



Republic of the Philippines
Supreme Court
Manila

EN BANC

HEINZ R. HECK,
Complainant,

A.C. No. 5329

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, JJ.

- versus -

**CITY PROSECUTOR CASIANO
A. GAMOTIN, JR.,**
Respondent.

Promulgated:

March 18, 2014

x-----x

DECISION

BERSAMIN, J.:

This administrative complaint was brought against a City Prosecutor whose manner of dealing with the complainant, a foreigner, had offended the latter. We dismiss the complaint because of the complainant's failure to prove that the respondent thereby breached any canon of professional conduct or legal ethics. Indeed, every lawyer who is administratively charged is presumed innocent of wrongdoing.

In September 2000, complainant Heinz Heck filed a complaint for disbarment against then City Prosecutor Casiano A. Gamotin of Cagayan de

Oro City. According to Heck, he was a victim of the “faulty, highly improper, suspicious anomalous and unlawful practice” by the respondent, who had obstructed justice by delaying cases and disregarding proper court procedures, and displayed favor towards Atty. Ce(s)ilo A. Adaza, his business partners and friends.¹

The controversy arose from the filing in 1999 by Heck of a criminal case for unjust vexation against one Oliver Cabrera in the Office of the City Prosecutor (OCP) in Cagayan de Oro City. After the case against him was dismissed, Cabrera countered with two criminal cases against Heck — one charging the latter with illegal possession of firearms (I.S. No. 2000-1860) and the other with unlawful incrimination of an innocent person (Criminal Case No. 1232). Atty. Adaza represented Cabrera in both cases. The OCP initially dismissed I.S. No. 2000-1860 for insufficiency of evidence, but Atty. Adaza moved for the reconsideration of the dismissal. The respondent granted the motion for reconsideration. Heck challenged the order of the respondent. In the meantime, other pending complaints against Cabrera (for unjust vexation and grave threats) were also dismissed because of prescription and insufficiency of evidence. Heck moved for the reconsideration of the dismissals twice, but his motions were denied.²

Heck claimed that on September 11, 2000, the respondent scheduled a meeting at his office to be attended by Heck, his lawyer, his wife and Atty. Adaza. However, Atty. Adaza did not attend the meeting. Heck alleged, however, that Atty. Adaza and the respondent held their own separate “private meeting,” for which reason Heck questioned the propriety of the private meeting and the possibility of connivance between the respondent and Atty. Adaza.³

On September 13, 2000, Heck, accompanied by one Ullrich Coufal, went to the respondent’s office to pick up documents supposedly promised to him. But he was denied the documents by certain ladies sitting outside the respondent’s office who behaved arrogantly. Upon arriving at his office, the respondent pushed through the people crowding outside the office. The actuations of the respondent at the time were described by Heck thuswise:

That Prosecutor Gamotin, Jr. entered his office, the door was held open by a chair. Passing the door, Prosecutor Gamotin, Jr. furiously KICKED the chair who [sic] was holding the door to his office open, sending the chair flying onto the other chairs at his conference table. Then he SLAMMED the door, almost hitting the face of Mr. Coufal, who had tried to followed [sic] Prosecutor Gamotin, Jr. Observing such behaviour

¹ *Rollo*, p. 2.

² *Id.* at 194-195.

³ *Id.* at 6.

I asked (sic) Mr. Coufal that we better leave. We left disgusted the office, (sic) leaving smiling faces behind us.⁴

On September 15, 2000, Heck, his wife, child, and counsel went to the respondent's office for another meeting. Atty. Adaza arrived and went straight inside the respondent's office and then called Heck and his group in as if the office was his own. On that occasion, Heck was told that if he agreed, all cases would be settled and withdrawn. Heck then asked why the respondent was still entertaining Atty. Adaza despite his having been already suspended from the practice of law by the Supreme Court. The respondent raised his voice asking how Heck had learned about the suspension, and whether it was a final decision of the Supreme Court.⁵ Moreover, Heck recalled:

That the City Prosecutor x x x now was screaming at me, as no one has ever screamed at me in my sixty (60) years of live [sic]. That he x x x "never received such information and that this Supreme Court decision is not final", he was now repeating himself again and again. Here Adaza came in and remarked (when Gamotin Jr. was catching his breath) that he, Adaza had appealed against this decision[)] Gamotin, Jr. continued screaming at me, ("that he, (Gamotin) is the ["]Authority and the Law."⁶

Heck stated that he tried to explain his situation calmly to the respondent, but the respondent continued screaming at him, saying:

You foreigner, go home here we the law of the Filipinos, I am the Authority.⁷

Heck then left the office of the respondent upon the prodding of his counsel. He claimed that his wife and child became very scared.

