

IN THE MATTER OF THE COMPLAINT AGAINST ATTORNEY GREGORIO O. SANTOS. INES VENTURA, COMPLAINANT, VS. GREGORIO O. SANTOS, RESPONDENT.

. December 16, 1933

Ponente: DIAZ, J.

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DIAZ, J.:

This is a proceeding commenced by a complaint charging three persons with the commission of alleged acts more or less irregular and improper to the prejudice of the complainant. The persons charged herein are Attorney Gregorio O. Santos, his alleged agent Juan Villorente and another named Doroteo Noriel.

The charges against the last two consist in that the former is alleged to have collected twenty pesos and the latter forty-two pesos from the herein complainant without complying with their promise to help her out of the difficulty which then confronted her. Inasmuch as neither one nor the other is an attorney, it is impossible for us to entertain such charges for lack of jurisdiction. The complainant, however, may file the same with a court of competent jurisdiction.

The charges against Attorney Gregorio O. Santos consist in alleged negligence in the performance of his duties as an attorney, based on the following grounds: After the said attorney had bound himself to represent the complainant and her husband, Mariano Neuda, now deceased, and two others named Felipa Rus and Simeon Miguel, in the cadastral proceedings of the municipality of Santo Domingo, Nueva Ecija, for the purpose of reclaiming and securing the title to certain lots, to wit: six in the name of Mariano Neuda; two in the name of the herein complainant, one of which is lot No. 3533; two in the name of Felipa Rus and one in the name of Simeon Miguel, he failed to appear during the hearing, as a result of which the complainant and her husband were declared in default and the aforesaid lot No. 3533 was afterwards adjudicated to the spouses Rufino Agaton and Maria Jarino. It later passed to the possession of Francisco Borja who had obtained from the cadastral court, which took cognizance thereof, the cancellation of the title issued in favor of the said spouses Rufino Agaton and Maria Jarino against whom he had secured a writ of execution of a judgment in a civil case. The aforesaid spouses failed to redeem the property in question within the period of one year allowed them under the law.

The records show that the respondent's failure to appear during the hearing of the cadastral case in connection with the lots claimed by the complainant, her husband and her said two relatives or friends, was due to the fact that he was then seriously ill at the Philippine General Hospital in the City of Manila. The complainant admitted the truth of this fact.

When the respondent was able to leave the hospital, he went to Nueva Ecija and succeeded in having all of the eleven lots, with the exception of lot No. 3533, adjudicated to his clients, who paid him the sum of one hundred pesos, through Mariano Neuda, on March 17, 1930. The records, however, do not show clearly whether or not the respondent, upon receipt of the one hundred pesos, bound himself further to work for the issuance of a certificate of title to the lot in question in favor of the complainant. At all events, the respondent himself admits that when

the thirty-day period, allowed the complainant to file her motion for reconsideration of the judgment of the court of November 19, 1929, adjudicating the lot in question to the spouses Rufino Agaton and Maria Jariño, had elapsed, said complainant informed him of such fact. He then informed her that she still had the remedy of asking for the revision of the decree issued to that effect, within the period of one year. From the evidence presented, it is inferred that this took place in or about the month of February or March, 1930. The respondent further admits that, whether he considered himself paid or not for the services he still had to render for the complainant in reclaiming said lot No. 3533, with the one hundred pesos paid him by Mariano Neuda on March 17, 1930, he filed his motion for revision, Exhibit D, on October 17, 1930, that is, seven months later, asking the court to set aside its decree relative to the said lot and to grant him a new trial in order to prove that the complainant was the true owner thereof. However, he allowed the time to elapse without taking any further steps in connection therewith until November 19, 1932, when, after receiving notice from the Court of First Instance of Nueva Ecija setting the hearing for the presentation of evidence in connection with his motion for revision, for December 16, 1932, he sent a communication to the complainant herein asking her whether she still wanted him to continue representing her in the said case. He called the complainant's attention therein to the fact that he had already transferred his residence and law office to the City of Manila. The complainant admitted having received the letter in question but instead of answering him, she filed a motion for postponement with the cadastral court on December 14, 1932, on the alleged ground that she intended to engage the services of another attorney, inasmuch as she could not confer with the respondent. Said complainant actually engaged the services of another attorney Higino Laureta.

