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SECOND DIVISION

[A.C. No. 7828. August 11, 2008]

JUDGE ALDEN V. CERVANTES, *complainant, vs.* **ATTY. JUDE JOSUE L. SABIO,** *respondent.*

SYLLABUS

LEGAL ETHICS; ATTORNEYS; CHARGES AGAINST A COURT OFFICIAL OR EMPLOYEE OR A LAWYER SHOULD BE FOUNDED ON SUBSTANTIAL AND COMPETENT EVIDENCE DERIVED FROM DIRECT KNOWLEDGE, NOT ON MERE ALLEGATIONS, CONJECTURES, SUPPOSITIONS, OR ON THE BASIS OF HEARSAY.— The Court finds the action taken by the IBP Board of Governors well taken. Respondent ought to be aware that if a court official or employee or a lawyer is to be disciplined, the evidence against him should be substantial, competent and derived from direct knowledge, not on mere allegations, conjectures, suppositions, or on the basis of hearsay. No doubt, it is this Court's duty to investigate the truth behind charges against judges and lawyers. But it is also its duty to shield them from unfounded suits which are intended to, among other things, harass them.

D E C I S I O N

CARPIO MORALES, *J.*:

Judge Alden V. Cervantes (complainant) was the presiding judge of the Municipal Trial Court (MTC) of Cabuyao, Laguna until his optional retirement on November 23, 2005. Some of the cases lodged in his sala were ejectment cases filed by Extra-Ordinary Development Corporation (EDC) against the clients of Atty. Jude Josue L. Sabio (respondent). It appears that respondent had filed motions for inhibition of complainant "on the basis of the fact that EDC gave him a house and lot putting into serious doubt his impartiality, independence and integrity." The motions were denied.

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After the retirement of complainant, respondent, by Affidavit-Complaint dated April 6, 2006,[1] sought the investigation of complainant for bribery.

In support of the charge, respondent submitted a *Sinumpaang Salaysay* dated March 6, 2006 of Edwin P. Cardeño,[2] a utility worker in the MTC of Cabuyao, stating that, *inter alia*, orders and decisions of complainant were not generated from the typewriter of the court but from a computer which the court did not have, it having acquired one only on May 2, 2005; that there had been many times that a certain Alex of EDC would go to the court bearing certain papers for the signature of complainant; that he came to learn that a consideration of ₱500.00 would be given for every order or decision released by complainant in favor of EDC; and that he also came to know that attempts at postponing the hearings of the complaints filed by EDC were thwarted by complainant as he wanted to expedite the disposition thereof.

By Resolution of August 30, 2006,[3] this Court, after noting the July 20, 2006 Memorandum of the Office of the Court Administrator (OCA) relative to respondent's complaint against complainant, approved the recommendation of the OCA to dismiss the complaint for lack of merit, "the complaint being unsubstantiated and motivated by plain unfounded suspicion, and for having been filed after the effectivity of his optional retirement" (underscoring supplied).

Thus, spawned the present verified December 18, 1996 letter-complaint[4] of complainant against respondent, for disbarment.

The complaint was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

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[1] *Rollo,* pp. 12-13.

[2] *Id*. at 15-15a; Edwin P. Cardeño was, in A.M. No. P-05-2021, June 30, 2005, "*Judge Alden V. Cervantes v. Edwin Cardeño*" (426 SCRA, 324-332), found guilty of misconduct.

[3] *Id*. at 16.

[4] *Id*. at 1-10.

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From the Report and Recommendation[5] of the IBP Investigating Commissioner, Randall C. Tabayoyong, it is gathered that despite the January 12, 2007 Order for respondent to file an answer to the complaint, he failed to do so, prompting the Commissioner to declare him in default.

It is further gathered that after the conduct by the Investigating Commissioner of a mandatory conference on May 25, 2007, the parties were ordered to file their respective position papers. In compliance with the Order, complainant submitted his verified position paper.[6] Respondent did not.

Defined as issues before the IBP were:

(1) Whether . . . the complaint filed by respondent against the complainant before the Office of the Court Administrator in Admin Matter OCA IPI No. 06-1842-MTJ was malicious, false and untruthful.

(2) If in the affirmative, whether . . . respondent is guilty under the Code of Professional Responsibility.

On the first issue, the IBP Commissioner did not find respondent's complaint against herein complainant false and untruthful, it noting that respondent's complaint was dismissed by this Court due to insufficiency of evidence which, to the IBP, merely shows a "failure on the part of respondent to prove his allegations" against complainant.

Noting, however, this Court's August 30, 2006 Resolution finding respondent's complaint "unsubstantiated and motivated by plain, unfounded" suspicion, the Investigating Commissioner concluded that respondent "knowingly instituted not only a groundless suit against herein complainant, but also a suit based simply on his bare suspicion and speculation." (underscoring supplied)

On the second issue, the IBP found that by filing the groundless bribery charge against complainant, respondent violated the

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[5] *Id*. at 39-46.

[6] *Id*. at 25-27.

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proscription of the Code of Professional Responsibility against "wittingly or willingly promot[ing] or su[ing] any groundless suit" including baseless administrative complaints against judges and other court officers and employees.

The Investigating Commissioner thus concluded that

> while the evidence on record is sufficient to show that the allegations in respondent's affidavit-complaint against herein complainant were false, the evidence nonetheless show[s] that respondent had knowingly and maliciously instituted a groundless suit, based simply on his unfounded suspicions against complainant;[7] (Underscoring supplied)

and that he violated Canons 10,[8] 11,[9] & 12[10] and Rule 11.04[11] of the Code of Professional Responsibility under his oath of office.

He accordingly recommended that respondent be fined in the amount of ₱5,000, with a stern warning that a repetition of the same or similar act will be dealt with more severely.

The Board of Governors of the IBP, by Notice of Resolution,[12] informs that on November 22, 2007, it adopted the following Resolution adopting and approving with modification the Report and Recommendation of the Investigating Commissioner, *viz*:

> RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification**, the Report and

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[7] *Id*. at 43.

[8] CANON 10 — A lawyer owes candor, fairness and good faith to the court.

[9] CANON 11 — A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

[10] CANON 12 — A LAWYER SHALL EXERT EVERY EFFORT AND CONSIDER IT HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.

[11] Rule 11.04. — A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality to the case.

[12] *Id*. at 38.

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Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering Respondent's violation of Canons 10, 11 and 12 and Rule 11.04 of the Code of Professional responsibility for filing a groundless suit against complainant, Atty. Jude Sabio is hereby **REPRIMANDED** with **Stern Warning** that a repetition of the same or similar act will be dealt with more severely. (Emphasis in the original)

The Court finds the action taken by the IBP Board of Governors well taken.

Respondent ought to be aware that if a court official or employee or a lawyer is to be disciplined, the evidence against him should be substantial, competent and derived from direct knowledge, not on mere allegations, conjectures, suppositions, or on the basis of hearsay.[13]

No doubt, it is this Court's duty to investigate the truth behind charges against judges and lawyers. But it is also its duty to shield them from unfounded suits which are intended to, among other things, harass them.

WHEREFORE, respondent, Atty. Jude Josue L. Sabio, is *FINED* in the amount of Five Thousand (₱5,000) Pesos, with a warning that a repetition of the same or similar questioned act will be dealt with more severely.

SO ORDERED.

Quisumbing (Chairperson), Corona,[*] *Velasco, Jr.,* and *Brion, JJ.,* concur.

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[13] *Vide Gotgoto et al. v. Renato Millora,* A.M. No. P-05-2005, June 8, 2005.

[*] Additional member in lieu of Justice Dante O. Tinga per Special Order No. 512 dated July 16, 2008.