

IN RE: PETITION FOR REINSTATEMENT IN THE ROLL OF ATTORNEYS, JUAN T. PUBLICO, PETITIONER.

Re: Juan T. Publico. February 20, 1981

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Three Petitions for the reinstatement of Juan T. Publico in the Roll of Attorneys, have been filed: 1) by Juan T. Publico himself dated May 28, 1979; 2) by the President and twelve members of the faculty of the Polytechnic University of the Philippines, Sta. Mesa, Manila, where Juan T. Publico is also a faculty member, filed on June 1, 1979; and 3) by the San Miguel (Catanduanes) Civic Association in Metro Manila through its President, Vice-President and Directors on April 23, 1979.

The records disclose that Juan Tapel Publico filed a petition to take the Bar examination in 1960 after failing in the 1959 Bar examination. His uncle, Dulcisimo B. Tapel, opposed the petition alleging that his nephew is not a person of good moral character for having misrepresented, sometime in 1950, when he was sixteen (16) years of age, that he was eligible for Third Year High School, University of Manila, by utilizing the school records of his cousin and namesake, Juan M. Publico when, in actual fact, petitioner had not completed Grade VI of his elementary schooling, much less, First and Second Year High School. When required to file a formal Complaint, Dulcisimo Tapel instituted an administrative case against his nephew for falsification of school records or credentials.

In the meantime, Juan T. Publico took the 1960 Bar examination, passed it, took the lawyer's oath, and signed the Roll of Attorneys.

The administrative case was referred to the Court's Legal Officer-Investigator, Ricardo Paras, Jr., for investigation and report. On September 10, 1961, Dulcisimo Tapel moved to drop the complaint on the ground that his witnesses had turned hostile. The Motion was denied, however, as the complainant's witnesses had already testified. Upon the termination of the hearing, the Legal Officer-Investigator submitted a Report with the following findings and recommendation:

"To recapitulate, respondent Juan Tapel Publico (son of Francisco Publico) studied at Buhi Elementary School, Bato, Catanduanes, until Grade VI, but finished only Grade V in said school, because on February 1, 1950, or before the end of the school year 1949-1950, he left said school and came to Manila. Once in Manila, he enrolled in Third Year high school at the University of Manila. Required by the school authorities to submit his school records for Grade VI elementary and First and Second Year high school, he sent for the records of his cousin Juan Marino Publico (son of Gabriel Publico).

For all the foregoing, we find and so hold that respondent falsified his school records, by making it appear that he had finished or completed Grade VI elementary and First and Second Year high school, when in truth and in

fact he had not, thereby violating the provisions of Sections 5 and 6, Rule 127 of the Rules of Court, which require completion by a bar examinee or candidate of the prescribed courses in elementary, high, pre-law and law school, prior to his admission to the practice of law.

WHEREFORE, the undersigned Investigators hereby recommend that respondent's name be stricken from the Roll of Attorneys."

In this Court's Resolution of February 23, 1962, the name of Juan T. Publico was stricken off the Roll of Attorneys.

Approximately eleven years later, or on June 28, 1973, Juan T. Publico filed a Petition for Reinstatement alleging that he had never received, nor had he been informed, nor did he have any knowledge of the Resolution of the Court ordering the Bar Division to strike his name from the Roll of Attorneys until March 1969, when after taking his oath of office as Municipal Judge of Gigmoto, Catanduanes, he was advised to inquire into the outcome of the disbarment case against him; that he was shocked and humiliated upon learning of the said Resolution; that he resigned from all his positions in public and private offices, and transferred to Manila. He then prayed that the Court allow his reinstatement taking into consideration his exemplary conduct from the time he became a lawyer, his services to the community, the numerous awards, resolutions and/or commendations he received, which were incorporated in the Petition, and particularly, for the sake of his children. The Court denied the Petition. Petitioner moved for reconsideration claiming that he had been sufficiently punished already, but again this was denied by the Court for lack of merit.

