

EUFROSINA YAP TAN, COMPLAINANT, VS. NICOLAS EL. SABANDAL, RESPONDENT.

BAR MATTER No. 44. November 29, 1983

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

At issue in the above-entitled consolidated cases is the petition of respondent Nicolas El. Sabandal, a successful Bar examinee in 1978, to be admitted to the Philippine Bar and to be allowed to sign the Roll of Attorneys.

Complainants-oppositors, namely, Eufrosina Y. Tan (Bar Matter No. 44, Eufrosina Y. Tan vs. Nicolas E. Sabandal); Benjamin Cabigon (Bar Matter No. 59, Benjamin Cabigon vs. Nicolas E. Sabandal); and Cornelio Agnis, et al. (SBC-624, Cornelio Agnis, et al. vs. Nicolas E. Sabandal), have opposed the petition. They have charged respondent with: illegal practice of law for accepting clients and for his appearances as a lawyer even if he has not yet been admitted to the Bar; dishonesty, for filling up daily time records as an Investigator of the Bureau of Lands during those days that he appeared as counsel; falsification of public documents; gross dishonesty in public service; and violations of the Anti-Graft and Corrupt Practices Act.

The above entitled cases, upon respondent's Motion, were ordered consolidated in the Resolution of the Court dated November 12, 1982, and were referred to the Office of the Chief Attorney for investigation, report and recommendation.

At the hearings conducted on March 23, 24 and 25, 1983, only complainants-oppositors Eufrosina Y. Tan and Benjamin Cabigon, complainants in Bar Matters 44 and 59, respectively, appeared with their respective counsel and presented their evidence, oral and documentary. The other complainants-oppositors, namely, Diomedes D. Agnis, Dr. Gabriel Catane, Hedy Catane, Antonio Agnis and Fe E. Agnis, complainants in SBC-624, failed to appear at the hearings despite several notices sent to them by registered mail at their addresses of record. Cornelio Agnis had died in the meantime.

Respondent Nicolas El. Sabandal waived his right to attend the investigations for reasons of financial constraints and his belief that the evidence he had already submitted together with his pleadings are sufficient to prove his case so that he felt it unnecessary to submit additional evidence.

In support of her charge of deception by appearing as counsel and accepting clients, Eufrosina Yap Tan, in Bar Matter No. 44, testified on and submitted the following documentary evidence: (1) photostatic copies of transcripts of stenographic notes of (a) the hearing in CAR Case No. 347 entitled Eufrosina Y. Tan vs. Spouses Daniel Iman and Rosa Carreon, et al., before the Court of Agrarian Relations, XVI Regional District, Branch III, on June 23, 1981, wherein respondent manifested "Atty. Nicolas Sabandal, appearing for the defendants, Your Honor" and alleged that Atty. Senen Angeles, counsel of record, was sick (Exhibits "A" and "A-I"); (b) the hearings in Civil Case No. 98 entitled Benjamin Cabigon, et al. vs. Florentina Buntoran, et al., for Forcible Entry and Damages, before the Municipal Court of Roxas, Zamboanga del Norte, on September 23, 1980, wherein one of the appearances recorded was that of "Atty. Nicolas Sabandal: For the defendants," and where respondent

manifested "Your Honor please, appearing for the defendants in collaboration with Atty. Angeles" (Exhibits "H", "H-1" and "H-3"), and on December 16, 1980 when respondent made a manifestation for the defendants (Exhibits "I" and "I-2"); (2) xerox copy of a letter dated June 21, 1981 written by respondent to the Station Commander of Rizal, Zamboanga del Norte, Obdulio Villanueva, in which respondent wrote in part: "we are informed that your office is being used by Mrs. Tan to harass our clients . . ." (Exhibits "B" and "B-1"); and (3) copy of the Order of Judge Nicanor M. Ilicito, Jr., in CAR Case No. 326, entitled Sps. Daniel and Rosa Iman vs. Eufrosina Yap Tan, stating in part that "plaintiffs, through Atty. Nicolas Sabandal, informed the Court that plaintiff's counsel on record, Atty. Cyril Ruiz, is in bed and could not come in today's hearing" (Exhibits "G" and "G-1").

On the same issue, in Bar Matter No. 59, complainant Benjamin Cabigon testified on and presented the following exhibits: (1) the appearance of respondent in Civil Case No. 98, the Forcible Entry case entitled Cabigon vs. Bonturan before the Municipal Court of Roxas (Exhibit "B"), already mentioned by Eufrosina Tan in Bar Matter No. 44; (2) a Certification by the Court Clerk, Interpreter I, of the Municipal Court of Roxas, Zamboanga del Norte, that respondent had appeared before said Court on October 1, 1981 in Criminal Cases Nos. 606, 607, and 622; on October 16, 1981 and August 12, 1981 in Criminal Case No. 622; and on July 29, 1981 in Criminal Case No. 667 (Exhibit "A"); (3) the preliminary investigation in Criminal Case No. 667 (People vs. Florentina Buntoran, et al.) for Qualified Theft of Forest Products wherein Felipe Inggo testified that respondent was his lawyer of the Bonturans (Exhibit "D-3"), while accused Bernardo Gatina declared that respondent was his lawyer (Exhibits "D-6" and "D-7"); so also with the accused, Antonio Ganuran, who gave the same declaration and added that he used to pay respondent and Atty. Angeles for handling his cases (Exhibits "D-8" and "D-9").

