



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated August 9, 2023, which reads as follows:

“A.C. No. 13635 [Formerly CBD Case No. 18-5588] (*Andrea B. Ty v. Atty. Rodolfo B. Bonafe, Jr.*).—This administrative case arose from a verified Complaint¹ dated November 27, 2017 filed by complainant Andrea B. Ty against respondent Atty. Rodolfo B. Bonafe, Jr. (Atty. Bonafe, Jr.) before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP).

The Antecedents

On March 26, 2015, complainant engaged the services of Atty. Bonafe, Jr. to represent her in the case filed against her for Indirect Contempt² by Ronaldo Sarte (Sarte) before the Regional Trial Court (RTC) of Tabaco City, for defying a lawful order of the trial court in a previous ejectment case between the parties. Complainant paid Atty. Bonafe, Jr. ₱25,000.00 as acceptance fee and ₱2,500.00 for every hearing.³

While the Indirect Contempt case was pending, Atty. Bonafe, Jr. informed complainant that Sarte filed a “*Motion for Implementation of the Writ of Execution on Defendant’s Son Ryan Roniel Ty with Alternative Motion for Issuance of Writ of Execution In So Far as Defendant’s Son Ryan Roniel Ty is Concerned*”⁴ (Civil Case No. T-2505) before the RTC of Tabaco City, Branch 18 (later transferred to Branch 15).⁵ For this case, Atty. Bonafe, Jr. demanded ₱15,000.00 as acceptance fee, plus ₱2,500.00 per court appearance.⁶

¹ *Rollo*, pp. 2-4.

² *Id.* at 5-8.

³ *Id.* at 2.

⁴ *Id.* at 9-14.

⁵ *Id.* at 96.

⁶ *Id.* at 3.

On September 15, 2016, the RTC issued an Order⁷ in favor of Sarte in Civil Case No. T-2505. The said Order was allegedly received by Atty. Bonafe, Jr. on October 27, 2016 but he did not notify complainant about it. He also did not file a motion for reconsideration or a petition for *certiorari* to question the said Order. As a consequence, the same has attained finality without the knowledge of complainant. When complainant asked Atty. Bonafe, Jr. why he failed to move for reconsideration, Atty. Bonafe, Jr. simply said that it would only be denied anyway.⁸

Consequently, the RTC ordered the demolition of complainant's property which was the subject of the Writ of Execution in Civil Case No. T-2505.⁹

Hence, complainant initiated the instant Disbarment Complaint against Atty. Bonafe, Jr. with prayer for the payment of moral damages and litigation expenses in the amount of ₱350,000.00.¹⁰

In his Answer,¹¹ Atty. Bonafe, Jr. admitted that complainant engaged his services in Civil Case No. T-2505 albeit already during the execution stage, that is, when the plaintiff already filed a motion for the implementation of the writ of execution, considering that the Ejectment case was decided against the complainant. Atty. Bonafe, Jr. stressed that complainant was represented by other counsels from the commencement of Civil Case No. T-2505 up to the issuance of the writ of execution and that he was only hired by complainant when the plaintiff already moved for the implementation of the writ of execution.¹²

In defense of complainant, Atty. Bonafe, Jr. averred that he opposed Sarte's motion for implementation of the writ of execution by filing a Comment / Opposition to the Motion¹³ and a Supplemental Comment / Opposition to the Motion.¹⁴ However, when he took on the case, he made it clear to the complainant that the same was already in the execution stage; thus, in the event that the trial court would act favorably on the motion, they should respect the same.¹⁵ Unfortunately, the trial court granted the motion. Accordingly, Atty. Bonafe, Jr. informed complainant about it contrary to the latter's claim. He also advised the complainant that he no longer intends to file a motion for reconsideration thereto.¹⁶

⁷ Id. at 15-18.

⁸ Id. at 3.

⁹ Id. at 21-22.

¹⁰ Id. at 3.

¹¹ Id. at 29-38.

¹² Id. at 30-31.

¹³ Id. at 63-67.

¹⁴ Id. at 47-49.

¹⁵ Id. at 31.

¹⁶ Id. at 32.

In addition, Atty. Bonafe, Jr. submitted a Certification¹⁷ issued by the Clerk of Court of RTC Branch 15, certifying that complainant was furnished a copy of the September 15, 2016 Order to belie complainant's allegation that she did not know of the trial court's pronouncement.¹⁸

Atty. Bonafe, Jr. deemed it proper not to file a motion for reconsideration anymore since he has already fully ventilated all his arguments and pleaded all the grounds to oppose the motion for implementation of the writ. If he were to move for reconsideration, he would be unduly delaying the execution of the judgment in violation of Rule 12.04 of the Code of Professional Responsibility (CPR).¹⁹ He likewise invoked Section 1, Rule 41 of the 1997 Rules of Civil Procedure, which proscribes the filing of an appeal from an order of execution.²⁰

Anent the Order of Demolition²¹ dated October 26, 2017, Atty. Bonafe, Jr. asserted that he has already withdrawn his appearance as counsel of the complainant as early as May 22, 2017 and the same was approved by the RTC in an Order²² dated May 24, 2017; hence, he no longer had any participation in the October 26, 2017 demolition order.²³

The Report and Recommendation of the IBP

In her Report and Recommendation²⁴ dated June 24, 2019, Investigating Commissioner Judy A. Lardizabal (Commissioner Lardizabal) recommended that Atty. Bonafe, Jr. be suspended from the practice of law for six months for breach of Canon 18, Rule 18.3, Rule 18.04 and Rule 19.03 of the CPR.

