Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RAUL M. FRANCIA,
Complainant,

- versus -

ATTY. REYNALDO V. ABDON,
Respondent.

A.C. No. 10031

Present:

SERENO, *C.J.*,
Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
VILLARAMA, JR., and
REYES, *JJ.*

Promulgated:
JUL 23 2014

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DECISION

REYES, *J.*:

In a verified complaint[1] dated December 4, 2007 filed before the Integrated Bar of the Philippines, Committee on Bar Discipline (IBP-CBD), Raul M. Francia (complainant) prayed for the disbarment and imposition of other disciplinary sanctions on Labor Arbiter (LA) Reynaldo V. Abdon (respondent) for violation of the lawyer's oath and the Code of Professional Responsibility.

On February 4, 2008, the respondent filed his Answer[2] vehemently denying the allegations in the complaint.

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1 *Rollo*, pp. 2-5.
2 Id. at 10-21.

On August 13, 2008, both parties appeared at the mandatory conference. Upon its termination, the parties were required to submit their respective position papers afterwhich the case was submitted for resolution.

In his position paper,[3] the complainant alleged that in November 2006, he had a meeting with the respondent at the Makati Cinema Square to seek his assistance with respect to a pending case in the Court of Appeals (CA) involving the labor union of Nueva Ecija III Electric Cooperative (NEECO III). The said case was docketed as CA-G.R. SP No. 96096 and raffled to the 6th Division then chaired by Justice Rodrigo V. Cosico, with Justices Edgardo Sundiam (Justice Sundiam) and Celia Librea-Leagogo as members. The respondent, who is a LA at the National Labor Relations Commission, San Fernando, Pampanga, told the complainant that he can facilitate, expedite and ensure the release of a favorable decision, particularly the award of assets and management of NEECO III to the union. To bolster his representation, he told him that the same regional office where he was assigned had earlier rendered a decision in favor of the labor union and against the National Electrification Administration.[4] With the respondent's assurance, the complainant yielded.

In December 2006, the complainant met the respondent to discuss their plan and timetable in securing a favorable ruling from the CA. The respondent told him that in order to facilitate the release of such favorable decision, the union must produce the amount of □1,000,000.00, a considerable portion of which is intended for Justice Sundiam, the *ponente* of the case and the two member justices of the division, while a fraction thereof is allotted to his costs.[5]

Shortly thereafter, the complainant met the respondent again and handed him the amount of □350,000.00, which was raised out of the individual contributions of the members of the union, as partial payment for the agreed amount and undertook to pay the balance as soon as the union is finally allowed to manage and operate the electric cooperative. In turn, the respondent assured him that a favorable ruling will be rendered by the CA in no time.[6]

A week before Christmas of the same year, the complainant made several follow-ups with the respondent about the status of the decision. In response to his inquiries, the respondent would tell him that: (1) the decision is being routed for signature of the members of the three-man CA division; (2) the lady justice was the only one left to sign; and (3) the lady justice went to a Christmas party and was not able to sign the decision. Ultimately,

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3 Id. at 32-55.
4 Id. at 33.
5 Id.
6 Id. at 34.

the promised favorable decision before the end of that year was not issued by the CA, with no explanation from the respondent.[7]

On January 4, 2007, the union was advised by their counsel that the CA has already rendered a decision on their case and the same was adverse to them. This infuriated the union members who then turned to the complainant and demanded for the return of the ₱350,000.00 that they raised as respondent's facilitation fee. The respondent promised to return the money but asked for a few weeks to do so. After two weeks, the respondent turned over the amount of ₱100,000.00, representing the unspent portion of the money given to him and promised to pay the balance of ₱250,000.00 as soon as possible. The respondent, however, reneged on his promise and would not even advise the complainant of the reason for his failure to return the money. Thus, the complainant was constrained to give his car to the union to settle the remaining balance which the respondent failed to return.[8]

