

103 Phil. 312

[Adm. Case No. 228. April 16, 1958]

IN RE: ATTORNEY CELSO T. OLIVA

D E C I S I O N

MONTEMAYOR, J.:

The present Administrative Case No. 228 was initiated by a complaint filed by Panfilo Royo of Masbate, Masbate, against Atty. Celso T. Oliva, for alleged acts of malpractice and violation of his oath as a lawyer. The complaint was given due course and by resolution of August 3, 1955, respondent Oliva was ordered to answer (not to file a motion to dismiss) the complaint. Atty. Oliva filed an answer dated September 8, 1955 and by resolution of September 19, 1955, the case was referred to the Solicitor General for investigation, report and recommendation. On February 12, 1957, on the basis of the investigation held by him at which parties complainant and respondent appeared and submitted evidence, oral and documentary, the Solicitor General filed his report, finding Atty. Oliva guilty of the charge, with a "Conclusion and Recommendation", as follows:

"Premises considered, it is respectfully recommended that the herein respondent attorney Celso T. Oliva be discipline for malpractice and that a punishment which this Honorable Court may deem commensurate for the act complained of be meted out of him."

Attached to the report is a complaint filed by the Solicitor General, dated February 8, 1957, wherein he accuses Atty. Celso T. Oliva of malpractice, committed as follows:

"That being the attorney of one Panfilo Royo of Masbate, Masbate, respondent with the evident purpose of losing his client base, intentionally absented himself from his house and other places wherein he might be found or contacted by his

client so as to take; him to court for trial on two occasions, to wit: On May 5, and 14, 15 when the case was set for hearing before the Justice of the Peace Court of Mobo, Masbate; and as a result of such unprofessional conduct and non-appearance in court during said hearings, the case of the respondent's client was dismissed with cost *de officio* by said court."

and with the following prayer:

"WHEREFORE, it is respectfully submitted that the herein respondent Celso T. Oliva is guilty of malpractice. It is therefore respectfully prayed he be disciplined and punished accordingly."

A copy of said complaint was served on Atty. Oliva, pursuant to section 5 of Rule 128, with the direction that he answer the same. On March 4, 1957, he filed his answer, which reads as follows:

"Comes now the undersigned respondent and to this Honorable Court respectfully alleges:

"1. That he respectfully requests that his answer to the original complaint of the complainant, Panfilo Royo, be made as the answer to the Complaint of the Honorable Solicitor General.

"2. That he further requests that the record of this case together with the declarations of both parties conducted by the Hon. Assistant Solicitor General Jose Alejandro be made as part of his answer. "Premised on the foregoing, the undersigned respectfully requests that the complaint be dismissed."

At the request of respondent, the case was set for hearing on March 25, 1957. On the day of the hearing, Solicitor Jose P. Alejandro appeared for the complainant. There was no appearance for Atty. Oliva, although a telegram was received from him requesting postponement of the hearing. By resolution of the same date, the Court resolved to deny the request for postponement, "but granted leave to the Solicitor General's Office to file, if they so desire, a memorandum in lieu of oral argument, within 10 days from notice hereof; and respondent Celso Oliva may file his reply memorandum within 10 days from Ms receipt of

copy of the Solicitor General's memorandum or from the expiration of the Solicitor General's period for the purpose." Thereafter, a memorandum was filed by Atty. Cerilino M. Dimailig, counsel for the complainant, dated April 12, 1956, but although a copy of the same was sent to Atty. Oliva by registered mail on April 11, 1956, he evidently failed to file his reply memorandum, because the record does not show that he did.

The facts duly established by the record, particularly the transcript of the stenographic notes taken of the oral evidence, and the exhibits presented during the investigation conducted by the Solicitor General's Office, are as follows: It would appear that complainant Panfilo Royo was the owner of an orchestra whose services were engaged by the people of Mobo, Masbate, on February 12, 1955. For reasons not disclosed, Loreto T. Reyes, the Mayor of Mobo, and his men seized the musical instruments of the orchestra and damaged and destroyed the same, for which reasons, Royo contracted the legal services of his neighbor, respondent Oliva, who undertook to prosecute the Mayor and his men. They agreed that Royo would pay P300.00 for his professional services, and the sum of P25.00 was delivered as advance or payment on account.

Oliva told Royo that it was a case of malicious mischief, and that it would fall within the jurisdiction of the Justice of the Peace Court, But instead of filing the criminal complaint himself, he suggested that Royo file a complaint with the PCAC (Presidential Complaint and Action Committee), which was done, and the latter indorsed the complaint to the Philippine Constabulary in Masbate for action. After conducting an investigation, Captain Alacapa of the Philippine Constabulary of Masbate filed with the Justice of the Peace Court of Mobo, Masbate, a complaint for malicious mischief against Mayor Reyes and his men, Criminal Case No. 255.

At the first hearing of the case on April 30, 1955, Captain Alacapa appeared as Government prosecutor, but inasmuch as complainant Royo intended to file a civil suit for damages against the defendants, it was agreed between Royo, respondent Oliva, and Captain Alacapa that Oliva should prosecute the case, for which reason, Oliva appeared as private prosecutor. Instead of going ahead with the hearing, however, Oliva questioned the jurisdiction of the Justice of the Peace Court over the case, and sought to disqualify the Justice of the Peace on the ground of his relationship by affinity, though quite remote, to the defendant Mayor. As a result, hearing was postponed to May 5, 1955, of which the parties were duly notified.

