



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 12, 2021** which reads as follows:*

“A.C. No. 5059 – (ONOFRE D. MANALAD, *petitioner* v. ATTY. DONARDO R. PAGLINAWAN, *respondent*). – Before this Court is a Petition for Contempt, Incompetence, and Willful Violation of Duties as an Attorney¹ filed on May 5, 1999, at the instance of Onofre D. Manalad (petitioner), against Atty. Donardo R. Paglinawan (respondent).

The Antecedents

Petitioner, also a lawyer, was the counsel of spouses Jose Seelin and Lilia Sevilla (spouses Seelin), plaintiffs in Civil Case No. C-9297.² In the said case, spouses Seelin averred that they are the registered owners of a 223,635-square meter land under Transfer Certificate of Title (TCT) No. 26096 (subject property).³ Therein defendant, Central Dyeing and Finishing Corporation (Central) claimed ownership of a 13,500-square meter portion of the subject property on the basis of TCT No. 205942 issued by the Register of Deeds of Quezon City.⁴ Thus spouses Seelin sought to annul Central’s title. After trial, the Regional Trial Court (RTC) of Caloocan, Branch 120 found Central’s title to have been illegally registered considering that the lot covered by the said title lies in Caloocan City.⁵

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¹ *Rollo*, pp. 1-12.

² *Id.* at 1.

³ *Id.* at 213.

⁴ *Id.* at 213-214.

⁵ *Id.* at 213-216; penned by Judge Arturo A. Romero.

On appeal, the Court of Appeals (CA) affirmed the trial court's ruling in favor of spouses Seelin. The Decision⁶ of the CA was elevated to the Supreme Court in G.R. No. L-101819, whereby this Court, on November 25, 1991, dismissed Central's petition and affirmed the RTC's and CA's Decisions in favor of spouses Seelin. The Decision of the Supreme Court became final on March 5, 1992. Subsequently, the trial court issued a *writ* of execution.⁷

Meanwhile, pending resolution of Civil Case No. C-9297, or in July 1983, Central sold a portion of the subject property to Eternal Gardens Memorial Park Corporation (EGMPC). Thus, TCT No. 30304711T-1520 was issued in its favor.⁸

After the finality of the Supreme Court Decision in G.R. No. L-101819, spouses Seelin moved for the issuance of a *Writ* of Possession/ Break Open Order due to the difficulty of enforcing the *writ* of execution considering that EGMPC, not Central had the actual possession of the portion of the subject land.⁹

EGMPC objected to the motion maintaining that, not being a party in Civil Case No. C-9297, it was not submitting itself to the jurisdiction of the trial court. Notwithstanding, the trial court issued a *writ* of possession dated July 1, 1992.¹⁰

The matter reached the Supreme Court (G.R. No. 109076).¹¹ Per Resolution dated August 2, 1993, EGMPC's petition was denied. It attained finality and, thereafter, entry of judgment was issued on October 21, 1993.¹²

Spouses Seelin subsequently moved for the issuance of a second *writ* of execution to enforce the decision in Civil Case No. C-9297. It was granted on July 20, 1994. On motion for reconsideration, the trial court affirmed its earlier ruling and forthwith issued the alias *writ* of execution.¹³

Aggrieved, EGMPC again brought the matter to the CA reiterating its previous argument that it was not bound by the decision

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⁶ Id. at 267-274; penned by Associate Justice Angelina S. Gutierrez, with the concurrence of Associate Justices Nathanael P. De Paño, Jr. and Jesus M. Elbinias.

⁷ Id. at 428-429.

⁸ Id. at 428.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 299-316.

¹² Id. at 430.

¹³ Id. at 430-431.

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in Civil Case No. C-9297 not being the party therein and being a buyer in good faith. The CA, however, dismissed EGMPC's petition for lack of merit.¹⁴

Undaunted, EGMPC elevated the matter before this Court. The case was docketed as G.R. No. 123698.¹⁵ Pending resolution of the case, spouses Seelin filed a Notice of Change of Counsel dated March 25, 1996, relieving petitioner from handling the case. Petitioner was, thus, constrained to file a Manifestation with Notice of Lien for Attorney's Fee¹⁶ with the Supreme Court in G.R. No. 123698. Again, this Court was not convinced with EGMPC's arguments. Hence, in a Decision¹⁷ dated August 5, 1998, this Court dismissed EGMPC's petition.

Eventually, petitioner filed a Motion for Enforcement/or Satisfaction of Judgment¹⁸ dated January 2, 1999 before the RTC of Caloocan City, praying for the satisfaction of the judgment in Civil Case No. C-9297, through cash payment or reimbursement from which 15% shall be paid to him as attorney's fees.

