

WILSON JESENA, COMPLAINANT, VS. VICENTE G. OÑASA, RESPONDENT.*Adm. Case No. 1089. December 29, 1983*

Ponente: AQUINO, J.

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This is a disbarment case filed in 1972 by Wilson Jesena, the president and board chairman of Lucky Homes, Inc., against lawyer Vicente G. Oñasa, on the grounds of gross misconduct, breach of trust and misappropriation of corporate funds committed while Oñasa was the general manager, secretary and counsel of the company.

In 1969, Oñasa became the general manager of Lucky Homes, Inc. which was engaged in the sale of subdivision lots in Barrio Balabago, Jaro, Iloilo City. As general manager, he sold in 1971 for P7,140 to his wife, Teresita, a lot of the Lucky Homes, Inc. with an area of 238 square meters (Exh. D). They mortgaged the lot to the Government Service Insurance System as security for a loan of P18,000 (P13,200 only according to (Oñasa).

Oñasa also sold to his brother, Florencio, Jr., two lots with an area of 200 square meters each for the total amount of P2,000 (Exh. C). Florencio, Jr., mortgaged the lots to the Oton Rural Bank as security for a loan of P3,000. He sold to his friend, Anacleto Ealdama, Jr., for P1,000 a lot with an area of 200 square meters. Ealdama mortgaged the lot to the same bank for P2,000 (Exh. B).

At the time the three sales were made the fair market value of the lots was P35 a square meter. Oñasa failed to remit the proceeds of the sales nor to make an accounting thereof to Lucky Homes, Inc. or Jesena. The sales to Oñasa's wife and brother were the objects of court actions filed by Jesena against Oñasa.

The Court of Appeals in a final and executory decision dated June 25, 1979 ordered (1) Oñasa and his wife to pay Lucky Homes, Inc. solidarily the sum of P7,140 and (2) Oñasa and his brother to pay Jesena solidarily P14,000 plus P1,000 as attorney's fees in each case. The Appellate Court noted that in the estafa case filed against Oñasa he admitted that the prices of the lots were not paid and that Oñasa "simply connived to have the lots transferred" to his wife and brother (Exh. N-1; p. 17, Rollo of G. R. No. 51869-70, Oñasa, Jr. vs. Lucky Homes, Inc., SC Res. of January 9, 1980 denying petition for review).

It is relevant to mention that the senior documents examiner of the National Bureau of Investigation found that the supposed "Management and Services Contract" executed by Jesena in favor of Oñasa was not genuine (Exh. J). That finding was confirmed by the Constabulary Crime Laboratory (Exh. K). Oñasa produced that contract as part of his answer and as his Exhibit 4. He prepared it (11 tsn September 6, 1973). Jesena filed falsification charges against Oñasa.

Oñasa collected P16,943.94 from lot buyers Salvador Batapa, Reynaldo Marabe, Julian Palomar and Teresita Astorga. He impliedly admitted that he did not turn over that amount to his employer (p. 70, Record).

Oñasa contends that he should not be disciplined for nonprofessional misconduct or for alleged irregularities in business transactions not connected with the practice of his legal profession. This contention is devoid of merit

because his outrageous unscrupulousness reveals that he is not a person of good moral character.

"As good character is an essential qualification for the admission of an attorney to practice, he may be removed whenever he ceases to possess such a character" (7 C.J.S. 735). "Generally, conduct of attorney outside his professional capacity which shows him to be unfit to manage the affairs of others is a ground for his suspension or disbarment" (7 C.J.S. 762).

"So it is held that an attorney will be removed not only for malpractice and dishonesty in his profession, but also for gross misconduct not connected with his professional duties, which shows him to be unfit for the office and unworthy of the privileges which his license and the law confer upon him" (In re Smith, 73 Kan. 743 cited in In re Pelaez, 44 Phil. 567, 572).

In the Pelaez case disciplinary action was taken against a lawyer who pledged the shares of stock belonging to his ward to guarantee the payment of his personal debt.

A lawyer who misappropriated money which he had received in payment for a piece of land which he knew was not for sale was disbarred (In re Quiambao, 102 Phil. 940. See Arciga vs. Maniwang, 106 SCRA 591 re gross immoral conduct.)

A lawyer is duty-bound to maintain a "reputation for fidelity to private trust" (No. 32, Canons of Legal Ethics).

Respondent's acts prove that he is unworthy to continue as a member of the bar. Therefore, he is hereby disbarred.

SO ORDERED.

Teehankee, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

Fernando, C.J., and Makasiar, J., no part.

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