



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 08-2005

TO : THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC ATTORNEY'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT : DISBARMENT OF ATTY. RODOLFO MACALINO

For the information and guidance of all concerned, quoted hereunder is the Decision of the Court En Banc dated July 7, 2004 in Administrative Case No. 4334, entitled "Susan Cuizon vs. Atty. Rodolfo Macalino", to wit:

"The saga of a client's one decade-long travails caused by a recalcitrant lawyer who defrauds his client and flouts the directives of the highest court of the land must deservedly end in tribulation for the lawyer and in victory for the higher ends of justice. The opening verses of the narrative may have been composed by the lawyer, but it is this Court that will have to, as it now does, write *finis* to this sordid tale, as well as to the lawyer's prized claim as a member of the Bar.

This administrative case against respondent Atty. Rodolfo Macalino was initiated by a letter-complaint¹ dated October 27, 1994 filed by Susan Cuizon with the Office of the Court Administrator charging the respondent with Grave Misconduct.

The antecedents² are as follows:

The legal services of the respondent was sought by the complainant in behalf of her husband Antolin Cuizon who was convicted for Violation of Dangerous Drug Act of 1972. When the spouses had no sufficient means to pay the legal fees, the

¹ Rollo, Vol. 1, pp. 1-2.

² *Id.* at 78-80, Report and Recommendation of Investigating Commissioner Milagros V. San Juan dated October 27, 1998.

respondent suggested that he be given possession of complainant's Mitsubishi car, which was delivered to the respondent. Later respondent offered to buy the car for Eighty Five Thousand Pesos (₱85,000.00) for which he paid a down payment of Twenty Four Thousand Pesos (₱24,000.00) After the sale of the car, respondent failed to attend to the case of Antolin Cuizon, so complainant was forced to engage the services of another lawyer.

The respondent was required to comment on the complaint lodged against him as early as December 5, 1994.

On December 29, 1995 the respondent was ordered to show cause why he should not be meted with disciplinary action or declared in contempt for failure to comply with the order of the court, to comment on complaint.

On June 17, 1996, for failure to comply with the previous orders of the court, a fine of Five Hundred Pesos (₱500.00) was imposed upon him and the order requiring him to file his comment on the complaint was reiterated.

On July 24, 1996 respondent paid the Five Hundred Pesos (₱500.00) fine imposed on him, however he failed to fully comply with the order of the court.

On December 5, 1996 the Supreme Court received a letter from Antolin Cuizon informing the court that the respondent again committed another infraction of the law by issuing a check against a closed account.

On February 12, 1997 the Supreme Court issued a resolution increasing the imposed fine on respondent in the amount of Five Hundred Pesos (₱500.00) to One Thousand Pesos (₱1,000.00) and again the order requiring the respondent to file his comment was reiterated.

On November 13, 1997 the cashier of the Disbursement and Collection Division issued a certification that the imposed fine of One Thousand Pesos (₱1,000.00) has not been paid by the respondent.

On December 10, 1997 the Supreme Court issued a warrant of arrest directing the National Bureau of Investigation to detain the respondent until further Orders from the Court.

On February 23, 1998, Allen M. Mendoza Intelligence Agent of the NBI of San Fernando, Pampanga rendered a Report and Return of the Service of Warrant of Arrest to the effect that the

warrant could not be served for reason that the subject is no longer residing at his given address.

On April 22, 1998 the court again issued another resolution requesting the complainants to furnish the court with the correct and present address of the respondent.

In compliance with this directive, the complainant reported that the respondent had not changed his residence. In fact, upon the information given by his own son, the respondent comes home at midnight and leaves at dawn.³

In the *Resolution*⁴ dated July 27, 1998, the Court resolved to consider the *Resolution* of December 10, 1997 finding the respondent guilty of contempt of court and ordering his imprisonment until he complies with the *Resolution* of February 12, 1997, requiring him to pay a fine of ₱1,000.00 and to submit his comment on the instant administrative complaint served on the respondent by substituted service. The Court likewise declared the respondent to have waived his right to file his comment on the administrative complaint and referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

The Investigating Commissioner forthwith filed her *Report and Recommendation*⁵ dated October 27, 1998 finding the respondent unfit to remain a member of the Bar and recommending that he be disbarred. The IBP adopted the Report and Recommendation with the modification that the respondent instead be suspended from the practice of law for three (3) years.⁶

In its *Resolution*⁷ dated July 19, 2000, the Court resolved to return the case to the IBP which, in turn, remanded the case to the Investigating Commissioner for further investigation and compliance with procedural due process.⁸

As directed, the Investigating Commissioner conducted further investigation and submitted her *Report and Recommendation*⁹ dated November 16, 1999 stating that the respondent failed to appear during the scheduled hearings on January 5, 1999 and March 23, 1999. Moreover, despite his counsel's motion for extension of time within which to file a

³ *Id.* at 71.