Commissioner Lardizabal found respondent's failure to furnish complainant with a copy of the September 15, 2016 Order as inexcusable negligence.²⁵ Moreover, respondent's decision not to file a motion for reconsideration of the September 15, 2016 Order deprived complainant of her proprietary rights and clearly evinced respondent's utter lack of concern for his client's cause.²⁶

However, in an Extended Resolution²⁷ dated July 3, 2022, the IBP Board of Governors (BOG) reversed and set aside Commissioner Lardizabal's Report and Recommendation, and resolved to dismiss the administrative case. The Resolution states:

¹⁷ Id. at 77.

¹⁸ Id. at 32-33.

¹⁹ Id. at 33-34.

²⁰ Id. at 34.

²¹ Id. at 145-146.

²² Id. at 81.

²³ Id. at 35.

²⁴ Id. at 177-182.

²⁵ Id. at 182.

²⁶ Id.

²⁷ Id. at 183-187.

WHEREFORE, premises considered, this Board **RESOLVED** to **REVERSE** and **SET ASIDE**, as it is hereby **REVERSED** and **SET ASIDE**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case and, finding that there was no negligence on the part of respondent, the complaint is hereby recommended to be **DISMISSED**. Respondent is nonetheless advised to cause the formal withdrawal of his appearance whenever he recommends that no further remedy is pursued, so that the client can engage the services of another counsel.

SO ORDERED.²⁸

The IBP BOG was not convinced that complainant did not timely know of the September 15, 2016 Order or that she only learned about it on February 20, 2017. It gave weight to the Judicial Affidavit²⁹ of Belen Beraquit (Beraquit) stating that a week after receiving the September 15, 2016 Order, complainant and her husband, on more than one occasion, visited Atty. Bonafe, Jr. in his office to discuss the said Order.³⁰

Thus, contrary to the complainant's assertion, the IBP BOG found that Atty. Bonafe, Jr. neither neglected complainant's case nor failed to inform her of its status. He merely gave his truthful and best opinion of the case, which, unfortunately was not well-taken by complainant.³¹

Our Ruling

The Court agrees with the finding of the IBP BOG. No clear, convincing, and satisfactory proof was shown that Atty. Bonafe, Jr. failed to provide effective and efficient legal assistance to the complainant or that he failed to inform complainant of the September 15, 2016 Order.

Notably, the complainant's allegation that she was not notified by Atty. Bonafe, Jr. of the September 15, 2016 Order was successfully rebutted by the Judicial Affidavit³² executed by Beraquit, categorically stating that complainant and her husband visited respondent's law office on more than one occasion to discuss the said Order. Given this, it was incumbent upon complainant to disprove the same by presenting clear and convincing evidence to the contrary, which the complainant failed to do. In this regard, it is well-settled that a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity which may only be rebutted by clear and convincing evidence.³³

²⁸ Id. at 186-187.

²⁹ Id. at 118-121.

³⁰ Id. at 185.

³¹ Id. at 186.

³² Id. at 118-121.

³³ *Basilio v. Court of Appeals*, 400 Phil. 120, 124 (2000).

Here, Beraquit's Judicial Affidavit is a notarized document. Thus, it must be accorded the presumption of regularity especially since the assertions therein were not denied by the complainant.

Additionally, the complainant's allegation that she only learned about the September 15, 2016 Order when she received the February 20, 2017 Order stating that the September 15, 2016 Order has already attained finality, is belied by the Certification³⁴ dated January 15, 2018 issued by the Clerk of Court of RTC Branch 15. The said document certified that complainant was furnished and indeed received a copy of the September 15, 2016 Order on November 10, 2016 as evidenced by Registry Receipt No. 1112.³⁵

More importantly, the Court notes that the complainant has a penchant for defying the lawful orders of the courts.

To recall, Sarte filed a Complaint³⁶ for Unlawful Detainer (Ejectment case) against herein complainant on January 3, 2006 before the Municipal Trial Court in Cities (MTCC) of Tabaco City, docketed as Special Civil Action No. 143. On February 5, 2007, the MTCC ruled in favor of Sarte and ordered complainant to surrender the possession of the property in question to Sarte.³⁷ In an Order dated May 7, 2007, Branch 18 of the RTC of Tabaco City granted Sarte's motion for execution and the corresponding Writ of Execution³⁸ was issued on July 30, 2007.³⁹ In spite of this, the complainant refused to remove the structure built on the intruded property. This compelled Sarte to file a Motion for a Special Writ of Demolition which was granted by the RTC on October 16, 2007.⁴⁰

However, in 2014, Sarte learned that complainant and her son Ryan Roniel Ty (Ryan) once again surreptitiously entered another portion of the subject property and erected a business structure thereon.⁴¹ This prompted Sarte to institute a Petition for Indirect Contempt against complainant for her open and brazen defiance of the MTCC Decision ejecting her from the property in question. Thereafter, Sarte filed the motion in Civil Case No. T-2505 for the implementation of the July 30, 2007 Writ of Execution issued by the RTC of Tabaco City against complainant's son Ryan, praying that the latter be ordered to immediately vacate the subject property which was already adjudicated in favor of Sarte or in the alternative, a new writ of execution be issued for the implementation of the same judgment in the Ejectment case against Ryan.

³⁴ *Rollo*, p. 77.

³⁵ *Id.* at 78.

³⁶ *Id.* at 39-42.

³⁷ *Id.* at 6.

³⁸ *Id.* at 68-70.

³⁹ *Id.*

⁴⁰ *Id.* at 7.

⁴¹ *Id.*

On September 15, 2016, the RTC issued the contentious Order⁴² commanding the implementation of the July 30, 2007 Writ of Execution not only against Ryan and herein complainant, but also against any other person who might take possession of any of the portion of the disputed property.⁴³

Given all the foregoing, it is understandable why Atty. Bonafe, Jr. did not anymore recommend the filing of a motion for reconsideration from the September 15, 2016 Order. To do so would only unduly extend the proceedings which clearly run counter to the objective of the Rules of Court to promote a just, speedy, and inexpensive disposition of every action and proceeding. In fact, in its Order⁴⁴ dated October 26, 2017, the RTC stated that:

Any further attempt on the part of the defendant penchant [sic] for employing dilatory tactics that derail the speedy administration of a final and executory order maybe countenance with censorship if not contempt of court if only to arrest and put an end to such obvious inclination.⁴⁵

On this note, it is worth mentioning that misuse and abuse of court procedures by lawyers is abhorred. In *Re: Administrative Case No. 44 of the RTC, Branch IV, Tagbilaran City v. Occeña*,⁴⁶ the Court warned:

x x x [A] lawyer should not abuse his right of recourse to the courts for the purpose of arguing a cause that had been repeatedly rebuffed. Neither should he use his knowledge of law as an instrument to harass a party nor to misuse judicial process, as the same constitutes serious transgression of the Code of Professional Responsibilities.⁴⁷

Verily, Atty. Bonafe, Jr. ought not to be penalized for rendering his best judgment in the pursuit or defense of the complainant's case. To reiterate, the disputed land has already been adjudicated in favor of Sarte as early as 2007. In circumvention of the MTCC Decision, however, complainant and her son Ryan, occupied a different portion of the subject property after seven years. This compelled Sarte to resort to the courts again to enforce the 2007 writ of execution, this time against complainant's son and any other person who might possibly take possession of the other parts of the land in question.

Thus, the Court could not fault Atty. Bonafe, Jr. for no longer moving for reconsideration of the September 15, 2016 Order as the case has already dragged on for so long, and he honestly believed that it is now time to lay it to rest. Suffice it to say that, given the circumstances of this case, no injustice was done to the complainant as Atty. Bonafe, Jr. merely respected the lawful order

⁴² Id. at 15-18.

⁴³ Id.

⁴⁴ Id. at 21-22.

⁴⁵ Id. at 22.

⁴⁶ 433 Phil. 138 (2002).

⁴⁷ Id. at 156.

of the trial court when he decided not to pursue any further legal remedy against it.

More importantly, the records show that Atty. Bonafe, Jr. vigorously asserted that he had been straightforward with complainant from the beginning that since the case is already in the execution stage, and in the event that the trial court would act favorably on the *Motion for Implementation of the Writ of Execution on Defendant's Son Ryan Roniel Ty with Alternative Motion for Issuance of Writ of Execution In So Far as Defendant's Son Ryan Roniel Ty*, the same should be respected and that they would no longer file a motion for reconsideration therefor. This was not denied by complainant.

Similarly, it was established that Atty. Bonafe, Jr. discussed the September 15, 2016 Order with complainant and her husband, as evidenced by the Judicial Affidavit of Beraquit.

In fine, the instant disbarment charge against respondent has no basis for failure of the complainant to clearly demonstrate how Atty. Bonafe, Jr. was negligent in handling her case.

WHEREFORE, the Complaint against respondent Atty. Rodolfo B. Bonafe, Jr. is **DISMISSED** for lack of merit.

The Notice of Resolution No. CBD-2020-09-19 dated September 12, 2020 and Extended Resolution dated July 3, 2022 of the Integrated Bar of the Philippines' Board of Governors, transmitted by Letter dated July 12, 2022 of Atty. Avenlino B. Sales, Jr., Director for Bar Discipline, Integrated Bar of the Philippines, together with the records and flash drive file, are both **NOTED**.

SO ORDERED."

By authority of the Court:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court and
Acting Division Clerk of Court *ms/sr*

767

AUG 22 2023

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767

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