



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

MisPOC Batt
MISAEAL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

OCT 31 2019
SUPREME COURT OF THE PHILIPPINES
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HERNANDO PETELO,
Complainant,

A.C. No. 10408

Present:

versus

PERALTA, J.,
Chairperson,
LEONEN,*
REYES, A. JR.,
HERNANDO, and
INTING, JJ.

Promulgated:

ATTY. SOCRATES RIVERA,
Respondent.

October 16, 2019

MisPOC Batt

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DECISION

HERNANDO, J.:

This administrative complaint stemmed from the alleged unauthorized filing by respondent Atty. Socrates Rivera (Atty. Rivera) of a Complaint¹ for *Declaration of Nullity of Real Estate Mortgage, Promissory Note, Certificate of Sale and Foreclosure Proceedings in Connection with TCT No. 455311 with Damages* before the Regional Trial Court (RTC) of Makati City, Branch 150, captioned as *Fe Mojica Petelo, represented by her Attorney-in-Fact Hernando M. Petelo, plaintiff, versus Emmer² Bartolome Ramirez, World Partners Bank, and as Necessary Parties, the Register of Deeds, Makati City and the Assessor's Office, Makati City, defendants*, and docketed thereat as Civil Case No. 13-580.

* On official leave.

¹ *Rollo*, pp. 9-22.

² Also spelled as Emerr in some parts of the records.

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In the said Complaint, there was a declaration that Fe Mojica Petelo (Fe), thru her Attorney-in-Fact, Hernando Petelo (Petelo), engaged the legal services of Atty. Rivera and that Petelo himself caused the preparation of the Complaint.³

Upon discovery of the pendency of the Complaint, Petelo filed on March 31, 2014 a Petition before this Court praying for the disbarment, suspension, or imposition of any disciplinary action against respondent Atty. Rivera for alleged commission of acts constituting malpractice of law, misconduct, and violation of the Code of Professional Responsibility. Petelo narrated that sometime in 2011, his sister, Fe, who was based in the United States of America, designated him as Attorney-in-Fact to enter into a Joint Venture Agreement with Red Dragon Builders Corporation for the construction of a townhouse on the lot owned by Fe, located at Brgy. Palanan, Makati City and covered by Transfer Certificate of Title (TCT) No. 455711. Complainant claimed that Jessie and Fatima Manalansan,⁴ the owners of Red Dragon Builders Corporation, inveigled him into surrendering to them the original copy of TCT No. 455711 which they eventually used as collateral for the Php8 million loan they contracted with World Partners Bank without the knowledge and consent of Petelo. According to Petelo, the Spouses Manalansan superimposed the name of a certain Emmer B. Ramirez to make it appear that he was the duly constituted attorney-in-fact of Fe in the Special Power of Attorney instead of Petelo. When the Spouses Manalansan failed to pay the monthly amortizations, World Partners Bank instituted foreclosure proceedings against the mortgage. During the auction sale, World Partners Bank emerged as the highest bidder and was issued a certificate of sale over TCT No. 455711.

When Petelo got wind of the foregoing transactions, he instructed his daughter to secure a certified true copy of TCT No. 455711 from the Register of Deeds of Makati City. To his surprise, he learned that an entry of *lis pendens* pertaining to Civil Case No. 13-580 for *Declaration of Nullity of Real Estate Mortgage, Promissory Note, Certificate of Sale and Foreclosure Proceedings in Connection with TCT No. 455311 with Damages* before the Regional Trial Court of Makati City, Branch 150, was annotated at the back of the title. Upon further investigation with the RTC, Petelo found out that the civil complaint was filed by respondent Atty. Rivera purportedly on Petelo's and Fe's behalf.

Since he never engaged the services of Atty. Rivera, Petelo wrote the latter a letter⁵ seeking clarification/explanation as to how his services was engaged, but the same went unheeded. Consequently, and in order to draw out Atty. Rivera, Petelo filed a Manifestation⁶ with the RTC of Makati City stating that neither he nor his sister Fe authorized Atty. Rivera to file the aforementioned case. However, Petelo's ploy to draw out respondent Atty.

