



Republic of the Philippines
Supreme Court
 Manila

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 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

JUL 04 2018

THIRD DIVISION

MANUEL B. TROVELA,
 Complainant,

A.C. No. 11550

Present:

- versus -

MICHAEL B. ROBLES,
 Assistant City Prosecutor;
EMMANUEL L. OBUNGEN,
 Prosecutor II; **JACINTO G. ANG,**
 City Prosecutor; **CLARO A.**
ARELLANO, Prosecutor General;
 and **LEILA M. DE LIMA,** Former
 Secretary, Department of Justice,
 Respondents.

VELASCO, JR., J., Chairperson,
BERSAMIN,
LEONEN,
MARTIRES,
GESMUNDO, JJ.

Promulgated:

June 4, 2018

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DECISION

BERSAMIN, J.:

The Integrated Bar of the Philippines (IBP) has no jurisdiction to investigate government lawyers charged with administrative offenses involving the performance of their official duties.

The Case

The complainant initiated this disbarment complaint against Pasig City Assistant Prosecutor Michael B. Robles (Robles) of Pasig City for issuing a resolution dated September 29, 2011 recommending the dismissal of his complaint for *estafa* under Article 315, paragraph 1(b) of the *Revised Penal Code* against Carlo L. Katigbak (Katigbak), Carlos Pedro C. Salonga (Salonga) and Barbara B. Reyes (Reyes) for insufficiency of evidence; and against Prosecutor II Emmanuel L. Obuñgen (Obuñgen) and City Prosecutor

Jacinto G. Ang (Ang), both of Pasig City, for approving the recommendation of dismissal.

The complainant also seeks the disbarment of former Prosecutor General Claro A. Arellano (Arellano) and former Secretary of Justice Leila M. De Lima (De Lima) for allegedly incurring inordinate delay in issuing their resolutions resolving his petition for review and motion for reconsideration before the Department of Justice (DOJ).

Antecedents

On May 25, 2011, the complainant criminally charged Katigbak, Salonga and Reyes with *estafa* under Article 315(1)(b) of the *Revised Penal Code*.

In his complaint-affidavit, the complainant stated that he became the Employee Relations Director of Sky Cable on November 1, 2004; that he later on received a termination letter dated July 6, 2006 signed by Salonga informing him of his relief from work and of his compensation being paid until the effective date of his termination; that his payslips for the periods from July 16, 2006 to July 31, 2006 and from August 1, 2006 to August 15, 2006 still reflected deductions of his savings contributions to the Meralco Employees Savings and Loan Association (MESALA) amounting to ₱2,520.00 per payday period; that withholding taxes of ₱4,509.45 and ₱4,235.70, respectively, were also deducted from his compensation; that he discovered that such deductions were not remitted to MESALA when he closed his account on September 6, 2006; and that Sky Cable did not reimburse the amounts of his unremitted deductions despite demand.¹

In his resolution dated September 29, 2011,² Robles recommended the dismissal of the complaint for insufficiency of evidence.

Obuñgen and Ang approved the recommendation of dismissal on October 11, 2011.

The complainant filed his petition for review dated November 3, 2011 to appeal the dismissal of his complaint.³

On February 12, 2013, Arellano issued his resolution finding no reversible error in the September 29, 2011 resolution of Robles, hence, affirming the dismissal of the complaint.⁴

¹ *Rollo*, pp. 2-4.

² *Id.* at 34-36.

³ *Id.* at 42-52.

⁴ *Id.* at 37-38.

The complainant moved for reconsideration, but his motion was denied by Secretary De Lima on April 21, 2015.⁵

Consequently, the complainant initiated disbarment proceedings against the respondents, insisting thusly:

I.

THE PREMISES CONSIDERED BY THE OPCP IN NOT FINDING PROBABLE CAUSE IN THE CASE ARE **VERY MUCH CONTRARY TO LONG STANDING JURISPRUDENCE HOLDING THAT DEMAND IS NOT A CONDITION PRECEDENT TO THE EXISTENCE OF THE CRIME OF EMBEZZLEMENT WHICH MAY BE ESTABLISHED BY OTHER PROOF AND THAT FAILURE TO ACCOUNT, UPON DEMAND, FOR FUNDS OR PROPERTY HELD IN TRUST IS CIRCUMSTANTIAL EVIDENCE OF MISAPPROPRIATION.**⁶

II.

