

## SECOND DIVISION

[ A.C. No. 3967, September 03, 2003 ]

**ARTEMIO ENDAYA, COMPLAINANT, VS. ATTY. WILFREDO OCA,  
RESPONDENT.**

### DECISION

**TINGA, J.:**

The law is no brooding omnipresence in the sky, so spoke Justice Holmes. He must have made the statement because invariably the legal system is encountered in human form, notably through the lawyers. For practical purposes, the lawyers not only represent the law; they are the law.<sup>[1]</sup> With their ubiquitous presence in the social milieu, lawyers have to be responsible. The problems they create in lawyering become public difficulties. To keep lawyers responsible underlies the worth of the ethics of lawyering. Indeed, legal ethics is simply the aesthetic term for professional responsibility.

The case before us demonstrates once again that when a lawyer violates his duties to his client, the courts, the legal profession and the public, he engages in conduct which is both unethical and unprofessional.

This case unfolded with a verified *Complaint*<sup>[2]</sup> filed on January 12, 1993 by complainant Artemio Endaya against respondent Atty. Wilfredo Oca for violation of the lawyer's oath and what complainant termed as "professional delinquency or infidelity."<sup>[3]</sup> The antecedents are:

On November 7, 1991, a complaint for unlawful detainer docketed as Civil Case No. 34-MCTC-T was filed with the Municipal Circuit Trial Court of Taysan-Lobo, Batangas by Apolonia H. Hornilla, Pedro Hernandez, Santiago Hernandez and Dominador Hernandez against complainant and his spouse Patrosenia Endaya.<sup>[4]</sup>

On December 13, 1991, the complainant and his wife as defendants in the case filed their answer which was prepared by a certain Mr. Isaias Ramirez. A preliminary conference was conducted on January 17, 1992, which complainant and his wife attended without counsel. During the conference, complainant categorically admitted that plaintiffs were the declared owners for taxation purposes of the land involved in the case. Continuation of the preliminary conference was set on January 31, 1992. Thereafter, complainant sought the services of the Public Attorney's Office in Batangas City and respondent was assigned to handle the case for the complainant and his wife.<sup>[5]</sup>

At the continuation of the preliminary conference, respondent appeared as counsel for complainant and his spouse. He moved for the amendment of the answer previously filed by complainant and his wife, but his motion was denied.<sup>[6]</sup>

Thereafter, the court, presided by Acting Trial Court Judge Teodoro M. Baral, ordered the parties to submit their affidavits and position papers within ten days from receipt of the order. The court also decreed that thirty days after receipt of the last affidavit and position paper, or upon expiration of the period for filing the same, judgment shall be rendered on the case.<sup>[7]</sup>

Respondent failed to submit the required affidavits and position paper, as may be gleaned from the *Decision* dated March 19, 1992 of the MCTC where it was noted that "only the plaintiffs submitted their affidavits and position papers."<sup>[8]</sup>

Nonetheless, the court dismissed the complaint for unlawful detainer principally on the ground that the plaintiffs are not the real parties-in-interest. The dispositive portion of the *Decision* reads:

WHEREFORE, this case is hereby dismissed on the ground that the plaintiffs have no legal capacity to sue as they are not the real party (*sic*) in interest, in addition to the fact that there is no privity of contract between the plaintiffs and the defendants as to the verbal lease agreement.

SO ORDERED.<sup>[9]</sup>

Plaintiffs appealed the *Decision* to the Regional Trial Court (RTC) of Batangas City, Branch 1, where the case was docketed as Civil Case No. 3378. On April 10, 1992, the RTC directed the parties to file their respective memoranda.<sup>[10]</sup> Once again, respondent failed the complainant and his wife. As observed by the RTC in its *Decision*<sup>[11]</sup> dated September 7, 1992, respondent did not file the memorandum for his clients, thereby prompting the court to consider the case as submitted for decision.<sup>[12]</sup>

In its *Decision*, the RTC reversed the decision appealed from as it held that plaintiffs are the co-owners of the property in dispute and as such are parties-in-interest.<sup>[13]</sup> It also found that the verbal lease agreement was on a month-to-month basis and perforce terminable by the plaintiffs at the end of any given month upon proper notice to the defendants.<sup>[14]</sup> It also made a finding that defendants incurred rentals in arrears.<sup>[15]</sup> The decretal portion of the *Decision* reads, thus:

WHEREFORE, premises considered, the Decision of the Municipal Circuit Trial Court of Taysan-Lobo dated March 19, 1992, is REVERSED and SET ASIDE and new one entered, to wit:

Defendants ARTEMIO ENDAYA and PATROSENIA ENDAYA and all persons claiming under them are hereby ordered to vacate and dismantle their house on the land subject of the verbal lease agreement at their own expense. The defendants are likewise ordered to pay the monthly rental of P25.00 from the month of January 1991 to November 1991 and ONE THOUSAND (P1,000.00) PESOS monthly from December 1991 until the defendants finally vacate and surrender possession of the subject property to the plaintiffs and to pay attorney's fee in the amount of TEN THOUSAND (P10,000.00) PESOS.

No pronouncement as to cost.<sup>[16]</sup>

Complainant received a copy of the *Decision* on October 7, 1992. Two days later, or on October 9, 1992, complainant confronted respondent with the adverse decision but the latter denied receipt of a copy thereof. Upon inquiry with the Branch Clerk of Court, however, complainant found out that respondent received his copy back on September 14, 1992.<sup>[17]</sup>

Having lost the unlawful detainer case, on January 12, 1993 complainant filed the present administrative complaint against the respondent for professional delinquency consisting of his failure to file the required pleadings in behalf of the complainant and his spouse. Complainant contends that due to respondent's inaction he lost the opportunity to present his cause and ultimately the case itself.<sup>[18]</sup>

In his *Comment*<sup>[19]</sup> dated March 17, 1993, respondent denies that he committed professional misconduct in violation of his oath, stressing that he was not the original counsel of complainant and his spouse.<sup>[20]</sup> He further avers that when he agreed to represent complainant at the continuation of the preliminary conference in the main case, it was for the sole purpose of asking leave of court to file an amended answer because he was made to believe by the complainant that the answer was prepared by a non-lawyer. Upon discovering that the answer was in fact the work of a lawyer, forthwith he asked the court to relieve him as complainant's counsel, but he was denied. He adds that he agreed to file the position paper for the complainant upon the latter's undertaking to provide him with the documents which support the position that plaintiffs are not the owners of the property in dispute. As complainant had reneged on his promise, he claims that he deemed it more prudent not to file any position paper as it would be a repetition of the answer. He offers the same reason for not filing the memorandum on appeal with the RTC. Finally, respondent asserts that "he fully explained his stand as regards Civil Case No. 34-MCTC-T to the complainant."<sup>[21]</sup>

Pursuant to our *Resolution*<sup>[22]</sup> dated May 10, 1993, complainant filed his *Reply*<sup>[23]</sup> to respondent's *Comment* wherein he merely reiterated his allegations in the *Complaint*.

On July 28, 1993, this Court directed respondent to file his rejoinder within ten days from notice of our *Resolution*.<sup>[24]</sup> But he failed to do so despite the lapse of a considerable period of time. This prompted the Court to require respondent to show cause why he should not be disciplinarily dealt with or held in contempt and to file his rejoinder, both within ten (10) days from notice.<sup>[25]</sup>

In his *Explanation*<sup>[26]</sup> dated February 28, 1997, respondent admits having received a copy of the resolution requiring him to file a rejoinder. However, he asserts that he purposely did not file a rejoinder for "he believed in good faith that a rejoinder to complainant's reply is no longer necessary."<sup>[27]</sup> He professes that in electing not to file a rejoinder he did not intend to cast disrespect upon the Court.<sup>[28]</sup>

On June 16, 1997, we referred this case to the Office of the Bar Confidant for

evaluation, report and recommendation.<sup>[29]</sup>

In its *Report*<sup>[30]</sup> dated February 6, 2001, the Office of the Bar Confidant found respondent negligent in handling the case of complainant and his wife and recommended that he be suspended from the practice of law for one month. The pertinent portions of the *Report* read, thus:

It is to be noted that after appearing at the preliminary conference before the Municipal Circuit Trial Court, respondent was never heard from again. Respondent's seeming indifference to the cause of his client, specially when the case was on appeal, caused the defeat of herein complainant. Respondent practically abandoned complainant in the midst of a storm. This is even more made serious of the fact that respondent, at that time, was assigned at the Public Attorney's Office- a government entity mandated to provide free and competent legal assistance.