On April 17, 1974, Juan T. Publico filed his second Petition for Reinstatement stating that the Complaint for disbarment against him had been withdrawn by the complainant, but that the Legal Officer-Investigator proceeded with the hearing ex-parte; that he was unable to cross-examine the witnesses against him as he was unaware of the ex-parte proceedings until he was informed by the Legal Officer-Investigator about the same; that he had suffered so much already and to let him suffer perpetual disqualification would not be in consonance with the program of the New Society. He prayed that his name be reinstated in the Roll of Attorneys, or that the case be reopened so that he could cross-examine the witnesses against him and clear himself of the charges. This Court denied his Petition in its Resolution of April 23, 1974.

On November 17, 1975, Juan T. Publico wrote to the Chief Justice imploring his assistance that he may be given another opportunity to enjoy the privileges of a lawyer, and requesting that a hearing be held where he could personally plead for his reinstatement in the Roll of Attorneys. Again, this Court denied the aforesaid letter-petition.

Petitioner filed a fourth petition for reinstatement on July 8, 1976 stating that he had remained a person of good moral character and had an exemplary social standing in the community where he resides, as shown by his election to various positions in different associations: as peace officer of Barangay 593, Zone 58 of the City of Manila (Annex A of the petition), President of the Stallholders and Vendors Association of Pamilihang Sentral ng Sta. Mesa, Inc. (Annex B), re-elected President of the Altura Elementary School General Parents-Teachers Association (Annex C), and re-elected President of the San Miguel (Catanduanes) Civic Association in Metro Manila (Annex D). He also alleged that his moral character and integrity had remained irreproachable, that he had been more than sufficiently punished and had been undergoing economic difficulties because of his disbarment. In its Resolution of August 3, 1976, this Court denied the Petition with finality.

For consideration now is petitioner's fifth plea for reinstatement filed on June 1, 1979 in addition to a letter-petition addressed to Chief Justice Enrique M. Fernando dated November 3, 1979. In his Petition, Juan T.

Publico avers that his enrollment in Third Year High School in Manila was through the initiative of his uncle, Dulcissimo B. Tapel., who accompanied him to school and enrolled him in a grade level above his qualifications in spite of his remonstrations; that the misrepresentation committed about his academic records was not his own fault alone, but was precipitated by his uncle, who as member of the faculty of the Catanduanes Institute had access to the records of the school; that being merely sixteen years of age, he could not be expected to act with discernment as he was still under the influence of his uncle, who later on caused his disbarment; that he had conducted himself in a manner befitting a member of the bar; that he had striven to serve the people and the government as shown by the positions he held as Municipal Attorney of San Miguel, Catanduanes, Deputy Register of Deed of Catanduanes, Election Registrar of the Commission on Elections, and Editorial Assistant in the Editorial Staff of the defunct House of Representatives, and presently as faculty member of the Polytechnic University of the Philippines, a State University.

Additionally, petitioner submitted evidence purporting to show his honesty and integrity and other manifestations of his good moral character, particularly, the Resolution dated March 30, 1979 of the Integrated Bar of the Philippines, Catanduanes Chapter (Annex A); the Resolution dated April 16, 1979 of the Sangguniang Bayan of San Miguel, Catanduanes (Annex B); the letter of the Municipal Mayor of San Miguel, Alejandro T. Tatel, addressed to the late Chief Justice Castro dated April 17, 1979 (Annex B-1), all attesting to his good character and standing in the community and his capability as a lawyer. Further submitted are certifications issued by the different government offices Court of First Instance of Catanduanes (Annex C); Catanduanes Integrated National Police Command (Annex F should be D); Office of the Provincial Fiscal at Virac, Catanduanes (Annex F), and First Municipal Circuit Court, Bato-San Miguel, Bato, Catanduanes (Annex E), certifying that petitioner has not been accused nor convicted of any crime.

The petition filed by the President and Faculty of the Polytechnic University of the Philippines reiterated the same circumstances as those stated by Juan T. Publico in his own Petition and further professed that Atty. Publico is a competent and proficient teacher; that his moral integrity and honesty are beyond reproach; that to require him to comply with what he missed in the steps of the educational ladder would be meaningless and without any value as it is not intended to benefit him nor the system of education; and that non-formal education has already been recognized and given its equivalence in the scheme of formal education. The petition also mentioned the names of some great men who had been school dropouts, but who did not let this fact deter them from attaining success in their respective fields.

The petition filed by the San Miguel (Catanduanes) Civic Association in Metro Manila is substantially of the same tenor and added that petitioner was re-elected President of that Association for four years from 1972 to 1975 inclusive.