BUT WHILE THE APPLICATION OF THESE RULINGS HAS BEEN CONSISTENTLY, REPEATEDLY AND UNEQUIVOCABLY MADE IN **MORE RECENT CASES**, IN ACTING ON MY **3 NOVEMBER 2011** PETITION FOR REVIEW AND ON MY **13 MARCH 2013** MOTION FOR RECONSIDERATION, RESPECTIVELY, RESPONDENTS **ARELLANO** AND **DE LIMA** STILL SUSTAINED THE **WRONG** PRESUMPTIONS MADE BY THE OPCP, ONE WAY OR THE OTHER.⁷

III.

TOGETHER WITH SUCH OMISSIONS, THE **INORDINATE DELAYS** ON THE PART OF RESPONDENTS **ARELLANO** AND **DE LIMA** IN COMING OUT WITH THEIR SEPARATE RESOLUTIONS THAT ARE MERELY ANCHORED ON THE **GROSSLY ERRONEOUS FINDINGS** OF THE OPCP **NEGATE** THEIR ALLEGATIONS THAT THEY ACTUALLY EXAMINED THE RECORDS OF THE CASE AND THE EVIDENCE THAT I HAVE PRESENTED AND INDICATED THEIR **LACK OF RESOLVE** TO SEE THAT **JUSTICE IS DONE.**⁸

IV.

WHILE THE PRESENCE OF THE **PRIMA FACIE EVIDENCE OF CORRUPTION** AND OTHER **ANOMALOUS CIRCUMSTANCES** IN THE *PERJURY* AND *UNJUST JUDGMENT* CASES, THE **MANIPULATIVE SCHEMES** EMPLOYED BY SKY CABLE IN CERTAIN OF ITS PLEADINGS (sic) AND THE **INORDINATE DELAYS** IN ALL THE RELATED CASES ARE **VERY OBVIOUS**, RESPONDENT **DE LIMA**, DESPITE BEING THE SECRETARY OF JUSTICE THEN, **TOTALLY IGNORED** THE SAME.⁹

⁵ Id. at 39-41.

⁶ Id. at 6-7.

⁷ Id. at 10.

⁸ Id. at 14.

⁹ Id. at 17.

V.

ABOVE ALL, RESPONDENT **DE LIMA** TOOK ACTION ON THE *ESTAFADA* CASE **AHEAD** OF THE OTHER CASES **WITHOUT CONSOLIDATING** THEM DESPITE THE FACT THAT ALL INDICATIONS CLEARLY POINT TO SUCH CONSOLIDATION.¹⁰

VI.

THAT SAID, IT IS **QUITE OBVIOUS** THAT ALL OF THE RESPONDENTS HAD NOT ONLY **RENEGED** ON THEIR **SWORN DUTY** TO **UPHOLD** THE LAWS OF THE LAND, BASICALLY AS LAWYERS AND AS PROSECUTORS OR DISPENSERS OF JUSTICE, WHICH **COMPROMISED** THE **EFFICIENT ADMINISTRATION OF JUSTICE**, BUT THEY ALSO COMMITTED **GROSS VIOLATIONS** OF CERTAIN LAWS THEMSELVES.¹¹

Should the respondents be administratively disciplined based on the allegations of the complainant?

Ruling of the Court

We dismiss the administrative case against the respondents for lack of jurisdiction.

In his complaint-affidavit, the complainant has posited that Robles, Obuñgen and Ang committed grave errors of facts and law that require an inquiry into their mental and moral fitness as members of the Bar; and that Arellano and Secretary De Lima be declared guilty of dereliction of duty or gross inexcusable negligence for belatedly resolving his petition for review and motion for reconsideration. He specifically prays that the Court grants the following reliefs, namely:

x x x x

1. Finding *prima facie* cases against them for violation of *Art. 208* of the RPC and *R.A. No. 3019*, as amended, a.k.a. the *Anti-Graft and Corrupt Practices Act*, and referring the matter to the appropriate governmental agency for the prosecution thereof;

2. Imposing appropriate disciplinary action against them, including their **disbarment** and/or **removal from office**, for gross violation of the canons of the legal profession or for unprofessional conduct that casts serious doubt upon their mental and moral fitness as members of the Bar and as prosecutors;

3. Awarding costs of suit hereof in such amounts as may be commensurate with the extent and degree of misconduct committed by each of them and recommending that I be awarded corresponding actual, as well as moral, exemplary and compensatory damages; and

¹⁰ Id. at 20.

