

JOSE D. VILLEGAS E IRENE SANTOS, RECURRENTES, CONTRA NICANOR DE MESA, RECURRIDO,

Ato. Admo. No. 846. July 03, 1940

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

Habiendose presentado por los recurrentes Jose D. Villegas e Irene Santos una queja contra el abogado Nicanor De Mesa por conducta antiprofesional, se le requirio al recurrido que la contestase, como en efecto la contesto negando todas y cada una de las alegaciones de la queja, reservandose sin embargo el derecho de presentar una contestacion enmendada dentro de 10 dias. Se le concedio este plazo, pero no presento el anunciado escrito. Por una resolucidn de este Tribunal, se refirio el caso al Procurador General para la accion correspondiente y dicho funcionario presento una queja formal en que se alegan los siguientes hechos:

"(a) That by virtue of a deed of absolute sale executed by Donata Peralta and Elena Escobar on September 20, 1928, in favor of the respondent, the latter obtained title to a parcel of land known as lot No. 1937 of Cuyapo Cadastral Case No. 2, the consideration stated in said deed of sale being P1,650.

"(b) That the recital in the deed of sale to the contrary notwithstanding, the respondent did not pay the agreed consideration in cash but by means of a promissory note for the said amount of P1,650 payable within thirty (30) days from August 31, 1928, the date in which said promissory note was supposed to have been executed and signed by the respondent.

" (c) That on January 28, 1929, the respondent sold the land described in paragraph (a) hereof, which was then covered by Certificate of Title No. 3163 issued in his own name by the register of deeds of Nueva Ecija, to Timoteo Santos of Malabon, Rizal, for P2,000.

"(d) That as Timoteo Santos did not have sufficient funds with which to pay the said sum of P2,000, the respondent induced him to borrow money from his aunt, the herein complainant Irene Santos.

"(e) That, pursuant to respondent's suggestion, on January 29, 1929, Timoteo Santos mortgaged the same parcel of land to Irene Santos for the sum of P1,500, which mortgage was acknowledged by said Timoteo Santos before respondent in his capacity as notary public.

" (f) That although the consideration of P2,000 had been received by him in full from Timoteo Santos, the respondent taking advantage of the confidence reposed in him by said Timoteo Santos, who was his friend and whose house he was living at the time, and by Irene Santos of whom he was one of her attorneys in civil case No. 3608 of the Court of First Instance of Rizal, entitled 'Irene Santos et al., vs. Margarita E. Fermin et al. induced, cajoled and prevailed upon said Timoteo Santos and Irene Santos not to register in the office of the register of deeds of Nueva Ecija the deeds of sale and mortgage executed in their favor, respectively, until further advice from him and, believing in his representations and promises, Irene Santos did not register said documents.

" (g) That in civil case No. 5129 of the Court of First Instance of Nueva Ecija entitled 'Donata Peralta et al. vs. Nicanor de Mesa', in which the plaintiff sought the rescission of the contract entered into by them on

September 20, 1928, because of the there defendant and herein respondent's failure to honor his promissory note of August 31, 1928, for the sum of P1,650, the respondent, knowing fully well that the parcel of land which was the object of the complaint had been sold by him to Timoteo Santos and that said Timoteo Santos, following his advice, had mortgaged said property to Irene Santos, agreed to the rescission of said contract sought in plaintiffs complaint and as a result of said agreement entered into by him, the court declared the deed of sale executed by Donata Peralta and others in his favor null and void and ordered the cancellation of certificate of Title No. 3163 which had been issued in his name and the issuance of another in the name of the plaintiffs Donata Peralta and others; and that respondent, by thus abusing his position as attorney and counsellor of, and the confidence reposed in him by, the complainant Irene Santos, defrauded the latter in the sum of P1,500.

"(h) That on October 21, 1929, and before Irene Santos actually knew the fraudulent acts perpetrated by the respondent in connection with the parcel of land mortgaged to her by Timoteo Santos, respondent, taking advantage of the confidence reposed in him by said Irene Santos who was his client in civil case No. 3608 of the Court of First Instance of Rizal, by making her believe that he needed the sum of P500 just to show it in court in connection with a certain administrative case which he said he had, and that he would return the amount as soon as said purpose had been accomplished, succeeded in obtaining a loan of P500 from said Irene Santos promising to return same on or before November 30, 1929, but far from complying with his promise, he refused and still refuses to pay said amount.

"(i) That the respondent has concealed his property in order to defraud his creditors."

Presentado el escrito de contestation por el recurrido, se nombrd, por resolution de este Tribunal, al Juez de Primera Instancia de Rizal comisionado para que procediera a hacer la investigation, informe y recomendaciOn que procedan. Se presentaron ante el Juez Gomisionado las pruebas de los recurrentes y cuando le correspondio al recurrido presentar las suyas, no comparecio, ni su abogado.

Se han probado todos los cargos alegados en la queja presentada por el Procurador General, y el Juez Gomisionado opind que, aun cuando los actos cometidos por el recurrido, no lo han sido en su capacidad de abogado, constituyen, con todo, una violation de su juramento de abogado, pues el juro que no cometeria ningun acto de falsedad, y demuestran ademas que le falta el buen caracter moral, que es una de las mas importantes cualificaciones requeridas para la profesion de abogado.

Convenimos en las anteriores consideraciones con el Juez Comisionado, y en su virtud, ordenamos que el recurrido sea inhabiHtado en el ejercicio de la profesion y que pague a Irene Santos, la cantidad de P2,000 por 61 ilegalmente apropiada, y, si no lo hiciere dentro del termino de un ano, se reserve a la recurrente el derecho de entablar la accion civil correspondiente. Asi se ordena.

Avanceña, Pres., Imperial, Diaz, Laurel, y Moran, MM., estan conformes.

Villa-Real, M., no tomo parte.

Se inhabilita al recurrido en el ejercicio de la profesion.

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