To support his claims, the complainant submitted the following pieces of evidence: (1) a transcript of the exchange of text messages between him and the respondent;[9] (2) affidavit of Butch Pena (Pena),[10] officer of the Association of Genuine Labor Organization (AGLO); (3) a transcript of the text message of a certain Paulino Manongsong, confirming the respondent's mobile number;[11] (4) copy of the CA decision in CA-G.R. SP No. 96096;[12] and (5) affidavit of Shirley Demillo (Demillo).[13]

For his part, the respondent denied that he made any representation to the complainant; that he had the capacity to facilitate the release of a favorable decision in the CA; and that he received money in exchange therefor. He admitted that he had a chance meeting with the complainant at the Makati Cinema Square in December 2006. Since they have not seen each other for a long time, they had a short conversation over snacks upon the complainant's invitation. In the course of their conversation, the complainant asked if he knew of the case involving the union of the NEECO III. He told him that he was not familiar with the details but knew that the same is already pending execution before the office of LA Mariano Bactin. The complainant told him that the properties of NEECO III were sold at public auction but the union members were yet to obtain the proceeds because of a temporary restraining order issued by the CA. He inquired if he knew anyone from the CA who can help the union members in their case as he was assisting them in following up their case. The respondent answered

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7 Id. at 34-35.
8 Id. at 35-36.
9 Id. at 56.
10 Id. at 57-58.
11 Id. at 59.
12 Id. at 60-92.
13 Id. at 93-94.

in the negative but told him that he can refer him to his former client, a certain Jaime "Jimmy" Vistan (Vistan), who may be able to help him. At that very moment, he called Vistan using his mobile phone and relayed to him the complainant's predicament. After giving Vistan a brief background of the case, he handed the mobile phone to the complainant, who expounded on the details. After their conversation, the complainant told him that he will be meeting Vistan on the following day and asked him if he could accompany him. He politely declined and just gave him Vistan's mobile number so that they can directly communicate with each other.[14]

Sometime thereafter, he received a call from Vistan who told him that he was given □350,000.00 as facilitation fee. After their conversation, he never heard from Vistan again.[15]

In January 2007, he received a text from the complainant, asking him to call him through his landline. Over the phone, the complainant told him about his arrangement with Vistan in securing a favorable decision for the union but the latter failed to do his undertaking. The complainant blamed him for the misfortune and even suspected that he was in connivance with Vistan, which he denied. The complainant then asked for his help to recover the money he gave to Vistan.[16]

When their efforts to locate Vistan failed, the complainant turned to him again and asked him to return the money because the union threatened him with physical harm. The respondent, however, maintained his lack of involvement in their transaction. Still, the complainant insisted and even threatened he would cause him misery and pain should he not return the money. Offended by the *innuendo* of collusion in the complainant's language, the respondent yelled at him and told him, "*Ano bang malaking kasalanan ko para takutin mo ako ng ganyan?*" before he hang up the phone. He never heard from the complainant thereafter. Then, on December 18, 2007, he was surprised to receive a copy of the complaint for disbarment filed by the complainant against him.[17]

In the Report and Recommendation[18] of the IBP-CBD dated September 30, 2008, the Investigating Commissioner recommended for the dismissal of the complaint, holding that there is no proof that the respondent received money from the complainant.[19] The report reads, as follows:

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14 Id. at 97-98.
15 Id. at 98.
16 Id.
17 Id. at 99.
18 Id. at 148-152.
19 Id. at 152.

> The case is dismissible.
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> There is no proof that respondent Reynaldo Abdon received any amount of money from complainant Raul Francia.
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> While it is true that respondent Reynaldo Abdon admitted that he introduced the complainant to Jaime Vistan, there is no proof that the respondent received any money from the complainant Raul Francia or from Jaime Vistan.
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> The attached Annex "A" of the complaint is of no moment. As pointed out by the respondent it is easy to manipulate and fabricate text messages. That complainant could have bought the said SIM card bearing the said telephone number and texted his other cellphone numbers to make it appear that such text messages came from the cellphone of the respondent. Those text messages are not reliable as evidence.
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> WHEREFORE, premises considered, it is most respectfully recommended that the instant complaint be dismissed for lack of merit.[20]