Again, EGMPC opposed the motion stating that petitioner can no longer intervene in the case considering that he has already been discharged as counsel of spouses Seelin. Petitioner, however, insisted that he intervened only to protect his right to be justly compensated for his past services.

Pending resolution of the motion, petitioner filed with this Court the instant Petition for Contempt, Incompetence, and Willful Violation of Duties as an Attorney.¹⁹

Petitioner explained that by filing several pleadings, respondent has misused legal avenues and procedures to delay the execution of a judgment which has already attained finality. This violates Canon 19, particularly Rules 19.01²⁰ and 19.03,²¹ of the Code of Professional Responsibility (CPR). Petitioner further averred that respondent was

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¹⁴ Id. at 431-433.

¹⁵ Id. at 324-348.

¹⁶ Id. at 40-45.

¹⁷ Id. at pp. 26-38; penned by Associate Justice Antonio M. Martinez (now a retired Member of this Court), Florence D. Regalado (now a retired Member of this Court), with Associate Justices Jose A.R. Melo (now a retired Member of this Court), Reynato S. Puno (now a retired Member of this Court) and Vicente V. Mendoza (now a retired Member of this Court), concurring.

¹⁸ Id. at 51-54.

¹⁹ Id. at 1-12.

²⁰ Rule 19.01 - A lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding.

²¹ Rule 19.03 - A lawyer shall not allow his client to dictate the procedure in handling the case.

guilty of forum shopping considering that the latter had filed a total of six appeals, complaints or petitions to frustrate the execution of the final and executory judgment. This, according to petitioner, was a clear manifestation of respondent's incompetence and willful violation of his duties as a lawyer. Petitioner, thus, prayed that respondent be subjected to disciplinary sanctions.²²

In his Comment²³ to the petition, respondent averred that the petition was purposely filed to exact revenge and harass him for vigorously opposing petitioner's intervention in the execution of the decision in Civil Case No. C-9297. Respondent likewise denied having violated the ethics of the legal profession as he merely argued strongly for the protection of the rights and interests of his client.²⁴

On November 17, 1999, the case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.²⁵

IBP Commissioner's Report and Recommendation

On June 6, 2003,²⁶ the IBP-Commission on Bar Discipline (CBD) found respondent Atty. Paglinawan administratively liable for deliberately filing six petitions treading on the same issue of the same parties over the same property to forestall the execution of the decision in Civil Case No. C-9297. It recommended that respondent be suspended from the practice of law for a period of one (1) year, to wit:

PREMISES CONSIDERED, it is respectfully recommended that Atty. Donardo R. Paglinawan be suspended from the practice of law for a period of one (1) year.

RESPECTFULLY SUBMITTED.²⁷

IBP Board of Governor's Ruling

In the Notice of Resolution No. XV-2003-379 dated June 21, 2003,²⁸ the IBP-Board of Governors adopted and approved the Report and Recommendation of the IBP-CBD.

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²² *Rollo*, pp. 6-11.

²³ *Id.* at 180-191.

²⁴ *Id.* at 183-189.

²⁵ *Id.* at 118.

²⁶ *Id.* at 424-443.

²⁷ *Id.* at 443.

²⁸ *Id.* at 423.

The Court's Ruling

After a careful review of the arguments of the parties, *vis-a-vis* the report of the IBP-CBD, this Court concurs in *toto* with the findings of the IBP-CBD and the Board of Governors.

At the outset, Canon 19 of the CPR provides:

**CANON 19 - A LAWYER SHALL REPRESENT HIS
CLIENT WITH ZEAL WITHIN THE BOUNDS OF THE
LAW.**

Rule 19.01 - A lawyer shall employ only fair and honest means to attain the lawful objectives of his client and shall not present, participate in presenting or threaten to present unfounded criminal charges to obtain an improper advantage in any case or proceeding.

Rule 19.02 - A lawyer who has received information that his client has, in the course of the representation, perpetrated a fraud upon a person or tribunal, shall promptly call upon the client to rectify the same, and failing which he shall terminate the relationship with such client in accordance with the Rules of Court.

Rule 19.03 - A lawyer shall not allow his client to dictate the procedure in handling the case. (Emphasis supplied)

This Canon obligates a lawyer, in defending his client, to employ only such means as are consistent with truth and honor.²⁹ To that end, his client's success is wholly subordinate. His conduct ought to and must always be scrupulously observant of law and ethics. While a lawyer must advocate his client's cause in utmost earnestness and with the maximum skill he can marshal, he is not at liberty to resort to illegal means for his client's interest. It is, therefore, the duty of an attorney to employ, for the purpose of maintaining the causes confided to him, such means as are consistent with truth and honor.³⁰

On the other hand, Rule 12.02 and Rule 12.04, Canon 12 of the CPR states:

**CANON 12 - A LAWYER SHALL EXERT EVERY EFFORT
AND CONSIDER IT HIS DUTY TO ASSIST IN THE
SPEEDY AND EFFICIENT ADMINISTRATION OF
JUSTICE.**

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²⁹ *Que v. Revilla, Jr.*, 622 Phil. 1, 18 (2009).