³ *Rollo*, pp. 13-15.

⁴ Manansala in some parts of the records.

⁵ *Rollo*, p. 17.

⁶ *Id.* at 18-19.

Rivera was unsuccessful because the latter did not attend the hearing on Petelo's Manifestation before the RTC. Bothered by the turn of events, Petelo filed the instant administrative complaint charging Atty. Rivera with negligence in the performance of his duties as a lawyer, because he did not verify the identity of the person he was dealing with prior to the filing of the civil suit. Also, Petelo posited that if Atty. Rivera was in good faith, he should have responded to Petelo's letter and attended the hearing on the manifestation before the RTC. In fine, Petelo asserted that Atty. Rivera engaged in unlawful, dishonest and deceitful conduct in violation of the Code of Professional Responsibility.

By Resolution⁷ dated April 21, 2014, the Court required Atty. Rivera to file his Comment on the complaint. Citing his busy schedule and other similar urgent pleadings to prepare, Atty. Rivera moved for additional period of time within which to submit his comment.⁸

However, when Atty. Rivera eventually submitted his Comments, We noticed that he committed a number of legal somersaults equivalent to the number of comments he submitted. Stated otherwise, Atty. Rivera presented a different version each time he submitted a comment. For example, in his Comment⁹ dated July 31, 2014 filed before the Court, Atty. Rivera narrated that during the first week of May 2013, a person representing himself to be Hernando Petelo sought to engage his legal services regarding the filing of the civil suit. In effect, Atty. Rivera admitted authorship of the Complaint filed before the RTC of Makati City, which a certain Hernando Petelo supposedly caused to be prepared and filed thereat. However, even after being informed that it was not the real Petelo who caused the preparation and the filing of the Complaint, Atty. Rivera still saw nothing wrong in what he did and even prayed for the dismissal of the administrative complaint for lack of merit. Incidentally, he also informed the Court that the RTC of Makati City already dismissed Civil Case No. 13-580 on the ground of lack of jurisdiction over the matter. Indeed, in its Order¹⁰ dated May 23, 2014, the RTC of Makati City ordered the dismissal of the complaint, it being deemed not filed by the proper party in interest. Moreover, the RTC of Makati City held that "[i]t appearing that the lawyer who signed the complaint was not authorized by the real Hernando Petelo, the alleged Attorney-in-Fact of Fe Mojica Petelo who disowned knowing him, then, it can be safely concluded that the lawyer who signed the pleading violated Section 3, Rule 7 of the Rules of Court."¹¹

On August 18, 2014, the Court required Petelo to file a Reply to respondent's Comment.¹² The Court, however, dispensed with the filing of the Reply by Resolution¹³ dated July 4, 2016. At the same time, the Court

⁷ *Id.* at 23.

⁸ *Id.* at 24-31.

⁹ *Id.* at 33-37.

¹⁰ *Id.* at 38-40; per Judge Elmo M. Alameda.

¹¹ *Id.* at 39.

¹² *Id.* at 45.

¹³ *Id.* at 49.

referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. Thereafter, the Investigating Commissioner scheduled the case for mandatory conference/hearing¹⁴ and, likewise, required Atty. Rivera to file his Answer.

In compliance with the Order¹⁵ of the Investigating Commissioner, Atty. Rivera filed a Comment.¹⁶ Perhaps forgetting that he had earlier admitted having filed the complaint in behalf of Petelo, Atty. Rivera this time presented a totally different version. He vehemently denied any participation in the preparation and the filing of the complaint. He even disowned the signatures affixed therein and even went to the extent of having them labelled as forgeries; he also alleged that he never attended any of the hearings in the said case.

