

EN BANC

[A.C. No. 5148, July 01, 2003]

ATTY. RAMON P. REYES, COMPLAINANT, VS. ATTY. VICTORIANO T. CHIONG JR., RESPONDENT.

DECISION

PANGANIBAN, J.:

Lawyers should treat each other with courtesy, dignity and civility. The bickering and the hostility of their clients should not affect their conduct and rapport with each other as professionals and members of the bar.

The Case

Before us is a Sworn Complaint^[1] filed by Atty. Ramon P. Reyes with the Office of the Bar Confidant of this Court, seeking the disbarment of Atty. Victoriano T. Chiong Jr. for violation of his lawyer's oath and of Canon 8 of the Code of Professional Responsibility. After the Third Division of this Court referred the case to the Integrated Bar of the Philippines (IBP), the IBP Commission on Bar Discipline resolved to suspend him as follows:

"x x x [C]onsidering that respondent is bound by his oath which binds him to the obligation that he will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same. In addition, Canon 8 of the Code of Professional Responsibility provides that a lawyer shall conduct himself with courtesy, fairness and candor towards his professional colleagues, and shall avoid harassing tactics against opposing counsel. In impleading complainant and Prosecutor Salanga in Civil Case No. 4884, when it was apparent that there was no legal ground to do so, respondent violated his oath of office as well as the above-quoted Canon of the Code of Professional Responsibility, [r]espondent is hereby **SUSPENDED** from the practice of law for two (2) years."^[2]

The Facts

In his Complaint, Atty. Reyes alleges that sometime in January 1998, his services were engaged by one Zonggi Xu,^[3] a Chinese-Taiwanese, in a business venture that went awry. Xu invested P300,000 on a Cebu-based fishball, tempura and seafood products factory being set up by a certain Chia Hsien Pan, another Chinese-Taiwanese residing in Zamboanga City. Eventually, the former discovered that the latter had not established a fishball factory. When Xu asked for his money back, Pan became hostile, making it necessary for the former to seek legal assistance.

Xu, through herein complainant, filed a Complaint for estafa against Pan, who was

represented by respondent. The Complaint, docketed as IS 98J-51990, was assigned to Assistant Manila City Prosecutor Pedro B. Salanga, who then issued a subpoena for Pan to appear for preliminary investigation on October 27 and 29, 1998. The latter neither appeared on the two scheduled hearings nor submitted his counter-affidavit. Hence, Prosecutor Salanga filed a Criminal Complaint^[4] for estafa against him before the Regional Trial Court (RTC) of Manila.^[5] On April 8, 1999, the Manila RTC issued a Warrant of Arrest^[6] against Pan.

Thereafter, respondent filed an Urgent Motion to Quash the Warrant of Arrest.^[7] He also filed with the RTC of Zamboanga City a Civil Complaint for the collection of a sum of money and damages as well as for the dissolution of a business venture against complainant, Xu and Prosecutor Salanga.

When confronted by complainant, respondent explained that it was Pan who had decided to institute the civil action against Atty. Reyes. Respondent claimed he would suggest to his client to drop the civil case, if complainant would move for the dismissal of the estafa case. However, the two lawyers failed to reach a settlement.

In his Comment^[8] dated January 27, 2000, respondent argued that he had shown no disrespect in impleading Atty. Reyes as co-defendant in Civil Case No. 4884. He claimed that there was no basis to conclude that the suit was groundless, and that it had been instituted only to exact vengeance. He alleged that Prosecutor Salanga was impleaded as an additional defendant because of the irregularities the latter had committed in conducting the criminal investigation. Specifically, Prosecutor Salanga had resolved to file the estafa case despite the pendency of Pan's Motion for an Opportunity to Submit Counter-Affidavits and Evidence,^[9] of the appeal^[10] to the justice secretary, and of the Motion to Defer/Suspend Proceedings.^[11]

On the other hand, complainant was impleaded, because he allegedly connived with his client (Xu) in filing the estafa case, which the former knew fully well was baseless. According to respondent, the irregularities committed by Prosecutor Salanga in the criminal investigation and complainant's connivance therein were discovered only after the institution of the collection suit.

The Third Division of this Court referred the case to the IBP for investigation, report and recommendation.^[12] Thereafter, the Board of Governors of the IBP passed its June 29, 2002 Resolution.^[13]

Report and Recommendation of the IBP

In her Report and Recommendation,^[14] Commissioner Milagros V. San Juan, to whom the case was assigned by the IBP for investigation and report, averred that complainant and Prosecutor Salanga had been impleaded in Civil Case No. 4884 on the sole basis of the Criminal Complaint for estafa they had filed against respondent's client. In his Comment, respondent himself claimed that "the reason x x x was x x x the irregularities of the criminal investigation/connivance and consequent damages."

Commissioner San Juan maintained that the collection suit with damages had been filed purposely to obtain leverage against the estafa case, in which respondent's

client was the defendant. There was no need to implead complainant and Prosecutor Salanga, since they had never participated in the business transactions between Pan and Xu. Improper and highly questionable was the inclusion of the prosecutor and complainant in the civil case instituted by respondent on the alleged prodding of his client. Verily, the suit was filed to harass complainant and Prosecutor Salanga.

Commissioner San Juan held that respondent had no ground to implead Prosecutor Salanga and complainant in Civil Case No. 4884. In so doing, respondent violated his oath of office and Canon 8 of the Code of Professional Responsibility. The IBP adopted the investigating commissioner's recommendation for his suspension from the practice of law for two (2) years.

This Court's Ruling

We agree with the IBP's recommendation.

Lawyers are licensed officers of the courts who are empowered to appear, prosecute and defend; and upon whom peculiar duties, responsibilities and liabilities are devolved by law as a consequence.^[15] Membership in the bar imposes upon them certain obligations. Mandated to maintain the dignity of the legal profession, they must conduct themselves honorably and fairly. Moreover, Canon 8 of the Code of Professional Responsibility provides that "[a] lawyer shall conduct himself with courtesy, fairness and candor towards his professional colleagues, and shall avoid harassing tactics against opposing counsel."

Respondent's actions do not measure up to this Canon. Civil Case No. 4884 was for the "collection of a sum of money, damages and dissolution of an unregistered business venture." It had originally been filed against Spouses Xu, but was later modified to include complainant and Prosecutor Salanga.

The Amended and Supplemental Complaints^[16] alleged the following:

"27. The investigating prosecutor defendant Pedro Salanga knowingly and deliberately refused and failed to perform his duty enjoined by the law and the Constitution to afford plaintiff Chia Hsien Pan due process by violating his rights under the Rules on preliminary investigations; he also falsely made a Certification under oath that preliminary investigation was duly conducted and plaintiff [was] duly informed of the charges against him but did not answer; he maliciously and x x x partially ruled that there was probable cause and filed a Criminal Information for estafa against plaintiff Chia Hsien Pan, knowing fully [well] that the proceedings were fatally defective and null and void; x x x;

"28. Said assistant prosecutor, knowing also that plaintiff Chia Hsien Pan filed said appeal and motion to defer for the valid grounds stated therein deliberately refused to correct his errors and consented to the arrest of said plaintiff under an invalid information and warrant of arrest.

"29. Defendant Atty. Ramon Reyes, knowing that the suit of defendant Zongoi Xu is baseless connived with the latter to harass and extort money from plaintiff Chia Hsien Pan by said criminal prosecution in the