



Republic of the Philippines
Supreme Court
 Manila

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Wilfredo V. Lapitan
WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division
 SEP 15 2017

THIRD DIVISION

DR. EDUARDO R. ALICIAS, JR.
 Complainant,

A.C. No. 9919

Present:

VELASCO, JR., J.,
Chairperson,
 BERSAMIN,
 JARDELEZA,
 TIJAM, and
 REYES, JR., JJ.

- versus -

ATTY. VIVENCIO S. BACLIG,
 Respondent.

Promulgated:

July 19, 2017

Wilfredo V. Lapitan

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DECISION

TIJAM, J.:

Before Us is a complaint for disbarment¹ filed by complainant Eduardo R. Alicias, Jr. against Atty. Vivencio S. Baclig (Atty. Baclig) for violation of the Code of Professional Responsibility (CPR) and/or Lawyer's Oath.

The Facts

The case stemmed from the amended complaint² for declaration of nullity of void documents, recovery of ownership and possession, accounting of the natural, industrial fruits derived from the illegal

¹ *Rollo*, pp. 1-11.

² *Id.* at 12-25.

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occupation of the subject property, exercise of the right of legal redemption with damages, and application for a writ of preliminary injunction filed by Eleuterio Lamorena, Higinio Rene Lamorena, Oscar Lamorena and Eloisa Lamorena, duly represented by their Attorney-in-Fact, Marissa L. Peña, and Marissa L. Peña, in her own behalf (Lamorena, *et.al.*) against Robert R. Alicias (Robert) and Urvillo A. Paa (Paa), and herein complainant before the Regional Trial Court (RTC) in Vigan City. Said complaint was filed in September 2012 and Atty. Baclig was hired by Lamorena, *et.al.* as their counsel.

In said amended complaint, Lamorena, *et.al.* questioned the occupancy of complainant and his co-defendants of a certain parcel of land. Lamorena, *et.al.* claimed that they are entitled to possession of the same, being the surviving heirs of the lawful owners of the subject property, spouses Vicente and Catalina Lamorena (Catalina).

Complainant and his co-defendants filed their Answer,³ stressing, among others, that they legally acquired the subject property by virtue of a contract of sale from its lawful owner, Catalina, as the same is her paraphernal property.

It appears, however, that in February 2010, an amended complaint⁴ for reconveyance, annulment of deeds and quieting of title was filed by Lamorena, *et.al.* against herein complainant and Urvillo Paa before the Municipal Trial Court in Cities (MTCC) in Vigan City. However, it was not Atty. Baclig who acted as counsel in this case.

On May 14, 2013, the complainant filed an administrative case for disbarment against Atty. Baclig before Us.

In said administrative complaint, the complainant averred that Atty. Baclig consented to false assertions when his clients allegedly made false statements in their amended complaint. Complainant also stated that Atty. Baclig knowingly filed an action which was: (1) already barred by *res judicata* and laches; and (2) without the jurisdiction of the RTC where such complaint was filed. Lastly, complainant claimed that Atty. Baclig consented to the filing of a complaint, which asserted similar relief, when a similar case was filed before the MTCC.

³ Id. at 77-93.

⁴ Id. at 111-115.



In his Comment,⁵ Atty. Baclig contended that the allegations in the subject complaint contained absolutely privileged communication, which insulates him from liability. Also, the issues as to whether or not the assertions in the subject complaint are false statements and whether or not the RTC has jurisdiction over the subject matter of the action are yet to be decided; hence, the complaint against him holds no water.

Issue

Is Atty. Baclig administratively liable?

Our Ruling

A case of suspension or disbarment is *sui generis* and not meant to grant relief to a complainant as in a civil case, but is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts.⁶

Jurisprudence is replete with cases reiterating that in disbarment proceedings, the burden of proof rests upon the complainant.⁷ In the recent case of *Carrie-Anne Shaleen Carlyle S. Reyes v. Atty. Ramon F. Nieva*,⁸ this Court had the occasion to clarify that the proper evidentiary threshold in disbarment cases is substantial evidence.

The gist of the complaint before Us is the alleged false assertions in the amended complaint, to which Atty. Baclig has consented to. Complainant alleged that Atty. Baclig consented to falsehood when the allegations in the amended complaint specified, among others, that the subject property is a hereditary property when in fact it is a paraphernal property; that the property is unregistered property; and that it was inherited in 1952 when it was not.

However, noteworthy is the fact that such assertions are the matters in dispute in the case before the RTC. In other words, the assertions as to the nature of the property and the time when it was inherited also deal with the main issue of the case. To recall, Lamorena, *et.al.*'s main contention is that the subject property is a hereditary property, being the property of their parents. On the other hand, complainant alleged that they brought the property from Catalina and the latter had every right to sell it even without the consent of her spouse because it is her paraphernal property. In other

⁵ Id. at 67-76.

