



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RE: RESOLUTION DATED
OCTOBER 11, 2017 in OCA IPI
No. 16-4577-RTJ (ROBERTO T.
DEOASIDO and ATTY.
JEROME NORMAN L.
TACORDA v. HONORABLE
JUDGE ALMA CONSUELO B.
DESALES-ESIDERA, Presiding
Judge, Regional Trial Court,
Branch 20, Catarman, Northern
Samar, and ATTY. LEONARDO
SARMIENTO III, Former Clerk
of Court, Regional Trial Court,
Branch 20, Catarman, Northern
Samar,)

A.C. No. 11925

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,
HERNANDO,
INTING,
DELOS SANTOS,* and
BALTAZAR-PADILLA,** JJ.

- versus -

ATTY. JEROME NORMAN L.
TACORDA,
Respondent.

Promulgated:

28 SEP 2020

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DECISION

INTING, J.:

In the Verified Complaint¹ dated April 29, 2016, Roberto T. Deoasido (Deoasido) and Atty. Jerome Norman L. Tacorda (Atty. Tacorda) (collectively, complainants) charged their Presiding Judge Alma

* On official leave.

** On leave.

¹ Rollo, pp. 3-8.

Consuelo B. Desales-Esidera (Judge Desales-Esidera) of Branch 20, Regional Trial Court (RTC), Catarman, Northern Samar with gross ignorance of the law, gross neglect of duties, delay in the administration of justice, and impropriety relative to Civil Case No. C-1102 entitled, *Heirs of Lucia Mijares-Telegrapo, et. al. v. Miguel Balberde*, a case for reconveyance.

Deoasido is one of the heirs in the civil case, while Atty. Tacorda claimed to be their counsel. Atty. Anselmo Alvarez IV (Atty. Alvarez) initially handled the case until he was suspended by the Court from the practice of law.²

Complainants alleged that there were numerous postponements made by Judge Desales-Esidera as evidenced by various certified true copies of the transcript of stenographic notes (TSNs) and minutes of the proceedings, to wit:

1. Minutes of 05 April 2005 proceedings - the parties through their counsels were directed to submit simultaneously their position papers.

Complainants wondered why they were directed to do so when the case is for reconveyance and position papers are not required since it is not governed by the Rules on Summary Procedure.

2. Minutes of 11 September 2008 proceedings - contained remarks that the hearing would be reset as both counsels were not in court when the case was called.

Complainants bewailed that respondent Judge did not even issue an order requiring both counsels to show cause for not appearing in court. They added that respondent Judge did not also impose postponement fees as strictly required by the rules. They insisted that the delay is attributable to the passive act of respondent Judge which is violative of the Constitution, the Speedy Trial Act and existing jurisprudence.

3. Minutes of 24 October 2008 proceedings - merely had the inscription that the hearing was reset without indicating the reason for the postponement, nor was there a Notice of Postponement filed by either counsel.

Complainants reasoned that our courts are courts of records, and such principle is so basic that even a first year law student can

² *Id.* at 3.

decipher and understand it by heart, which unfortunately respondent Judge's court did not apply.

4. Minutes of the 19 February 2009 proceedings - contained entries that the initial hearing was again reset for the reason that not all the heirs were contacted, hence complainant Deoasido was directed to contact the other heirs, and a certain Atty. Balicud was also required to submit the names of the heirs of Miguel Balberde.

Complainant Atty. Tacorda stressed that it is a basic rule that there is already sufficient authority when a party litigant is equipped with an SPA conferring upon him the authority to sign, attend, negotiate for settlement and act in their stead regarding the case.

As to the directive that Atty. Balicud should submit the names of the heirs of Miguel Balberde, the same is too vague and susceptible of various interpretations. By these acts and omissions, respondent Judge delayed the case.

5. Minutes of the 14 January 2010 and 21 September 2010 proceedings - these merely contained the entries that the hearings were reset without giving any reasons for the repeated postponements.
6. Minutes of the 09 December 2010 proceedings - its entry merely noted that respondent Judge inhibited from the case. Again, the minutes contained no reason for the recusal in blatant disregard of basic rules of court.³

Complainants also asserted that from the time of the filing of the complaint in 2002 up until April 22, 2016, only the first witness for the plaintiffs was presented in court. This civil case is now presided by a certain Judge Decoroso-Turla.⁴

Meanwhile, in her Comment with Counterclaim⁵ filed on August 30, 2016, Judge Desales-Esidera alleged the following:

The complaint should be dismissed on the ground that Atty. Tacorda, as a member of the bar, failed to indicate his Mandatory Continuing Legal Education compliance; that just like the other administrative cases initiated by the latter, the complaint had no basis in

³ *Id.* at 9-10.

