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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

RANDY N. SEGURA,
Complainant,

A.C. No. 9837

Present:

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

- versus -

PROSECUTOR MARILOU R.
GARACHICO-FABILA,
Respondent.

Promulgated:

September 2, 2019
Mis-DCBatt

X-----X

DECISION

INTING, J.:

Before the Court is an administrative complaint¹ filed by complainant Randy N. Segura against respondent Associate Prosecution Attorney Marilou R. Garachico-Fabila, charging the latter with violation of the Lawyer's Oath and Canon 6.01 of the Code of Professional Responsibility.

The antecedents are as follows:

Complainant alleged that in March 2008, his wife, Maria Erna A. Segura (Erna), filed a complaint against him for violation of Section 5(e)(2) and (4) of Republic Act (R.A.) No. 9262,² otherwise known as the "Anti-

* On official leave.

¹ *Rollo*, pp. 1-4.

² Section 5(e)(2) Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support; x x x (4) Preventing the woman in engaging in any legitimate profession, occupation, business or activity or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties. xxx

Violence Against Women and Their Children Act of 2004,” before the Office of the City Prosecutor of Antipolo City. The complaint was dismissed in a Resolution³ dated June 20, 2008. Dissatisfied, Erna once again filed a complaint against him for violation of Section 5 of R.A. No. 9262 with the Philippine National Police, San Jose, Antique. The complaint was then forwarded to the Office of the Provincial Prosecutor of Antique.

In a Resolution⁴ dated April 13, 2010, respondent found probable cause and recommended the filing of an Information against complainant for violation of Sec. 5(e)(2) of R.A. No. 9262.

In his complaint, complainant ascribed bias to respondent, saying that as early as May 2, 2009, long before he received a subpoena from respondent in March 2010, the latter was already investigating the case by inquiring from his work agency the details of his contract. Complainant likewise imputed partiality on the part of respondent for holding that he did not submit evidence to show that he was providing financial support to his wife and children, when he so did. For complainant, the foregoing actuations constitute a violation of the following:

I) The Lawyer's Oath:

x x x I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will delay no man for money or malice x x x.

II) CANON 6 of the Code of Professional Responsibility:

RULE 6.01 The primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done. The suppression of facts or the concealment of witnesses capable of establishing the innocence of the accused is highly reprehensible and is cause for disciplinary action.

In her Comment,⁵ respondent narrated that the case was initially raffled to Provincial Prosecutor Napoleon Abiera who issued a subpoena addressed to complainant's residence. However, the return of the subpoena stated that complainant could not be found at the indicated address and his whereabouts could not be ascertained. Upon the retirement of Provincial Prosecutor Napoleon Abiera, the case was re-raffled to respondent. Before issuing another subpoena, respondent first ascertained complainant's true address and other circumstances such as his employment as a seafarer with crewing management Vega Manila. Upon inquiry therewith, however, the crewing

³ Id. at 14-15.

⁴ Id. at 72-76.

⁵ Id. at 83-95.

management refused to divulge complainant's last known address. Respondent then addressed the second subpoena to complainant's parents' address.

Respondent denied being biased, saying that complainant was afforded due process. Respondent even tried to locate complainant's whereabouts so he could be served with the second subpoena. Moreover, the evidence submitted by complainant during the preliminary investigation was insufficient to show that he provided financial support to his family.

Upon submission of respondent's Comment, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.⁶

In his Report and Recommendation⁷ dated May 3, 2017, Investigating Commissioner Erwin L. Aguilera recommended the dismissal of the complaint against respondent. The Investigating Commissioner was convinced that the issuance of the second subpoena on complainant was to afford the latter an opportunity to air his side. The Investigating Commissioner held that the public prosecutor has broad discretion to determine whether probable cause exists, and whether the case should be filed in court. He further found that in issuing the April 13, 2010 Resolution,⁸ respondent was merely performing her function as a public prosecutor.

Thus, the Investigating Commissioner recommended as follows:

WHEREFORE, in view of the foregoing, it is hereby recommended that the complaint against Pros. Marilou R. Garachico-Fabila be dismissed.

RESPECTFULLY SUBMITTED.⁹

On June 29, 2018, the IBP Board of Governors issued a Resolution¹⁰ adopting the findings of facts and recommendation of dismissal by the Investigating Commissioner, thus:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner to DISMISS the complaint.

⁶ Resolution dated January 15, 2014, id. at 172.

⁷ Id. at 391-398.

⁸ Supra note 4.

⁹ Id. at 398.

¹⁰ Id. at 390.

From this resolution, no motion for reconsideration or petition for review was filed by either party. Pursuant to Rule 139-B of the Rules of Court, the Notice of Resolution¹¹ dated June 29, 2018 and records of the case were transmitted to the Court.

