



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **October 1, 2019** which reads as follows:*

“A.C. No. 9376 [Formerly CBD Case No. 13-3816] (CRISTETA M. AGUILAR, Complainant, v. ATTY. FERDINAND M. HIDALGO, ATTY. ARISS N. SANTOS and ATTY. JOEY S. ARCILLA, Respondents.) – We resolve this Complaint¹ filed against respondents Atty. Ferdinand M. Hidalgo, Atty. Ariss N. Santos and Atty. Joey S. Arcilla, for forum shopping in violation of Rules 12.02 and 12.04, Canon 12 of *the Code of Professional Responsibility*.

The Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) summarized the antecedents as follows:

Sometime in 1999, complainant filed a complaint for illegal dismissal against her employer, Siemens, Inc. (“Siemens”). Siemens was represented by the law firm of Siguion Reyna Montecillo & [Ongsiako] (the “Firm”). The complaint was entitled “*Cristeta Aguilar v. Siemens, Inc.*,” and docketed as NLRC NCR Case No. 00-04-04469-99/NLRC NCR CA No. 025686-00.

The Labor Arbiter ruled in favor of Siemens. On appeal, the National Labor Relations Commission (NLRC) reversed the Labor Arbiter’s decision in its Decision dated 24 April 2003 xxxx:

xxxx xxxx xxxx

Siemen’s motion for reconsideration was likewise denied by the NLRC in its Order dated 22 June 2004. Thus, Siemens, through the Firm, filed its petition for certiorari with the Court of Appeals. The petition was entitled “*Siemens, Inc. v. Cristeta Aguilar and the National Labor Relations Commission*,” docketed as CA-G.R. SP No. 85970 (the “First Petition”). The First Petition was dismissed by the Court of Appeals in its Decision dated 14

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¹ *Rollo*, pp. 1-11.

June 2006, and Resolution dated 20 October 2006. In denying the First Petition, the Court of Appeals expressly affirmed the NLRC's Resolution dated 24 April 2003 and Order dated 22 June 2004.

Siemens filed a petition for review with the Supreme Court, entitled "*Siemens, inc. v. Cristeta Aguilar*," docketed as G.R. No. 174924. The Supreme court denied Siemen's petition in its Resolutions dated 18 June 2007 and 10 September 2007, after finding that Siemens failed to sufficiently show that the Court of Appeals committed any reversible error in the challenged decision and resolution.

Meanwhile, during the pendency of the First Petition, the NLRC's Decision dated 24 April 2003 and Order dated 22 June 2004 became final and executory and was entered in the Book of Entries of Judgment. Upon complainant's motion, a writ of execution dated 18 April 2005 was issued by the Labor Arbiter, directing the implementation of the NLRC's Decision dated 24 April 2003 and Order dated 22 June 2004, xxxx:

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Upon the issuance of the writ of execution, Siemens questioned the propriety of complainant's reinstatement and argued that: (a) complainant's former position no longer existed; and (b) the relationship between complainant and Siemens is strained. Siemens eventually filed a petition for *certiorari* with the Court of Appeals, docketed as CA-G.R. SP No. 101764 (the "Second Petition"). The Second Petition was signed by Atty. Hidalgo for the Firm. Atty. Arcilla's Affidavit dated 23 August 2011, which he executed in his capacity as Siemen's General Counsel, was among the documents submitted to the Court of Appeals in the Second Petition.

* Thereafter, upon complainant's motion[,] an alias writ of execution was issued by the Labor Arbiter directing Siemens to: (a) reinstate complainant physically or on payroll during the pendency of the Second Petition; and (b) pay complainant the amount of Php40,500.00 as backwages, subject to the resolution of the Second Petition. Complainant moved for the recomputation of her supposed backwages and alleged that she is entitled to Php648,101.25. In a second alias writ of execution, the Labor Arbiter directed Siemens to pay complainant the amount of Php77,220.00 as backwages.

Complainant elevated the Labor Arbiter's findings with the NLRC. In its Decision dated 26 August 2010 and Resolution dated 29 April 2011, the NLRC granted complainant's appeal and ruled that complainant's right to be reinstated to her former position, and to receive backwages, is already settled by virtue of a final judgment.

Siemens filed a petition for certiorari with the Court of Appeals which was docketed as CA-G.R. No. SP No. 120546 (the "Third Petition"), where it raised the following matters: (a) the impossibility of complainant's reinstatement is supported by law and jurisprudence; and (b) in issuing its Decision dated 26 August 2010 and Resolution dated 29 April 2011, the NLRC gravely abused its discretion and usurped the Court of Appeals' jurisdiction to decide in CA-G.R. SP No. 101764. The Third Petition was signed by Atty. Hidalgo and Atty. Santos.

From these facts, complainant filed a disbarment complaint against the respondents for filing multiple suits involving the same parties supposedly for the same cause of action, *i.e.*, to reverse and set aside NLRC's Decision dated 24 April 2003 and Order dated 22 June 2004. Complainant argued that respondent's acts amount to forum shopping, and were contrary to a lawyer's mandate to delay no man for money or malice.

In their "Comment (Re: Complaint dated 26 February 2012)" dated 5 July 2012 (the "Comment"), respondents argued that the three petitions involved different issues. The First Petition was filed to question the validity of complainant's dismissal. The Second Petition referred to the issue of whether or not the reinstatement decreed by the NLRC may still be implemented despite several changes in the circumstances between the parties. The Third Petition involved the issue of whether the Labor Arbiter's recognition of the pendency of the Second Petition in issuing the alias writ of execution was proper.

Moreover, respondents alleged that the Second and Third Petitions involved execution or enforcement issues, which did not seek to reverse the Supreme Court's final and executory Resolutions dated 18 June 2017 and 10 September 2007 in G.R. No. 174924.²

On January 30, 2013, the Court referred the matter to the IBP to conduct an investigation and thereafter submit its report and recommendation.³

IBP Report and Recommendation

On January 25, 2016, IBP Commissioner Gina H. Mirano-Jesena submitted her report and recommendation⁴ finding the respondents guilty of violating Canons 10 and 12 of the *Code*, and recommended their suspension from the practice of law for a period of

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² Id. at 1322-1324.

³ Id. at 167.

⁴ Id. at 1220-1226.

one (1) year. The IBP Board of Governors adopted the recommendation in its Resolution No. XXII-2016-171 dated February 25, 2016.⁵

The respondents filed a motion for reconsideration,⁶ which the IBP Board of Governors granted thru Resolution No. XXII-2017-785 dated January 27, 2017.⁷

In its Extended Resolution,⁸ the IBP found that the respondents did not resort to forum shopping because the second and third petitions did not seek to modify, alter or reverse the final and executory judgment of the Supreme Court on the first petition; and that the respondents only presented every remedy available under the law to support its client's cause. Accordingly, the IBP recommended as follows:

From the foregoing, the IBP Board of Governors respectfully recommends that the instant case against Atty. Ferdinand M. Hidalgo, Atty. Ariss N. Santos and Atty. Joey S. Arcilla be DISMISSED for lack of merit.⁹

Did the respondents violate Rules 12.02 and 12.04, Canon 12 of *the Code of Professional Responsibility* by resorting to forum shopping?

Ruling

We adopt the findings and recommendation of the IBP.

The essence of forum-shopping is the filing of multiple suits involving the same parties for the same cause of action, either simultaneously or successively, for the purpose of obtaining a favorable judgment. Forum-shopping exists when, as a result of an adverse opinion in one forum, a party seeks a favorable opinion in another, or when he institutes two or more actions or proceedings grounded on the same cause to increase the chances of obtaining a favorable decision.¹⁰

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⁵ Id. at 1218-1219.

⁶ Id. at 1227-1248.

⁷ Id. at 1319-1320.

⁸ Id. at 1420-1428.

⁹ Id. at 1428.

¹⁰ *T'boli Agro-Industrial Development, Inc. v. Solilapsi*, A.C. No. 4766, December 27, 2002, 394 SCRA 269.

In filing the three petitions, the respondents cannot be said to have resorted to forum shopping because the causes of action varied in each of the petitions. The Court shares the following observation of the IBP in its Extended Resolution:

[T]he filing of the Second and Third Petitions did not seek to modify, alter or reverse the final and executory judgment of the Supreme Court regarding the First Petition. Verily, the Supreme Court's determination that complainant was illegally dismissed by Siemens is conclusive. Neither Siemens nor respondents dispute the Supreme Court's determination. Thus, the pendency of the Second and Third Petitions did not create a possibility of conflicting decisions being rendered by different fora upon the issue of complainant's illegal dismissal.

However, the implementation of the Supreme Court's final and executory decision, *i.e.*, complainant's reinstatement, is a different matter. The Supreme Court's decision which essentially adopted NLRC's Decision dated 24 April 2003 does not cover the possibility that complainant cannot be reinstated. In said Decision, Siemens was only directed to "reinstatement complainant to her position without loss of seniority rights and privileges." The Decision did not consider a situation where complainant's former position no longer existed. Thus, the filing of the Second Petition for a proper and final determination of this issue was only proper.

The Third Petition was filed in view of the NLRC's Decision dated 26 August 2010 and Resolution dated 29 April 2011 stating that the issue of reinstatement had already been resolved with finality. Considering that respondents filed the Second Petition precisely to seek a binding judgment on how complainant should be reinstated, respondents are justified in taking measures to prevent the premature determination of the Second Petition by a lower tribunal. Respondent's resort to the Court of Appeals to restrain the implementation of NLRC's Decision dated 26 August 2010 and Resolution dated 29 April 2011 was thus warranted.¹¹

Finding the recommendation of the IBP to be fully supported by the evidence on record and the applicable laws, the Court **RESOLVES** to **DISMISS** the case against Atty. Ferdinand M. Hidalgo, Atty. Ariss N. Santos, and Atty. Joey S. Arcilla, and **DECLARES** the same as **CLOSED** and **TERMINATED**.

The Notice of Resolution dated August 29, 2018 of the Integrated Bar of the Philippines' Board of Governors; the letter dated January 16, 2019 of complainant requesting early resolution of the

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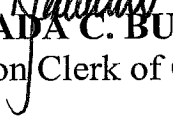
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¹¹ *Rollo*, pp. 1426-1427.

instant administrative case; the Manifestation dated July 9, 2018 of respondents, through counsel, stating that the Decision of the Court of Appeals effectively debunks the claims of complainant; the respondent's manifestation with motion to declare the case closed and terminated dated October 22, 2018 (with enclosures); the respondents' comment/opposition to the motion for extension of time to file petition for review with motion to declare the case closed and terminated, are all **NOTED**; and the complainant's motion for extension of thirty (30) days from April 12, 2019 within which to file a petition for review is **GRANTED**.

SO ORDERED.” *Carandang, J., on official leave.*

Very truly yours,


LIBRADA C. BUENA
Division Clerk of Court
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