directed against a court or judicial officer, if committed by a member of the Bar, may likewise subject the offender to disciplinary proceedings under the Code of Professional Responsibility, which prescribes that lawyers observe and promote due respect for the courts. [7] In such disciplinary cases, the sanctions are not penal but administrative such as, disbarment, suspension, reprimand or admonition.

Contrary to Professors Catindig and Laforteza's theory, what established jurisprudence tells us is that the same incident of contumacious speech and/or behavior directed against the Court on the part of a lawyer may be punishable **either** as contempt or an ethical violation, **or both** in the discretion of the Court.

In *Salcedo v. Hernandez*, [8] for the same act of filing in court a pleading with intemperate and offensive statements, the concerned lawyer was found guilty of contempt **and** liable administratively. For this reason, two separate penalties were imposed upon him, a fine (for the contempt charge) and reprimand (for his failure to observe his lawyerly duty to give due respect to the Court).

The full case title [9] of *In re: Atty. Vicente Raul Almacen* [10] and the sanction imposed indubitably show that the proceeding involved therein was **disciplinary**. Notwithstanding the fact that the Court in *Almacen* adverted to a few principles and authorities involving contempt proceedings aside from jurisprudence on ethical responsibilities of lawyers, Atty. Almacen was only meted out an administrative sanction (indefinite suspension from the practice of law) and no penal sanction was imposed upon him. Indeed, in *Almacen*, the Court explicitly stated that whether or not respondent lawyer could be held liable for contempt for his utterances and actuations was immaterial as the sole issue in his disciplinary case concerns his professional identity, his sworn duty as a lawyer and his fitness as an officer of the Court. [11]

Conversely, *In re Vicente Sotto* [12] was purely a contempt proceeding. Nonetheless, the Court in that case saw fit to remind Atty. Sotto that:

As a member of the bar and an officer of the courts Atty. Vicente Sotto, like any other, is in duty bound to uphold the dignity and authority of this Court, to which he owes fidelity according to the oath he has taken as such attorney, and not to promote distrust in the administration of justice. Respect to the courts guarantees the stability of other institutions, which without such guaranty would be resting on a very shaky foundation. [13]

Atty. Sotto was expressly found liable only for contempt and accordingly fined the amount of P1,000.00 payable within 15 days from promulgation of judgment. The unmistakable reference to Atty. Sotto's failure to observe his ethical duties as a lawyer did not convert the action against him into a disciplinary proceeding. In fact, part of the disposition of the case was to require Atty. Sotto to show cause, within the same period given for the payment of the fine, why he should not be disbarred for his contemptuous statements against the Court published in a newspaper.

Similar to *Salcedo*, *Zaldivar v. Sandiganbayan* [14] involved both contempt and disciplinary proceedings for the lawyer's act of making public statements to the media that were offensive and disrespectful of the Court and its members relating to matters that were *sub judice*. This was evident in the May 2, 1988 Resolution of the Court which required respondent lawyer to "explain in writing within ten (10) days from notice hereof, why he should not be punished for contempt of court and/or subjected to administrative sanctions." [15] In *Zaldivar*, however, although the