"A lawyer's devotion to his client's cause not only requires but also entitles him to deploy every honorable means to secure for the client what is justly due him or to present every defense provided by law to enable the latter's cause to succeed." (*Miraflor vs. Hagad*, 244 SCRA 106)

. . . .

The facts, however, do not show that respondent employed every legal and honorable means to advance the cause of his client. Had respondent tried his best, he could have found some other defenses available to his client; but respondent was either too lazy or too convinced that his client had a losing case.

. . . .

For intentionally failing to submit the pleadings required by the court, respondent practically closed the door to the possibility of putting up a fair fight for his client. As the Court once held, "A client is bound by the negligence of his lawyer." (*Diaz-Duarte vs. Ong*, 298 SCRA 388)<sup>[31]</sup>

However, the Bar Confidant did not find complainant entirely faultless. She observed, *viz*:

Respondent's allegation that complainant failed in his promise to submit the documents to support his claim was not denied by complainant; hence, it is deemed admitted. Complainant is not without fault; for misrepresenting that he could prove his claim through supporting documents, respondent was made to believe that he had a strong leg to stand on. "A party cannot blame his counsel for negligence when he himself was guilty of neglect." (*Macapagal vs. Court of Appeals*, 271 SCRA 491)<sup>[32]</sup>

On April 18, 2001, we referred the case to the Integrated Bar of the Philippines for investigation, report and recommendation.

Several hearings were set by the IBP but complainant did not appear even once. Respondent attended five hearings, but he failed to present evidence in support of his defense, as required by Investigating Commissioner Victor C. Fernandez. This compelled the latter to make his report on the basis of the pleadings and evidence forwarded by the Office of the Bar Confidant.

On October 11, 2002, Commissioner Fernandez issued his *Report*<sup>[33]</sup> wherein he concurred with the findings and recommendation of the Office of the Bar Confidant.

In a *Resolution*<sup>[34]</sup> dated April 26, 2003, the IBP Board of Governors adopted the *Report* of Commissioner Fernandez.

The Court is convinced that respondent violated the lawyer's oath not only once but a number of times in regard to the handling of his clients' cause. The repeated violations also involve defilement of several *Canons* in the *Code of Professional Responsibility*.

Right off, the Court notes that respondent attributes his failure to file the required pleadings for the complainant and his wife invariably to his strong personal belief that it was unnecessary or futile to file the pleadings. This was true with respect to the affidavits and position paper at the MCTC level, the appeal memorandum at the RTC level and the rejoinder at this Court's level. In the last instance, it took respondent as long as three years, under compulsion of a show cause order at that, only to manifest his predisposition not to file a rejoinder after all. In other words, at the root of respondent's transgressions is his seeming stubborn mindset against the acts required of him by the courts. This intransigent attitude not only belies lack of diligence and commitment but evinces absence of respect for the authority of this Court and the other courts involved.

The lawyer's oath embodies the fundamental principles that guide every member of the legal fraternity. From it springs the lawyer's duties and responsibilities that any infringement thereof can cause his disbarment, suspension or other disciplinary action.<sup>[35]</sup>

Found in the oath is the duty of a lawyer to protect and safeguard the interest of his client. Specifically, it requires a lawyer to conduct himself "to the best of his knowledge and discretion with all good fidelity as well to the courts as to his clients."<sup>[36]</sup> This duty is further stressed in *Canon 18* of the *Code of Professional Responsibility* which mandates that "(A) lawyer shall serve his client with competence and diligence."

In this case, evidence abound that respondent failed to demonstrate the required diligence in handling the case of complainant and his spouse. As found by the Office of the Bar Confidant,<sup>[37]</sup> after appearing at the second preliminary conference before the MCTC, respondent had not been heard of again until he commented on the complaint in this case. Without disputing this fact, respondent reasons out that his appearance at the conference was for the sole purpose of obtaining leave of court to file an amended answer and that when he failed to obtain it because of complainant's fault he asked the court that he be relieved as counsel.<sup>[38]</sup> The explanation has undertones of dishonesty for complainant had engaged respondent for the entire case and not for just one incident. The alternative conclusion is that