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THIRD DIVISION

[A.C. No. 7593. March 11, 2015]

ALVIN S. FELICIANO, *complainant, vs.* **ATTY. CARMELITA BAUTISTA-LOZADA,** *respondent.*

SYLLABUS

1. **LEGAL ETHICS; ATTORNEYS; PRACTICE OF LAW; WHERE THE COURT ORDERS A LAWYER SUSPENDED FROM THE PRACTICE OF LAW, THE LAWYER MUST DESIST FROM PERFORMING ALL FUNCTIONS REQUIRING THE APPLICATION OF LEGAL KNOWLEDGE WITHIN THE PERIOD OF SUSPENSION; PRACTICE OF LAW, DEFINED.—** [T]his Court has the exclusive jurisdiction to regulate the practice of law. When this Court orders a lawyer suspended from the practice of law, as in the instant case, the lawyer must desist from performing all functions requiring the application of legal knowledge within the period of suspension. Suffice it to say that practice of law embraces "any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training and experience." It includes "[performing] acts which are characteristics of the [legal] profession" or "[rendering any kind of] service [which] requires the use in any degree of legal knowledge or skill."

2. **REMEDIAL LAW; RULES OF COURT; DISBARMENT OR SUSPENSION OF ATTORNEYS; WILLFUL DISOBEDIENCE TO A LAWFUL ORDER OF A SUPERIOR COURT; PRACTICE OF LAW WITHIN THE PERIOD OF SUSPENSION, A CASE OF; PENALTY IN CASE AT BAR.—** In the instant case, Atty. Lozada's guilt is undisputed. Based on the records, there is no doubt that Atty. Lozada's actuations, that is, in appearing and signing as counsel for and in behalf of her husband, conducting or offering stipulation/admission of facts, conducting direct and cross-examination, all constitute practice of law. Furthermore, the findings of the IBP would disclose that such actuations of Atty. Lozada of actively engaging in the practice of law in

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June-July 2007 were done within the period of her two (2)-year suspension considering that she was suspended from the practice of law by this Court in May 4, 2006. It would then appear that, at the very least, Atty. Lozada cannot practice law from 2006 to 2008. Thus, it is clear that when Atty. Lozada appeared for and in behalf of her husband in Civil Case No. 101-V-07 and actively participated in the proceedings therein in June-July 2007, or within the two (2)-year suspension, she, therefore, engaged in the unauthorized practice of law. x x x Under Section 27, Rule 138 of the Revised Rules of Court, as amended, willful disobedience to any lawful order of a superior court is a ground for disbarment or suspension from the practice of law x x x. Atty. Lozada would have deserved a harsher penalty, but this Court recognizes the fact that it is part of the Filipino culture that amid an adversity, families will always look out and extend a helping hand to a family member, more so, in this case, to a spouse. Thus, considering that Atty. Lozada's actuation was prompted by her affection to her husband and that in essence, she was not representing a client but rather a spouse, we deem it proper to mitigate the severeness of her penalty. Following the recent case of *Victor C. Lingan v. Atty. Romeo Calubaquib and Jimmy P. Baliga,* citing *Molina v. Atty. Magat,* where this Court suspended further respondents from the practice of law for six (6) months for practicing their profession despite this court's previous order of suspension, we, thus, impose the same penalty on Atty. Lozada for representing her husband as counsel despite lack of authority to practice law.

3. ID.; ID.; DISBARMENT; A PROCEEDING THAT AIMS TO PURGE THE LAW PROFESSION OF UNWORTHY MEMBERS OF THE BAR BUT THE COURT, IN THE EXERCISE OF ITS SOUND JUDICIAL DISCRETION, IS INCLINED TO IMPOSE A LESS SEVERE PUNISHMENT IF, THROUGH IT, THE END DESIRE OF REFORMING THE ERRANT LAWYER IS POSSIBLE.— Disbarment of lawyers is a proceeding that aims to purge the law profession of unworthy members of the bar. It is intended to preserve the nobility and honor of the legal profession. While the Supreme Court has the plenary power to discipline erring lawyers through this kind of proceedings, it does so in the most vigilant manner so as not to frustrate its preservative principle. The Court, in

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the exercise of its sound judicial discretion, is inclined to impose a less severe punishment if, through it, the end desire of reforming the errant lawyer is possible.

D E C I S I O N

PERALTA, *J.*:

Before us is a Petition for Disbarment[1] dated August 2, 2007 filed by Alvin S. Feliciano (*complainant*) against respondent Atty. Carmelita Bautista-Lozada (*Atty. Lozada*) for violation of Section 27,[2] Rule 138 of the Rules of Court.

The facts of the case, as culled from the records, are as follows:

On December 13, 2005, the Court *en banc* promulgated a Resolution in A.C. No. 6656 entitled *"Bobie Rose V. Frias vs. Atty. Carmencita Bautista Lozada"*[3] suspending Atty. Lozada for violation of Rules 15.03 and 16.04 of the Code of Professional Responsibility, the dispositive portion of which reads:

WHEREFORE, respondent Atty. Carmencita Bautista Lozada is hereby found guilty of violating Rules 15.03 and 16.04 of the Code of Professional Responsibility and of willfully disobeying a final and executory decision of the Court of Appeals. She is hereby **SUSPENDED** from the practice of law for a period of two (2) years from notice, with a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely.

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[1] *Rollo*, pp. 1-5.

[2] Section 27. *Attorneys removed or suspended by Supreme Court on what grounds*. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willful appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

[3] *Rollo*, pp. 7-29.

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Let copies of this Resolution be furnished all courts of the land, the Integrated Bar of the Philippines, as well as the Office of the Bar Confidant, for their information and guidance, and let it be entered in respondent's personal records.

SO ORDERED.[4]

On May 4, 2006, the Court denied with finality Atty. Lozada's motion for reconsideration.[5]

However, on June 5, 2007, in an action for injunction with prayer for issuance of a temporary restraining order and/or writ of preliminary injunction docketed as Civil Case no. 101-V-07 entitled "*Edilberto Lozada, et al. vs. Alvin S. Feliciano, et al.,*" where complainant was one of the respondents, complainant lamented that Atty. Lozada appeared as counsel for the plaintiff and her husband, Edilberto Lozada, and actively participated in the proceedings of the case before Branch 75 of the Regional Trial Court of Valenzuela City. To prove his allegation, complainant submitted certified true copies of the minutes of the hearings, dated June 12, 2007, July 3, 2007 and July 6, 2007, wherein Atty. Lozada signed her name as one of the counsels,[6] as well as the transcript of stenographic notes showing that Atty. Lozada conducted direct examination and cross-examination of the witnesses during the trial proceedings.[7]

Complainant argued that the act of Atty. Lozada in appearing as counsel while still suspended from the practice of law constitutes willful disobedience to the resolutions of the Court which suspended her from the practice of law for two (2) years.

On September 12, 2007, the Court resolved to require Atty. Lozada to comment on the complaint against him.[8]

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[4] *Id.* at 27-28. (Emphasis in the original).

[5] *Id.* at 14-29.

[6] *Id.* at 30-38.

[7] *Id.* at 39-322.

[8] *Id.* at 323.

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In her Comment[9] dated November 19, 2007, Atty. Lozada explained that she was forced by circumstances and her desire to defend the rights of her husband who is embroiled in a legal dispute. She claimed that she believed in good faith that her appearance as wife of Edilberto Lozada is not within the prohibition to practice law, considering that she is defending her husband and not a client. She insisted that her husband is a victim of grave injustice, and his reputation and honor are at stake; thus, she has no choice but to give him legal assistance.[10]

On January 30, 2008, the Court referred the instant case to the Integrated Bar of the Philippines for investigation, report and recommendation.[11]

In its Report and Recommendation[12] dated March 9, 2009, the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*) found Atty. Lozada guilty of violating Rule 1.01 & 1.02, Rule 18.01 of the Code of Professional Responsibility and the terms of her suspension from the practice of law as imposed by the Court. Thus, the IBP-CBD recommended the disbarment of Atty. Lozada.

On May 14, 2011, however, the IBP-Board of Governors resolved to adopt and approve with modification the report and recommendation of the IBP-CBD such that it recommended instead that Atty. Lozada be suspended from the practice of law for three (3) months.

RULING

We adopt the ruling of the IBP-Board of Governors with modification.

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[9] *Id.* at 329-335.

[10] *Id*. at 332.

[11] *Id*. at 339.

[12] *Id*. at 772-775.

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Indeed, this Court has the exclusive jurisdiction to regulate the practice of law. When this Court orders a lawyer suspended from the practice of law, as in the instant case, the lawyer must desist from performing all functions requiring the application of legal knowledge within the period of suspension.[13]

Suffice it to say that practice of law embraces "any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training and experience." It includes "[performing] acts which are characteristics of the [legal] profession" or "[rendering any kind of] service [which] requires the use in any degree of legal knowledge or skill."[14]

In the instant case, Atty. Lozada's guilt is undisputed. Based on the records, there is no doubt that Atty. Lozada's actuations, that is, in appearing and signing as counsel for and in behalf of her husband, conducting or offering stipulation/admission of facts, conducting direct and cross-examination, all constitute practice of law. Furthermore, the findings of the IBP would disclose that such actuations of Atty. Lozada of actively engaging in the practice of law in June-July 2007 were done within the period of her two (2)-year suspension considering that she was suspended from the practice of law by this Court in May 4, 2006. It would then appear that, at the very least, Atty. Lozada cannot practice law from 2006 to 2008. Thus, it is clear that when Atty. Lozada appeared for and in behalf of her husband in Civil Case No. 101-V-07 and actively participated in the proceedings therein in June-July 2007, or within the two (2)-year suspension, she, therefore, engaged in the unauthorized practice of law.

Atty. Lozada's defense of good faith fails to convince. She knew very well that at the time she represented her husband, she is still serving her two (2)-year suspension order. Yet, she failed to inform the court about it. Neither did she seek any

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[13] See *Lingan v. Atty. Calubaquib, et al*., A.C. No. 5377, June 30, 2014.

[14] *Id*.

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clearance or clarification from the Court if she can represent her husband. While we understand her devotion and desire to defend her husband whom she believed has suffered grave injustice, Atty. Lozada should not forget that she is first and foremost, an officer of the court who is bound to obey the lawful order of the Court.

Under Section 27, Rule 138 of the Revised Rules of Court, as amended, willful disobedience to any lawful order of a superior court is a ground for disbarment or suspension from the practice of law:

> SEC. 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.* – A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or ***for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority to do so.*** The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.[15]

Atty. Lozada would have deserved a harsher penalty, but this Court recognizes the fact that it is part of the Filipino culture that amid an adversity, families will always look out and extend a helping hand to a family member, more so, in this case, to a spouse. Thus, considering that Atty. Lozada's actuation was prompted by her affection to her husband and that in essence, she was not representing a client but rather a spouse, we deem it proper to mitigate the severeness of her penalty.

Following the recent case of *Victor C. Lingan v. Atty. Romeo Calubaquib and Jimmy P. Baliga,*[16] citing *Molina v. Atty.*

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[15] Emphasis ours.

[16] A.C. No. 5377, June 30, 2014.

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Magat,[17] where this Court suspended further respondents from the practice of law for six (6) months for practicing their profession despite this court's previous order of suspension, we, thus, impose the same penalty on Atty. Lozada for representing her husband as counsel despite lack of authority to practice law.

Disbarment of lawyers is a proceeding that aims to purge the law profession of unworthy members of the bar. It is intended to preserve the nobility and honor of the legal profession. While the Supreme Court has the plenary power to discipline erring lawyers through this kind of proceedings, it does so in the most vigilant manner so as not to frustrate its preservative principle. The Court, in the exercise of its sound judicial discretion, is inclined to impose a less severe punishment if, through it, the end desire of reforming the errant lawyer is possible.[18]

WHEREFORE, premises considered, Atty. Carmelita S. Bautista-Lozada is found **GUILTY** of violating Section 27,[19] Rule 138 of the Rules of Court, and is hereby **SUSPENDED** for a period of six (6) months from the practice of law, with a **WARNING** that a repetition of the same or similar offense will warrant a more severe penalty.

Let copies of this Decision be furnished all courts, the Office of the Bar Confidant and the Integrated Bar of the Philippines for their information and guidance. The Office of the Bar Confidant is **DIRECTED** to append a copy of this Decision to respondent's record as member of the Bar.

Atty. Lozada is **DIRECTED** to inform the Court of the date of her receipt of this Decision, so that we can determine the reckoning point when her suspension shall take effect.

This Decision is immediately executory.

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[17] A.C. No. 1900, June 13, 2012, 672 SCRA I, 7.

[18] *Arma v. Atty. Montevilla*, 581 Phil. 1, 8 (2008).

[19] *Supra* note 2.

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SO ORDERED.

Velasco, Jr. (Chairperson), Villarama, Jr., Reyes, and *Jardeleza, JJ.,* concur.

FIRST DIVISION

[A.C. No. 8261. March 11, 2015]

JESSIE T. CAMPUGAN and ROBERT C. TORRES, *complainants, vs.* **ATTY. FEDERICO S. TOLENTINO, JR., ATTY. RENATO G. CUNANAN, ATTY. DANIEL F. VICTORIO, JR., and ATTY. ELBERT T. QUILALA,** *respondents.*

[A.C. No. 8725. March 11, 2015]

JESSIE T. CAMPUGAN and ROBERT C. TORRES, *complainants, vs.* **ATTY. CONSTANTE P. CALUYA, JR. and ATTY. ELBERT T. QUILALA,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; RULES OF COURT; DISBARMENT OR SUSPENSION OF ATTORNEYS; A LAWYER MAY BE DISCIPLINED WHEN HIS CONDUCT SHOWS HIM TO BE WANTING IN MORAL CHARACTER, HONESTY, PROBITY, AND GOOD DEMEANOR, OR HIS CONDUCT RENDERS HIM UNWORTHY TO CONTINUE AS AN OFFICER OF THE COURT.— Well entrenched in this jurisdiction is the rule that a lawyer may be disciplined for misconduct committed either in his professional or private capacity. The test is whether his conduct shows him to be wanting in moral character, honesty, probity, and good demeanor, or whether his conduct renders him unworthy to continue as an officer of the Court. Verily, Canon 7 of the