

IN THE MATTER OF THE PETITION FOR DISBARMENT AGAINST ATTORNEY PER OLANDESCA. LEOPOLDO FACINAL, COMPLAINANT-PETITIONER.

Adm. Case No. 1184. September 13, 1985

Ponente: ALAMPAY, J.

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ALAMPAY, J.:

In this petition for disbarment filed on May 2, 1973 by Leopoldo Facinal against respondent Atty. Per Olandesca, it is alleged that the latter had entered the fishpond of the complainant without said owner's permission and consent; threatened to arrest and jail those working therein unless they sign affidavits respondent herein had prepared for their signatures; tried to coerce the complainant's son, Wendel; and that, with the aid of PC soldiers drove out complainant's overseers who were also made to sign affidavits to be used in a criminal case against the complainant; and that, as a result of all the aforesaid acts, respondent succeeded in taking possession of the complainant's fishpond.

Answering the complaint, respondent denied the charges against him and averred that it is the complainant who has long been a squatter on the portion of the public domain located in Sapián, Capiz, wherein respondent had been granted a fishpond permit by the Philippine Fisheries Commission; that he (respondent) had complained to the Bureau of Forest Development and the Philippine Fisheries Commission about the complainant's illegal intrusion and cutting of trees in said area, and when the personnel of said agencies, together with the respondent proceeded to the area in question and upon verification of the matters which were being complained of by respondent, it was Jesus L. Maglantay of the Bureau of Forest Development who confiscated the trees cut by complainant's men which later led to the filing in the Municipal Court of Sapián, Capiz of a criminal case against complainant and seventeen others for alleged cutting of trees in violation of P.D. No. 54.

Under the resolution of this Court dated October 23, 1973, petitioner Facinal's complaint was referred to the Solicitor General for investigation, report and recommendation. The corresponding report, dated September 30, 1983, submitted to this Court by the Office of the Solicitor General states, among other things, the following:

"The accusation that respondent harassed, coerced, threatened, forced and intimidated complainant's son, Wendell Facinal, his relatives, and men into signing sworn statements has not been satisfactorily shown. In fact, complainant's son refused to sign the sworn statement dated April 16, 1973 (Exh. "14") and nothing untoward happened to him. On the other hand, it appears that complainant's relative, Cesar Facinal and seventeen others voluntarily signed the Joint Affidavit in the presence of Sgts. Barrera and Parreno of the Capiz PC Command, and also before the fishery officer, Mr. Wilfredo Felarma, and the forestry officer, Mr. Jesus Maglantay, at Sitio Talingting, Sapián, Capiz (Exhs. "9", "9-A", "9-B", "9-B-1") Likewise, complainant's relative overseer, Martin Facinal, signed a sworn statement, dated March 25, 1973, before the said forestry officer, in the presence of T/Sgt. Eliodoro Silao and S/Sgt. Virgilio de la Rosa, both of the PC Headquarters, Loctugan Hills, Roxas City (Exhs. "10", "10-A", "10-B", "10-B-1"). There is no showing that respondent had a hand in the preparation of the said sworn statements. And even if he was with the group, it was simply because he was affected thereby being a permittee of the land wherein the trees were being illegally cut.

"Besides, the record disclosed that it was the forestry officer, not respondent, who seized the illegally cut trees. All that respondent did was to complain to the said officer about the illegal cutting of trees in the area covered by his fishpond permit. It was also the forestry officer who filed a complaint against complainant herein with the municipal court of Sapián for Violation of P.D. No. 54. (Exh. "8")"

and therefore, recommends that the instant complaint be dismissed as the charges against respondent have not been sufficiently established.

Considering the said report and recommendation of the Solicitor General's Office and finding no reason to disagree with the same, the Court has resolved to dismiss this administrative complaint against respondent Atty. Per Olandesca for lack of merit.

SO ORDERED.

Aquino, (Chairman), Concepcion, Jr., Abad Santos, De La Fuente, and Cuevas, JJ., concur.

Escolin, J., no part.

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