

IN THE MATTER OF PROCEEDINGS FOR DISCIPLINARY ACTION AGAINST ATTY. CLEMENTE M. SORIANO IN L-24114, PEOPLE'S HOMESITE AND HOUSING CORPORATION AND UNIVERSITY OF THE PHILIPPINES V...

G.R. No. L-24114. June 30, 1970

Ponente: CASTRO, J.

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CASTRO, J.:

By virtue of a pleading entitled "Appearance" filed with this Court on October 10, 1969, Clemente M. Soriano, a member of the Philippine Bar since January 19, 1954, entered his appearance in the present case (L-24114, PHHC and U. P. vs. Mencias, Tiburcio, et al.) as "chief counsel of record" for the respondents Marcelino Tiburcio, et al. This act in itself would have been innocuous were it not for the fact that it was done one year and eight months after the decision in this case became final. Wittingly or unwittingly, therefore, Atty. Soriano was in effect asking this Court to exhume this case from the archives. We thus considered it needful that he explain in full and in writing his unprecedented, if not altogether bizzare, behavior.

His subsequent explanation did not, however, serve to dissuade this Court from requiring him to show cause why disciplinary action should not be taken against him for entering an appearance at such a late date. He forthwith came with a recital of the circumstances under which he had agreed to have his services retained by the respondents Tiburcio, et al.

He alleged that sometime during the first week of October, 1969 the respondent Marcelino Tiburcio, in his own behalf and as attorney-in-fact of the other respondents, went to him to engage his professional services in two cases, to wit: this terminated case (L-24114), and the case entitled "Varsity Hills vs. Hon. Herminio C. Mariano, etc., et al." (L-30546). At their conference, Marcelino Tiburcio supposedly informed Atty. Soriano of the precise status of each of the two cases, thus: that the Varsity Hills case was set for hearing by this Court on October 27, 1969, while the present case was still pending and the date of hearing thereof was yet undetermined. In addition to Marcelino Tiburcio's representations, Atty. Soriano allegedly relied upon the assurance of a mutual acquaintance, Atty. Antonio J. Dalangpan - that indeed these two cases were pending in this Court. And so Atty. Soriano prepared a letter-contract dated October 8, 1969, by virtue of which he agreed to render professional services in the two cases in consideration of a contingent fee of 143.33 hectares of land out of the 430 hectares (more or less) involved in the two cases. It was on the same date, October 8, 1969, that he then caused the preparation of his written appearance in the present case.

Parenthetically, it is interesting to note that the contingent fee of 143.33 hectares of land would find no justification if Atty. Soriano were to render his professional services solely in the Varsity Hills case, for in this latter case, the records of which we are in a position to take judicial notice, an area of only about 19 hectares is involved,^[1] the bulk of the property claimed by the respondents having been litigated in the present case.

The entry of appearance of a counsel in a case which has long been sealed and terminated by a final judgment,

besides being an unmitigated absurdity in itself and an unwarranted annoyance to the court which pronounced the judgment, is a sore deviation from normal judicial processes. It detracts heavily from the faith which should be accorded final judgments of courts of justice, generating as it does in the minds of the litigants, as well as of the public, an illusory belief that something more can be done toward overturning a final judicial mandate.

In the incident before us, we find Atty. Soriano grossly remiss and inexcusably precipitate in putting an officious finger into the vortex of the case. He was wanting in the reasonable care which every member of the Bar must needs exercise before rushing into the midst of a case already litigated or under litigation.

Before taking over a case handled by a peer in the Bar, a lawyer is enjoined to obtain the conformity of the counsel whom he would substitute. And if this cannot be had, then he should, at the very least, give notice to such lawyer of the contemplated substitution.[2] Atty. Soriano's entry of appearance in the present case as "chief counsel of record" for the respondents in effect sought to preempt the former counsel, Atty. Nemesio Diaz, of the premier control over the case. Although at the hearing of the present incident he averred that he exerted efforts to communicate with Atty. Diaz to no avail, we are far from being convinced that he really did so. Nowhere in his written manifestations to this Court did he make mention of such efforts on his part. His subsequent assertions to the contrary are plainly mere afterthoughts.

Furthermore, we note that Atty. Soriano has joined one Atty. Bonifacio T. Doria as counsel for the respondents in the Varsity Hills case now pending before this Court. Atty. Doria, who was counsel of record in that case even prior to October 10, 1969, certainly knew the status of the present case since the scope of our decision in the latter is a prime issue raised in the Varsity Hills case. Clearly, therefore, when Atty. Soriano accepted the two cases for the respondents, especially the Varsity Hills case, he had not bothered at all to communicate with Atty. Doria, as is the befitting thing to do when a lawyer associates with another in a pending cause.[3] He did not bother either to comprehend the substance of the Varsity Hills case before accepting the said case, something which is elementary in the lawyer's trade. Had he been less precipitate in his actions, he would have surely detected the existence of a final judgment in the present case.

Further still, if it were true, as claimed by Atty. Soriano at the hearing of this incident, that his clients complained to him about having been left out in the cold by their former lawyer, then that circumstance of itself should have indicated to him the imperative need for verification of the true status of the present case. Atty. Soriano cannot lean on the supposed assurance of Atty. Dalangpan that the case was still pending with this Court - which assurance Atty. Dalangpan, at the hearing of this incident, categorically denied having given. What Atty. Soriano should have done, in keeping with the reasonable vigilance exacted of members of the legal profession, was to pay a verification visit to the records section of this Court, which is easily and quickly accessible by car or public conveyance from his office (May Building, Rizal Avenue, Manila). If his office were situated in the province and he did not have the time to come to the Supreme Court building in Manila, he could have posed the proper query to the Clerk of Court by registered mail or by telegram.

We find Atty. Clemente M. Soriano guilty of gross negligence in the performance of his duties as a lawyer and as an officer of this Court. This inexcusable negligence would merit no less than his suspension from the practice of the law profession, were it not for his candor, at the hearing of this incident, in owning his mistake and the apology he made to this Court. It is the sense of this Court, however, that he must be as he is hereby severely censured. Atty. Soriano is further likewise warned that any future similar act will be met with heavier disciplinary sanction.

Atty. Soriano is hereby ordered, in the present case, to forthwith withdraw the appearance that he has entered as chief counsel of record for the respondents Marcelino Tiburcio, et al.

Let a copy of this resolution be attached to the personal record of Atty. Clemente M. Soriano on file in the Bar Division of this Court.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Fernando, Teehankee, and Barredo, JJ., concur.
Villamor, J., on leave.

[1] Annex "R-1" of Petition in the Varsity Hills case, entitled "Me-morandum for plaintiffs" (the respondents in this case)

[2] U.S. vs. Borromeo, 20 Phil. 189.

[3] Canons of Professional Ethics, par. 7.

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