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SECOND DIVISION

[A.C. No. 7158. March 9, 2015]

YOLANDA A. ANDRES, MINETTE A. MERCADO, and ELITO P. ANDRES, *complainants, vs.* **ATTY. SALIMATHAR V. NAMBI,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; ATTORNEYS; GROSS IGNORANCE OF THE LAW; THERE MUST BE A SHOWING THAT THE ERROR IS GROSS AND PATENT SO AS TO AMOUNT TO MALICE, BAD FAITH, CORRUPTION, FRAUD, AND DISHONESTY FOR ONE TO BE HELD ADMINISTRATIVELY ACCOUNTABLE FOR GROSS IGNORANCE OF THE LAW.— As a rule, for one to be held administratively accountable for gross ignorance of the law, there must be a showing that the error was gross and patent as to support a conclusion that the actor was so moved with malice, bad faith, corruption, fraud, and dishonesty. x x x We perused the records of the case particularly respondent's Order dated March 13, 2006 denying complainants' Urgent Motion to Quash. Therein, we note that respondent's ruling was not arrived at arbitrarily; on the contrary, he cited grounds based on his personal assessment of the facts at hand x x x. It is apparent x x x that respondent's conclusion had some bases and was not plucked from thin air, so to speak. Clearly, respondent did not act whimsically or arbitrarily; his ruling could not in any manner be characterized as imbued with malice, fraud or bad faith. To reiterate what we have already stated above, we are not here to judge in this present administrative proceeding whether respondent's ratiocination on the application of the piercing of corporate veil is correct; our only concern here is to decide whether respondent's error was so gross as to amount to fraud and dishonesty. Based on the above-quoted disquisition, it cannot be said, by any stretch of imagination, that respondent's error, if any, was so gross or that he was actuated by malice when he issued the above orders. His conclusion was reached after an examination of the documents

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presented and evaluation and assessment of the arguments raised by the parties. He did not capriciously rule on the issues presented; on the contrary, he exerted efforts to weigh the positions of the contending parties.

2. ID.; JUDGES; ANY JUDICIAL OR QUASI-JUDICIAL OFFICER SHOULD NOT BE HELD ACCOUNTABLE FOR COMMITTING AN HONEST MISTAKE OR ERROR IN THE APPRECIATION OF THE FACTS OF THE CASE BEFORE HIM.— [W]e hold that respondent should not be held accountable for committing an honest mistake or an error in the appreciation of the facts of the case before him. Otherwise every labor arbiter or any judicial or quasi-judicial officer for that matter, would be continually plagued with the possibility of being administratively sanctioned for every honest mistake or error he commits. For sure, this would not augur well to the administration of justice as a whole.

3. ID.; ATTORNEYS; UNJUSTIFIABLY REFUSING TO OBEY THE LAWFUL ORDERS OF THE COURT IS CONDUCT UNBECOMING OF A LAWYER; PENALTY IN CASE AT BAR.— [W]e note that respondent had consistently and obstinately disregarded the Court's and IBP's orders. It is on record that respondent totally ignored the Court's June 7, 2006 Resolution directing him to file his Comment. He also failed to attend the mandatory conference before the IBP's Commission on Bar Discipline despite notice. Neither did he file his Position Paper. As a former Labor Arbiter, respondent should know that orders of the court "are not mere requests but directives which should have been complied with promptly and completely." "He disregarded the oath he took when he was accepted to the legal profession 'to obey the laws and the legal orders of the duly constituted legal authorities.' x x x His conduct was unbecoming of a lawyer who is called upon to obey court orders and processes and is expected to stand foremost in complying with court directives as an officer of the court." x x x Considering that this appears to be respondent's first infraction, we find it proper to impose on him the penalty of reprimand with warning that commission of the same or similar infraction will be dealt with more severely.

R E S O L U T I O N

DEL CASTILLO, *J.*:

This is a Complaint for Disbarment[1] filed against then Labor Arbiter Salimathar V. Nambi (respondent) on the ground of gross ignorance of the law in issuing an Amended Alias Writ of Execution against M.A. Blocks Work, Inc. and its incorporators, the herein complainants, who are not parties to the case.

Factual Antecedents

On December 10, 2003, respondent rendered a Decision[2] in a consolidated labor case[3] against M.A. Mercado Construction and spouses Maximo and Aida Mercado (spouses Mercado), the *fallo* of which reads:

> WHEREFORE, premises considered, judgment is hereby rendered ordering respondents, M.A. Mercado Construction and Maximo and Aida Mercado to reinstate the complainants to their former position[s] without loss of seniority rights and to pay jointly and severally, their full backwages from October 28, 2000 up to the date of this decision plus ten (10%) percent attorney's fees of the total monetary award.

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[1] *Rollo*, pp. 1-20.

[2] *Id*. at 22-27.

[3] Docketed as NLRC-NCR-CASE Nos. 00-11-05852-00 and 00-04-02006-01, entitled *Allan Langgam, Romulo Piquero, Chito Daclitan, Chande Tejero, Ruthilio Cabilino, Tito Langgam, Ronald Langgam, Michael Cabilino, Fabian Gamurot, Cornillo Bustamante, Rafael Sacil, Allan Bugtac, Freddie Baylon, Joel Simbajon, Jolito Amahit, Albert Amores, Lito Luay, Romy Ragandayan, Allan Biglang-awa, Alvin Biglang-awa, Carlos Tanyongon, Rodel Mananon, Allan Calvez, Afr[e]do Bayog Lito Tois, Arnel Daclitan, Rey Cabatingan, Jesus Traya, Frisco Piquero, Jose Salvador, Albert Juanerio, Danilo Talampay, Freddie Balinas, Vidal Radaza, Eduardo Manalansan, Jungie Balinas, Daniel S. Radaza, Cristobal Quemiel, Jun Simbahon, Judy Cerujano and Celestino Rabusa v. M. A. Mercado Construction, et al.*

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The Research and Information Unit of this Office is hereby directed to compute complainants[']monetary award which shall form part of this decision.

The complaint for damages is dismissed. The complaint against Shoemart, Inc., is likewise DISMISSED for lack of merit.

SO ORDERED.[4]

The respondents in the labor case, namely the Spouses Mercado, doing business under the name and style of M.A. Mercado Construction, interposed an appeal which was dismissed for failure to post an appeal bond. Thus, an Alias Writ of Execution was issued to implement the Decision.

Thereafter, the complainants in the labor case filed an Ex Parte Motion for Amendment of an Alias Writ of Execution.[5] They claimed that they could hardly collect the judgment award from M.A. Mercado Construction because it allegedly transferred its assets to M.A. Blocks Work, Inc. They thus prayed that the Alias Writ of Execution be amended to include M.A. Blocks Work, Inc. and all its incorporators/stockholders[6] as additional entity/personalities against which the writ of execution shall be enforced.

In an Order[7] dated February 10, 2006, respondent granted the motion to amend the alias writ of execution. Accordingly, on February 17, 2006 an Amended Alias Writ of Execution was issued to enforce the monetary judgment amounting to ₱19,527,623.55 against M.A. Blocks Work, Inc. and all its incorporators.

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[4] *Rollo*, p. 27.

[5] *Id*. at 41-42.

[6] There are five (5) incorporators of M. A. Blocks Work Inc. as appearing in its Articles of Incorporation, *id*. at 45-49. They are: (1) Maximo A. Mercado; (2) Gertrudes Casilda A. Mercado; (3) Yolanda A. Andres; (4) Minette A. Mercado; and (5) Elito P. Andres.

[7] *Rollo*, pp. 53-56.

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By way of special appearance, M.A. Blocks Work, Inc., together with three of its stockholders who are the complainants in this administrative case, namely Yolanda A. Andres, Minette A. Mercado and Elito P. Andres, filed an Urgent Motion to Quash[8] the Amended Alias Writ of Execution, contending that they are not bound by the judgment as they were not parties to the labor case. In an Order[9] dated March 13, 2006, however, respondent denied the Urgent Motion to Quash.

Aggrieved, herein complainants filed the instant Complaint for Disbarment, which we referred to the IBP on March 4, 2007 for investigation, report and recommendation.[10]

IBP's Report and Recommendation

In his Report and Recommendation[11] dated September 6, 2010, the Investigating Commissioner found respondent guilty of gross ignorance of the law and recommended that he be suspended from the practice of law for a period of six months. This was adopted and approved with modification by the IBP Board of Governors in an April 12, 2011 Resolution, to wit:

RESOLUTION NO. XIX-2011-110
Adm. Case No. 7158
Yolanda A. Andres, et al. vs.
Atty. Salimathar V. Nambi

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification** the Report and Recommendation of the Investigating Commissioner in 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, considering respondent['s] contumacious disregard of the lawful Order of Supreme Court and the Commission on Bar Discipline of the IBP, and for his failure

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[8] *Id.* at 61-74.

[9] *Id.* at 160-164.

[10] See minute resolution of even date, *id.* at 207.

[11] *Id.* at 224-229.

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to appear despite due notices, Atty. Salimathar V. Nambi is hereby **SUSPENDED** from the practice of law for six (6) months.[12] (Emphasis in the original).

Issue

Whether respondent is guilty of gross ignorance of the law and of violating the Code of Professional Responsibility.

Our Ruling

At the outset, it must be emphasized that in this administrative proceeding, our discussion should be limited only on the issue of whether respondent acted in gross ignorance of the law when he granted the motion to amend the alias writ of execution; when he issued an Amended Alias Writ of Execution to enforce the monetary judgment against M.A. Blocks Work, Inc. and all its incorporators; and when he denied complainants' Urgent Motion to Quash.

As a rule, for one to be held administratively accountable for gross ignorance of the law, there must be a showing that the error was gross and patent as to support a conclusion that the actor was so moved with malice, bad faith, corruption, fraud, and dishonesty. As such, our discussion should be focused primarily on whether respondent grossly erred in issuing the above orders as to amount to malice, bad faith, corruption, fraud and dishonesty.

On the other hand, we need not delve into the issue of whether there is an apparent misapplication of the doctrine of piercing the veil of corporate fiction when respondent issued the Amended Alias Writ of Execution. For one, it is outside the ambit of this administrative proceeding. Moreover, the issue of whether the doctrine of piercing the veil of corporate fiction applies is the subject of an appeal brought by complainants before the National Labor Relations Commission and eventually to the Court of Appeals.[13]

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[12] *Id*. at 223.

[13] *Id*. at 161.

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We perused the records of the case particularly respondent's Order[14] dated March 13, 2006 denying complainants' Urgent Motion to Quash. Therein, we note that respondent's ruling was not arrived at arbitrarily; on the contrary, he cited grounds based on his personal assessment of the facts at hand, *viz*:

> As culled from the case record, there is substantial evidence that respondents Maximo A. Mercado and Aida A. Mercado, who are doing business under the name and style of M.A. Mercado Construction put up a corporation in the name of M.A. Block Works, Inc. where individual movants are one of the incorporators. We give credence to the argument of the complainants that the incorporators therein are relatives of Maximo A. Mercado and Aida Mercado as shown by the Articles of Incorporation adduced by the former. The incorporators listed have similar family names of the Mercados and the Andreses and common address at Gen. Hizon, Quezon City and 50 Daisy St., Quezon City, and Maximo A. Mercado is the biggest stockholder. Aside from the Articles of Incorporation, complainants also submitted a Letter of Intent/Notice To Proceed where respondents, despite their representation that they have already ceased their business operation, are still continuing their business operation. The documents submitted by the complainants were corroborated by certification issued by Maggie T. Jao, AVP-Assistant Controller of SM Prime Holdings, Inc. that based on their records, an amount of ₱3,291,300.00 representing a sum total of all goods, effects, money and credit that was garnished belong to M.A. Mercado Construction and/or Maximo Mercado and/or Aida Mercado and/or M.A. Block Works, Inc. and/or Gertrudes Casilda A. Mercado, Yolanda A. Andres, Minette A. Mercado and/or Elito P. Andres.
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> This Office has therefore, enough reason to conclude that respondents Maximo A. Mercado and Aida Mercado and the movants herein are one and the same. Movants are alter egos or business conduits to defraud the complainants and to consequently evade payment of judgment award. x x x As respondents are duly notified and aware of the execution proceedings, the argument of denial of due process is untenable.[15]

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[14] *Id*. at 160-164.

[15] *Id*. at 161-163.

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It is apparent from the foregoing disquisition that respondent's conclusion had some bases and was not plucked from thin air, so to speak. Clearly, respondent did not act whimsically or arbitrarily; his ruling could not in any manner be characterized as imbued with malice, fraud or bad faith. To reiterate what we have already stated above, we are not here to judge in this present administrative proceeding whether respondent's ratiocination on the application of the piercing of corporate veil is correct; our only concern here is to decide whether respondent's error was so gross as to amount to fraud and dishonesty. Based on the above-quoted disquisition, it cannot be said, by any stretch of imagination, that respondent's error, if any, was so gross or that he was actuated by malice when he issued the above orders. His conclusion was reached after an examination of the documents presented and evaluation and assessment of the arguments raised by the parties. He did not capriciously rule on the issues presented; on the contrary, he exerted efforts to weigh the positions of the contending parties.

In any event, we hold that respondent should not be held accountable for committing an honest mistake or an error in the appreciation of the facts of the case before him. Otherwise every labor arbiter or any judicial or quasi-judicial officer for that matter, would be continually plagued with the possibility of being administratively sanctioned for every honest mistake or error he commits. For sure, this would not augur well to the administration of justice as a whole.

Pertinently, the Court ruled in *Andrada v. Judge Banzon*,[16] *viz*:

> Well-settled is the rule that unless the acts were committed with fraud, dishonesty, corruption, malice or ill-will, bad faith, or deliberate intent to do an injustice, respondent judge may not be held administratively liable for gross misconduct, ignorance of the law or incompetence of official acts in the exercise of judicial functions and duties, particularly in the adjudication of cases.

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[16] 592 Phil. 229 (2008).

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Further, to hold a judge administratively accountable for every erroneous rule or decision he renders would be nothing short of harassment and would make his position doubly unbearable. To hold otherwise would be to render judicial office untenable, for no one called upon to try the facts or interpret the law in the process of the administration of justice can be infallible in his judgment.[17]

Based on the foregoing, we have no basis to hold respondent administratively liable for gross ignorance of the law.

However, we note that respondent had consistently and obstinately disregarded the Court's and IBP's orders. It is on record that respondent totally ignored the Court's June 7, 2006 Resolution[18] directing him to file his Comment. He also failed to attend the mandatory conference before the IBP's Commission on Bar Discipline despite notice.[19] Neither did he file his Position Paper. As a former Labor Arbiter, respondent should know that orders of the court "are not mere requests but directives which should have been complied with promptly and completely."[20] "He disregarded the oath he took when he was accepted to the legal profession 'to obey the laws and the legal orders of the duly constituted legal authorities.' x x x His conduct was unbecoming of a lawyer who is called upon to obey court orders and processes and is expected to stand foremost in complying with court directives as an officer of the court."[21]

Section 27, Rule 138 of the Rules of Court provides:

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

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[17] *Id*. at 233-234.

[18] *Rollo*, p. 203.

[19] *Id*. at 218.

[20] *Belleza v. Atty. Macasa*, 611 Phil. 179, 187 (2009).

[21] *Id*.

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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 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. (Emphasis supplied)

Considering that this appears to be respondent's first infraction, we find it proper to impose on him the penalty of reprimand with warning that commission of the same or similar infraction will be dealt with more severely.

WHEREFORE, the Court **REPRIMANDS** respondent Atty. Salimathar V. Nambi for obstinately and unjustifiably refusing to obey lawful orders of the Court and the Integrated Bar of the Philippines, with a warning that a repetition of the same or similar act or offense shall be dealt with more severely.

Let copies of this Resolution be furnished the Office of the Bar Confidant and noted in Atty. Nambi's record as a member of the Bar.

SO ORDERED.

Carpio (*Chairperson*), *Brion*, *Mendoza*, and *Leonen*, *JJ.*, concur.

THIRD DIVISION

[G.R. No. 182886. March 9, 2015]

SPOUSES SALVADOR P. NORBERTE, JR. and ELIZABETH S. NORBERTE, *petitioners, vs.* **SPOUSES FELICISIMO G. MEJIA and ELVIRA C. MEJIA and/or their heirs, represented by ALEXIS MEJIA-QUERUBIN,** *respondents.*