

THIRD DIVISION

[Adm. Case No. 5165, December 14, 2001]

VICENTE DELOS SANTOS, ROBERTO DELOS SANTOS, PACIFICO DELOS SANTOS, CORAZON DELOS SANTOS, CONSTANCIA DELOS SANTOS, ELEODORO PRADO, NORMA DELOS SANTOS, WILFREDO PRADO, LUDOVICO DELOS SANTOS, ALICIA DELOS SANTOS, RONALDO DEGRAS, DEMOCRITO DELOS SANTOS, FELICISIMA DELOS SANTOS, TEODULO ARCIBAL, ADELA S. CASTRO, LUBERATO LAKANDULA, FELISA S. CASTRO, PAQUITO CASIDSID, NELLY SUALOG, LEONARDO YANKY, REMEDIOS C. SUALOG, MARIA C. SUALOG, WINIFREDO C. SUALOG, VICENTE C. SUALOG, FELOGENIA C. SUALOG, PATRICIO C. SUALOG, BUENAVENTURA C. SUALOG, ROMEO C. SUALOG, CONCEPCION ANDRES, AGNES LEVI A. SUALOG, DIONESIO C. SERRANO, ZENAIDA C. SERRANO, ABUNDIO C. SERRANO, VIOLETA C. SERRANO, ROMEO C. SERRANO, EFREN C. SERRANO, THELMA CASTRO-SALIBIO, JESUS S. FERNANDO, RODRIGO DELOS SANTOS, CLARITA DELOS SANTOS, DANILO TUMALA, ERLINDA TUMALA, EDGARDO TUMALA, DOMINGO TUMALA, MARIO TUMALA, RONALD TUMALA, FERDINAND TUMALA, ANASTACIA DELOS SANTOS, FRANCISCO TUMALA, ARSENIO DELOS SANTOS, JR., VICTORINO DELOS SANTOS, ERLINDA DELOS SANTOS, NATIVIDAD DELOS SANTOS, LITO PRADO, HERMINIGILDO DELOS SANTOS, AND PETER DELOS SANTOS, COMPLAINANTS, VS. ATTY. ROMEO R. ROBISO AND NAPOLEON M. VICTORIANO, RESPONDENTS.

RESOLUTION

VITUG, J.:

A complaint for disbarment charges Atty. Romeo R. Robiso and Atty. Napoleon Victoriano with malpractice, gross misconduct, dereliction of duty, and acts gravely prejudicial to the interest of complainants.

Complainants were the plaintiffs-appellants in a case filed before the Court of Appeals, docketed CA-G.R. CV No. 54136, entitled "Vicente delos Santos, et al., plaintiffs-appellees, vs. Fred Elizalde, et al., defendants-appellants; Jesus delos Santos and Rosita Flores, first set intervenors; Gloria Martin, et al., second set intervenors." The appeal was consolidated with CA-G.R. SP No. 48475, entitled "Florencio D. Gonzales, petitioner, vs. Hon. Niovy M. Marin, et al., respondents," for the annulment of judgment in Civil Case No. 3683. On 11 May 1999, the appellate court rendered its decision; it held:

"WHEREFORE: 1) the appeal by plaintiffs-appellants, defendants-appellants, and the second set of intervenors are hereby DISMISSED, and WITHDRAWN as prayed for; and 2) the petition for annulment of judgment is DENIED DUE COURSE and is ordered DISMISSED."

The decision of the Court of Appeals was based on the "Joint Manifestation and Motion" filed by defendant-appellant Fred Elizalde and the first set intervenors Jesus de los Santos and Rosita Flores, stating that, on 27 May 1999, the parties entered into an agreement, said to be an amicable settlement entered into by and between Fred Elizalde, as the first party, and Jesus delos Santos and Rosita Flores, represented by Atty. Romeo Robiso, as the second party. Instead of filing an appellant's brief, an *ex-parte* motion to withdraw the appeal was filed by Atty. Napoleon M. Victoriano, counsel of record of plaintiffs-appellants (herein complainants), on the basis of the compromise agreement.

Complainants would now aver that their signatures on the 27th May 1999 agreement were forged, presumably through the malicious and devious scheme perpetrated by respondent Atty. Romeo R. Robiso. In turn, Atty. Victoriano was faulted for his failure to file for the complainants an appellants' brief before the Court of Appeals, who, instead, filed an *ex parte* motion to withdraw the appeal predicated this move on the 27th May 1999 agreement.

In his comment, Atty. Napoleon Victoriano explained that the instant administrative case was indeed an offshoot of Civil Case No. 3683 filed by complainants against Fred Elizalde before the Regional Trial Court of Kalibo, Aklan. Complainants were originally represented by Attorneys Anastacio Rufon, Manuel Patriarca, and Reynaldo Santos. When the three attorneys later withdrew as counsel for complainants, Atty. Victoriano was engaged in Civil Case No. 3683. The case was subsequently appealed to the Court of Appeals (C.A. G.R. CV No. 54136). Atty. Victoriano received, on 15 June 1998, a "Notice to File Appellants' Brief" from the Court of Appeals. Complainants, however, furnished him with a copy of the agreement which appeared to have been duly signed by them. In accordance with the terms and conditions of the agreement, he then filed an *ex parte* motion to withdraw the appeal.

Atty. Robiso, in his case, denied the accusations of complainants. He contended that the agreement was prepared and acknowledged before Atty. Edgar Calizo, a notary public in Boracay Island. Noting that Atty. Victoriano, in his comment, stated that the complainants furnished him with a copy of the agreement, Atty. Robiso called attention to the fact that complainants, if indeed their signatures were forged, failed to file any complaint against the notary public.

The Court, in its resolution of **07 June 2000**, referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation within ninety days from notice.

In a letter, dated 02 April 2001, Atty. Victor C. Fernandez, IBP's Director of Bar Discipline, submitted to the Court (1) a notice and copy of the decision of the IBP and (2) the records of the case consisting of two volumes consisting, respectively, of 176 and 21 pages. The Notice of Resolution of the Board of Governors, adopting the recommendation of Commissioner Milagros V. San Juan, read:

"RESOLUTION NO. XIV-2001-78
Adm. Case No. 5165
Vicente Delos Santos, et al. vs.
Atty. Romeo R. Robiso and
Atty. Napoleon M. Victoriano