

HERMINIO R. NORIEGA, COMPLAINANT, VS. ATTY. EMMANUEL R. SISON, RESPONDENT.

Adm. Case No. 2266. October 27, 1983

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is a complaint for disbarment filed on June 3, 1981 by Herminio R. Noriega against Atty. Emmanuel R. Sison (admitted to the Bar on March 31, 1976) on the ground of malpractice through gross misrepresentation and falsification.

Complainant Noriega alleges that respondent Sison is a regular and permanent employee of the Securities and Exchange Commission (SEC) as a Hearing Officer and as such, "is mandated to observe strictly the civil service rules and regulations, more particularly x x x the prohibition of government employees to practice their professions"; that to circumvent the prohibition and to evade the law, respondent assumed a different name, falsified his identity and represented himself to be one "Atty. Manuel Sison", with offices at No. 605 EDSA, Cubao, Quezon City, "at the times that he will handle private cases"; that "Manuel Sison" is not listed as a member of the Bar in the records of the Supreme Court; that under his said assumed name, respondent is representing one Juan Sacquing, the defendant in Case No. E-01978 before the Juvenile and Domestic Relations Court of Manila, sub-mitting pleadings therein signed by him (respondent) under his assumed name, despite his full knowledge that "Manuel Sison" is not a member of the Bar and that his acts in doing so are illegal and unlawful.[1] Xerox copies of pertinent documents, pleadings, orders and notices are annexed to the complaint to support the material allegations therein.

As required, respondent filed his Answer on August 20, 1981. He attached thereto a copy of the written authorization given by Julio A. Sulit, Jr., Associate Commissioner of the Securities and Exchange Commission, for him to appear as counsel of Juan Sacquing, a close family friend, in the Juvenile and Domestic Relations Court (JDRC) of Manila. Respondent alleges that he never held himself out to the public as a practicing lawyer; that he provided legal services to Sacquing in view of close family friendship and for free; that he never re-presented himself deliberately and intentionally as "Atty. Manuel Sison" in the Manila JDRC where, in the early stages of his appearance, he always signed the minutes as "Atty. Emmanuel R. Sison", and in one instance, he even made the necessary correction when the court staff wrote his name as "Atty. Manuel Sison"; that due to the "inept and careless work of the clerical staff of the JDRC", notices were sent to "Atty. Manuel Sison" at 605 EDSA, Cubao, Quezon City, where respondent's parents conduct a printing office and establishment, which notices were honored by the personnel of said office as respondent's family has called respondent by the nickname "Manuel"; that respondent did not feel any necessity to correct this error of the JDRC since he "could use his nickname 'Manuel' interchangeably with his original true name as a formal name, and its use was not done for a fraudulent purpose nor to misrepresent"; and, that this administrative case is only one of the numerous baseless complaints brought by complainant against respondent, the former being a disgruntled loser in an injunction case in the SEC heard before respondent as Hearing Officer.

In resolving this disbarment case, We must initially emphasize the degree of integrity and respectability attached to the law profession. There is no denying that the profession of an attorney is required after a long and laborious study. By years of patience, zeal and ability, the attorney acquires a fixed means of support for himself and his family. This is not to say, however, that the emphasis is on the pecuniary value of this profession but rather on the social prestige and intellectual standing necessarily arising from and attached to the same by reason of the fact that every attorney is deemed an officer of the court.

The importance of the dual aspects of the legal profession has been wisely put by Chief Justice Marshall of the United States Court when he said:

"On one hand, the profession of an Atty. is of great importance to an individual and the prosperity of his life may depend on its exercise. The right to exercise it ought not to be lightly or capriciously taken from him. On the other hand, it is extremely desirable that the respectability of the Bar should be maintained and that its harmony with the bench should be preserved. For these objects, some controlling power, some discretion ought to be exercised with great moderation and judgment, but it must be exercised." [2]

The purpose of disbarment, therefore, is not meant as a punishment depriving him of a source of livelihood but is rather intended to protect the administration of justice by requiring that those who exercise this function should be competent, honorable and reliable in order that the courts and clients may rightly repose confidence in them. [3]

In disbarment proceedings, the burden of proof rests upon the complainant, and for the court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing, and satisfactory proof. Considering the serious consequences of the disbarment or suspension of a member of the Bar, this Court has consistently held that clear preponderant evidence is necessary to justify the imposition of the administrative penalty. [4]

This Court has also held in *In re Atty. Felizarda M. de Guzman* [5] that to be made the basis of suspension or disbarment, the record must disclose as free from doubt a case which compels the exercise by this Court of its disciplinary powers. The dubious character of the act done as well as the motivation thereof must be clearly demonstrated. An attorney enjoys the legal presumption that he is innocent of the charges preferred against him until the contrary is proved; and as an officer of the court, that he performed his duty in accordance with his oath.

Examining the facts of this case, We hold that the allegations in the complaint do not warrant disbarment of the respondent. There is no evidence that the respondent has committed an act constituting deceit, immoral conduct, violation of his oath as a lawyer, wilful disobedience of any lawful order of the court, or corruptly and wilfully appearing as an attorney for a party to a case without authority to do so. [6]

There is no violation of the Civil Service rules and regulations for his appearance as counsel for the defendant in the JDRC Case No. E-01978 was with authority given by the Associate Commissioner of SEC, Julio A. Sulit, Jr.