⁴ *Id.* at 10.

⁵ *Id.* at 17-27.

fact and in law and had no other purpose but to harass her, beleaguer her, and disturb her work as a judge.⁶

The ill feelings Atty. Tacorda exhibited against her amounted to perjury and were in clear violation of the Lawyer's Oath and the Code of Professional Responsibility (CPR); that the series of administrative cases filed against her, proved that it was a demolition plan in view of her adverse decisions against some "*political bigwigs and complainant Atty. Jerome Norman Tacorda is a willing conspirator with the cooperation of his clients.*" She added that one of Atty. Tacorda's law firm partners is a relative of one of those sentenced by her and who is still fighting for a reversal of her decision despite its affirmance by the higher courts.⁷

Also, the complaint was unfounded since the basis of the complaint, which were the minutes; did not reflect in detail the entire proceedings that transpired during the trial, but only a summary thereof; that the more complete and reliable court document should have been the TSNs and the eventual orders she issued because the court interpreter did not know shorthand writing and could only write what he understood during the proceedings. Yet, complainants opted not to attach the TSNs and the orders as mentioned because had they done so, there would be no case against her because of the presumption that *when the evidence is suppressed, it is adverse when produced.*⁸

As to the alleged submission of position papers on April 5, 2005, she was still the judge in the Municipal Trial Court, Bobon, Northern Samar. The attached Minutes⁹ of the session actually reflected the name of Acting Presiding Judge Jose F. Falcotelo; hence, it could be said that she had nothing to do with the requirement respecting the submission of position papers.¹⁰

Moreover, the September 11, 2008 postponement was because she was attending a seminar in Tacloban City as stated in the Notice of Order dated August 13, 2008; that to her mind, the notice already served as a notice to the litigants that she would not be able to attend the hearing and which would no longer require any postponement fees according to the

⁶ *Id.* at 10.

⁷ *Id.* at 11.

⁸ *Id.*

⁹ *Id.* at 35.

¹⁰ *Id.* at 11.

rules.¹¹

Further, complainants intentionally omitted the Order¹² she issued for the proceedings on October 24, 2008; and that the hearing was reset due to the demise of defendant Miguel Balberde and the substitution was in order.¹³

Atty. Tacorda failed to observe Section 16,¹⁴ Rule 3, Rules of Court when the Special Power of Attorney in favor of Deoasido executed by his siblings and attached to the records did not include the hiring of Atty. Tacorda, or any other lawyer to represent them. Moreover, the court was informed that not all heirs were contacted; hence, the directive to contact all the heirs to be substituted.¹⁵

As to the minute dated January 14, 2010, although it did not state therein the reason for postponement, the order of even date reads that there was a power failure; while the Order of Inhibition dated December 9, 2010 did not fail to state Judge Desales-Esidera's reason for recusal. She added that as a natural occurrence of her inhibition, the hearing would be postponed. Therefore, after inhibiting herself, she had nothing more to do with the case and no longer answerable as to why it was only on April 22, 2016 that the first witness was presented.¹⁶

Lastly, there was no September 21, 2010 hearing, minutes, or

¹¹ *Id.*

¹² *Id.* at 46.

¹³ *Id.* at 11.

¹⁴ Section 16, Rule 3 of the Rules of Court provides:

SEC. 16. Death of party; duty of counsel. — Whenever a party to a pending action dies, and the claim is not thereby extinguished, it shall be the duty of his counsel to inform the court within thirty (30) days after such death of the fact thereof, and to give the name and address of his legal representative or representatives. Failure of counsel to comply with this duty shall be a ground for disciplinary action.

The heirs of the deceased may be allowed to be substituted for the deceased, without requiring the appointment of an executor or administrator and the court may appoint a guardian *ad litem* for the minor heirs.

The court shall forthwith order said legal representative or representatives to appear and be substituted within a period of thirty (30) days from notice.

If no legal representative is named by the counsel for the deceased party, or if the one so named shall fail to appear within the specified period, the court may order the opposing party, within a specified time, to procure the appointment of an executor or administrator for the estate of the deceased and the latter shall immediately appear for and on behalf of the deceased. The court charges in procuring such appointment, if defrayed by the opposing party, may be recovered as costs.

¹⁵ *Rollo*, p. 12.

