

FLAVIANA NAVA, COMPLAINANT, VS. CESAR PALMA, RESPONDENT.*Adm. Case No. 1724. April 26, 1983*

Ponente: FERNANDO, C.J.

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Malpractice was the basis of an administrative complaint filed by Flaviana Tioson Nava against respondent Cesar Palma, a member of the Philippine Bar. More specifically, he was charged with having induced her to sign a document, without informing her of its contents. She found out later that it was purportedly a deed of sale. As a result, a transfer certificate of title was acquired by the alleged vendees over the three lots in question, with her and her husband being thereafter required to leave the premises. Respondent answered the complaint with a denial of the allegations therein contained, stating further that they were motivated by revenge.

The matter was then referred to the Solicitor General for investigation, report, and recommendation. In the investigation conducted by the Office of the Solicitor General, there was only one witness, complainant herself. She gave oral testimony and submitted certain documents as her evidence.[1]

Respondent Palma, testified that in 1972, Florentino Maliwat hired the spouses Desiderio Nava and Flaviana (Tioson) Nava caretakers of his (Maliwat's) coconut plantation at Tanay, Rizal. Their negligence in the performance of their duties resulted in the burning of the coconut plantation under their care. Maliwat then dismissed them and placed one Gaudencio Delfin in charge thereof. Due to her resentment and her suspicion that Delfin was the cause of the termination of their employment, Flaviana filed several cases against Delfin, one for theft, another for attempted homicide, two cases for malicious mischief, and the last case for illegal possession of firearms. In all such cases respondent Palma appeared as counsel for Delfin.[2]

The Report and Recommendation was submitted by Solicitor General Estelito P. Mendoza[3] on May 18, 1981. After a summary of the evidence for both complainant and respondent, it was then stated that at no time did complainant point to respondent as being one of those persons who allegedly forced her to sign documents the contents of which were never disclosed to her - this despite the presence of the latter throughout the investigation. The first time she mentioned Gaudencio Delfin, Sofronio Cinco, and a certain Ben as the persons who made her sign. The second time she just referred to three persons without naming them as again being responsible for her signing a document the contents of which were unknown to her. Then came this portion of the findings: "On the other hand, that Lots Nos. 6, 7, 12 and 18 were freely disposed of by Desiderio Nava (with the consent of Flaviana Tioson Nava) and Jose Nava (with the consent of Virginia Lancha) was amply shown by the testimony of Jonathan Mariano, who was a witness to the deeds conveying the said lots to Godofredo Pineda (tsn. pp. 22-40, December 2, 1977). In fact, as testified by the respondent, Desiderio Nava was a witness for Godofredo Pineda in the land registration case filed by him in the Court of First Instance of Rizal (tsn., p. 12, January 17, 1978). Jose Nava and Desiderio Nava were named as adjoining owners in Pineda's Application for Registration Of Title (Exhibit E; Exhibit 6). Yet no one of them opposed the application. This gives some credence to Atty. Palma's assertion that the criminal cases filed by Desiderio Nava against Gaudencio Delfin, as well as the instant disbarment case, are harassment cases which were filed by her out of resentment. At all events we are not

persuaded that the evidence on record sufficiently establish the allegation of the complaint." [4]

The recommendation was for the dismissal of the complaint for disbarment. It commends itself for approval. The force of the evidence against respondent member of the Philippine Bar calls for no other conclusion. The complaint must be dismissed. So the controlling decision in *Re Tionko*, [5] a 1922 decision, with Justice Malcolm as ponente, mandates. Thus: "The serious consequences of disbarment or suspension should follow only when there is a clear preponderance of evidence against the respondent. The presumption is that the attorney is innocent of the charges preferred and has performed his duty as officer of the court in accordance with his oath." [6] The latest case citing *Tionko* is *Flores v. Duque*, [7] the resolution of which was promulgated only on March 18, of this year. That is fourteenth in the last six years alone. [8]

WHEREFORE, the administrative case against Atty. Cesar Palma is dismissed. Let a copy of this resolution be spread on his records.

Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., took no part.

[1] The documents consisted of Exhibit A, her letter-complaint dated February 2, 1977; Exhibit B, a certified true copy of the Application for Registration dated August 16, 1971, in which one Godofredo Pineda, with the assistance of Atty. Cesar E. Palma, sought to have confirmed in his (Pineda's) favor the titles to certain parcels of land situated at Tanay, Rizal and known as Lots 6, 7, 12 and 18, PLS-473; Exhibit C, a xerox copy of the Deed of Sale of Unregistered Land dated February 28, 1970, notarized on the same date, in which Desiderio Nava, with the consent of Flaviana Tioson sold to Godofredo Pineda two parcels of land situated at Tanay, Rizal; and Exhibit D, xerox copy of the Deed of Sale of Unregistered Land dated February 28, 1970, notarized on the same date in which one Jose Nava, with the consent of his wife, Virginia Lancha, sold to Godofredo Pineda two parcels of land known as Lots Nos. 6 and 7, Pls-473-D of the Tanay Public Land Subdivision.

[2] At the time respondent testified on January 17, 1978, the two cases for theft had been dismissed, those for malicious mischief was pending decision, and that for illegal possession of firearms pending preliminary investigation.

[3] He was assisted by Assistant Solicitor General Octavio R. Ramirez and Solicitor Mariano M. Martinez.

[4] Report and Recommendation, 8-9.

[5] 43 Phil. 191.

[6] *Ibid*, 194.

[7] Adm. Case No. 1199.

[8] *Flores* refers to thirteen cases from *Atienza v. Evangelista*, Adm. Case No. 1517, November 29, 1977, 80 SCRA 338 to *Santos v. Panganiban*, Adm. Case No. 1094, February 28, 1983.

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