Upon review of the case, the IBP Board of Governors issued Resolution No. XVIII-2008-545,[21] reversing the recommendation of the Investigating Commissioner, disposing thus:

> RESOLVED TO REVERSE as it is hereby REVERSED, the Report and Recommendation of the Investigating Commissioner, and APPROVE the **SUSPENSION** from the practice of law for one (1) year of Atty. Reynaldo V. Abdon and to Return the Amount of Two Hundred Fifty Thousand Pesos ([□]250,000.00) within thirty (30) days from receipt of notice.[22]

On February 23, 2009, the respondent filed a Motion for Reconsideration[23] but the IBP Board of Governors denied the same in its Resolution No. XX-2013-55,[24] which reads:

> RESOLVED to unanimously DENY Respondent's Motion for Reconsideration there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XVIII-2008-545 dated November 20, 2008 is hereby **AFFIRMED**.[25]

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20 Id.
21 Id. at 147.
22 Id.
23 Id. at 120-126.
24 Id. at 146.
25 Id.

The case is now before this Court for confirmation.

"It is well to remember that in disbarment proceedings, the burden of proof rests upon the complainant. For the Court to exercise its disciplinary powers, the case against the respondent must be established by convincing and satisfactory proof."[26]

In *Aba v. De Guzman, Jr.*,[27] the Court reiterated that a preponderance of evidence is necessary before a lawyer maybe held administratively liable, to wit:

> Considering the serious consequences of the disbarment or suspension of a member of the Bar, the Court has consistently held that clearly preponderant evidence is necessary to justify the imposition of administrative penalty on a member of the Bar.
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> Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other. It means evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto. Under Section 1 of Rule 133, in determining whether or not there is preponderance of evidence, the court may consider the following: (a) all the facts and circumstances of the case; (b) the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony; (c) the witnesses' interest or want of interest, and also their personal credibility so far as the same may ultimately appear in the trial; and (d) the number of witnesses, although it does not mean that preponderance is necessarily with the greater number.[28] (Citations omitted)

In the absence of preponderant evidence, the presumption of innocence of the lawyer subsists and the complaint against him must be dismissed.[29]

After a careful review of the facts and circumstances of the case, the Court finds that the evidence submitted by the complainant fell short of the required quantum of proof. Aside from bare allegations, no evidence was presented to convincingly establish that the respondent engaged in unlawful and dishonest conduct, particularly in extortion and influence-peddling.

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26 *Villatuya v. Tabalingcos*, A.C. No. 6622, July 10, 2012, 676 SCRA 37, 51, citing *Aba v. De Guzman, Jr.*, A.C. No. 7649, December 14, 2011, 662 SCRA 361, 371.

27 A.C. No. 7649, December 14, 2011, 662 SCRA 361.

28 Id. at 372.

29 *Rodica v. Lazaro*, A.C. No. 9259, August 23, 2012, 679 SCRA 1, 10.

Firstly, the transcript of the alleged exchange of text messages between the complainant and the respondent cannot be admitted in evidence since the same was not authenticated in accordance with A.M. No. 01-7-01-SC, pertaining to the Rules on Electronic Evidence. Without proper authentication, the text messages presented by the complainant have no evidentiary value.

The Court cannot also give credence to the affidavits of Pena and Demillo which, on close examination, do not prove anything about the alleged transaction between the complainant and the respondent. In his affidavit, Pena, an officer of AGLO, the organization assisting the union members of NEECO III, alleged:

> THAT, sometime in the first week of November 2006, the former workers and employees of NEECO III informed me of their desire to engage the services of a third party to help facilitate the expeditious release of a favorable decision from the Court of Appeals in CA-GR SP No. 96096, and that they already contacted a friend of mine, Mr. Raul Francia, who knows somebody who can help us work on the CA case;
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> THAT, in succeeding separate meetings with Mr. Francia, he intimated to me on various occasions that he had contracted a certain Atty. Reynaldo V. Abdon, a labor arbiter based in San Fernando, Pampanga to facilitate the expeditious release of a favorable decision from the Court of Appeals;
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> THAT, I gathered from Mr. Francia and based on the information given to me by the former workers and employees of NEECO III, Labor Arbiter Abdon asked for [□]1 [M]illion to cover the amount to be given to the justices of the Court of Appeals handling the case and facilitation and mobilization fees;
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> THAT, sometime towards the end of the first week of December, the former workers and employees of NEECO III met with Mr. Francia at our office. They handed to him [□]350,000[.00] as downpayment for the [□]1 [M]illion being demanded by Mr. Abdon, the balance of which would have been payable on a later agreed period;
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> THAT, the [□]350,000[.00] was sourced by the former workers and employees of NEECO III from their personal contributions; and
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> THAT, soon after the meeting with the former workers and employees of NEECO III, Mr. Francia left to meet with Labor Arbiter Abdon to deliver the money[.][30]

It is clear from the foregoing that Pena never had the opportunity to meet the respondent. He never knew the respondent and did not actually see him receiving the money that the union members raised as facilitation fee. His statement does not prove at all that the alleged illegal deal transpired

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30 *Rollo*, p. 57.

between the complainant and the respondent. If at all, it only proved that the union members made contributions to raise the amount of money required as facilitation fee and that they gave it to the complainant for supposed delivery to the respondent. However, whether the money was actually delivered to the respondent was not known to Pena.

The same observation holds true with respect to the affidavit of Demillo, an acquaintance of the complainant, who claims to have witnessed the transaction between the parties at the Makati Cinema Square. She alleged that she saw the complainant handing a bulging brown *supot* to an unidentified man while the two were at the open dining space of a café. Upon seeing the complainant again, she learned that the person he was talking to at the café was the respondent LA.[31]

Demillo's affidavit, however, does not prove any relevant fact that will establish the respondent's culpability. To begin with, it was not established with certainty that the person whom she saw talking with the complainant was the respondent. Even assuming that respondent's identity was established, Demillo could not have known about the complainant and respondent's business by simply glancing at them while she was on her way to the supermarket to run some errands. That she allegedly saw the complainant handing the respondent a bulging brown *supot* hardly proves any illegal transaction especially that she does not have knowledge about what may have been contained in the said bag.

The complainant miserably failed to substantiate his claims with preponderant evidence. Surely, he cannot prove the respondent's culpability by merely presenting equivocal statements of some individuals or relying on plain gestures that are capable of stirring the imagination. Considering the lasting effect of the imposition of the penalty of suspension or disbarment on a lawyer's professional standing, this Court cannot allow that the respondent be held liable for misconduct on the basis of surmises and imagined possibilities. A mere suspicion cannot substitute for the convincing and satisfactory proof required to justify the suspension or disbarment of a lawyer.

In *Alitagtag v. Atty. Garcia*,[32] the Court emphasized, thus:

> Indeed, the power to disbar must be exercised with great caution, and may be imposed only in a clear case of misconduct that seriously affects the standing and the character of the lawyer as an officer of the Court and as a member of the bar. Disbarment should never be decreed where any lesser penalty could accomplish the end desired. Without doubt, a violation of the high moral standards of the legal profession

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31 Id. at 93-94.

32 451 Phil. 420 (2003).

> justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair.[33] (Citations omitted)

