

## SECOND DIVISION

[ ADM. CASE NO. 6589, December 19, 2005 ]

**EPIFANIA Q. BANTOLO, COMPLAINANT, VS. ATTY. EGMEDIO B. CASTILLON, JR., RESPONDENT.**

### D E C I S I O N

**TINGA, J.:**

In a letter-complaint to the Integrated Bar of the Philippines (IBP) dated 02 October 1997,<sup>[1]</sup> Epifania Q. Bantolo charged Atty. Egmedio B. Castillon, Sr. of violating the lawyer's oath and Section 20 of Rule 138 of the Rules of Court for having (i) wittingly or willingly performed, promoted, or sued any groundless, false or unlawful suit, and or giving aid or consent to the same; (ii) delayed the just execution of the suit without legal or justifiable cause and employing illegal means and unlawful force to do so; (iii) blatantly showed disrespect to the Regional Trial Court by disobeying its lawful orders; and (iv) for employing unlawful and illegal means to attain his ends.

According to complainant, respondent is the lawyer and one of the defendants in a case involving a parcel of land in Valderrama, Antique.<sup>[2]</sup> The case was decided in favor of the complainant and her co-plaintiffs, and thereafter, a writ of execution was issued, by virtue of which, defendants were ejected from the property. However, respondents, with his co-defendants subsequently entered the disputed property and harvested the palay planted therein.<sup>[3]</sup> Plaintiffs were prompted to move for defendants to be declared in contempt of court because of their "open defiance and willful disobedience to the lawful orders of the court, which were abetted by the acts of Atty. Egmedio Castillon who is an officer of the court".<sup>[4]</sup> On 25 January 1991, the trial court declared Atty. Castillon and his co-defendants guilty of indirect contempt of court, with the penalty of one month imprisonment and fine.<sup>[5]</sup> Subsequently, on 26 July 1994, the Court of Appeals affirmed the decision of the trial court, with the modification that instead of imprisonment, defendants were ordered to pay a fine of P1,000.00 each.<sup>[6]</sup>

In his *Answer to Complaint* dated 02 March 1998, respondent denied complainant's allegations and claimed that said complaint was a form of harassment.<sup>[7]</sup> Hearings were thereafter scheduled but were cancelled and reset due to the unavailability of the complainant. Finally, on 09 December 1998, a hearing for the reception of complainant's evidence was conducted.<sup>[8]</sup> While notices were subsequently sent to respondent setting the case for reception of his evidence, no such hearing pushed through due to respondent's failure to inform the IBP of his new office address. Thus, respondent was deemed to have waived his right to present evidence.<sup>[9]</sup>

In the *Report and Recommendation* ("Report") dated 17 March 2004, the investigating commissioner, Atty. Rafael Antonio M. Santos, found that complainant

failed to prove that respondent's actions, with respect to his unsuccessful defense of the case were not within the bounds of the law. Moreover, that respondent lost his case in the trial court does not necessarily support the charge of "willingly promoting or ruing any groundless, false or unlawful suit or giving aid, or consenting to the same," [10] he added. Thus, according to the IBP, the only remaining issue to be resolved is respondent's liability, if any, for his contumacious acts, as found by the trial court and the Court of Appeals.[11]

Recognizing that the findings of the trial court and the appellate court with respect to respondent's contumacious acts as final and conclusive, it was found that respondent committed an act which constitutes a breach of his sworn promise to "obey the laws as well as the legal orders of the duly constituted authorities." In *Zaldiar v. The Honorable Sandiganbayan*, [12] it was held that the power to discipline a member of the Bar and the power to cite him for contempt are not mutually exclusive but are concurrent. Furthermore, the *Report* noted respondent's attempts to thwart the instant disbarment proceedings, to wit: i) attempt to mislead the Commission on Bar Discipline by representing that the proceedings relative to the contempt charges against him are still pending when in fact they had already been terminated; ii) placing too much emphasis on the alleged lack of personality of the complainant to file the disbarment complaint; and iii) failure to notify the Commission of his change of address.[13]

Finding however, that the penalty of disbarment would be reasonable under the circumstances, the Commission recommended instead the penalty of suspension for one month.[14] As explained in the *Report*:

A close examination of the facts of this case reveals that the basis of the act for which the court found to be contumacious is a claim of ownership over the subject property, and thus arose from an emotional attachment to the property which they had possessed prior to their dispossession as a consequence of the decision in Civil Case No. 1345. Respondent's subsequent acts, however, including those which were found to be contumacious, as well as his actuations in the instant case, merit disciplinary sanctions, for which is recommended that respondent be suspended for one (1) month.[15]

On 30 July 2004, the IBP passed a resolution adopting the *Report and Recommendation*, to wit:

RESOLUTION NO, XVI-2004-376  
CBD Case No. 510  
Epifania Q. Bantolo vs.  
Atty. Egmedio B. Castillon

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that respondent has been found by both the Trial Court and the Court of Appeals guilty of indirect contempt for disobeying the writ of