In the meantime, Francisco Borja brought an action against the spouses Rufino Agaton and Maria Jariño, for the recovery of a certain sum of money. Inasmuch as the case was decided in his favor and the defendants failed to pay the amount of the judgment rendered therein, he asked and obtained a writ of execution thereon from the court. The lot No. 3533 in question, which was adjudicated to them by the cadastral court on November 19, 1929, was sold at public auction together with other properties of the aforesaid spouses. This took place on February 19, 1931. Although the aforesaid spouses could have exercised their right of redemption within one year from the above-mentioned date, they did not do so and in consequence thereof, Francisco Borja succeeded in having the provincial sheriff issue the corresponding deed of absolute sale of the lot in question in his name. On March 31, 1932, and upon motion of Francisco Borja, the cadastral court ordered the cancellation of the title issued in the name of the spouses Rufino Agaton and Maria Jariño and the issuance of another in favor of the said petitioner.

The complainant contends that if the respondent had exercised some diligence, Francisco Borja would not have succeeded in levying execution on said lot. Neither could he have obtained a transfer certificate of title issued in his favor.

There is no question, however, that the respondent was not aware of any action brought by Francisco Borja against Rufino Agaton and his wife, nor of the fact that the latter failed to exercise their right of redemption. Neither did he know of the motion for cancellation of the old title to the said lot, filed by Francisco Borja, inasmuch as he was not informed thereof by the complainant or by any other person. The complainant's conduct in engaging Attorney Laureta's services upon receipt of the respondent's communication of November 19, 1932, actually corroborates, to a certain extent, his claim that they had not reached any definite agreement regarding the fees which she was to pay him in connection with his aforesaid motion for revision. However, by filing the motion in question, the respondent made it understood that he intended to take the necessary steps to terminate it. Under such circumstances it was his duty to exert some effort or diligence to that end and not sit still and fold his arms. If, after transferring his residence to Manila, he intended to discontinue representing the complainant in order to save her greater expense, he should have so informed her in order to give her an opportunity to make other arrangements and secure the services of another attorney.

To act the way the respondent did, to wit: to file a motion for revision of a decree in a cadastral case and then do nothing for more than two years, thus leaving the rights of his client, who has placed herself under his protection, in a state of uncertainty, clearly constitutes an abandonment unbecoming an attorney who is mindful of his duties.

It is the duty of every attorney to act with diligence in all cases, now and then urging the prosecution or termination of the cases committed to his charge, be they criminal, civil or administrative in nature, or simply motions, without waiting for the courts to urge him to do so, if the clarification or definition of his client's rights depend upon the decision thereof, and informing his client of the impracticability of continuing to represent him, in order to give him an opportunity to study the new situation and work out a solution thereof.

Were it not for the circumstance that the respondent's fees have not yet been paid to date—judging from the respondent's letter to the complainant, of November 19, 1932, notwithstanding the said complainant's allegation to the contrary inasmuch as all that she knows, according to her own admission, is hearsay from her husband, now deceased—we would treat his behaviour with some severity. At any rate, we cannot let it pass without expressing our disapproval thereof inasmuch as it is neither proper nor just.

It is needless to state herein that the said respondent should not nor could be held liable for the acts committed by the aforesaid Juan Villorente and Doroteo Noriel, on the ground that the former never acted as his agent, nor was he given any share of the sums of money they had collected from her, as the complainant herself admits.

Let the respondent be informed of this resolution for his information and guidance, trusting that he will henceforth endeavor not to have a repetition of this case in order to avoid more severe disciplinary action.

Let a certified copy of this decision be attached to the personal record of the respondent, for further purposes. So ordered.

Avanceña, C. J., Street, Malcolm. Villa-Real, Abad Santos, Vickers, and Imperial, JJ., concur.

Butte, J., with whom concurs Hull, J., dissenting: I dissent on the ground that the complainant has an adequate civil remedy and the case is not one of such importance as to require the attention and consume the time of this court.

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