

JOSE TOPACIO NUENO, COMPLAINANT, VS. PASCUAL SANTOS, RESPONDENT.

. October 11, 1933

Ponente: MALCOLM, J.

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MALCOLM, J.:

These proceedings present for consideration the question of what action, if any, should be taken against Attorney Pascual Santos for malpractice.

Judge Anacleto Diaz of the Court of First Instance was made a special investigator of conditions in the city government of Manila. In the course of the investigation a complaint was filed by Jose Topacio Nueno, a member of the municipal board of the City of Manila, against Pascual Santos, another member of the municipal board, it being alleged that the latter had interested himself in prohibited games. Santos was required to answer the charges which he did by denying them. Hearings were had on the said charges and the testimony of a number of witnesses was taken. At the conclusion of the hearing, Judge Diaz made a report to the Honorable, the Secretary of the Interior, in which he recommended the removal of the respondent from his office of member of the municipal board, and that all the papers connected with the charge that the respondent had openly been running a club for gambling purposes, such as the Circulo Nacionalista Consolidado Club and had directly taken part in said games, be transmitted to the Supreme Court for action, "it being evident that the respondent, as a member of the Bar, violated his oath of office by deceiving the court and consenting a falsehood to be committed, as it was in fact committed, in the case referred to, viz.: Criminal case No. E-87890, Municipal Court of Manila, entitled P. P. I. vs. Iñigo Hernandez." On receipt of the report of Judge Diaz against Attorney Santos, this court ordered it referred to the Attorney-General for investigation, report, and recommendation. In the latter office Attorney Santos was furnished with a copy of the report and was given five days within which to state in writing whether or not he desired to present evidence, in addition to that already adduced in the investigation conducted by Judge Diaz, and to state why his disbarment should not be recommended to the Supreme Court in view of the findings of Judge Diaz. The respondent eventually filed an answer denying the charge and requesting that he be given an opportunity to present evidence in support of his defense.

At the commencement of the investigation in the office of the Attorney-General, a question was raised as to the exact charge, and it finally seems to have been agreed that the respondent stood charged on but one count, namely, that he, as counsel for Iñigo Hernandez who was charged with a violation of an ordinance for having willfully and unlawfully encouraged, tolerated and permitted to be played a game of chance and hazard commonly known as "monte", wherein money and other things of value were played for at No. 18 Soler Street, Manila, Criminal case No. E-87890 of the municipal court of Manila, entered a plea of guilty for said Hernandez although he knew that the latter was a mere waiter in said house and did not encourage, tolerate, or permit a game of "monte" to be played in said house. It seems further to have been agreed that additional evidence could be received limited to that charge. At any rate, the respondent called Iñigo Hernandez as his witness and testified in his own behalf. It was only at the conclusion of the hearing that counsel for the respondent protested against the

evidence which had been received by Judge Diaz being taken into account against him. The report of the Solicitor-General concludes with the recommendation that disciplinary action be taken against the respondent. In a memorandum filed with the court the respondent has protested against the irregularity of the investigation and has asked for exoneration.

The way the proceedings have been handled leads us to believe that the respondent was fully informed of the specific charge against him, and that it was not improper to consider the evidence taken by Judge Diaz, and in conjunction with the additional evidence received by the Solicitor-General, to make findings thereon. We further believe that there is no escaping the conclusion that the respondent attorney consented to the doing of a falsehood and deceived the court when he had an accused plead guilty to an offense which he had not committed. The background of the administrative investigation showing the respondent's connection with prohibited games, under the circumstances of the case, can only be taken into consideration in so far as it relates to the precise charge laid against him. There was a clear violation of the lawyer's oath that he would do no falsehood nor consent to the doing of any in court.

From one standpoint, the facts merit our dealing sternly with the respondent for having violated his oath of office. On the other hand, in favor of the respondent are the circumstances that the charge is strictly circumscribed to the improper action taken by him in one case; that political considerations induced the filing of the charges against him before Judge Diaz, and that the matter involved was not new but had occurred approximately two years before the investigation was begun. The facts, are, therefore, different from those found in the case of *In re De Lara* ([1914], 27 Phil., 176), where the attorney was disbarred, and in the cases of *In re Terrell* ([1903], 2 Phil., 266), and *Piatt vs. Abordo* ([1933], No. 1781),^[1] where the attorneys were each suspended, for a term of one year. A brief period of suspension will serve to indicate our disapprobation of the deceit practiced by the respondent on the court and will be fair to the respondent.

It is the order of the court that effective as of October 16, 1933, the respondent Pascual Santos be suspended from the practice of law for a period of three months.

Avanceña, C. J., Street, Villa-Real, Vickers, Imperial, and Butte, JJ., concur.

[1] Page 350, ante.

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