⁴ *Id.* at 72.

⁵ *Supra*, note 2.

⁶ *Supra*, note 1 at 75, Resolution No. XIV-00-138 dated April 7, 2000.

⁷ *Id.* at 81.

⁸ Rollo, Vol. 11, p. 4, Resolution No. XIII-98-294 dated January 28, 1999.

⁹ *Supra*, note 1 at 76-77.

comment on the complaint having been granted, the respondent failed to file his comment. Hence, the Investigating Commissioner reiterated her recommendation that the respondent be disbarred.

The IBP modified the Investigating Commissioner's recommendation and urged instead that the respondent be suspended from the practice of law for five (5) years.¹⁰ The Court noted the recommendation in its *Resolution*¹¹ dated September 8, 2003.

It is axiomatic that no lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. However, once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve his client with competence and diligence, and champion the latter's cause with whole-hearted fidelity.¹² Among the fundamental rules of ethics is the principle that an attorney who undertakes to conduct an action impliedly stipulates to carry it to its conclusion.¹³

In the instant case, after agreeing to represent the complainant's husband, taking possession of their car and persuading the complainant to sell the same to him for a nominal amount, the respondent refused to carry out his duties as counsel prompting the complainant to secure the services of another lawyer to defend her husband. The respondent clearly breached his obligation under Rule 18.03, Canon 18 of the Code of Professional Responsibility which provides: A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

The respondent's infraction is compounded by the fact that he issued a check in favor of the complainant's husband which was later dishonored for having been drawn against a closed account.¹⁴ Such conduct indicates the respondent's unfitness for the trust and confidence reposed on him, shows such lack of personal honesty and good moral character as to render him unworthy of public confidence and constitutes a ground for disciplinary action.¹⁵

¹⁰ *Supra*, note 8, at 17, Resolution No. XV-2003-335 dated June 21, 2003.

¹¹ *Id.* at 23.

¹² Santiago v. Fojas, A.C. No. 4103, September 7, 1995, 248 SCRA 68, *citations omitted*; Curimatmat v. Gojar, A.C. No. 4411, June 10, 1999, 308 SCRA 123.

¹³ Orcino v. Gaspar, A.C. No. 3773, September 24, 1997, 279 SCRA 379, *citations omitted*.

¹⁴ The complainant's husband, Antolin Cuizon, consequently filed a *Complaint-Affidavit* against the respondent for violation of B.P. 22; *Supra*, note 1 at 56-58.

¹⁵ Atty. Navarro v. Atty. Meneses III, 349 Phil. 520 (1998).

The fact that the respondent went into hiding in order to avoid service upon him of the warrant of arrest issued by the Court exacerbates his offense. His repeated failure to comply with the Court's *Resolutions* requiring him to file his comment on the complaint should also be taken into account. By his repeated cavalier conduct, the respondent exhibited an unpardonable lack of respect for the authority of the Court.¹⁶

As an officer of the court, it is a lawyer's duty to uphold the dignity and authority of the court. The highest form of respect for judicial authority is shown by a lawyer's obedience to court orders and processes.¹⁷ A lawyer who willfully disobeys a court order requiring him to do so something may not only be cited and punished for contempt but may also be disciplined as an officer of the court.¹⁸

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

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 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 to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

The foregoing acts of the respondent constitute gross misconduct which renders him unfit to discharge the duties of his office and unworthy of the trust and confidence reposed on him as an officer of the court.¹⁹ His disbarment is consequently warranted.²⁰

WHEREFORE, respondent Rodolfo Macalino is hereby **DISBARRED**. Let a copy of this decision be attached to the respondent's personal records and furnished the Integrated Bar of the Philippines and all courts in the country.

¹⁶ *Jardin v. Villar*, A.C. No. 5474, August 23, 2003.

¹⁷ *Villafior v. Sarita*, A.C.-CBD No. 471, June 10, 1999, 308 SCRA 129.

¹⁸ AGPALO, RUBEN, THE CODE OF PROFESSIONAL RESPONSIBILITY FOR LAWYERS, 1991, *citing* *Casals v. Cusi, Jr.*, No. L-35766, July 12, 1973, 52 SCRA 58; *De Leon v. Torres*, 99 Phil. 463 (1956); *In re Almacen*, No. L-27654, February 18, 1970, 31 SCRA 562; and *Balasabas v. Aquilizan*, No. L-51414, July 31, 1981, 106 SCRA 489.

¹⁹ MARTIN, RUPERTO, LEGAL AND JUDICIAL ETHICS, EIGHTH EDITION, 1984, *citing* *People v. Smith*, 93 Adm. St. Rep. 206.

²⁰ *Atty. Navarro v. Atty. Meneses III*, *supra*.

Copy of the decision was received by respondent on July 26, 2004.

21 January 2005.

PRESBITERO J. VELASCO, JR.
Court Administrator