



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

OCA CIRCULAR NO. 09-2005

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 : SUSPENSION FROM THE PRACTICE OF LAW FOR ONE (1) YEAR OF ATTY. ALANIXON A. SELDA

For the information and guidance of all concerned, quoted hereunder is the Decision of the Second Division of this Court dated October 21, 2004 in Administrative Case No. 6442, entitled "Hon. Mariano S. Macias vs. Atty. Alanixon AL. Selda", to wit:

"For violation of the lawyer's oath, Judge Mariano S. Macias, Presiding Judge of the Regional Trial Court, Branch 28, Liloy, Zamboanga del Norte, filed before the Integrated Bar of the Philippines (IBP) a *Petition for Administrative Discipline* against Atty. Alanixon A. Selda.¹

The facts are undisputed. On January 24, 2000, respondent Selda withdrew as counsel for one Norma T. Lim, private protestee in Election Case No. SE-01 entitled *Ruth Maraon v. The Municipal Board of Canvassers, Salud, Zamboanga del Norte, and Norma T. Lim* for Annulment of Election, etc.² He basically submitted as ground for his withdrawal that he could not cope up with the pace of the proceedings in view of his workload. He claimed that the hearings of the election protest case would run from 2:00 p.m. to 5:00 p.m. and he still had to attend to his other cases including classes at Philippine Advent College, which start at 5:30 p.m. on Mondays and Wednesdays.

In light of these representations, complainant granted the *Motion* and ordered respondent relieved of all his responsibilities as counsel for private protestee. However, on May 22, 2000, respondent executed an affidavit disavowing his grounds for

¹ Dated January 14, 2002; docketed as CBD Case No. 02-921.

² Motion to Withdraw as Counsel for Private Protestee dated January 21, 2000.

withdrawing as counsel for private protestee. He swore that he only filed the *Motion* on account of the pre-judgment of the case by complainant, who, on several occasions insinuated to him that his client would lose in the protest. He stated that he was convinced that chaos would result if his client were unseated, and withdrawal from the case was his best recourse.

On the basis of respondent's affidavit, his former client and private protestee in subject election protest case, moved for the inhibition of complainant. On June 2, 2000, complainant granted the motion for his inhibition if only to disabuse any doubt on his impartiality. But on August 23, 2000, this Court set aside complainant's inhibition after finding no strong and valid reason therefor, and directed him to continue hearing the case and to resolve it with reasonable dispatch.

Deploring the act of respondent as "serious deceit, malpractice, gross misconduct as a lawyer and in utter violation of the lawyer's oath," complainant requested the IBP to investigate the matter and recommend to the Court an appropriate penalty against respondent. On January 30, 2002, the IBP Commission on Bar Discipline³ required respondent to answer. He failed.

On November 21, 2003, after several postponements filed by the parties, their failure to personally appear before the IBP investigating commission, and the request of complainant to resolve the case on the basis of the pleadings, Commissioner Rebecca Villanueva-Maala, submitted her report and recommendation to the IBP Board of Governors that respondent be suspended from the practice of law for two (2) years.

The Board, in its Resolution No. XVI-2004-122 dated February 27, 2004, adopted and approved with modification the Report and Recommendation of Commissioner Maala. It reduced the suspension of respondent to six (6) months; hence, the transmittal of the case and its records to this Court for final resolution⁴ pursuant to Rule 139-B, Section 12(b) of the Rules of Court, viz:

Review and Decision by the Board of Governors. – x x x x (b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.

We affirm the findings of the IBP on the culpability of respondent.

³ Signed by Victor C. Fernandez, IBP Director for Bar Discipline.

⁴ Notice of Resolution signed by Othelo C. Carag, IBP National Secretary.

All members of the legal profession made a solemn oath to, *inter alia*, “do no falsehood” and “conduct [themselves] as [lawyers] according to the best of [their] knowledge and discretion with all good fidelity as well to the courts as to [their] clients.” These particular fundamental principles are reflected in the Code of Professional Responsibility, specifically:

Canon 10 – A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 – A lawyer shall not do any falsehood, nor consent to the doing of any in Court, nor shall he mislead, or allow the Court to be misled by an artifice.

When respondent executed his affidavit of May 22, 2000 retracting his reason for withdrawing as counsel for Norma T. Lim, he acknowledged, **under oath**, his misrepresentation. He misled the court in clear violation of his oath as lawyer and failed to abide by the Code of Professional Responsibility.

Candor towards the courts is a cardinal requirement of the practicing lawyer.⁵ In fact, this obligation to the bench for candor and honesty takes precedence.⁶ Thus, saying one thing in his *Motion to Withdraw as Counsel for Private Protestee* and another in his subsequent affidavit is a transgression of this imperative which necessitates appropriate punishment.

The appropriate penalty to be imposed on an errant attorney involves the exercise of sound judicial discretion based on the facts of the case. Section 27, Rule 138 of the Rules of Court provides, *viz*:

Sec. 27. Disbarment or suspension of attorneys by Supreme Court, grounds therefore. – 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 a 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 for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

⁵ *Paluwagan ng Bayan Savings Bank v. King*, 172 SCRA 60 (1989).

⁶ *Muñoz v. People*, 53 SCRA 190 (1973).

The circumstances in this case demand that respondent be imposed suspension from the practice of law for one (1) year. This serves the purpose of protecting the interest of the court, the legal profession and the public. For indeed, "if respect for the courts and for judicial process is gone or steadily weakened, no law can save us as a society."⁷

IN VIEW WHEREOF, the February 27, 2004 Resolution of the IBP Board of Governors in CBD Case No. 02-921 is **AFFIRMED** with the **MODIFICATION** that respondent Atty. Alanixon A. Selda is **SUSPENDED** from the practice of law for one (1) year, to commence upon receipt of this Decision. He is further sternly warned that a repetition of a similar offense will call for a more severe consequence.

Let a copy of this Decision be attached to the personal record of respondent with the Office of the Bar Confidant. Likewise, let copies of this Decision be furnished the Integrated Bar of the Philippines and all its chapters, and to all the courts in the land."

Copy of the decision was received by respondent on November 18, 2004, as shown by Registry Return Receipts No. 58081 and No. 58082.

26 January 2005.

PRESBITERO J. VELASCO, JR.
Court Administrator

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⁷ William T. Gossett, President, American Bar Association, 1969.