Early in the morning of that day, May 5, 1955, Royo went to respondent Oliva who

instructed him to hire a car to take them to Mobo, about eight kilometers away, to attend the hearing, but later, when Royo returned with the car to the house of Oliva, the latter could not be found, and neither Royo nor Oliva attended the hearing. Fortunately, the Justice of the Peace Court, over the objection of the defense, postponed the hearing to May 14, 1955. In his order of May 5, 1955, the Justice of the Peace held that he had jurisdiction over the case; and he overruled the petition to disqualify him.

Again, early in the morning of May 14, 1955, complainant and his witnesses went to respondent Oliva so that they could go together to attend the hearing. Respondent asked Royo to go to the Philippine Constabulary Headquarters to ask for guards or a military escort. Complying with his attorney's instructions, Royo went to Captain Alicapa to ask for guards to accompany them to Mobo, but when Royo returned to the house of Oliva, the latter could not be located. He was later found only at 25 minutes to 11:00 o'clock that morning, whereas the hearing of which Oliva was duly notified, was for 9:00 o'clock a.m. Because of the failure of the respondent and the complainant to appear at the trial, the case was dismissed with costs de officio.

We find no valid reason for the failure of respondent to attend the two hearings of the case of his client, which he undertook to prosecute for a fee. Respondent claims that he actually attended the hearing on May 5. This claim cannot possibly be true because aside from the testimony of complainant that he and respondent could not go to attend the hearing on May 5 because respondent could not be found, although the car which he had ordered had already been hired for their transportation, the very orders of the Justice of the Peace Court, Exhibit 1 of the respondent himself, dated May 5, 1955, and Exhibit A of the complainant, dated May 14, 1955, clearly state that the respondent failed to appear at the hearing on May 5, 1955. One might claim that if Atty. Oliva failed to attend the hearing, at least his client should have attended it; but at the investigation conducted by the office of the Solicitor General when Royo was asked why he did not attend the hearing even without his lawyer, he answered: "Because I lack counsel. We do not know the law about that". We could hardly expect more from a client not versed in the law and its intricacies.

It is hard to understand the attitude and the conduct of respondent in that case of his client. As the Solicitor General well observes, after accepting the case, instead of filing the complaint for malicious mischief himself, he had his client file a complaint in Manila with the PCAC (Presidential Complaint and Action Committee), as a result of which, a complaint for malicious mischief was filed by the Philippine Constabulary in Masbate. Again, after informing his client, the complainant herein, that in his (respondent's) opinion, the case fell

within the jurisdiction of the Justice of the Peace Court, when the case was heard on April 30, 1955, he, respondent, questioned the jurisdiction of said court. It seems that he was loathe to prosecute the case, perhaps because the principal defendant was the Mayor of Mobo and he feared trouble, but if that was the case, he should not have accepted the case and agreed to prosecute the same. Besides, as the Solicitor General states, at the hearing on April 30, 1955, nothing unusual or untoward took place.

To us this is quite a serious case of failure to properly attend to a client's case not only once, but on two occasions. with results highly prejudicial to the interests of the client. If for one reason or another, respondent could not go on with the hearing on May 14, at least he should have appeared before the Justice of the Peace Court, stated his reason, and asked for postponement of the hearing. The relation between attorney and client, particularly, the responsibility of the former to the latter, has on several occasions been stated and defined by this Court. In the case of *Hernandez vs. Villanueva* (40 Phil., 775, 778), this Tribunal held:

*** "The high trust and confidence which the citizen must repose in the attorney can only be attained if the attorney observes the utmost good faith toward the client. Public policy will be promoted by the observance of the Code provision."

In the case of *In re Attorney Eusebio Tionko* (48 Phil., 191, 194), this Court also held that:

*** "The lawyer owes 'entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability, to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. (Code of Ethics, adopted by the American Bar Association and The Philippine Bar Association, No. 15; *In re Filart* [1919], 40 Phil., 205.)"

Then in the case of *In re Yeager* (56 Phil., 692), this Tribunal again held that:

*** "The abandonment of a client in violation of the attorney's contract ignores the most elementary principles of professional ethics. (Code of Civil Procedure, sections 21, 32; *In re Montagne and Dominguez* [1904], 3 Phil., 577; *In re Filart*

[1919], 40 Phil., 205.)”

Consistent with our policy to maintain the high traditions and standards of the legal profession, insure the observance of legal ethics, protect the interests of clients and help keep their faith in attorneys-at-law, we are constrained to deal firmly with cases like the present.

We find Atty. Celso T. Oliva guilty of malpractice and violation of his oath as a lawyer. He is hereby ordered disbarred and he is directed to surrender his lawyer’s diploma, his certificate of admission to the Bar, and any other certificate issued to him relative, to his admission to the Bar, within thirty (30) days from notice of this decision.

Paras, C. J., Bengzon, Reyes, A., Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Endencia, and Felix, J.J., concur.

Date created: October 14, 2014