To prove her other charges as to the unfitness of respondent to be a member of the Bar, Eufrosina Tan exhibited a Warrant of Arrest against respondent in Criminal Case No. 667 entitled People, vs. Florentina Buntoran, et al. for the crime of Qualified Theft of Forest Products for having allegedly ordered the felling and sawing of a dao tree (Exhibit "E"), and the Amended Complaint in the same case including respondent among the accused (Exhibits "F" and "F-1"); and the administrative charge against respondent in the Bureau of Lands and before the Tanod-bayan for falsification of public documents.

For his part, Benjamin Cabigon (in Bar Matter No. 59) also presented a transcript of proceedings during the preliminary investigation on July 6, 1981 in the same Criminal Case No. 667 (People vs. Florentina Buntoran, et al.) before the Municipal Court for Qualified Theft of Forest Products wherein the defense of three of the accused was that it was respondent who had ordered the cutting of the dao tree (Exhibits "D-2," "D-4" and "D-5").

In his defense, respondent maintained that the charges against him were "baseless and mere products of oppositor's bedevilled mind, for the truth being that petitioner's admission to the Philippine Bar is a sharp thorn in the throat of oppositor Eufrosina Tan, who had been waging a campaign of ejectment against her tenant-farmers some of whom are relatives and friends of petitioner"; and a scjieme by Cabigon "to stifle anybody who extends assistance to his opponents and to press the Subano settlers of Gusa, Roxas, Zamboanga del Norte, to give up their ancestral lands to Cabigon"; that he was merely assisting his parents-in-law, Daniel Iman and Rosa Carreoh, in CAR cases Nos. 347 and 326 as allowed under Sec. 14(k) of PD 946, and that it was the stenographer who had inadvertently entered his name as "Atty. Sabandal" in those cases; that being an employee of the Bureau of Lands does not bar him from attending to personal cases applying by analogy Section 34, Rule 138 of the Rules of Court, nor does he need any authority to appear from said Bureau since the cases are not work connected; that insofar as Criminal Cases Nos. 606, 607 and 622 of the Municipal Court of Roxas are concerned, it was Atty. Senen O. Angeles who was the counsel of record as shown by the Notice of Hearing (Annex "3", Amended Comment); that on the dates that those cases were set on hearing, he was on leave as shown by a Certification of the District Land Officer (Annex "9", Amended Comment); that in appearing in those cases he was merely

helping distressed friends and relatives; that if he had absented himself from office it was to attend to his personal needs and procure materials for the nipa house that he was building and not to attend to the case of Lito Dandoy, one of the accused in Criminal Cases Nos. 606 and 607; that the term "client" should be construed as a "dependent or person under the protection of another and not a person who engages in the profession"; and that the Code of Ethics does not apply to him but only to members of the Bar.