In his response to the charge of Heck, the respondent averred that: (1) he had no personal knowledge of Atty. Adaza's suspension, because such information had not been properly disseminated to the public offices; (2) there were no irregularities in the filing and resolution of the motion for reconsideration of Atty. Adaza; (3) the September 11, 2000 meeting had not been arranged by him, but by Heck's counsel in order to discuss the possibility of settlement; hence, he did not take part in the meeting; (4) he did not display any act of violence, particularly the kicking of the chair and slamming of the door, aside from such acts being improbable because of his age and build; (5) the September 14, 2000 meeting was between the parties' counsels to discuss ways to settle their cases, and Heck was the one who did not agree to the suggestion of withdrawing the cases; (6) it was Heck who

⁴ Id. at 8.

⁵ Id. at 9-11.

⁶ Id. at 11.

⁷ Id. at 12.

acted arrogantly when he challenged the respondent's authority in allowing Atty. Adaza to appear in court despite his suspension; and (7) he admitted that when Heck uttered the words: *I will not believe the authorities of the Philippines*, he slightly raised his voice to respond: *If you will not believe the authorities of the Philippines, you have no place in this country, you can go home.*⁸

Report and Recommendation of the Office of the Bar Confidante

It appears that Heck had filed administrative complaints against the respondent in the Department of Justice (DOJ); as well as in the Office of the Ombudsman.⁹

On October 12, 2001, the DOJ issued a letter-resolution dismissing the administrative complaint filed by Heck against the respondent, finding no cogent basis for the charge of abuse of authority and corruption; and ruling that in any case the respondent had already retired from government service as of June 6, 2001, rendering the administrative case moot and academic.¹⁰

Meantime, the administrative cases in the Office of the Ombudsman were referred to the Public Assistance Bureau and the Fact Finding Investigation Bureau (FFIB) of that office. In its Investigation Report, the FFIB recommended that: (1) the investigation of the complaint be considered closed and terminated without prejudice to its reopening should new evidence enough to establish a *prima facie* case against the respondent become available; and (2) the alleged breach by Atty. Adaza of his suspension from the practice of law and the permission given by the RTC of Cagayan de Oro City be referred to the Supreme Court.¹¹

The records were first referred to the Office of the Court Administrator, then to the Office of the Bar Confidant (OBC) for evaluation of the merits of the disbarment case against the respondent, and for its report and recommendation.¹²

In its Report and Recommendation filed on June 6, 2011,¹³ the OBC observed that although there was no clear, convincing and satisfactory evidence of misconduct as to warrant the penalty of disbarment, the respondent's conduct should be sanctioned; that his act of privately

⁸ Id. at 42-47; Comment of the respondent.

⁹ Id. at 197.

¹⁰ Id. at 72-73.

¹¹ Id. at 198.

¹² Id. at 193.

¹³ Id. at 194-201.

entertaining Atty. Adaza and his brother, as well as allowing his office to be used for a meeting even in his absence raised doubt on his integrity; that the respondent's reaction to Heck's tirade against the country's justice system, particularly the respondent's retort that Heck should go back to his country if he did not believe in the Philippine authorities, constituted decorum that was so unbecoming of a lawyer.¹⁴

Thus, the OBC recommended:

WHEREFORE, premises considered, it is respectfully recommended that Respondent's prayer to dismiss the case for lack of merit be DENIED and that he be SEVERELY REPRIMANDED with stern warning that a similar act in the future will be dealt with more seriously.¹⁵

Ruling of the Court

Like the OBC, we consider that the evidence adduced by the complainant insufficient to warrant the disbarment of the respondent. Disbarment is the most severe form of disciplinary sanction against a misbehaving member of the Integrated Bar. As such, the power to disbar is always exercised with great caution only for the most imperative reasons and in cases of clear misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar.¹⁶

However, unlike the OBC, we do not find any justification to sanction the respondent. A lawyer like the respondent is not to be sanctioned for every perceived misconduct or wrong actuation. He is still to be presumed innocent of wrongdoing until the proof arrayed against him establishes otherwise. It is the burden of the complainant to properly show that the assailed conduct or actuation constituted a breach of the norms of professional conduct and legal ethics. Otherwise, the lawyer merits exoneration.

To begin with, the holding of the meeting between Atty. Babarin, Heck's counsel, and Atty. Adaza in the respondent's office was not suspicious or irregular, contrary to the insinuation of Heck. We are not unmindful of the practice of some legal practitioners to arrange to meet with their opposing counsels and their clients in the premises of the offices of the public prosecutors or in the courthouses primarily because such premises are either a convenient or a neutral ground for both sides. Accordingly, holding the meeting between Heck and his adversary, with their respective counsels,

¹⁴ Id. at 200.

