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modification the Decision dated 4 November 2003 of the Regional Trial Court of Tarlac City, Branch 64 in Criminal Case No. 12536 is *AFFIRMED*. Appellants Romeo Labagala and Alvin Labagala are found guilty beyond reasonable doubt of robbery with homicide under Article 294 of the Revised Penal Code and sentences them to *reclusion perpetua*. They are further *ORDERED* to jointly and severally pay the heirs of Estrelita Fonte the amounts of ₱50,000.00 as civil indemnity, ₱50,000.00 as moral damages, and ₱25,000.00 as temperate damages.

SO ORDERED.

Corona, C.J. (Chairperson), Velasco, Jr., Leonardo-de Castro, and *Del Castillo, JJ.,* concur.

EN BANC

[A.C. No. 8481. August 3, 2010]
(Formerly B.M. No. 1524)

ATTYS. JOSABETH V. ALONSO and SHALIMAR P. LAZATIN, *complainants, vs.* **ATTY. IBARO B. RELAMIDA, JR.,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; SHALL NOT WITTINGLY OR WILLINGLY PROMOTE OR SUE ANY GROUNDLESS, FALSE OR UNLAWFUL SUIT, NOR GIVE AID OR CONSENT TO THE SAME.— All lawyers must bear in mind that their oaths are neither mere words nor an empty formality. When they take their oath as lawyers, they dedicate their lives to the pursuit of justice. They accept the sacred trust to uphold the laws of the land. As the first Canon of the Code of Professional Responsibility states, "[a] lawyer shall uphold the Constitution, obey the laws of the land and promote respect

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for law and legal processes." Moreover, according to the lawyer's oath they took, lawyers should "not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid or consent to the same."

2. ID.; ID.; A LAWYER OWES FIDELITY TO THE CAUSE OF HIS CLIENT, BUT NOT AT THE EXPENSE OF TRUTH AND ADMINISTRATION OF JUSTICE.— A lawyer owes fidelity to the cause of his client, but not at the expense of truth and the administration of justice. The filing of multiple petitions constitutes abuse of the court's processes and improper conduct that tends to impede, obstruct and degrade the administration of justice and will be punished as contempt of court. Needless to state, the lawyer who files such multiple or repetitious petitions (which obviously delays the execution of a final and executory judgment) subjects himself to disciplinary action for incompetence (for not knowing any better) or for willful violation of his duties as an attorney to act with all good fidelity to the courts, and to maintain only such actions as appear to him to be just and are consistent with truth and honor.

3. ID.; ID.; THE FILING OF ANOTHER ACTION CONCERNING THE SAME SUBJECT MATTER IN VIOLATION OF THE DOCTRINE OF *RES JUDICATA* RUNS CONTRARY TO THE CANONS OF PROFESSIONAL RESPONSIBILITY.— The filing of another action concerning the same subject matter, in violation of the doctrine of *res judicata*, runs contrary to Canon 12 of the Code of Professional Responsibility, which requires a lawyer to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice. By his actuations, respondent also violated Rule 12.02 and Rule 12.04 of the Code, as well as a lawyer's mandate "to delay no man for money or malice." The Court has, time and again, warned lawyers not to resort to forum shopping for this practice clogs the court dockets. Their primary duty is to assist the courts in the administration of justice. Any conduct which tends to delay, impede or obstruct the administration of justice contravenes such lawyer's duty. This we will not tolerate. In cases of similar nature, the penalty imposed by this Court was six (6) months suspension from the practice of law. Thus, consistent with the existing jurisprudence, we find that, in this case, the suspension of six (6) months from practice of law is proper.

4. REMEDIAL LAW; ACTIONS; FORUM SHOPPING; A LAWYER SHOULD KNOW THAT ONCE A CASE IS DECIDED WITH FINALITY, THE CONTROVERSY IS SETTLED AND THE MATTER IS LAID TO REST; THE PREVAILING PARTY IS ENTITLED TO ENJOY THE FRUITS OF HIS VICTORY, WHILE THE OTHER PARTY IS OBLIGED TO RESPECT THE COURT'S VERDICT AND TO COMPLY WITH IT.— It is clear that Atty. Relamida is guilty of forum shopping and violation of the rule on *res judicata*. Atty. Relamida should have refrained from filing the second complaint against Servier. He ought to have known that the previous dismissal was with prejudice, since it had the effect of an adjudication on the merits. He was aware of all the proceedings which the first complaint went through as by his own admission, he participated in the preparation of the pleadings and even signed as counsel of Ebanen occasionally. He knew that the decision in the subject case had already attained finality. Atty. Relamida was well aware that when he filed the second complaint, it involved the same parties and same cause of action, albeit, he justified the same on the ground of nullity of the previous dismissal. His allegation that he was not the original counsel of Ebanen and that his intention was only to protect the rights of his clients whom he believed were not properly addressed in the prior complaint deserves scant consideration. He should know that once a case is decided with finality, the controversy is settled and the matter is laid to rest. The prevailing party is entitled to enjoy the fruits of his victory, while the other party is obliged to respect the court's verdict and to comply with it.

5. ID.; ID.; ID.; ESSENCE OF FORUM SHOPPING.— 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. It 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. An important factor in determining its existence is the vexation caused to the courts and the parties-litigants by the filing of similar cases to claim substantially the same reliefs. Forum shopping exists where the elements of *litis pendentia* are present or **where a final judgment in**

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> **one case will amount to *res judicata* in another.** Thus, the following requisites should concur: xxx (a) identity of parties, or at least such parties as represent the same interests in both actions, (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under reconsideration.

D E C I S I O N

PERALTA, *J.*:

Before us is a Complaint[1] dated October 13, 2005 for disciplinary action against respondent Atty. Ibaro B. Relamida, Jr. filed by Attys. Josabeth V. Alonso and Shalimar P. Lazatin, counsel of Servier Philippines, Incorporated for violating the rules on forum shopping and *res judicata.*

The antecedent facts of the case are as follows:

In March 2001, Jennifer Ebanen filed a Complaint for illegal dismissal against Servier Philippines, Incorporated (Servier) docketed as NLRC-NCR-Case No. 30-03-01583-01, alleging constructive dismissal with prayer for reinstatement or payment of separation pay, backwages, moral and exemplary damages.

On July 5, 2002, the Labor Arbiter ruled in favor of Servier.[2] It held that Ebanen voluntarily resigned from Servier and was, therefore, not illegally dismissed.

Ebanen appealed at the National Labor Relations Commission (NLRC). On March 31, 2003, the NLRC-Third Division affirmed the Decision of the Labor Arbiter.[3]

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[1] *Rollo*, pp. 2-7.

[2] *Id.* at 11-25.

[3] *Id.* at 27-36.

Thus, Ebanen moved for reconsideration. However, the NLRC denied the same in a Resolution[4] dated May 5, 2003.

Unsatisfied, Ebanen filed a Petition for *Certiorari* before the Court of Appeals which was docketed as CA-G.R. SP No. 77968. In a Decision[5] dated January 16, 2004, the Court of Appeals (CA) affirmed the findings of the NLRC that Ebanen voluntarily resigned and that there was no constructive dismissal. Ebanen moved anew for reconsideration, but was denied in a Resolution[6] dated April 30, 2004.

Unrelenting, Ebanen filed a Petition for Review before the Supreme Court. However, in a Resolution[7] dated August 4, 2004, the Court found no reversible error on the part of the CA, thus, denied said petition. Ebanen filed a motion for reconsideration, but was denied with finality in a Resolution[8] dated October 11, 2004.

Ebanen filed a Motion for Leave to Admit Second Motion for Reconsideration of the Resolutions dated August 4, 2004 and October 11, 2004, respectively. On January 19, 2005, the Court denied her motion.[9]

Persistent, Ebanen filed a Motion to Admit a Third Motion for Reconsideration of the Resolution dated January 19, 2005. On April 20, 2005, the Court denied her motion for being a prohibited pleading and noted without action Ebanen's third motion for reconsideration.[10]

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[4] *Id.* at 37-38.

[5] Penned by Associate Justice Rodrigo V. Cosico, with Associate Justices Mariano C. del Castillo and Rosalinda Asuncion-Vicente, concurring; *id.* at 40-48.

[6] *Rollo*, p. 50.

[7] *Id.* at 51.

[8] *Id.* at 52.

[9] *Id.* at 53.

[10] *Id.* at 54-56.

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On July 27, 2005, the Second Division of the Supreme Court noted without action Ebanen's Motion for Leave to Admit Supplemental Third Motion for Reconsideration dated June 1, 2005, in view of the entry of judgment on February 17, 2005.[11]

On February 17, 2005, the Court's Resolution dated August 4, 2004 has already become final and executory; thus, a corresponding Entry of Judgment[12] has been issued.

However, despite said entry of judgment, Ebanen, thru her counsel, Atty. Relamida, filed a second complaint on August 5, 2005 for illegal dismissal based on the same cause of action of constructive dismissal against Servier, now docketed as NLRC-NCR Case No. 00-08-07222-05.

Thus, on October 13, 2005, Servier, thru counsel, filed a letter-complaint addressed to the then Chief Justice Hilario Davide, Jr., praying that respondents be disciplinary sanctioned for violation of the rules on forum shopping and *res judicata.*

Subsequently, in a Resolution[13] dated November 15, 2005, the Court required both Ebanen and Atty. Relamida to comment on the letter-complaint against them.

On January 16, 2006, respondents filed their Comments.[14] Both respondents admitted the filing of the second complaint against Servier. They claimed that the judgment rendered by the Labor Arbiter was null and void for want of due process, since the motion for the issuance of *subpoena duces tecum* for the production of vital documents filed by the complainant was ignored by the Labor Arbiter. They opined that the dismissal did not amount to *res judicata,* since the decision was null and void for lack of due process. As a result, they claimed that there was also no violation of the rule on forum shopping.[15]

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[11] *Id.* at 56.

[12] *Id.* at 58.

[13] *Id.* at 61.

[14] *Id.* at 69-73.

[15] *Id.*

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On February 7, 2006, the Court referred the instant bar matter to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[16]

On January 22, 2007, the Labor Arbiter dismissed the second complaint on the grounds of *res judicata* and forum shopping. It further reiterated that Ebanen voluntarily resigned from employment and was not constructively dismissed.

On March 14, 2008, during the mandatory conference before the IBP, complainants failed to appear. Ebanen manifested that she is not a lawyer.

Both parties were required to submit their respective position papers.

Atty. Relamida reiterated that Ebanen is not a lawyer and that she is the daughter of Atty. Leonardo Aurelio (Atty. Aurelio), the senior partner of A.M. Sison Jr. and Partners Law Offices where he is employed as associate lawyer.

He narrated that on March 28, 2001, Ebanen filed a Complaint for illegal dismissal against Servier. He claimed that in the beginning, Atty. Aurelio was the one who prepared and reviewed all the pleadings and it was Atty. Lapulapu Osoteo who stood as counsel for Ebanen in the said labor case. Atty. Relamida admitted, however, that during the filing of the second complaint he took over as counsel of Ebanen, as requested by Atty. Aurelio.[17] He also admitted that during the pendency of the first complaint, he occasionally examined pleadings and signed as counsel for Ebanen.[18]

Atty. Relamida reasoned out that as a courtesy to Atty. Aurelio and Ebanen, he had no choice but to represent the latter. Moreover, he stressed that his client was denied of her right to due process due to the denial of her motion for the issuance of a *subpoena duces tecum*. He then argued that the decision of the Labor

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[16] *Id.* at 74.

[17] *Id.* at 23.

[18] *Id.* at 22-23.

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Arbiter was null and void; thus, there was no *res judicata*.[19] He maintained that he did not violate the lawyer's oath by serving the interest of his client.

Servier, on the other hand, argued that the filing of the second complaint is a violation of the rights of Servier, since the issue has already attained finality. It contended that Atty. Relamida violated the rules on forum shopping for the same act of filing a second complaint. As a consequence, they are being made to defend themselves in a case that has been settled before the labor tribunals and courts. Likewise, Servier insisted that the filing of the second complaint was also a blatant violation of the rule on *res judicata.* Hence, Servier prayed that Atty. Relamida be disciplinary dealt with due to his abuse of the processes of the courts.

On April 19, 2008, the IBP-Commission on Bar Discipline (IBP-CBD) recommended that respondent Atty. Relamida be suspended from the practice of law for six (6) months. It imposed no sanction on Ebanen for being a non-lawyer.

In its Report, the IBP found that by filing the second complaint, Atty. Relamida was guilty of violating the rules on *res judicata* and forum shopping. It concluded that Atty. Relamida abused his right of recourse to the courts by filing a complaint for a cause that had been previously rejected by the courts.

On June 5, 2008, the IBP Board of Governors resolved to adopt and approve with modification as to penalty the report of the IBP-CBD. Instead, it recommended that Atty. Relamida be suspended from the practice of law for one (1) month for his violation of the rules on *res judicata* and *forum shopping.*

On December 7, 2009, the Office of the Bar Confidant recommended that the instant complaint be re-docketed as a regular administrative case against Atty. Relamida.

We sustain the findings of the IBP-CBD.

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[19] *Id.* at 29.

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All lawyers must bear in mind that their oaths are neither mere words nor an empty formality. When they take their oath as lawyers, they dedicate their lives to the pursuit of justice. They accept the sacred trust to uphold the laws of the land. As the first Canon of the Code of Professional Responsibility states, "[a] lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes." Moreover, according to the lawyer's oath they took, lawyers should "not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid or consent to the same."[20]

In the instant case, it is clear that Atty. Relamida is guilty of forum shopping and violation of the rule on *res judicata*. Atty. Relamida should have refrained from filing the second complaint against Servier. He ought to have known that the previous dismissal was with prejudice, since it had the effect of an adjudication on the merits. He was aware of all the proceedings which the first complaint went through as by his own admission, he participated in the preparation of the pleadings and even signed as counsel of Ebanen occasionally.[21] He knew that the decision in the subject case had already attained finality. Atty. Relamida was well aware that when he filed the second complaint, it involved the same parties and same cause of action, albeit, he justified the same on the ground of nullity of the previous dismissal.

His allegation that he was not the original counsel of Ebanen and that his intention was only to protect the rights of his clients whom he believed were not properly addressed in the prior complaint deserves scant consideration. He should know that once a case is decided with finality, the controversy is settled and the matter is laid to rest. The prevailing party is entitled to enjoy the fruits of his victory, while the other party is obliged to respect the court's verdict and to comply with it.[22]

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[20] *Olivares v. Villalon, Jr.,* A.C. No. 6323, April 13, 2007, 521 SCRA 12, 15-16.

[21] *Rollo*, pp. 22-23.

[22] *Siy v. NLRC*, G.R. No. 158971, August 25, 2005, 468 SCRA 154, 161.

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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. It 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. An important factor in determining its existence is the vexation caused to the courts and the parties-litigants by the filing of similar cases to claim substantially the same reliefs. Forum shopping exists where the elements of *litis pendentia* are present or **where a final judgment in one case will amount to *res judicata* in another.** Thus, the following requisites should concur:[23]

> x x x (a) identity of parties, or at least such parties as represent the same interests in both actions, (b) identity of rights asserted and relief prayed for, the relief being founded on the same facts, and (c) the identity of the two preceding particulars is such that any judgment rendered in the other action will, regardless of which party is successful, amount to *res judicata* in the action under consideration.

A lawyer owes fidelity to the cause of his client, but not at the expense of truth and the administration of justice. The filing of multiple petitions constitutes abuse of the court's processes and improper conduct that tends to impede, obstruct and degrade the administration of justice and will be punished as contempt of court. Needless to state, the lawyer who files such multiple or repetitious petitions (which obviously delays the execution of a final and executory judgment) subjects himself to disciplinary action for incompetence (for not knowing any better) or for willful violation of his duties as an attorney to act with all good fidelity to the courts, and to maintain only such actions as appear to him to be just and are consistent with truth and honor.[24]

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[23] *Lim v. Montano*, A.C. No. 5653, February 27, 2006, 483 SCRA 192, 201-202.

[24] *Id.*

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The filing of another action concerning the same subject matter, in violation of the doctrine of *res judicata*, runs contrary to Canon 12 of the Code of Professional Responsibility, which requires a lawyer to exert every effort and consider it his duty to assist in the speedy and efficient administration of justice. By his actuations, respondent also violated Rule 12.02 and Rule 12.04 of the Code, as well as a lawyer's mandate "to delay no man for money or malice."[25]

The Court has, time and again, warned lawyers not to resort to forum shopping for this practice clogs the court dockets. Their primary duty is to assist the courts in the administration of justice. Any conduct which tends to delay, impede or obstruct the administration of justice contravenes such lawyer's duty.[26] This we will not tolerate.

In cases of similar nature,[27] the penalty imposed by this Court was six (6) months suspension from the practice of law. Thus, consistent with the existing jurisprudence, we find that, in this case, the suspension of six (6) months from practice of law is proper.

WHEREFORE, Resolution No. XVIII-2008-286, dated June 5, 2008, of the IBP, which found respondent Atty. Ibaro B. Relamida, Jr. guilty of violating the Rules on *Res Judicata* and *Forum Shopping*, is *AFFIRMED*. Atty. Relaminda is hereby *SUSPENDED* for six (6) months from the practice of law, effective upon the receipt of this Decision. He is warned that a repetition of the same or a similar act will be dealt with more severely.

Let a copy of this Decision be furnished to the Office of the Bar Confidant, to be appended to the personal record of Atty. Relamida as a member of the Bar; the Integrated Bar of the Philippines; and the Office of the Court Administrator, for circulation to all courts in the country for their information and guidance.

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[25] *Id.*

[26] *Id.*

[27] *Lim vs. Montano*, *supra* note 23, at 203; *Gatmaytan vs. Court of Appeals,* 335 Phil. 155, 169 (1997).

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This Decision shall be immediately executory.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Velasco, Jr., Nachura, Leonardo-de Castro, Brion, Bersamin, Abad, Villarama, Jr., Perez, and *Mendoza, JJ.,* concur.

Del Castillo, J., no part.

THIRD DIVISION

[A.M. No. MTJ-09-1743. August 3, 2010]
(Formerly A.M. OCA IPI No. 08-1954-MTJ)

JOSEPHINE SARMIENTO and MARY JANE MANSANILLA, *complainants, vs.* **HON. AZNAR D. LINDAYAG, ASSISTING JUDGE, MUNICIPAL TRIAL COURT IN CITIES, CITY OF SAN JOSE DEL MONTE, BULACAN,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; JUDGES; FAILURE TO DECIDE EVEN A SINGLE CASE WITHIN THE REQUIRED PERIOD CONSTITUTES GROSS INEFFICIENCY.— The OCA thus recommends that respondent be fined in the amount of ₱15,000. The Court finds the evaluation and recommendation of the OCA well-taken. It bears stressing that ejectment cases must be resolved with great dispatch. Their nature calls for it. x x x That explains why Section 10 of the Revised Rules on Summary Procedure which applies to an ejectment complaint, among others, directs that within 30 days after the receipt of the last affidavits and position papers, or the expiration of the period for filing the same, the trial court should render judgment on the case. Without any order of extension granted by this Court,