Thereafter, the parties submitted their respective Position Papers. In his Position Paper, Petelo pointed out that during one of the scheduled mandatory conferences before the Investigating Commissioner, Atty. Rivera made the following admission: “that he learned about the case thru a disbarred lawyer, Bede Tabalingcos,¹⁷ with whom he had previous collaborations; that his details were still being used by Tabalingcos’ office because before, he allowed them to sign for him on ‘minor’ pleadings.”¹⁸ When asked by the Investigating Commissioner on how he came to know about the case, he said that he received a call from Tabalingcos’ office. During the same hearing, petitioner admitted that he remained in contact with the office of Tabalingcos and that said office have been using his signature/details without his authority.”¹⁹

In his yet another Comment²⁰ dated June 23, 2014 filed before the IBP, and again forgetting his protestation on non-participation in the preparation and filing of the complaint, Atty. Rivera reversed himself and reverted to his earliest version wherein he admitted that he was the one who filed the civil complaint.²¹ Nonetheless, he disavowed having committed any unethical conduct, and thus moved for the dismissal of the administrative complaint.²² Atty. Rivera, however, again executed another turnabout by changing his theory in his Position Paper²³ when he denied any hand in the filing of the complaint before the RTC of Makati City and claimed that the signatures therein were forgeries.

On May 17, 2019, the Investigating Commissioner submitted his Report with recommendation that Atty. Rivera be suspended from the practice

¹⁴ *Id.* at 51.

¹⁵ *Id.* at 58.

¹⁶ *Id.* at 59-60.

¹⁷ *Id.* at 71.

¹⁸ *Id.* at 72.

¹⁹ *Id.* at 72.

²⁰ *Id.* at 125-129.

²¹ *Id.* at 126.

²² *Id.* at 127.

²³ *Id.* at 131-136 at 131-132.

of law for **at least** one (1) year. The Investigating Commissioner gave credence to the version of Petelo finding the same in accord with normal human experience and straightforward, while he found the version of Atty. Rivera to have failed the test of factual consistency, common sense and logic. The Investigating Commissioner noted the tendency of Atty. Rivera to shift versions of his factual narrations, particularly with regard to whether he had a hand in the filing of the complaint or not. In the end, the Investigating Commissioner concluded that the submissions of Atty. Rivera were “factually implausible if not outrightly erroneous.”²⁴ He opined that “[t]here is no need to belabor the obvious, [that is,]the unauthorized filing of a Civil Complaint and effecting a Notice of *Lis Pendens* for and in behalf of a party is an act which constitutes, at the very least, dishonest and deceitful conduct and at the same time an act intended to mislead a court of law.”²⁵ The defense of Atty. Rivera that the filing of the complaint and the affixing of his “signatures” therein might have been orchestrated by the staff of disbarred lawyer Bede Tabalingcos was given short shrift because it would not serve to exculpate Atty. Rivera; on the contrary, if given credence, it would even constitute unauthorized practice of law proscribed under Canon 9, Rule 9.01 of the Code of Professional Responsibility.²⁶ The Board of Governors (BOG) of the IBP, in its Resolution²⁷ dated June 29, 2018 resolved to adopt the findings of the Investigating Commissioner with modification that Atty. Rivera must be meted the penalty of suspension from the practice of law for **a period** of one (1) year with a stern warning that repetition of a similar act would be dealt with more severely.

Our Ruling

We adopt the findings and recommendation of the IBP there being reasonable grounds to hold him administratively liable. Indeed, Atty. Rivera’s flip-flopping version deserves no credence at all. What is apparent in his narration is that he was indeed the one who filed the subject civil suit by allowing somebody to use his signature and other details in the preparation of pleadings and filing the same before the court. As correctly pointed out by Petelo, Atty. Rivera’s act of allowing persons other than himself to use his signature in signing papers and pleadings, in effect, allowed non-lawyers to practice law. Worse, he failed to display or even manifest any zeal or eagerness to unearth the truth behind the events which led to his involvement in the filing of the unauthorized civil suit, much less to rectify the situation. Although he claimed that the signatures were forgeries, there was nary a display of willingness on his part to pursue any legal action against the alleged forgers. On the contrary, he openly admitted his association with a disbarred lawyer and their ongoing agreement to allow the latter to use his signature and “details” in the preparation of pleadings. By so doing, Atty. Rivera not only willingly allowed a non-lawyer to practice law; worse, he allowed one to

²⁴ *Id.* at 149.

