Supreme Court E-Library

THIRD DIVISION

[A.C. No. 4306. March 28, 2007]

REMBERTO C. KARA-AN, *complainant, vs.* **ATTY. REYNALDO A. PINEDA,** *respondent.*

SYLLABUS

1. **LEGAL ETHICS; ATTORNEYS; DISBARMENT; THE POWER TO DISBAR MUST ALWAYS BE EXERCISED WITH GREAT CAUTION; RATIONALE.—** Disbarment is the most severe form of disciplinary sanction, and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar. Accordingly, disbarment should not be decreed where any punishment less severe – such as a reprimand, suspension, or fine – would accomplish the end desired. As aptly observed by the Investigating Commissioner, the complainant failed to establish by clear and convincing proof that the respondent's failure to appear in the hearing on August 1, 1994 before the RTC was made oppressively or with ill-motives as to qualify the same to gross misconduct, willful disobedience or improper conduct tending to obstruct the administration of justice. Moreover, the penalty of disbarment sought by the complainant is unduly harsh, taking into account that this appears to be the respondent's first offense.

2. **ID.; ID.; CODE OF PROFESSIONAL RESPONSIBILITY; THE CODE IS VIOLATED WHEN THE LAWYER FALLS SHORT OF HIS DUTY TO ASSIST IN THE SPEEDY AND EFFICIENT ADMINISTRATION OF JUSTICE.—** It is worthy to note that respondent indeed fell short of his duty to assist in the speedy and efficient administration of justice due to his failure to attend the August 1, 1994 hearing before the RTC and his subsequent failure to attend some of the hearings before the IBP-CBD without giving any reasonable explanation for his absences, which failure contributed to the delay of the resolution of this case. The respondent should have been more conscientious in complying

Supreme Court E-Library

with such duty as dictated by the Code of Professional Responsibility and as required by his oath as a lawyer.

R E S O L U T I O N

NACHURA, *J.*:

In a Complaint for Disbarment filed before the Office of the Bar Confidant on September 6, 1994[1], herein complainant Remberto C. Kara-an charged respondent-lawyer Reynaldo A. Pineda with gross misconduct as an officer of the court and member of the Bar for violation of the lawyer's oath, specifically his failure to abide by his duties: (1) to maintain allegiance to the Republic of the Philippines and to support the Constitution and obey the laws of the Philippines; (2) to observe and maintain the respect due the courts of justice and judicial officers; and (3) not to delay any man's cause, for any corrupt motive or interests.

The antecedent facts:

Complainant Remberto C. Kara-an filed a Complaint for Injunction and Damages docketed as Civil Case No. 94-2078 against one Amado M. Bulauitan and several John Does before the Makati Regional Trial Court (RTC), Branch 150. Respondent Atty. Reynaldo A. Pineda entered his appearance as counsel for the defendant. On July 12, 1994, the respondent moved for the resetting of the hearing from July 13, 1994 to July 20, 1994 due to a prior professional engagement. In the same pleading, the respondent manifested that he was still in the process of preparing his formal written opposition to the case.[2] On July 20, 1994, the respondent failed to submit any answer or written opposition but instead made an agreement with the judge and

---

[1] *Rollo*, pp 1-10.

[2] Formal Entry of Appearance with Manifestation and *Ex-Parte* Urgent Motion to Re-Set Hearing on Petitioner's Application for a Writ of Preliminary Injunction dated July 12, 1994 for Civil Case No. 94-2078.

Supreme Court E-Library

the complainant to reset the hearing to August 1, 1994.[3] On August 1, 1994, as the respondent failed to appear, the RTC deferred the hearing to August 15, 1994.[4] On this account, the complainant filed a Motion for Contempt dated August 2, 1994 before the RTC.[5]

A little more than a month later, or on September 6, 1994, the complainant filed this Complaint for Disbarment against the respondent, alleging therein that the respondent failed to appear on August 1, 1994 before the RTC, despite his agreement to set the hearing of the injunction case on the said date, to file his answer or written opposition to the complaint for injunction. In his Comment filed on November 16, 1994, the respondent posited that the complaint is but a form of harassment in order to discourage him from pursuing cases against the complainant; and that the same is premature since the RTC has yet to decide the pending motion for contempt.[6] Per Resolution dated February 20, 1995, this Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and decision.[7]

Hearings were conducted after which, the IBP-Commission on Bar Discipline (CBD) through Investigating Commissioner Elpidio G. Soriano III rendered a Report and Recommendation dated February 6, 2006, recommending that the prayer for disbarment be denied, but that the respondent be reprimanded for his failure to explain the cause of his absence in a hearing before the RTC and his failure to appear in several hearings before the IBP-CBD.

On July 7, 2006, the IBP Board of Governors passed a Resolution adopting and approving with modification the recommendation of Commissioner Soriano, as follows:

---

[3] RTC Order dated July 20, 1994, *Rollo*, p. 11.

[4] RTC Order dated August 1, 1994, *Rollo*, p. 12.

[5] *Rollo*, pp. 33-35.

[6] *Rollo*, pp. 24-32.

[7] *Rollo*, pp. 24-32.

Supreme Court E-Library

"RESOLUTION NO. XVII-2006-371
Adm. Case No. 4306
Remberto C. Kara-an vs.
Atty. Reynaldo A. Pineda

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, ***with modification****, the Report and 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, for Respondent's failure to explain the cause of his absence in the hearing before the Regional Trial Court and for his failure to appear in several hearings before the Commission on Bar Discipline, Atty. Reynaldo A. Pineda is* ***REPRIMANDED with stern Warning*** *that a repetition of his actuation shall be dealt with severely*."

We adopt the July 7, 2006 IBP Resolution. A perusal of the records shows that the evidence adduced by the complainant is insufficient to warrant the imposition of the supreme sanction of disbarment.

Disbarment is the most severe form of disciplinary sanction, and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar. Accordingly, disbarment should not be decreed where any punishment less severe – such as a reprimand, suspension, or fine – would accomplish the end desired.[8]

As aptly observed by the Investigating Commissioner, the complainant failed to establish by clear and convincing proof that the respondent's failure to appear in the hearing on August 1, 1994 before the RTC was made oppressively or with ill-motives as to qualify the same to gross misconduct, willful disobedience or improper conduct tending to obstruct the administration of justice.[9] Moreover, the penalty of disbarment

---

[8] *Soriano v. Reyes*, A.C. No. 4676, May 4, 2006, 489 SCRA 328, 343.

[9] Report and Recommendation dated February 6, 2006, p. 8.

Supreme Court E-Library

sought by the complainant is unduly harsh, taking into account that this appears to be the respondent's first offense.

However, it is worthy to note that respondent indeed fell short of his duty to assist in the speedy and efficient administration of justice[10] due to his failure to attend the August 1, 1994 hearing before the RTC and his subsequent failure to attend some of the hearings before the IBP-CBD without giving any reasonable explanation for his absences, which failure contributed to the delay of the resolution of this case. The respondent should have been more conscientious in complying with such duty as dictated by the Code of Professional Responsibility and as required by his oath as a lawyer.

WHEREFORE, premises considered, the prayer for disbarment is *DENIED* for lack of merit. Nevertheless, respondent Atty. Reynaldo A. Pineda is hereby *REPRIMANDED with STERN WARNING* that a repetition of the same or similar offense in the future shall be dealt with severely. Let a copy of this Resolution be attached to the respondent's personal records in the Office of the Bar Confidant.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez, Callejo, Sr., and *Chico-Nazario, JJ.,* concur.

THIRD DIVISION

[G.R. No. 133110. March 28, 2007]

BARSTOWE PHILIPPINES CORPORATION, *petitioner, vs.* **REPUBLIC OF THE PHILIPPINES,** *respondent.*

---

[10] Canon 12, Rule 12.04 of the Code of Professional Responsibility.