As his documentary evidence, respondent submitted: (1) a photostatic copy of a subpoena for the first day of trial in Criminal Cases Nos. 606, 607 and 622 issued by the Municipal Court of Roxas, Zamboanga del Norte, addressed to Atty. Senen O. Angeles, Dipolog City and Atty. Benedicto O. Cainta, Dipolog City, dated September 3, 1980, to show that they, not respondent, were the counsel of record (Annex "3", Amended Comment); (2) Certification from the Clerk of Court of the Municipal Court of Roxas that the dates of respondent's appearance in Criminal Cases Nos. 606, 607 and 622 was October 1, 1980 and not 1981; and in Criminal Case No. 622, the date was October 16, 1980 and not October 16, 1981 (Annex "1", Comment); (3) a certification by the District Lands Officer, Benjamin Cabading, of the District Land Office No. IX-8, Bureau of Lands, Dipolog City, Zamboanga del Norte on the leaves of absences of respondent on October 1, 1980, October 16, 1980, July 29, 1981 and August 12, 1981 (Annex "3", Comment), together with Civil JService Form No. 48 (Annexes "6", "7" and "8", Amended Comment) wherein he recorded his leaves of absences to prove that he applied for leave whenever he appeared either for a friend or his parents-in-law, and to disprove dishonesty (Annex "3", Comment); (4) duplicate copies of the reinvestigation report (Annex "A") and the Amended Information (Annex "B") filed by Second Assistant Provincial Fiscal Rodolfo T. Mata, in the Court of First Instance, 16th Judicial District, Dipolog City in Criminal Case No. 2734 for Qualified Theft of Forest Products wherefrom respondent's name was dropped as one of the accused on the ground that his inclusion was based on hearsay evidence (Annex "A"1, Motion to Submit Additional Counter Evidence); as well as the Order of the Court dropping him from the Information (Annex "C", *ibid.*); (5) the dismissal of the charge against him by the Director of Lands in *Dagpin vs. Sabandal, et al.* (Annex "1", petitioner's Motion to Dismiss); (6) the dismissal of the charge against him for falsification of public document by the Tanodbayan (Annex "1", petitioner's Manifestation dated February 9, 1981; Annex "2", Reply); (7) Affidavit of Atty. Nelbert T. Poculan, who had helped respondent prepare his original Comment, denying the truth of the statement in the Comment that "respondent absented himself from his work and appeared to protect the rights of Dandoy" alleging that respondent's purpose in absenting himself was "to procure materials for his nipa residence" (Annex "1", Amended Comment); (8) Affidavit of Atty. Senen O. Angeles wherein Atty. Angeles declared that he was the counsel of record in Criminal Cases Nos. 606, 607 and 622, not the respondent who merely accompanied accused Lito Dandoy in Criminal Case 622 to the Court (Annex "4", Amended Comment); (9) an Affidavit of Lito Dandoy, one of the accused in Criminal Cases Nos. 606 and 607 for Qualified Theft of Coconuts, and the accused in Criminal Case No. 622 for Slight Physical Injuries, to the effect that respondent was his intimate friend to whom he turned for help when a Warrant of Arrest was issued against him; that it was upon his insistence that respondent accompanied him to the Municipal Court of Roxas and that he gave no compensation, in cash or kind, to respondent for the latter's help (Annex "5", Amended Comment).

From the array of evidence presented by the parties, it is evident that the charges of violation of the Anti-Graft and Corrupt Practices Act, gross dishonesty in public service and falsification of public documents, have not been substantiated.

However, the evidence supports the charge of unauthorized practice of law. While respondent's infraction may be mitigated in that he appeared for his in-laws in CAR Cases Nos. 347 and 326 where they were parties, it is clear from the proceedings in CAR Case No. 347 that he clarified his position only after the opposing counsel had objected to his appearance. Besides, he specifically manifested "Atty. Nicolas Sabandal, appearing for the defendants, Your Honor" (Exhibit "A-1"). He called himself "attorney" knowing fully well that he was not yet

admitted to the Bar. Oppositors' evidence sufficiently shows that respondent had held himself out as an "attorney" in the agrarian, civil and criminal cases mentioned by said oppositors. Respondent cannot shift the blame on the stenographer, for he could have easily asked for rectification. Even if respondent appeared merely in collaboration with Atty. Senen Angeles in the several cases, that collaboration could only have been ostensibly as a lawyer. Oppositors had also presented evidence of proceedings wherein witnesses testified as to respondent's being their lawyer and their compensating him for his services (Exhibits "D-8" and "D-9"). It may be that in the Court of a municipality, even non-lawyers may appear (Sec. 34, Rule 138, Rules of Court). If respondent had so manifested, no one could have challenged him. What he did, however, was to hold himself out as a lawyer, and even to write the Station Commander of Roxas, complaining of harassment to "our clients." when he could not but have known that he could not yet engage in the practice of law. His argument that the term "client" is a "dependent or person under the protection of another and not a person who engages in the profession" is puerile.

Respondent's additional defense that the code of professional ethics does not apply to him as he is not yet a member of the Bar proves him unfit to be admitted to the profession that exacts the highest ethical conduct of all its members, and good moral character even for applicants for admission to the Bar. He could at least have shown his fitness for admission by showing adherence to and observance of the standards of conduct required by all who aspire to profess the law.

ACCORDINGLY, the petition of Nicolas El. Sabandal to be allowed to take the oath as member of the Philippine Bar and to sign the Roll of Attorneys in accordance with Rule 138 of the Rules of Court is hereby denied.

For failure of complainants/oppositors, namely, Diomedes D. Agnis, Dr. Gabriel Catane, Hedy Catane, Antonio Agnis and Fe B. Agnis in SBC-624 to appear before the Investigator of this Court, their oppositions to the petition of Nicolas El. Sabandal to be admitted to the Philippine Bar and to be allowed to sign the Roll of Attorneys are hereby dismissed, with prejudice.

SO ORDERED.

Teehankee, Makasiar, Guerrero, Abad Santos, De Castro, Plana, Escolin, Relova and Gutierrez, Jr., JJ., concur.

Fernando, C. J., and Aquino, J., did not take part.

Concepcion Jr., J., reserves his vote.

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