¹⁶ *Id.*

order. She said that it was during the proceedings on September 2, 2010 that the hearing was reset to October 21, 2010.¹⁷

*Evaluation and Recommendation of the Office of the Court
Administrator (OCA)*

The Court Administrator recommended that the instant administrative complaint against Judge Desales-Esidera be dismissed for utter lack of merit based on the following evaluation, which reads in this wise:

With respect to the charge of gross ignorance of the law, the Court in the case of *Amante-Descallar vs. Ramas* set forth the elements of the offense as follows: that the subject order or actuation of the judge in the performance of his official duties must not only be contrary to existing law and jurisprudence, but more importantly, must be attended by bad faith, fraud, dishonesty or corruption. However, based on the records at hand, both elements were not established by complainants.

As can be deduced, complainants did not present proof that there were orders or resolutions that respondent Judge issued in the performance of her official duties which are contrary to existing law and jurisprudence and motivated by bad faith, fraud, dishonesty and corruption. In fact, complainants merely presented, intentional or otherwise, the minutes of the proceedings. This Office subscribes to respondent Judge's stand that the minutes, which was the basis of complainants for filing the instant case, do not reflect in detail the entire proceedings but merely a summary of what transpired during the trial.

With respect to the charge of neglect of duty, the same is defined as the failure of an employee to give proper attention to a required task or to discharge a duty due to carelessness or indifference. On the other hand, gross neglect of duty is characterized by want of even the slightest care, or by conscious indifference to the consequences, or by flagrant and palpable breach of duty. In the instant case, complainants want to impress upon the Court that respondent Judge's negligence is the direct cause of delay in their case. However, this imputation has no leg to stand on. *Firstly*, as stated earlier, the minutes presented by complainants in filing the instant case, is insufficient to establish the entire proceedings. *Secondly*, complainants failed to ascribe specific conduct that amounts to failure on the part of respondent Judge to give proper attention to a required task or to discharge a duty due to carelessness or

¹⁷ *Id.*

indifference. For her part, respondent Judge was able to satisfactorily explain the reasons for the postponements.

It bears stressing that the complainant in an administrative proceeding bears the onus of establishing, by substantial evidence, the averments in the complaint. In the absence of contrary evidence, what will prevail is the presumption that the respondent has regularly performed his official duties. Substantial evidence is such amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion. The standard of substantial evidence is satisfied when there is reasonable ground to believe that the person indicted was responsible for the alleged wrongdoing. Thusly, respondents Judge's conducts is presumed regular.¹⁸ (Citations omitted.)

Further, the Court Administrator found that the following acts on the part of complainants manifested bad faith and deserved sanctions should they fail to justify their acts, to wit:

First, complainants need to explain why they filed the instant administrative complaint which is utterly lacking in basis;

Second, complainants need to explain why they utilized as basis of the instant administrative case mere minutes of the proceedings and left out, intentionally or otherwise, the orders of said proceedings;

Third, complainants should explain why they ascribed to respondent Judge the alleged issuance of the erroneous Order dated 05 April 2005 when it was reflected in the attached minutes of the proceedings that the name of the judge is Acting Judge Jose F. Falcotelo; and,

Fourth, complainants should explain why they ascribed the delay spanning from 2002 up until 22 April 2016 to respondent Judge while it was clear that respondent Judge already inhibited from the case as early as 09 December 2010;

Finally, for filing this administrative complaint against respondent Judge for alleged gross inefficiency, delay in the administration of justice and impropriety with no basis whatsoever, complainants should explain why they should not be sanctioned for filing said frivolous complaint and maligning respondent which only wasted the Court's time and resources.¹⁹

¹⁸ *Id.* at 12-13.

¹⁹ *Id.* at 13-14.

In the Resolution²⁰ dated October 11, 2017, the Court adopted the recommendation of the OCA and directed complainants to explain the above-mentioned acts.

Issue

Whether Atty. Tacorda should be held administratively liable for the acts attributed to him.

The Court's Ruling

After considering all the parties' submission and arguments, the Court finds that Atty. Tacorda should be held administratively liable for violation of Rule 10.01,²¹ Canon 10 of the CPR. Record shows that he indeed indulged in deliberate falsehood and clearly failed to provide adequate explanations to justify the acts imputed against him.

First, as to the act of utilizing as a basis of the administrative case against herein Judge Desales-Esidera the minutes of the proceedings and intentionally left out the orders issued by the latter, Atty. Tacorda merely stated that the minutes as attached to the complaint were supplied by Atty. Alvanez, the first counsel of the heirs of Lucia Mijares-Telegrapo, to complainant Deoasido, who in turn handed them over to Atty. Tacorda. Verily, Atty. Tacorda only attributed the act as the acts of Atty. Alvanez and Deoasido and failed to justify his omission of the TSNs and/or the eventual orders of the proceedings which would otherwise reflect in detail what actually transpired during the trial.

Second, as to the act of ascribing to Judge Desales-Esidera the alleged issuance of the erroneous Order dated April 5, 2005 when it was reflected in the attached minutes of the proceedings that the name of the judge therein is Acting Presiding Judge Jose F. Falcotelo, Atty. Tacorda provided a weak explanation that since Judge Desales-Esidera presided Branch 20, RTC, Catarman, Northern Samar, it follows then that she had control and supervision of the Clerk of Court, who was then responsible for the records of the minutes.

²⁰ *Id.* at 1-2.

²¹ Rule 10.01, Canon 10 of the Code of Professional Responsibility provides:

Rule 10.01 — A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice.

Third, as to the act of ascribing the delay spanning from 2002 up until April 22, 2016 to Judge Desales-Esidera when it was clear that she already inhibited from the case as early as December 9, 2010, Atty. Tacorda did not provide a better explanation other than asserting the constitutional right of Deoasido to a speedy disposition of his case.

Further, when Atty. Tacorda was asked to explain as to why he should not be sanctioned for filing a frivolous complaint and maligning herein Judge Desales-Esidera, he merely justified his act by saying that under the Canon of Professional Ethics, a lawyer must see to it that justice is done; that grievances against a judge shall be addressed to the duly constituted authorities; and, in this case, the purpose was to invoke the right to speedy trial and that there was no bad faith in instituting the administrative case against Judge Desales-Esidera.

Emphatically, in *Spouses Umaguing v. Atty. De Vera*,²² the Court highlighted the oath undertaken by every lawyer to not only obey the laws of the land, but also to refrain from doing any falsehood, *viz.*:

The Lawyer's Oath enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients. Every lawyer is a servant of the law, and has to observe and maintain the rule of law as well as be an exemplar worthy of emulation by others. It is by no means a coincidence, therefore, that the core values of honesty, integrity, and trustworthiness are emphatically reiterated by the Code of Professional Responsibility. In this light, Rule 10.01, Canon 10 of the Code of Professional Responsibility provides that “[a] lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.”²³

The Court likewise gives emphasis to the fact that the practice of law is imbued with public interest, and that “a lawyer owes substantial duties not only to his client, but also to his brethren in the profession, to the courts, and to the nation, and takes part in one of the most important functions of the State — the administration of justice — as an officer of

²² 753 Phil. 11 (2015).

²³ *Id.* at 19.

the court.”²⁴ Thus, “[l]awyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity and fair dealing.”²⁵

On this score, it is worth stressing that Atty. Tacorda committed acts of falsehood in violation of the clear pronouncements of the CPR. Verily, Atty. Tacorda’s conduct seriously falls short of the high standards of morality, honesty, integrity and fair dealing required from members of the bar. Therefore, it is proper that he be sanctioned accordingly.

Having established Atty. Tacorda’s administrative liability, the Court now determines the proper penalty. The appropriate penalty to be imposed upon an errant lawyer depends on the exercise of sound judicial discretion after due consideration of the surrounding facts.²⁶ Under Section 27, Rule 138 of the Rules of Court, a member of the bar may be disbarred or suspended by the Supreme Court from office as an attorney for any violation of the oath which he is required to take before admission to practice.

WHEREFORE, respondent Atty. Jerome Norman L. Tacorda is ordered **SUSPENDED** from the practice of law for six (6) months with a **WARNING** that the commission of the same or similar offense in the future would be dealt with more severely.

The suspension in the practice of law shall take immediately upon receipt of this Decision by respondent Atty. Jerome Norman L. Tacorda. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

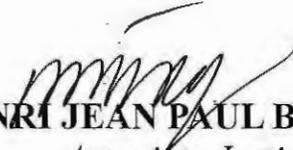
The Office of the Bar Confidant is required to attach a copy of this Decision to the records of respondent Atty. Jerome Norman L. Tacorda. Let copies of this Decision be furnished the Integrated Bar of the Philippines for their information and guidance and the Office of the Court Administrator for circulation to all the courts in the country.

²⁴ *Tenoso v. Atty. Echaney*, 709 Phil. 1, 5 (2013), citing *In the Matter of the IBP Membership Dues Delinquency of Atty. MARCIAL A. EDILLON* (IBP Administrative Case No. MDD-1), 174 Phil. 55, 62 (1978).

²⁵ *Id.*, citing *Ventura v. Atty. Samson*, 699 Phil. 404, 407 (2012).

²⁶ *Samonte v. Atty. Jumamil*, 813 Phil. 795, 805 (2017).

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson


RAMON PAUL L. HERNANDO
Associate Justice

(On official leave)
EDGARDO L. DELOS SANTOS
Associate Justice

(On leave)
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice