

EN BANC

[A.C. No. 5469, August 10, 2004]

RICARDO A. FORONDA, COMPLAINANT, VS. ATTY. ARNOLD V. GUERRERO, RESPONDENT.

DECISION

CALLEJO, SR., J.:

The instant disbarment case arose when Ricardo A. Foronda, acting as attorney-in-fact for Ramona Patricia Alcaraz and Concepcion D. Alcaraz, filed a verified Letter-Complaint^[1] dated June 29, 2001 with the Office of the Bar Confidant charging Atty. Arnold V. Guerrero with abusing "procedural rules to defeat the ends of substantial justice by filing appeals, complaints and petitions to frustrate and delay the execution of a judgment."

The Antecedents

The complainant alleged that his principals, Ramona and Concepcion Alcaraz, filed Civil Case No. Q-44134 entitled "*Concepcion Alcaraz, et al. v. Romeo Coronel, et al.*" for specific performance and damages before the Regional Trial Court of Quezon City, Branch 83. The case involved a parcel of land which the defendants therein sold to the Alcarazes, and, thereafter, while the case was pending, to Catalina Balais-Mabanag. Assisted by her husband Eleuterio Mabanag, and with the respondent as their lawyer, Catalina intervened in the case.

On March 1, 1989, the RTC rendered a Decision^[2] in favor of the plaintiffs, the dispositive portion of which reads:

WHEREFORE, judgment for specific performance is hereby rendered ordering defendant to execute in favor of plaintiffs a deed of absolute sale covering that parcel of land embraced in and covered by Transfer Certificate of Title No. 327403 (now TCT No. 331582) of the Registry of Deeds of Quezon City, together with all the improvements existing thereon, free from all liens and encumbrances and once accomplished, to immediately deliver said document of sale to plaintiffs, and upon receipt thereof, the plaintiffs are ordered to pay defendants the whole balance of the purchase price amounting to P1,190,000.00 in cash. Transfer Certificate of Title No. 331582 of the Registry of Deeds of Quezon City in the name of intervenor is hereby cancelled and declared to be without any force and effect. Defendants and intervenor, and all other persons claiming under them, are hereby ordered to vacate the subject property and deliver possession thereof to plaintiffs. Plaintiffs' claim for damages and attorney's fees, as well as the counterclaims of defendants and intervenors, are hereby dismissed.

No pronouncement as to costs.

So ordered.^[3]

The Mabanag Spouses, through the respondent as their counsel, appealed the decision to the Court of Appeals, docketed as CA-G.R. CV No. 23000. In its Decision^[4] promulgated on December 16, 1991, the Court of Appeals affirmed the decision of the RTC *in toto*. Unsatisfied with the judgment of the appellate court, the respondent elevated the matter to this Court, docketed as G.R. No. 103577. The petition for review was dismissed, and the judgment appealed from was, likewise, affirmed *in toto* in the Court's Decision^[5] dated October 7, 1996.^[6] The Court found that the questioned sale of the parcel of land between therein petitioners and Mabanag on February 18, 1985 was correctly upheld by both courts below.

Thereafter, according to the complainant, the respondent, acting for and in behalf of his clients, the Mabanag Spouses, filed several cases^[7] questioning the ruling of the Court in G.R. No. 103577. The complainant contended that the multiple pleadings and actions pursued by the respondent indicate that he violated his oath as an officer of the court and breached the Code of Professional Responsibility for Lawyers. The complainant thereafter prayed that the instant complaint be referred to the Integrated Bar of the Philippines for proper investigation and action.^[8]

The Respondent's Defense

The respondent, for his part, filed a Motion to Cite Complainant and Counsel in Contempt Without Prejudice to Disciplinary Action Against Counsel,^[9] alleging that in an attempt to cause disrepute, dishonor and to cast aspersion on him, the complainant's counsel virtually "published and made known publicly" the instant administrative case against him by filing a Manifestation in Civil Case No. Q-01-43396 before the Regional Trial Court of Quezon City, Branch 80. According to the respondent, this grossly violated the confidentiality in administrative proceedings.^[10]

In his Comment,^[11] the respondent did not deny that the decision in Civil Case No. Q-44134 was already final and executory, as it had already been affirmed by the Court of Appeals and the Supreme Court in their respective decisions. The respondent put forth the following arguments to justify the dismissal of the instant complaint:

- A. THE SUBSEQUENT CASES FILED INVOLVED LEGITIMATE AND VALID RESORT TO JUDICIAL PROCESSES AND REMEDIES; HENCE, THERE IS NO BASIS FOR THE CHARGE THAT THE RESPONDENT COUNSEL HAS ABUSED PROCEDURAL PROCESSES TO DEFEAT THE ENDS OF SUBSTANTIAL JUSTICE.
- B. THE COMPLAINT MUST AND SHOULD BE DISMISSED ON THE GROUND OF FORUM SHOPPING AND VIOLATION OF SECTION 5, RULE 7 OF THE 1997 RULES OF CIVIL PROCEDURE.
- C. THIS ADMINISTRATIVE CASE IS PREMATURE CONSIDERING THAT THE MATTERS RAISED THEREIN ARE STILL ISSUES TO BE RESOLVED IN PENDING

CASES; HENCE, ITS OUTRIGHT DISMISSAL IS APPROPRIATELY CALLED FOR AND WARRANTED.^[12]

The respondent was vehement in denying that he abused legal processes and remedies, as the issues raised in the subsequent actions he filed were valid and meritorious, the resolution of which were indispensable for the orderly administration of justice. Thus:

It is basic that a counsel may resort to all legal reliefs and remedies available and to invoke all pertinent provisions of the law and rules, to protect the interest of a client in order that justice may be done and duly administered. In fact, it is not only the right of a counsel to do so but rather, it is his bounden and sacred obligation as an officer of the court and as an advocate who is tasked to protect the interest of a client within the bounds of law.

...

Thus, in **Civil Case No. Q-91-31268**, with the **Regional Trial Court of Quezon City**, which is the first complaint, what was challenged therein is the eligibility of Ramona Patricia Alcaraz, to own urban commercial lands, within the ambit of Batas Pambansa Blg. 185, considering that she is not a Filipino citizen or at least, she does not appear nor was she alleged to be so. Evidently, therefore, this is not intended to forestall the execution of the judgment which must be executed, pursuant to the rules that is, in accordance with the dispositive portion thereof. Otherwise stated, the execution, if it must be undertaken, must be made in accordance with and consistently (sic) the dispositive portion thereof. **It is well settled that execution must conform to that ordained or decreed in the dispositive portion of the decision.** ...

As shown in the earlier narrations, the foregoing case is presently on appeal with the Honorable Court of Appeals and is still pending thereat, up to the present.

With regards to the petition for certiorari filed with the Honorable Court of Appeals, docketed thereat as CA-G.R. SP No. 4770 (sic), whereby a decision was already rendered and such decision is already final and executory, the issues therein disposed as raised, pertinently pertained to the questioned and assailed Orders of the trial court which granted the writ of execution, upon motion of parties who are purportedly the principals of the complainant and his counsel. After the denial of the said petition and the finality of the judgment of such denial, partial execution ensued and was not of course, even attempted to be forestalled by the herein respondent counsel and his clients.

However, the execution being undertaken later on was shown to have been exceeded when, despite the fact that there is **no** showing that the parties who were supposed to execute a deed of absolute sale pursuant to the dispositive portion of the subject decision being sought to be implemented, had refused or at least failed, after demand, to so execute and perform the foregoing acts, the trial court ordered its branch clerk of court to perform the said acts. In fact, it was pointed out that it does not

even appear that the other parties whose acts are sought, were already served with the writ of execution; hence, the trial court's act was without basis and/or premature. Nevertheless, the trial court's branch clerk of court notwithstanding, proceeded as in fact, executed the deed of absolute sale in favor of the Alcarazes. This act of the trial court, with due respect, unduly created chaos and confusion, which are antithetical to its function for an orderly administration of justice and the fair approximation thereof.

The matter was, thereafter, complicated further, when despite the fact that the citizenships of the Alcarazes were not indicated in the deed of absolute sale which appears to have been presented with the Register of Deeds of Quezon City, the said Register of Deeds cancelled the title of the client of the herein respondent counsel and issued a new title over the subject property in favor of the Alcarazes and in order to validate and to give a semblance of legality or color to the validity of the issuance of the said title, by making it appear that the Alcarazes are Filipino citizens, **ALTHOUGH THERE IS NO INDICATION OF THEIR CITIZENSHIP IN THE SUBJECT DEED OF ABSOLUTE SALE**, nevertheless, indicated in the new title that the Alcarazes are Filipinos.

Thus, the herein respondent counsel, in behalf of his client and to protect their interest, this time, was constrained to institute a petition with the Honorable Court of Appeals, docketed as **CA-G.R. SP No. 55576**, whereby they assailed the jurisdiction of the trial judge in decreeing the foregoing execution of acts not included in the disposition portion of the decision being sought to be executed and to perform acts within the exclusive competence and direction of the Register of Deeds pursuant to Providential Decree No. 1529, otherwise known as the Board Registration Decree. This case is still pending with the Honorable Court of Appeals up to the present; hence, it is misleading for the complainant to even insinuate that a decision thereon is already final, which, of course, as shown in the earlier discussions, are farthest from the truth.

While all of the foregoing issues were still pending as they are still pending up to the present, the complainant and counsel, purportedly sold and transferred the subject property, using the title being assailed and questioned in CA-G.R. SP No. 55576, to a third person, one Emelita Mariano, with the purported deed of absolute sale being notarized by the same counsel of the herein complainant, Atty. Oscar R. Ferrer, who is representing the Alcarazes in the abovesaid cases; hence, he cannot feign ignorance of the pendency of the said cases and the issues involved therein which cast questions on the said title and, thus, rendered the purported transfer or sale fatally defective.

True to his duty to his client and as an officer of the court and in order to maintain the integrity, dignity and orderliness in the administration of justice, herein respondent counsel, filed in behalf of his client, the Complaint in **Civil Case No. Q-01-43396**, on **February 15, 2001**, with the **Regional Trial Court of Quezon City**, for the annulment of the title issued in favor of the third person, Emelita L. Mariano, for the annulment of the Deed of Absolute Sale to her and Damages with prayer for a

temporary restraining order and/or writ of preliminary injunction.

When no temporary restraining order and/or writ of preliminary injunction were issued by the trial court, herein respondent counsel, in behalf of his client, availed of the legally available remedy of a special civil action of certiorari, assailing on jurisdictional/grave abuse of discretion grounds, the refusal and/or failure of the trial court to issue the prayed for preliminary injunctive reliefs, among others. Thus, respondent, as counsel for his client, filed with the Honorable Court of Appeals, on **July 24, 2001**, a petition for certiorari and prohibition with prayer for a temporary restraining order and/or writ of preliminary injunction, docketed as **CA-G.R. SP No. 65783**, which is still pending resolution of the said Honorable Court up to the present.^[13]

The respondent also alleged that the complainant's failure to disclose the pendency of Civil Case No. Q-01-43396 in the certification against non-forum shopping in the case at bar was in gross violation of Section 5, Rule 7 of the 1997 Rules of Civil Procedure. Because of this, the respondent reasoned, the complaint should be dismissed.

Finally, the respondent averred that the instant administrative case is premature, considering that there are still issues to be resolved in the pending cases. As such, no cause of action could accrue against him. The respondent prayed that the complaint be dismissed for "utter and palpable lack of merit."

In his Compliance and Comment,^[14] the complainant asserted that there was no malice nor inaccuracy resorted to in the filing of the complaint against the respondent. The complainant averred that he was constrained to file the instant complaint out of exasperation, if not desperation, upon the instruction of his principals, so as to stop the respondent from continuing with his "dilatory and obstructionist strategies" to deprive them of their rights already confirmed by the courts, from the RTC to the Supreme Court. Thus:

... In order to stall the execution of the favorable decision obtained by my principals Concepcion Alcaraz and her daughter Ramona Patricia Alcaraz as early as March 1, 1989, in Civil Case No. Q-44134, respondent acting in behalf of his clients, went to this Court three (3) times in said case and several times also to the Court of Appeals on appeals, petitions for certiorari, etc.

... Although respondent admits the fact that the subject decision of the court *a quo* is already final and executory, he insists that "the issues in the other cases are indeed different." He argues in his comment that the issue in his petition (Annex "2" to Comment) pertained to the issuance of a writ of execution to implement the abovesaid final and executory decision." This is plain hair-splitting aimed to muddle the issues and ultimately mislead the Honorable Court.^[15]