²⁵ *Id.* at 151.

²⁶ *Id.* at 151.

²⁷ *Id.* at 142.

continue to practice law notwithstanding that this Court already stripped him of his license to practice law.

Clearly, the foregoing acts of Atty. Rivera constituted violations of the Code of Professional Responsibility, particularly Rule 9.01, Canon 9, Rule 1.10, Canon 1 and Rule 10.01, Canon 10, which read:

Rule 9.01, Canon 9: A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.

Rule 1.10, Canon 1: A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 10.01, Canon 10: A lawyer shall not do any falsehood, nor consent to the doing of any in court; now shall he mislead, or allow the Court to be misled by any artifice.

It bears to stress at this juncture that membership to the Bar has always been jealously guarded such that only those who have successfully hurdled the stringent examinations, possessed and maintained the required qualifications are allowed to enjoy the privileges appurtenant to the title. Thus, it has been said that “[t]he title of ‘attorney’ is reserved to those who, having obtained the necessary degree in the study of law and successfully taken the Bar Examinations, have been admitted to the Integrated Bar of the Philippines and remain members thereof in good standing; and it is they only who are authorized to practice law in this jurisdiction.”²⁸ “The practice of law is a privilege burdened with conditions and is reserved only for those who meet the twin standards of legal proficiency and morality. It is so delicately imbued with public interest that it is both a power and a duty of this Court to control and regulate it in order to protect and promote the public welfare.”²⁹ However, Atty. Rivera abused the privilege that is only personal to him when he allowed another who has no license to practice law, to sign pleadings and to file a suit before the court using his signature and “details.” By allowing a non-lawyer to sign and submit pleadings before the court, Atty. Rivera made a mockery of the law practice which is deeply imbued with public interest; he totally ignored the fact that his act of filing a suit will have a corresponding impact and effect on the society, particularly on the life and property rights of the person or persons he wittingly involved in the litigation, in this case, Fe and Petelo. Atty. Rivera’s cavalier act of allowing someone to use to his signature and his “details” in the complaint have concomitant and significant effects on the property rights of Fe and Petelo. Our pronouncement in *Republic v. Kenrick Development Corporation*³⁰ is relevant:

Contrary to respondent's position, a signed pleading is one that is signed either by the party himself or his counsel. Section 3, Rule 7 is clear on this matter. It requires that a pleading must be signed by the party or counsel representing him.

²⁸ *Alawi v. Alauya*, 335 Phil. 1096, 1106 (1997).

²⁹ *Pantanosas Jr. v. Pamatong*, 787 Phil. 86, 88 (2016).

³⁰ 529 Phil. 876, 883-886 (2006).

Therefore, only the signature of either the party himself or his counsel operates to validly convert a pleading from one that is unsigned to one that is signed.

Counsel's authority and duty to sign a pleading are personal to him. He may not delegate it to just any person.

The signature of counsel constitutes an assurance by him that he has read the pleading; that, to the best of his knowledge, information and belief, there is a good ground to support it; and that it is not interposed for delay. Under the Rules of Court, it is counsel alone, by affixing his signature, who can certify to these matters.

The preparation and signing of a pleading constitute legal work involving practice of law which is reserved exclusively for the members of the legal profession. Counsel may delegate the signing of a pleading to another lawyer but cannot do so in favor of one who is not. The Code of Professional Responsibility provides:

Rule 9.01 — A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.

Moreover, a signature by agents of a lawyer amounts to signing by unqualified persons, something the law strongly proscribes.

Therefore, the blanket authority respondent claims Atty. Garlitos entrusted to just anyone was void. Any act taken pursuant to that authority was likewise void. There was no way it could have been cured or ratified by Atty. Garlitos' subsequent acts.

Moreover, the transcript of the November 26, 1998 Senate hearing shows that Atty. Garlitos consented to the signing of the answer by another "as long as it conformed to his draft." We give no value whatsoever to such self-serving statement.