¹⁵ Id. at 20.

¹⁶ *Kara-an v. Pineda*, A.C. No. 4306, March 28, 2007, 519 SCRA 143,146.

in the respondent's office did not by itself indicate any illegal or corrupt activity. We also note that the respondent was not present in the meeting.

Secondly, we cannot sanction the respondent for having angrily reacted to Heck's unexpected tirade in his presence. The respondent was not then reacting to an attack on his person, but to Heck's disrespectful remark against Philippine authorities in general. Any self-respecting government official like the respondent should feel justly affronted by any expression or show of disrespect in his presence, including harsh words like those uttered by Heck. Whether or not Heck was justified in making the utterance is of no relevance to us. Lawyers may be expected to maintain their composure and decorum at all times, but they are still human, and their emotions are like those of other normal people placed in unexpected situations that can crack their veneer of self-control. That is how we now view the actuation of the respondent in reacting to Heck's utterance. The Court will not permit the respondent's good record to be tarnished by his having promptly reacted to Heck's remark.

Moreover, Heck could have sincerely perceived the respondent's actuations to be arrogant and overbearing, but it is not fair for us to take the respondent to task in the context of the events and occasions in which the actuations occurred in the absence of a credible showing that his actuations had been impelled by any bad motive, or had amounted to any breach of any canon of professional conduct or legal ethics.

Lastly, Heck complains that the respondent still entertained Atty. Adaza despite the latter having been already suspended from the practice of law. The respondent explains, however, that he "had no personal knowledge of Atty. Adaza's suspension and that such information was not properly disseminated to the proper offices."

We are inclined to believe the respondent's explanation.

The Court meted on Atty. Adaza the suspension from the practice of law in its decision promulgated on March 27, 2000 in Adm. Case No. 4083 entitled *Gonato v. Adaza*.¹⁷ When Heck confronted the respondent on September 15, 2000 about his allowing Atty. Adaza to practice law despite his suspension, the respondent asked when Heck had learned of the suspension. The respondent thereby implied that he had been unaware of the suspension until then.

We believe that the respondent was not yet aware of the suspension at that time. In *Heck v. Atty. Versoza* (Adm. Case No. 5330, December 5,


¹⁷ 328 SCRA 694.

2000),¹⁸ the Court clarified that Atty. Adaza's suspension became final and effective only after his receipt on September 5, 2000 of the resolution denying his motion for reconsideration with finality; and explained that he would be denied his right to due process if his suspension were to be made operative on March 27, 2000, the date when the Court ordered his suspension for six months. The Court further clarified in *Heck v. Atty. Versoza* that the courts in the country as well as the public would be informed of the suspension only after the lapse of a reasonable period after September 5, 2000 considering that as a matter of policy the circularization of the order of suspension could be done only after the decision upon the suspension had attained finality.

It was possible that at the occasion when Atty. Adaza appeared before the respondent on September 15, 2000, his suspension had not yet attained finality, or that the order of suspension had not yet been known to the respondent. Accordingly, it will be unjustified to hold the respondent liable for allowing Atty. Adaza to practice law and to represent his client in the OCP of Cagayan de Oro City.

WHEREFORE, the Court **DISMISSES** the complaint for disbarment against respondent **ATTY. CASIANO A. GAMOTIN, JR.**; and **CONSIDERS** this administrative matter closed and terminated.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

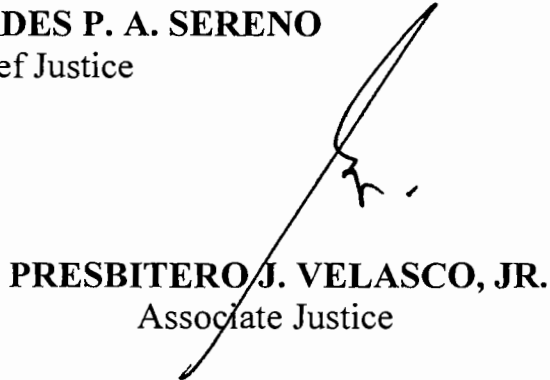
WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



ANTONIO T. CARPIO
Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice

¹⁸ Unpublished resolution.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
 Associate Justice

Arturo D. Brion
ARTURO D. BRION
 Associate Justice

Diosdado M. Peralta
DIOSDADO M. PERALTA
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Roberto A. Abad
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Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
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Jose Portugal Perez
JOSE PORTUGAL PEREZ
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Jose Catral Mendoza
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Bienvenido L. Reyes
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 Clerk of Court
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