

## SECOND DIVISION

[ A.C. No. 5332, July 29, 2003 ]

**JOHNNY K.H. UY, COMPLAINANT, VS. ATTYS. REYNALDO C. DEPASUCAT, WILLIAM O. SU, AND CELSO DE LAS ALAS, RESPONDENTS.**

### D E C I S I O N

**AUSTRIA-MARTINEZ, J.:**

Before us is a verified complaint filed by Johnny K.H. Uy against respondents lawyers, Reynaldo C. Depasucat, William O. Su and Celso delas Alas, for gross misconduct.

Complainant Uy together with UBS Marketing Corporation (UBS) filed with the Regional Trial Court of Bacolod City (Branch 43) an action for reconveyance of real property, cancellation of titles and recovery of ownership and possession, with damages against SK Realty, Inc. and Uy's sisters, Ban Hua U. Flores and Ban Ha U. Chua, together with their children, namely: Leonardo U. Flores, Gloria U. Chan, Lily Uy, Lilian Uy, Lilen Uy, Stephanie Chua, Melody Chua, Wee Kiat Y. Tan, Theresa Regalado and Yolanda Kilayko, all clients of herein respondents. Upon filing of the said case, docketed as Civil Case No. 95-9051, complainant Uy and UBS caused the annotation of the notice of *lis pendens* at the back of the certificates of title of defendant SK Realty with the Register of Deeds of Bacolod City. Subsequently, in a resolution dated November 9, 1995, the trial court dismissed the case on the ground of forum shopping. Defendants moved for the cancellation of the notice of *lis pendens* which the trial court granted in a resolution dated December 8, 1995.<sup>[1]</sup>

Complainants Uy and UBS filed their appeal before the Court of Appeals which was docketed as CA-G.R. No. 57171. After the parties had filed their respective briefs with the Court of Appeals and before the latter's resolution submitting the case for decision was released on March 10, 1999, respondents filed a pleading dated March 1, 1999, entitled, "Manifestation of Usurpation of Authority of the Hon. Court of Appeals from a Self-Confessed Briber of Judges" which contains the following statement:

10. That, Plaintiff-Appellant Johnny KH Uy had, in fact, confessed to "Bribery and Telling On" of judges, after the judges allegedly refused to give in to their "demands", by using illegally taped conversations - both actual and by telephone, copies of the decision of the court -
  - a. in case no. A.M. No. RTJ-92-863, against the Hon. Judge Renato Abastillas, hereto attached as Annex "C", and also

b. in case no. A.M. RTJ-92-880, against the Hon. Judge Bethel K. Moscardon, hereto attached as Annex "D".<sup>[2]</sup>

In the instant administrative complaint, Uy alleges: Respondents, as members of the Bar are sworn not to do falsehood or consent to the doing of any in court, nor should they mislead the appellate court by their false, malicious and libelous imputations against him. Respondents' filing of the subject Manifestation was for the purpose of putting him in a bad light so as to obtain a favorable judgment for their clients. Respondents without any provocation, reason and justification and completely unmindful of his honor and feelings submitted such Manifestation and furnished copies of the same to persons not even parties to the case. The subject Manifestation contains groundless and false imputations which are totally immaterial, irrelevant and impertinent to the appealed case.

In their joint supplemental verified comment with counter motion to cite petitioner for contempt of court, respondents Su and Depasucat contend: Uy's admission that he negotiated for a favorable outcome of a criminal case formed part of the decision in Lee vs. Abastillas, docketed as Adm. Case No. RTJ-92-863 which led to the dismissal of Judge Abastillas from the service. The bribery imputation is true. The "bribe and tell scenario" covered by the said Manifestation was already of public knowledge as it already formed part of the said administrative decision. There was no indiscriminate distribution of such Manifestation to strangers just to malign the complainant. Assuming that the allegations in the Manifestation had painted complainant in a bad light, the same is considered as an absolute privileged communication. The Manifestation is relevant as it was filed primarily in response to the extra-judicial, illegal and improper attempt of Uy to reinstate a lis pendens. Uy had tried so many times to annotate a lis pendens on the subject properties and filed so many cases involving the same properties and therefore, all his mischiefs are relevant and material to the appealed case.

In his Comment, respondent delas Alas contends: He appeared as counsel of Uy's siblings in other cases. He signed the Manifestation as a collaborating counsel after he had read the transcript of the proceeding where Uy admitted having bribed Judge Abastillas. He is convinced that Uy does not hesitate to corrupt or destroy the character of persons to suit his needs, thus he must be exposed. Uy has predilections to file cases against opposing lawyers and to seek inhibition of judges and justices whenever adverse rulings were rendered against him, thus, his active participation in bribing a judge is not totally immaterial and irrelevant to the appealed case.

Acting on the pleadings of the parties, we referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.<sup>[3]</sup>

On April 6, 2002, the IBP Commission on Bar Discipline through Investigating Commissioner Julio C. Elamparo, submitted its report, to wit:

Accordingly, the issue may be simply stated as follows: Should the respondents be disciplined for having authored and filed the said manifestation.

. . . .

The undersigned commissioner fully agrees with the respondents that the allegations in their manifestation with respect to the fact that the complainant is a briber of judges are true and correct. In fact, records show that complainant's former counsel has been disbarred by the Supreme Court because of the bribing incident referred to in the said manifestation. It cannot therefore be said that the respondents did falsehood or misled the Court of Appeals when they filed their manifestation.

Does the privilege of filing of a pleading with correct and truthful allegations carries with it the license to use abusive, offensive, menacing or otherwise improper language?

In this jurisdiction, it cannot be doubted that communications either written or oral made in the course of judicial proceeding are classified as absolutely privilege communications. However, this doctrine applies only in such cases where the statement is relevant or pertinent or material to the case. In this respect, respondents failed to convincingly demonstrate the materiality or relevance of such statement like "**... Johnny Kh Uy has a track record of making a mockery of our judicial system ...had, in fact confessed to "Bribery and Telling On" of judges, after the judges allegedly refused to give in to their "demands", by using illegally taped conversation both actual and/or by telephone...**" in the appealed case involving recovery of property and cancellation of title. Furthermore, if such fact is relevant, why did the respondents make such fact known to the Court of Appeals only when the appealed case has already been submitted for decision. Respondents' timing makes their claim of good intention a doubtful claim. It seems that the real intention is to influence the Court of Appeals in an improper way.

It cannot be doubted that as an advocate, a lawyer has the right to be zealous in the prosecution or defense of his client's cause. In fact, it is incumbent upon him to point out errors, arbitrariness or injustices. He is allowed sufficient latitude of remark in furtherance of the causes he advocates for his client. But in the exercise of this right, it is incumbent upon him to act with justice and to give everyone his due.

It is settled that a lawyer who uses abusive or abrasive language shows disrespect to the court and disgraces the Bar. He then invites the exercise by the court of its disciplinary power as respect for the judicial office should always be observed and enforced.

Accordingly, it is respectfully recommended that the respondents, for having used offensive and abusive language in their "MANIFESTATION OF USURPATION OF AUTHORITY OF THE HON. COURT OF APPEALS FROM A SELF-CONFESSED BRIBER OF JUDGES" which has no relevance in the factual and legal issues then pending resolution before the Court of Appeals be warned that a repetition of the same shall be dealt with more severely.<sup>[4]</sup>

On June 29, 2003, the Board of Governors of the IBP resolved to adopt and approve the report and recommendation of the Investigating Commissioner.<sup>[5]</sup>

We agree with the findings of the IBP that respondents have used offensive and abusive language but instead of mere admonition respondents should be reprimanded.

The statement made by respondents that complainant Uy had bribed a judge in A.M. No. RTJ 92-863 was duly proven. Uy who appeared as witness in the said administrative case filed against Judge Renato Abastillas of the Regional Trial Court of Bacolod City (Branch 50),<sup>[6]</sup> testified that he gave money to the Judge in consideration of the dismissal of a case in which he had an interest. This admission was lifted from the transcript of the stenographic notes of the proceedings therein submitted by the respondents and quoted in the Abastillas decision which was promulgated in 1994.

However, we find nothing on record that supports the statement of the respondents that Uy had also bribed a judge in Centrum Agri-Business Realty Corporation vs. Katalbas-Moscardon, docketed as AM RTJ 92-880 which we have decided in 1995.<sup>[7]</sup> Notably, in their joint affidavit filed before the Commission, respondents Depasucat and Su stated that "the pattern of corruption and illegal wire tapping was repeated by the complainant's disbarred lawyer Enrique S. Chua, in A.M. RTJ-92-880, in re Hon. Judge Bethel K. Moscardon, thus institutionalizing the malevolent practice". However, there was nothing that showed Uy's participation therein. In fact, a reading of the court's decision in the Moscardon case revealed that it was Atty. Enrique Chua, the lawyer of Uy, who was involved in the said case as a witness in the corruption of Judge Moscardon and the name of Uy was never mentioned at all. Moreover, during the hearing, the investigating commissioner took note that there was no copy of the transcript of the stenographic notes of A.M. RTJ 92-880 presented. Respondents were not able to substantiate their statement that Uy was involved in two bribing incidents to be branded as "briber of judges". Respondents have partly made a false imputation against Uy. Half-truths are equally if not more pernicious than outright lies.

Uy claims that assuming arguendo that he had bribed a judge, the same is irrelevant and impertinent to the appealed case where the subject Manifestation was filed. On the other hand, respondents contend that the filing of the subject Manifestation was not attended by malice; that it falls under the protective mantle of an absolute privileged communication.

The doctrine of privileged communication that utterances made in the course of judicial proceedings, including all kinds of pleadings, petitions and motions, belong to the class of communications that are absolutely privileged has been enunciated in a long line of cases.<sup>[8]</sup> Said doctrine rests upon public policy which looks to the free and unfettered administration of justice, though, as an incidental result, it may in some instances afford an immunity to the evil-disposed and malignant slanderer.<sup>[9]</sup> The privilege is not intended so much for the protection of those engaged in the public service and in the enactment and administration of law, as for the promotion of the public welfare, the purpose being that members of the legislature, judges of courts, jurors, lawyers and witnesses may speak their minds freely and exercise their respective functions without incurring the risk of a criminal prosecution or an action for the recovery of damages.<sup>[10]</sup> Lawyers, most especially, should be allowed a great latitude of pertinent remark or comment in the furtherance of the causes