No doubt, Atty. Garlitos could not have validly given blanket authority for just anyone to sign the answer. The trial court correctly ruled that respondent's answer was invalid and of no legal effect as it was an unsigned pleading. Respondent was properly declared in default and the Republic was rightly allowed to present evidence *ex parte*.

Respondent insists on the liberal application of the rules. It maintains that even if it were true that its answer was supposedly an unsigned pleading, the defect was a mere technicality that could be set aside.

Procedural requirements which have often been disparagingly labeled as mere technicalities have their own valid *raison d'etre* in the orderly administration of justice. To summarily brush them aside may result in arbitrariness and injustice.

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As a final note, the Court cannot close its eyes to the acts committed by Atty. Garlitos in violation of the ethics of the legal profession. Thus, he should be made to account for his possible misconduct.

There is, thus, no question in our mind that by delegating to someone else the work that is reserved only for lawyers, Atty. Rivera violated Rule 9.01

of Canon 9 of the Code of Professional Responsibility. In addition, the actuations of Atty. Rivera tended to mislead the Court. Indeed, the RTC of Makati City was misled into believing that the complaint was filed by the real party-in-interest and that Atty. Rivera was duly authorized to file the same. As it turned out, the RTC eventually dismissed the complaint after it was established thru the Manifestation filed by Petelo that it was filed not by the real party-in-interest or by the duly authorized representative. Atty. Rivera, thus, in violation of Rule 10.01, Canon 10, committed a falsehood, or consented to the doing of any in court; he not only misled the RTC but likewise wasted its precious time and resources.

Atty. Rivera must be reminded that “[t]he practice of law is not a natural, absolute or constitutional right to be granted to everyone who demands it. Rather, it is a high personal privilege limited to citizens of good moral character, with special educational qualifications, duly ascertained and certified.”³¹ Being a personal privilege, Atty. Rivera cannot simply consent to anyone using his signature and other bar details. Atty. Rivera did not have the authority to bestow license to anybody to practice law because by doing so, he usurped the right and authority that is exclusively vested upon this Court. The authority to allow somebody to practice law and to closely scrutinize the fitness and qualifications of any law practitioner remains with this Court; and Atty. Rivera has no right whatsoever to exercise the same. To emphasize, “the right to practice law is not a natural or constitutional right but is in the nature of a privilege or franchise. It is limited to persons of good moral character with special qualifications duly ascertained and certified. The right does not only presuppose in its possessor integrity, legal standing and attainment, but also the exercise of a special privilege, highly personal and partaking of the nature of a public trust.”³²

Finally, we find the recommendation of the IBP to suspend Atty. Rivera from the practice of law for a period of one (1) year warranted by the circumstances of the case. In *Tapay v. Bancolo*,³³ the Court similarly imposed the penalty of suspension of one (1) year to the respondent-lawyer therein who was found to have authorized or delegated to his secretary the signing of the pleadings for filing before the courts.

ACCORDINGLY, We find respondent Atty. Socrates Rivera administratively liable for violating Rule 1.01, Canon 1, Rule 9.01 of Canon 9, and Rule 10.01, Canon 10, of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for one (1) year effective upon finality of this Decision with a stern warning that a repetition of the same or similar acts shall be dealt with more severely.

Let a copy of this Decision be attached to respondent Atty. Socrates Rivera’s record in this Court as attorney. Further, let copies of this Decision


³¹ *In the Matter of the Admission to the Bar of Argosino*, 316 Phil. 43, 46 (1995).

³² *People v. Santocildes, Jr.*, 378 Phil. 943 (1999).

³³ 707 Phil. 1 (2013).

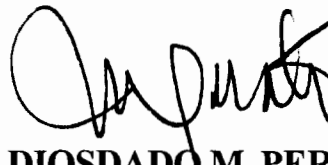
be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

SO ORDERED.



RAMON PAUL L. HERNANDO
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice
Chairperson

On official leave
MARVIC M. V. F. LEONEN
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice

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