³⁰ *Pangan v. Ramos*, 93 SCRA 87, 89 (1979).

Rule 12.02 - A lawyer shall not file multiple actions arising from the same cause.

x x x x

Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

x x x x

This Canon, meanwhile, requires an attorney to exert every effort and to consider it his duty to assist in the speedy and efficient administration of justice. A lawyer should not ever ignore such duty, even upon the pretext of giving his entire devotion to the interest of his clients. He ought not to forget that as an attorney, he was, first and foremost, an officer of the court, bound to exert every effort to comply with the requirement under Canon 12.³¹

In the instant case, while respondent averred that he filed several petitions to protect the rights and interests of his client, this Court finds that he went beyond the bounds of law. He filed several pleadings to forestall and drag the execution of the final and executory decision in Civil Case No. C-9297. Furthermore, respondent deliberately filed multiple actions concerning the same parties over the same property delaying the resolution of the case and impeding the execution of the final and executory judgment. This is in utter violation of the above-quoted provisions of the CPR.

The explanation of IBP-CBD in its Report and Recommendation is on point, thus:

x x x Respondent filed a total of six (6) petitions treading on the same issue of the same parties over the same property, i.e. CA-G.R. CV No. 25989, CA-G.R. SP No. 28797 and CA-G.R. SP No. 36591 with the Court of Appeals, and G.R. No. 101819, G.R. No. 109076 and G.R. No. 123689 with the Supreme Court. After the Supreme Court had declared in G.R. No. 109056 that EGMPC was bound by the judgment in Civil Case No. C-9297 the respondent, instead of abiding by the decision of the Supreme Court, opposed the motion for the issuance of a second writ of execution filed by the plaintiffs in Civil Case No. C-9297. Respondent filed in behalf of his clients a motion for reconsideration of the order granting the motion. EGMPC's motion for reconsideration was erroneously granted by Judge Arturo Romero. These subsequent developments led to the filing of petitions in the Court of Appeals and the Supreme Court which

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³¹ *Foronda v. Atty. Guerrero*, 479 Phil. 636, 651 (2004).

raised basically the same argument that it was not bound by the judgment. The Supreme Court in G.R. No. 123698 could not help to comment that a mockery of justice had been committed by the unnecessary delay in the satisfaction of the judgment in Civil Case No. C-9297. In the meantime, plaintiffs in Civil Case No. C-9297 had not been able to enjoy the use of the property. Besides the apprehension that the grave lots will be desecrated had been addressed by Judge Leachon's orders dated February 13, 1995 and May 4, 1995 which were quoted with favor by the Supreme Court in G.R. No. 123698: "as to the demolition of the burial lots, negotiation could be made by the defendant with the former owner so that cash payment or cash settlement be made." EGMPC had profited in the meantime by the sale of the burial lots to its buyers. Bound by the decision in Civil Case No. C-9297, EGMPC and respondent should settle with the plaintiffs as to the matter of payment.³²

It is, therefore, beyond cavil that respondent violated his duty as a member of the Bar.

Finally, it is settled that litigation must end sometime and somewhere.³³ A judgment, if left unexecuted, would be nothing but an empty victory for the prevailing party.³⁴ Respondent, therefore, has not only violated his duty as a lawyer, but has committed a mockery of justice when he filed several petitions to forestall the execution of the already final and executory judgment. Needless to state, respondent is guilty of depriving spouses Seelin, as well as petitioner, the fruits of their labor.

From all the foregoing, this Court agrees with the findings of the IBP-CBD and the Board of Governors that respondent violated the CPR when he forestalled the execution of the final and executory judgment in Civil Case No. C-9297 by filing several petitions. A one-year suspension from the practice of law is, likewise, commensurate to the infraction committed by respondent.

WHEREFORE, in view of the foregoing premises, Atty. Donardo R. Paglinawan is found **GUILTY** of violating the Code of Professional Responsibility and is hereby **SUSPENDED** from the practice of law for **ONE (1) YEAR** and **ADMONISHED** henceforth to be more circumspect in the performance of his duties to his clients, with the caveat that commission of the same or similar offense will be dealt with more severely.

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³² *Rollo*, pp. 440-441.

³³ *Florentino v. Rivera*, 515 Phil. 494, 505 (2006).

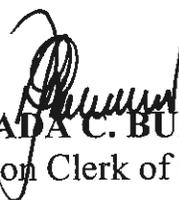
³⁴ *Garcia v. Yared*, 447 Phil. 444, 453 (2003).

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Let copies of this Resolution be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Likewise, copies shall be furnished the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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