

OLEGARIA BLANZA AND MARIA PASION, COMPLAINANTS, VS. ATTY. AGUSTIN ARCANGEL, RESPONDENT.*Adm. Case No. 492. September 05, 1967*

Ponente: BENGZON, J.P., J.

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Complainants Olegaria Blanza and Maria Pasion ask this Court to take disciplinary action against respondent Atty. Agustin Arcangel for professional non-feasance. They complain that way back in April, 1955, respondent volunteered to help them in their respective pension claims in connection with the deaths of their husbands, both P.C. soldiers, and for this purpose, they handed over to him the pertinent documents and also affixed their signatures on blank papers. But subsequently, they noticed that since then, respondent had lost interest in the progress of their claims and when they finally asked for the return of their papers six years later, respondent refused to surrender them.

Respondent answered these accusations before Fiscal Raña to whom this case was referred by the Solicitor General for investigation, report and recommendation. He admitted having received the documents from complainants but explained that it was for photostating purposes only. His failure to immediately return them, he said, was due to complainants' refusal to hand him the money to pay for the photostating costs which prevented him from withdrawing said documents from the photostat service. Anyway, he had already advanced the expenses himself and turned over, on December 13, 1961, the documents, their respective photostats and the photostat service receipt to the fiscal.

Finding respondent's explanation satisfactory and considering that he charged complainants nothing for his services, Fiscal Raña recommended the former's exoneration, or at most, that he be reprimanded only. The Solicitor General, however, feels that respondent deserves at least a severe reprimand considering (1) his failure to attend to the complainants' pension claims for six years; 2) his failure to immediately return the documents despite repeated demands upon him, and (3) his failure to return to complainant Pasion, allegedly, all of her documents.

At the hearing of the case before this Court on October 21, 1963, only respondent, thru counsel, appeared. In lieu of oral arguments therefore, respondent submitted his memorandum, annexing therewith an affidavit executed by Olegaria Blanza asking for the dismissal of the administrative case.[1]

Respondent first submits that he was not obliged to follow up complainants' pension claims since there was no agreement for his compensation as their counsel. Respondent however overlooks the fact that he volunteered his professional services and thus, was not legally entitled to recover fees.[2] But having established the attorney-client relationship voluntarily, he was bound to attend to complainants' claims with all due diligence.

Nevertheless, We find the evidence adduced insufficient to warrant the taking of disciplinary action against respondent attorney. There is no clear preponderance of evidence substantiating the accusations against him.[3]

Respondent's explanation for the delay in filing the claims and in returning the documents has not been contro-verted by complainants. On the contrary, they admitted[4] that respondent asked them to shoulder the photostating expenses but they did not give him any money therefore. Moreover, the documents and their photostats were actual-ly returned by respondent during the fiscal's investiga-tion with him paying for the photostating costs himself. And the condition of the photostats themselves - they ap-pear to have been in existence for quite some time[5] - supports respondent's allegation that they remained in possession of the photostat service for the failure of the owners (respondent and/or complainants) to withdraw the same upon payment of the corresponding costs. Hence, complainants themselves are partly to blame for the delay in filing their respective claims.

As for the alleged failure of respondent to return all her documents to complainant Pasion, the former de-nies this. Fiscal Raña made no findings on the matter. The affidavit of Mrs. Blanza pardoning respondent cannot prejudice complainant Pasion because *res inter alios acta alteri nocere non debet*. Still, there is equiponderance of evidence must necessarily redound to respondent's benefit. Complainant Pasion had another opportunity to substantiate her charges in the hearing set for October 21, 1963 but she let it go. Neither she nor her counsel of record appeared.

But while We are constrained to dismiss the charges against respondent, for being legally insufficient, yet, We cannot but counsel against his actuations as a member of the bar. A lawyer has a more dynamic and positive role in the community than merely complying with the minimal technicalities of the statute. As a man of law, he is ne-cessarily a leader of the community, looked up to as a model citizen. His conduct must, perforce, be par excellence, especially so when, as in this case, he volunteers his professional services. Respondent here has not lived up to that ideal standard. It was unnecessary to have complainants wait, and hope, for six long years on their pension claims. Upon their refusal to co-operate, respondent should have forthwith terminated their professional relationship instead of keeping them hanging indefinitely. And altho We voted that he not be reprimanded, in a legal sense, let this be a reminder to Atty. Arcangel of what the high standards of his chosen profession require of him.

Accordingly, the case against respondent is dismissed.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

[1] See Annex "A" of respondent's memorandum.

[2] 7 C.J.S. 1018.

[3] See *In re Tiongko*, 43 Phil. 191.

[4] Records, pp. 15, 18.

[5] See Records, pp. 25-34.

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