No opposition has been filed to any of the petitions.

The criterion for reinstatement has been stated as follows:

"Whether or not the applicant shall be reinstated rests to a great extent in the sound discretion of the court. The court action will depend, generally speaking, on whether or not it decides that the public interest in the orderly and impartial administration of justice will be conserved by the applicant's participation therein in the capacity of an attorney and counselor at law. The applicant must, like a candidate for admission to the bar, satisfy the court that he is a person of good moral character - a fit and proper person to practice law. The court will take into consideration the applicant's character and standing prior to the disbarment, the nature and character of the charge for which he was disbarred, his conduct subsequent to the disbarment, and the time that has elapsed between the disbarment and the application for reinstatement. (5 Am. Jur., Sec. 301, p. 443)."[1]

Almost nineteen (19) years, by February 23, 1981, shall have elapsed since petitioner was barred from exercising his profession. Cognizant that the power to discipline, especially if amounting to disbarment, should be exercised on the preservative and not on the vindictive principle,[2] we find that the evidence submitted by petitioner, particularly, the testimonials presented on his behalf, as listed heretofore, his good conduct and honorable dealings subsequent to his disbarment, his active involvement in civic, educational, and religious organizations, render him fit to be restored to membership in the Bar, and that petitioner has been sufficiently punished and disciplined.[3]

WHEREFORE, petitioner Juan T. Publico is hereby ordered reinstated in the Roll of Attorneys.

SO ORDERED.

Teehankee, Makasiar, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, and De Castro, JJ., concur.

Fernando, C.J., files a brief concurrence.

Barredo, J., I concur because there have been cases in the past where persons who had not attended any law school were admitted to practice the law profession.

Aquino, J., no part.

[1] Cui vs. Cui, 11 SCRA 755, 761 (1964).

[2] In re Edillon, AC 1928, December, 1980.

[3] Royo vs. Oliva, 107 Phil. 313 (1960).

CONCURRING OPINION

FERNANDO, C.J.:

There is no question to my mind that, as so ably put in the opinion of Justice Melencio Herrera, reinstatement is warranted. This is not to overlook the offense which caused his disbarment. It certainly was not in conformity with the high standard membership in the legal profession entails. Nonetheless, it could be said that he had expiated long enough for this particular lapse from rectitude, one, moreover, committed at a time when he was barely sixteen years of age. His youthful years while certainly not constituting a justification may be considered as impressed with a mitigating character. Moreover, from the recitals appearing in resolutions of the Integrated Bar of the Philippines, Catanduanes Chapter, and the Sanguniang Bayan of San Miguel Catanduanes, as well as certifications of different government offices, it would appear that his conduct subsequent to his disbarment can stand a rigorous appraisal. At least, no other misdeed has been attributed to him. There is pertinence therefore to this excerpt from Barba v. Pedro: "There is no affront to reason then in ruling that the punishment, while deserved, has lasted long enough. He has sufficiently rehabilitated himself." [1]

The same approach to my mind is reflected in the opinion of the Court. Why this brief concurrence then? While there is no clear necessity for it, it may not be amiss to say a few words on the implications of the preservative and not vindictive principle as the test, the satisfaction of which warrants an affirmative response to a plea for reinstatement. As in the case contempt proceedings where such a doctrine has held sway, and justifiably so, what is sought to be guarded zealously is that justice be properly administered. Membership in the bar, as aptly pointed out by Justice Cardozo, is a privilege burdened with conditions. One of them, and by far the most important, is

fidelity to the concept that a lawyer is an officer of the court. That he should never forget. He is expected to aid not to hinder or obstruct the cause of truth so that justice may be dispensed with according to law. In that sense, the mere lapse of time, to my mind, while justifying the view that there has been retribution, is not decisive. It is my belief that, of itself alone, it does not suffice to call indubitably for reinstatement. Far more important is a showing that his conduct after disbarment is such that there can be a reasonable expectation of his being able to comply with a lawyer's oath. As with my brethren, I am convinced that respondent in this case has given sufficient proof that he would not be lacking in that respect. Hence my vote to readmit him to membership in the bar.

[1] Administrative Case No. 545-SBC, December 26, 1974, 61 SCRA 484, 487.

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