The respondent, however, is not entirely faultless. He has, nonetheless, engendered the suspicion that he is engaged in an illegal deal when he introduced the complainant to Vistan, who was the one who allegedly demanded □1,000,000.00 in facilitation fee from the union members. The records bear out that the complainant, at the outset, made clear his intention to seek the respondent's assistance in following up the union's case in the CA. The respondent, however, instead of promptly declining the favor sought in order to avoid any appearance of impropriety, even volunteered to introduce the complainant to Vistan, a former client who allegedly won a case in the CA in August 2006. It later turned out that Vistan represented to the complainant that he has the capacity to facilitate the favorable resolution of cases and does this for a fee. This fact was made known to him by Vistan himself during a telephone conversation when the latter told him he was given □350,000.00 as facilitation fee.[34] His connection with Vistan was the reason why the complainant had suspected that he was in connivance with him and that he got a portion of the loot. His gesture of introducing the complainant to Vistan precipitated the idea that what the latter asked of him was with his approval. It registered a mistaken impression on the complainant that his case can be expeditiously resolved by resorting to extraneous means or channels. Thus, while the respondent may not have received money from the complainant, the fact is that he has made himself instrumental to Vistan's illegal activity. In doing so, he has exposed the legal profession to undeserved condemnation and invited suspicion on the integrity of the judiciary for which he must be imposed with a disciplinary sanction.

Canon 7 of the Code of Professional Responsibility mandates that a "lawyer shall at all times uphold the integrity and dignity of the legal profession." For, the strength of the legal profession lies in the dignity and integrity of its members.[35] It is every lawyer's duty to maintain the high regard to the profession by staying true to his oath and keeping his actions beyond reproach.

Also, the respondent, as a member of the legal profession, has a further responsibility to safeguard the dignity of the courts which the public perceives as the bastion of justice. He must at all times keep its good name untarnished and not be instrumental to its disrepute. In *Berbano v. Atty.*

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33 Id. at 426.
34 *Rollo*, p. 98.
35 *Tahaw v. Atty. Vitan*, 484 Phil. 1, 8 (2004).

Barcelona,[36] the Court reiterated the bounden duty of lawyers to keep the reputation of the courts unscathed, thus:

> A lawyer is an officer of the courts; he is, "like the court itself, an instrument or agency to advance the ends of justice.["] [x x x] His duty is to uphold the dignity and authority of the courts to which he owes fidelity, ["]not to promote distrust in the administration of justice." [x x x] Faith in the courts a lawyer should seek to preserve. For, to undermine the judicial edifice "is disastrous to the continuity of the government and to the attainment of the liberties of the people." [x x x] Thus has it been said of a lawyer that "[a]s an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice."[37]

A strong and independent judiciary is one of the key elements in the orderly administration of justice. It holds a revered status in the society as the public perceives it as the authority of what is proper and just, and abides by its pronouncements. Thus, it must keep its integrity inviolable and this entails that the members of the judiciary be extremely circumspect in their actions, whether in their public or personal dealings. Nonetheless, the duty to safeguard the good name of the judiciary is similarly required from all the members of the legal profession. The respondent, however, compromised the integrity of the judiciary by his association with a scoundrel who earns a living by dishonoring the court and maliciously imputing corrupt motives on its members.

The Court reiterates its directive to the members of the Bar to be mindful of the sheer responsibilities that attach to their profession. They must maintain high standards of legal proficiency, as well as morality including honesty, integrity and fair dealing. For, they are at all times subject to the scrutinizing eye of public opinion and community approbation. Needless to state, those whose conduct – both public and private – fails this scrutiny would have to be disciplined and, after appropriate proceedings, penalized accordingly.[38]

WHEREFORE, for having committed an act which compromised the public's trust in the justice system, Atty. Reynaldo V. Abdon is hereby **SUSPENDED** from the practice of law for a period of **ONE (1) MONTH** effective upon receipt of this Decision, with a **STERN WARNING** that a repetition of the same or similar act in the future shall be dealt with severely.

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36 457 Phil. 331 (2003).

37 Id. at 345, citing *Surigao Mineral Reservation Board v. Hon. Cloribel*, 142 Phil. 1, 15-16 (1970).

38 *Tapucar v. Atty. Tapucar*, 355 Phil. 66, 73 (1998).

Let copies of this Decision be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator which shall circulate the same in all courts in the country, and attached to the personal records of Atty. Reynaldo V. Abdon in the Office of the Bar Confidant.

SO ORDERED.

BIENVENIDO L. REYES
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

TERESITA J. LEONARDO-DE CASTRO
Associate Justice

LUCAS P. BERSAMIN
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice