

## SECOND DIVISION

[ A.C. No. 6442, October 21, 2004 ]

**HON. MARIANO S. MACIAS, COMPLAINANT, VS. ATTY. ALANIXON A. SELDA, RESPONDENT.**

### DECISION

**PUNO, J.:**

For violation of the lawyer's oath, Judge Mariano S. Macias, Presiding Judge of Regional Trial Court, Branch 28, Liloy, Zamboanga del Norte, filed before the Integrated Bar of the Philippines (IBP) a *Petition for Administrative Discipline* against Atty. Alanixon A. Selda.<sup>[1]</sup>

The facts are undisputed. On January 24, 2000, respondent Selda withdrew as counsel for one Norma T. Lim, private protestee in Election Case No. SE-01 entitled *Ruth Maraon v. The Municipal Board of Canvassers, Salud, Zamboanga del Norte, and Norma T. Lim for Annulment of Election, etc.*<sup>[2]</sup> He basically submitted as ground for his withdrawal that he could not cope up with the pace of the proceedings in view of his workload. He claimed that the hearings of the election protest case would run from 2:00 p.m. to 5:00 p.m. and he still had to attend to his other cases including classes at Philippine Advent College, which start at 5:30 p.m. on Mondays and Wednesdays.

In light of these representations, complainant granted the *Motion* and ordered respondent relieved of all his responsibilities as counsel for private protestee. However, on May 22, 2000, respondent executed an affidavit disavowing his grounds for withdrawing as counsel for private protestee. He swore that he only filed the Motion on account of the pre-judgment of the case by complainant, who, on several occasions insinuated to him that his client would lose in the protest. He stated that he was convinced that chaos would result if his client were unseated, and withdrawal from the case was his best recourse.

On the basis of respondent's affidavit, his former client and private protestee in subject election protest case, moved for the inhibition of complainant. On June 2, 2000, complainant granted the motion for his inhibition if only to disabuse any doubt on his impartiality. But on August 23, 2000, this Court set aside complainant's inhibition after finding no strong and valid reason therefor, and directed him to continue hearing the case and to resolve it with reasonable dispatch.

Deploring the act of respondent as "serious deceit, malpractice, gross misconduct as a lawyer and in utter violation of the lawyer's oath," complainant requested the IBP to investigate the matter and recommend to the Court an appropriate penalty against respondent. On January 30, 2002, the IBP Commission on Bar Discipline<sup>[3]</sup> required respondent to answer. He failed.

On November 21, 2003, after several postponements filed by the parties, their failure to personally appear before the IBP investigating commission, and the request of complainant to resolve the case on the basis of the pleadings, Commissioner Rebecca Villanueva-Maala, submitted her report and recommended to the IBP Board of Governors that respondent be suspended from the practice of law for two (2) years.

The Board, in its Resolution No. XVI-2004-122 dated February 27, 2004, adopted and approved with modification the Report and Recommendation of Commissioner Maala. It reduced the suspension of respondent to six (6) months; hence, the transmittal of the case and its records to this Court for final resolution<sup>[4]</sup> pursuant to Rule 139-B, Section 12(b) of the Rules of Court, viz:

**Review and Decision by the Board of Governors.** – x x x x (b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.

We affirm the findings of the IBP on the culpability of respondent.

All members of the legal profession made a solemn oath to, *inter alia*, “**do no falsehood**” and “conduct [themselves] as [lawyers] according to the best of [their] knowledge and discretion **with all good fidelity as well to the courts** as to [their] clients.” These particular fundamental principles are reflected in the Code of Professional Responsibility, specifically:

**Canon 10 – A lawyer owes candor, fairness and good faith to the court.**

**Rule 10.01** – A lawyer shall not do any falsehood, nor consent to the doing of any in Court, nor shall he mislead, or allow the Court to be misled by an artifice.

When respondent executed his affidavit of May 22, 2000 retracting his reason for withdrawing as counsel for Norma T. Lim, he acknowledged, **under oath**, his misrepresentation. He misled the court in clear violation of his oath as lawyer and failed to abide by the Code of Professional Responsibility.

Candor towards the courts is a cardinal requirement of the practicing lawyer.<sup>[5]</sup> In fact, this obligation to the bench for candor and honesty takes precedence.<sup>[6]</sup> Thus, saying one thing in his *Motion to Withdraw as Counsel for Private Protestee* and another in his subsequent affidavit is a transgression of this imperative which necessitates appropriate punishment.

The appropriate penalty to be imposed on an errant attorney involves the exercise of sound judicial discretion based on the facts of the case. Section 27, Rule 138 of the Rules of Court provides, viz:

**Sec. 27. Disbarment or suspension of attorneys by Supreme Court, grounds therefor.** – A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any