⁶ *Cristobal v. Renta*, A.C. No. 9925, September 17, 2014.

⁷ *Concepcion v. Fandio, Jr.*, A.C. No. 3677, June 21, 2000.

⁸ A.C. No. 8560, September 6, 2016.

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words, the issue in the amended complaint is who between Lamorena, *et.al.* and complainant herein has the right of possession over the subject property. Hence, Atty. Baclig cannot be faulted for consenting to his clients' act of asserting such statements.

At any rate, it must be considered that Atty. Baclig's pleadings were privileged and would not occasion any action against him as an attorney.⁹

As regards *res judicata*, laches, and jurisdiction, We note that the same are not founded on substantial evidence.

However, as to the matter of forum shopping, We find that Atty. Baclig resorted to the same.

In forum shopping, the following requisites should concur: (a) identity of parties, or at least such parties as represent the same interests in both actions; (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.¹⁰

In this case, it must be noted that an amended complaint was filed by Lamorena, *et.al.* against herein complainant and Paa before the MTCC in February 2010. In sum, such amended complaint sought for the nullification of the mortgage contract and deed of sale which transferred the property to herein complainant and his co-defendants and the declaration of Lamorena, *et.al.* as the absolute owners of the subject property. Eventually, the case before the MTCC was dismissed with prejudice in an Order¹¹ dated November 9, 2012.

However, on September 19, 2012, another amended complaint was filed by Lamorena, *et.al.* against complainants, Robert and Paa, but this time, before the RTC. A cursory reading of the complaint reveals that the reliefs sought pertain to the nullification of any and all the documents in the form of a written agreement which may be executed without the consent of Lamorena, *et.al.* *In esse*, such complaint before the RTC prayed for similar reliefs as those which were sought for in the complaint before the MTCC.

⁹ *De Leon v. Atty. Castelo*, A.C. No. 8620, January 12, 2011.

¹⁰ *Atty. Alonso, et.al. v. Atty. Relamida, Jr.*, AC No. 8481, August 3, 2010.

¹¹ Rendered by Judge Francisco A. Ante, Jr; *id.* at 52.

On this note, We rule that there was forum shopping in this case, for while the case before the MTCC was pending, Atty. Baclig consented to the filing of another complaint before another forum, *i.e.*, RTC. Such cases deal with the same parties and same reliefs. Thus, a ruling in one case would resolve the other, and *vice versa*.

Moreover, regardless of the fact that Atty. Baclig did not act as counsel in the case before the MTC, it would not exempt him from culpability. Atty. Baclig did not categorically deny the allegations of complainant regarding the commission of forum shopping. Moreover, it is surprising that he was able to answer the 10 causes of action raised by complainant, except the issue on forum shopping. Hence, he is deemed to have admitted that he has knowledge of the pendency of a similar complaint before the MTC when a complaint before the RTC was filed.¹²

In this regard, We emphasize that the filing of another action concerning the same subject matter runs contrary to Canon 1 and Rule 12.04 of Canon 12 of the CPR. Canon 1 of the CPR requires a lawyer to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice and Rule 12.04 of Canon 12 prohibits the undue delay of a case by misusing court processes.¹³

We reiterate that a lawyer owes fidelity to the cause of his client, but not at the expense of truth and the administration of justice. The filing of multiple petitions constitutes abuse of the court's processes and improper conduct that tends to impede, obstruct and degrade the administration of justice and will be punished as contempt of court.

A former member of the judiciary need not be reminded of the fact that forum shopping wreaks havoc upon orderly judicial process and clogs the courts' dockets.¹⁴ As a former judge, Atty. Baclig must be mindful not only of the tenets of the legal profession but also of the proper observance of the same.

WHEREFORE, premises considered, We find the complaint meritorious and accordingly **CENSURE** Atty. Vivencio S. Baclig for violating Canon 1 and Rule 12.04 of Canon 12 of the Code of Professional Responsibility. He is **STERNLY WARNED** that any future violation of his duties as a lawyer will be dealt with more severely.

¹² *Valdez v. Atty. Dabon, Jr.*, A.C. No. 7353, November 16, 2015.

¹³ *Teodoro III v. Atty. Gonzales*, A.C. No. 6760, January 30, 2013.

¹⁴ *Pena v. Aparicio*, A.C. No. 7298, June 25, 2007.

Let copies of this Decision be furnished all courts, the Office of the Bar Confidant, and the Integrated Bar of the Philippines for their information and guidance. The Office of the Bar Confidant is directed to append a copy of this Decision to respondent's record as member of the Bar.

SO ORDERED.



NOEL GOMEZ TIJAM
Associate Justice

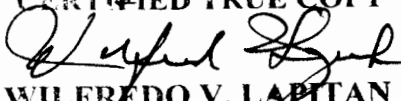
WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


LUCAS P. BERSAMIN
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

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