This Court also holds that under the facts complained of supported by the annexes and the answer of respondent, likewise sustained by annexes attached thereto and the reply of the complainant, the accusation that respondent with malice and deliberate intent to evade the laws, assumed a different name, falsified his identity and represented himself to be one "ATTY. MANUEL SISON" with offices at No. 605 EDSA, Cubao, Quezon City at the times that he will handle private cases, is not meritorious. Neither is the charge substantiated. The only case referred to is that pending the JDRC, Case No. E-01978 wherein respondent appeared as counsel for the defendant. It being an isolated case, the same does not constitute the practice of law, more so since respondent did not derive any pecuniary gain for his appearance because respondent and defendant therein were close family friends. Such act of the respondent in going out of his way to aid as counsel to a close family friend should not be allowed to be used as an instrument of harassment against respondent.

The ruling in *Zeta vs. Malinao* (87 SCRA 303) wherein the respondent was dismissed from the service because being a government employee, he appeared as counsel in a private case, cannot be applied in the case at bar because the respondent in said *Zeta* case had appeared as counsel without permission from his superiors.

Although the complaint alleges violation of civil service rules, the complainant however states that the basis of his complaint for disbarment is not the respondent's act of appearing as counsel but the unauthorized use of another name.^[7]

A perusal of the records however, reveals that whereas there is indeed a pleading entitled "Objection/Opposition to the Formal Offer of Evidence" (Annex "C" to the Complaint for Disbarment, which is signed as "Manuel Sison", counsel for defendant, 605 EDSA, Cubao, Quezon City, p. 7 of the Records), there is, however, no showing that respondent was thus motivated with bad faith or malice, for otherwise, he would not have corrected the spelling of his name when the court staff mis-spelled it in one of the minutes of the proceeding. Moreover, We find no reason or motive for respondent to conceal his true name when he has already been given express authority by his superior to act as counsel for Juan Sacquing in the latter's case pending before the JDRC. And while it may be true that subsequent errors were made in sending notices to him under the name "Atty. Manuel Sison," the errors were attributable to the JDRC clerical staff and not to the respondent.

At most, this Court would only counsel the respondent to be more careful and cautious in signing his name so as to avoid unnecessary confusion as regards his identity.

At this point, We are constrained to examine the motives that prompted the complainant in filing the present case. An examination of the records reveals that the complainant was a defendant in the Securities and Exchange Commission (SEC) Case No. 1982 filed by the Integrated Livestock Dealers Inc. and Teofisto Jiao against seven (7) respondents including the complainant, seeking to oust the complainant and his co-defendants from acting as officers of the Integrated Livestock Dealers Inc., then pending before respondent as Hearing Officer of the SEC, who after trial decided the case against the herein complainant. From this antecedent fact, there is cast a grave and serious doubt as to the true motivation of the complainant in filing the present case, considering further that other administrative charges were filed by the complainant against respondent herein before the SEC, JDRC, and the Fiscal's office in Manila.

We hold that complainant's repeated charges or accusations only indicate his resentment and bitterness in losing the SEC case and not with the honest and sincere desire and objectives "(1) to compel the attorney to deal fairly and honestly with his client;" (*Strong vs. Munday*, 52 N.J. Eq. 833, 21 A. 611) and "(2) to remove from the profession a person whose misconduct has proved him unfit to be entrusted with the duties and responsibilities belonging to the office of an attorney." (*Ex parte Brounsal*, Cowp. 829; 83 Reprint; 6 C.J., p. 581; see *In re de los Angeles* Adm. Case No. 225, Sept. 31, 1959, cited in *Moran*, Comments on the Rules of Court, Vol. 6, p. 242).

In the light of the foregoing, We find no reason or necessity to refer this complaint to the Solicitor General for investigation, report and recommendation.

WHEREFORE, this case is hereby DISMISSED for lack of merit.

SO ORDERED.

Makasiar, (Chairman), Aquino, Concepcion, Jr., Abad Santos, and Escolin, JJ., concur.
De Castro, J., on leave.

[1] Complaint; Rollo, pp. 1-4.

[2] Ex parte Burr 9 Wheat 529.

[3] Alcala vs. de Vera, 56 SCRA 30, citing In Re Macdougall.

[4] Romulo Santos vs. Alberto M. Dichoso, 84 SCRA 622.

[5] Case No. 828, Jan. 21, 1974.

[6] Sec. 27, Rule 138.

[7] Comment of Complainant, last paragraph, p. 3, which reads: "Respondent evaded the issue in his Answer; he is not charged for practicing his profession nor for collecting fees therefor; neither is he charged for appearing sans office authority to do so. Respondent is charged for malpractice in representing himself as. Atty. Manuel Sison, which is not his real name before the Manila Juvenile and Domestic Relations Court and in signing and submitting pleadings under this assumed name, in violation of the law. What makes this matter worse is that Manuel Sison is not a member of the Bar (Attorney)."

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