¹¹ Id. at 21.

4. Providing such other reliefs as this Honorable Court may deem just and equitable under the premises.¹²

X X X X

The acts complained of undoubtedly arose from the respondents' performance or discharge of official duties as prosecutors of the Department of Justice. Hence, the authority to discipline respondents Robles, Obuñgen, Ang and Arellano exclusively pertained to their superior, the Secretary of Justice. In the case of Secretary De Lima, the authority to discipline pertained to the President. In either case, the authority may also pertain to the Office of the Ombudsman, which similarly exercises disciplinary jurisdiction over them as public officials pursuant to Section 15, paragraph 1, of Republic Act No. 6770 (*Ombudsman Act of 1989*). Indeed, the accountability of respondents as officials performing or discharging their official duties as lawyers of the Government is always to be differentiated from their accountability as members of the Philippine Bar. The IBP has no jurisdiction to investigate them as such lawyers.

The Court has recently made this clear in *Alicias, Jr. v. Macatangay*¹³ by holding as follows:

Republic Act No. 6770 (R.A. No. 6770), otherwise known as "The Ombudsman Act of 1989," prescribes the jurisdiction of the Office of the Ombudsman. Section 15, paragraph 1 of R.A. No. 6770 provides:

Section 15. *Powers, Functions and Duties.* — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases.

The 1987 Constitution clothes the Office of the Ombudsman with the administrative disciplinary authority to investigate and prosecute any act or omission of any government official when such act or omission appears to be illegal, unjust, improper, or inefficient. The Office of the Ombudsman is the government agency responsible for enforcing administrative, civil, and criminal liability of government officials "in every case where the evidence warrants in order to **promote efficient service by the Government to the people.**" In *Samson v. Restrivera*, the Court ruled that the jurisdiction of the Ombudsman encompasses all kinds

¹² Id. at 29-30.

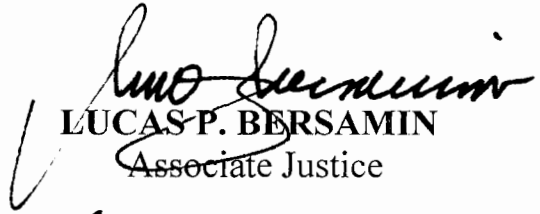
¹³ A.C. No. 7478, January 11, 2017.

of malfeasance, misfeasance, and non-feasance committed by any public officer or employee during his or her tenure. Consequently, acts or omissions of public officials relating to the performance of their functions as government officials are within the administrative disciplinary jurisdiction of the Office of the Ombudsman.

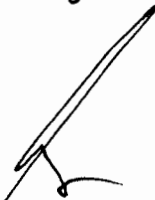
In *Spouses Buffe v. Secretary Gonzales*, the Court held that the IBP has no jurisdiction over government lawyers who are charged with administrative offenses involving their **official duties**. In the present case, the allegations in Alicias' complaint against Atty. Macatangay, Atty. Zerna, Atty. Ronquillo, and Atty. Buenaflor, which include their (1) failure to evaluate CSC records; (2) failure to evaluate documentary evidence presented to the CSC; and (3) non-service of CSC Orders and Resolutions, all relate to their misconduct in the discharge of their official duties as government lawyers working in the CSC. Hence, the IBP has no jurisdiction over Alicias' complaint. These are acts or omissions connected with their duties as government lawyers exercising official functions in the CSC and within the administrative disciplinary jurisdiction of their superior or the Office of the Ombudsman.

WHEREFORE, the Court **DISMISSES** the disbarment complaint filed against all the respondents for lack of jurisdiction.

SO ORDERED.

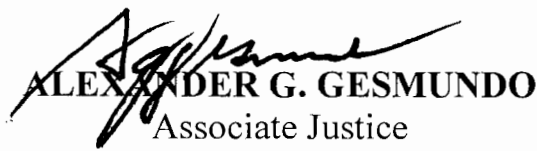

LUCAS P. BERSAMIN
Associate Justice

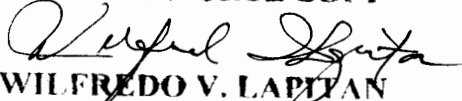
WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice


MARVIC M.V.F. LEONEN
Associate Justice


SAMUEL R. MARTIRES
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice

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