Ruling of the Court

The Court dismisses the administrative complaint against respondent for lack of jurisdiction.

In the case of *Alicias vs. Atty. Macatangay, et al.*,¹² the Court pronounced that jurisdiction over administrative cases against government lawyers relating to acts committed in the performance of their official functions, lies with the Ombudsman which exercises administrative supervision over them; thus:

Republic Act No. 6770 21 (R.A. No. 6770), otherwise known as “The Ombudsman Act of 1989,” prescribes the jurisdiction of the Office of the Ombudsman. Section 15, paragraph 1 of R.A. No. 6770 provides:

Section 15. Powers, Functions and Duties. — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases.

The 1987 Constitution clothes the Office of the Ombudsman with the administrative disciplinary authority to investigate and prosecute any act or omission of any government official when such act or omission appears to be illegal, unjust, improper, or inefficient. The Office of the Ombudsman is the government agency responsible for enforcing administrative, civil, and criminal liability of government officials “in every case where the evidence warrants in order to promote efficient service by the Government to the people.” In *Samson vs. Restrivera*, the Court ruled that the jurisdiction of the Ombudsman encompasses all kinds of malfeasance, misfeasance, and non-feasance committed by any public officer or employee during his or her tenure. Consequently, acts or omissions of public officials relating to the performance of their functions as government officials are within the administrative disciplinary jurisdiction of the Office of the Ombudsman.

¹¹ Id. at 390.

¹² 803 Phil. 85, 90-92 (2017).

In *Spouses Buffe vs. Secretary Gonzales*, the Court held that the IBP has no jurisdiction over government lawyers who are charged with administrative offenses involving their official duties. In the present case, the allegations in Alicias' complaint against Atty. Macatangay, Atty. Zerna, Atty. Ronquillo, and Atty. Buenaflor, which include their (1) failure to evaluate CSC records; (2) failure to evaluate documentary evidence presented to the CSC; and (3) non-service of CSC Orders and Resolutions, all relate to their misconduct in the discharge of their official duties as government lawyers working in the CSC. Hence, the IBP has no jurisdiction over Alicias' complaint. These are acts or omissions connected with their duties as government lawyers exercising official functions in the CSC and within the administrative disciplinary jurisdiction of their superior or the Office of the Ombudsman. [Emphasis omitted]

In the following recent cases, the Court made a similar ruling, *i.e.*, dismissing the administrative case for lack of jurisdiction. Thus-

In the Resolution dated February 21, 2018, A.C. No. 11920, (*Manuel B. Trovela vs. Maria Benet T. Santos-Madamba, Assistant City Prosecutor of Pasig City; Luther T. Ponpon, Reviewing Prosecutor of Pasig City; Jacinto G. Ang, City Prosecutor of Pasig City; Hon. Leila M. De Lima, Former Secretary, Department of Justice; and Hon. Vitaliano Aguirre II, Current Secretary, Department of Justice*),¹³ the Court stated:

We dismiss the administrative complaint against the respondents for lack of jurisdiction.

X X X X

In his complaint-affidavit, the complainant insists that Assistant City Prosecutor Santos-Madamba, Reviewing Prosecutor Ponpon and City Prosecutor Ang be declared to have gravely abused their discretion in issuing the October 17, 2011 resolution; and that Secretary De Lima and Secretary Aguirre be pronounced guilty of gross neglect in not timely resolving his petition for review. x x x

X X X X

Considering that the acts being complained against undoubtedly arose from the performance or discharge of official duties on the part of respondents Prosecutor Santos-Madamba, Prosecutor Ponpon and City Prosecutor Ang, we declare and hold that the authority to discipline said respondents exclusively pertained to former Secretary Aguirre, their superior; and in the case of Secretary De Lima and Secretary Aguirre, the authority to discipline belonged to the President. In either case, the authority could also pertain to the Office of the Ombudsman, which had disciplinary jurisdiction over them as public officials pursuant to Section 15, paragraph 1, of Republic Act No. 6770 (Ombudsman Act of 1989). The Court should not assert any authority over all

¹³ https://cdasiaonline.com/jurisprudences/66163?s_params=yp4e2K2q9q-EXhCSfakH.

the respondents because their accountability as officials performing or discharging their official duties is always to be differentiated from their accountability as members of the Philippine Bar.

In *Manuel B. Trovela vs. Michael B. Robles, Assistant City Prosecutor; Emmanuel L. Obungen, Prosecutor II; Jacinto G. Ang, City Prosecutor; Claro A. Arellano, Prosecutor General; and Leila M. De Lima, Former Secretary, Department of Justice*,¹⁴ the Court stated:

We dismiss the administrative case against the respondents for lack of jurisdiction.

In his complaint-affidavit, the complainant has posited that Robles, Obungen and Ang committed grave errors of facts and law that require an inquiry into their mental and moral fitness as members of the Bar; and that Arellano and Secretary De Lima be declared guilty of dereliction of duty or gross inexcusable negligence for belatedly resolving his petition for review and motion for reconsideration. x x x

x x x x

The acts complained of undoubtedly arose from the respondents' performance or discharge of official duties as prosecutors of the Department of Justice. Hence, the authority to discipline respondents Robles, Obungen, Ang and Arellano exclusively pertained to their superior, the Secretary of Justice. In the case of Secretary De Lima, the authority to discipline pertained to the President. In either case, the authority may also pertain to the Office of the Ombudsman, which similarly exercises disciplinary jurisdiction over them as public officials pursuant to Section 15, paragraph 1, of Republic Act No. 6770 (Ombudsman Act of 1989). Indeed, the accountability of respondents as officials performing or discharging their official duties as lawyers of the Government is always to be differentiated from their accountability as members of the Philippine Bar. The IBP has no jurisdiction to investigate them as such lawyers.

x x x x

In the Resolution dated April 1, 2019, A.C. No. 10121 (*Nid Anima vs. Prosecutor Katheryn May Penaco-Rojas*),¹⁵ the Court held:

After a careful review of the records of the case, We resolve to dismiss the instant administrative case against Prosecutor Katheryn May Penaco-Rojas for lack of jurisdiction.

In a number of cases, the Court has defined the line between the accountability of government lawyers as members of the bar and as public

¹⁴ https://cdasiaonline.com/jurisprudences/64273?s_params=lawvwVGgRWnYJiuxzef.

¹⁵ https://cdasiaonline.com/jurisprudences/67080?s_params=S-Tv1wEMsfwLsnL3LfqS.

officials. In *Trovela vs. Robles*, the Court has held that the IBP has no jurisdiction to investigate government lawyers charged with administrative offense in the exercise of their official duties and functions. The Court further expounded that the authority to discipline government lawyers is with the Secretary of Justice as their superior.

Moreover, the Office of the Ombudsman is clothed with disciplinary jurisdiction over government lawyers as public officials, pursuant to Section 15, paragraph 1, of Republic Act No. 6770 (Ombudsman Act of 1989). Thus, the filing of the administrative complaint for disbarment should be filed with the Office of the Ombudsman.

As aptly found by the IBP Investigating Commissioner, the charges against the respondent involved her functions as a prosecutor. Considering that the alleged failure to furnish a copy of the resolution to complainant by respondent is an exercise of official function as contemplated under the law, it follows that the act complained of is within the disciplinary jurisdiction of the Office of the Ombudsman.

The case at bar is substantially on all fours with the above-stated cases.

In his complaint, complainant imputes to respondent manifest bias and partiality in the conduct of the preliminary investigation and issuance of the Resolution which recommended the filing of a criminal case against him. The acts complained of arose from respondent's performance or discharge of official duties as a public prosecutor. Hence, the authority to investigate and discipline respondent exclusively pertains to her superior, the Secretary of Justice.¹⁶ The authority may also pertain to the Office of the Ombudsman which similarly exercises disciplinary jurisdiction over public prosecutors as public officials pursuant to Section 15, paragraph 1, of R.A. No. 6770.¹⁷ Indeed, respondent's accountability as an official performing or discharging her official duties is always to be differentiated from her accountability as a member of the Philippine Bar.¹⁸ For this reason, the IBP has no jurisdiction to investigate respondent as such government lawyer.

WHEREFORE, the administrative complaint against respondent is **DISMISSED** for lack of jurisdiction.


¹⁶ See *Manuel B. Trovela vs. Michael B. Robles, Assistant City Prosecutor; Emmanuel L. Obungen, Prosecutor II; Jacinto G. Ang, City Prosecutor; Claro A. Arellano, Prosecutor General; and Leila M. De Lima, Former Secretary, Department of Justice*, supra note 14.

¹⁷ *Id.*


¹⁸ See *Manuel B. Trovela vs. Maria Benet T. Santos-Madamba, Assistant City Prosecutor of Pasig City; Luther T. Ponpon, Reviewing Prosecutor of Pasig City; Jacinto G. Ang, City Prosecutor of Pasig City; Hon. Leila M. De Lima, Former Secretary, Department of Justice; and Hon. Vitaliano Aguierra II, Current Secretary, Department of Justice, Respondents*, supra note 13.

Let a copy of this Decision be furnished the Secretary of Justice for whatever appropriate action the Secretary may wish to take with respect to the complaint against respondent Marilou R. Garachico-Fabila.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson


MARVIC M.V.F. LEONEN
Associate Justice


ANDRES B. REYES, JR.
Associate Justice

(On official leave)
RAMON PAUL L. HERNANDO
Associate Justice