

AURORA SORIANO DELES, COMPLAINANT, VS. VICENTE E. ARAGONA, JR., RESPONDENT.*Adm. Case No. 598. March 28, 1969*

Ponente: RUIZ CASTRO, J.

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This is a disbarment proceeding against Vicente R. Aragona, Jr.[1] upon a verified letter-complaint of Aurora Soriano Deles filed with this Court on November 6, 1963, charging the former with ha-ving made under oath, false and unfounded allegations against her in a motion filed in Court of Agrarian Relations cases 1254 and 1255 Iloilo, which allegedly caused her great mental torture and moral suffering.

On November 13, 1963 this Court required the respondent to answer the complaint. On December 10, 1963 the respondent filed his answer, affirming the truth of the allegations in the questioned motion, but claiming in his defense that in preparing it, he relied not only upon information received but also upon other matters of public record. He also averred that the complainant had made a si-milar charge against him in a counter-motion to declare him in contempt of court filed in the same C.A.R cases, which was however dismissed together with the complainant's counterclaims when the main cases were dismissed; that the complainant failed to move for the reconsideration of the said dismissal or to appeal there-from; and that during the few years that he has been a member of the bar, he has always comported himself correctly, and has ad-hered steadfastly to his conviction that the practice of law is a sa-cred trust in the interest of truth.

This Court, on December 14, 1963, referred the case to the Solicitor General for investigation, report, and recommenda-tion. Because both parties reside in Iloilo City, the Solicitor Ge-neral in turn referred the case to the City Fiscal of Iloilo for in-vestigation and reception of (evidence. Both the petitioner and the respondent adduced evidence in the investigation which was conduc-ted. Thereafter, the City Fiscal forwarded to the Solicitor Gene-ral the record of the investigation, including the recommendation of the assistant city fiscal who personally conducted the investiga-tion that the petition for disbarment be dismissed. The Solicitor General thereafter filed with this Court his report, concurring in the recommendation of the assistant city fiscal.

Aurora Soriano Deles (hereinafter referred to as the complainant) is the administratrix of the intestate estate of the late Joaquina Ganzon (the deceased mother of Aurora and Enrique Soriano, Sr. who are heirs of the estate concurrently with other forced heirs) in special proceeding 128 of the Court of First Ins-tance of Iloilo.

On July 26, 1961, upon motion of Enrique Soriano, Sr. and over and above the opposition of the complainant, the intestate court issued an order denying a proposed lease of ten hectares of the estate by the complainant to one Carlos Fuentes and sustaining the possession of Enrique as lessee of the said land. In effect, the order likewise sustained the possession by the brothers Fede-rico and Carlos Aglinao of a portion of the said land being tenanted by them upon authority of the lessee, Enrique Soriano, Sr.

In disregard of the abovementioned order, the complainant attempted to take possession of the landholdings by placing there-on her own tenants. Predictably, the Aglinao brothers, to protect their rights, countered by filing

against the complainant two petitions with the Court of Agrarian Relations in Iloilo (hereinafter re-ferred to as the agrarian court), docketed therein as C.A.R. cases 1254 and 1255 (hereinafter referred to as the C.A.R. cases). They alleged in their respective petitions that they have been tenants of Enrique Soriano, Sr. since 1960 on a parcel of riceland located barrio Malapoc, Balasan, Iloilo, held by the complainant as ad-ministratrix of the intestate estate of the deceased Joaquina Gan-zon; and that they had started to plow their leaseholds consisting of two hectares each at the start of the agricultural year 1962-63 when "on March 7, 1962, the respondent [complainant herein] or-dered one Bonifacio Margarejo to harrow the plowed land without the knowledge and consent" of the petitioners. Consequently, they prayed for the issuance of an interlocutory order enjoining the complainant and her representatives from interfering with their peaceful cultivation of the lands in question pending determination of the merits of their petitions. However, consideration of the petitioners' prayer for the issuance of an interlocutory order of in-junction pendente lite was considerably delayed not only by reason of several postponements granted at the behest of the complainant but also because of the assurance made by her through counsel in open court at the hearing of June 16, 1962, that neither she nor any of her men would disturb or interfere with the petitioners' possession of their leaseholds until their petitions shall have been finally resolved.

But on June 18, 1962, barely two days after the abovemen-tioned hearing, the complainant's men again entered the land in question and planted rice thereon. This unauthorized entry promp-ted the Aglinao brothers, through their counsel, the herein res-pondent Atty. Vicente Aragona, Jr. (hereinafter referred to as the respondent), to file on June 20, 1962 an "Urgent Motion for Is-suance of Interlocutory Order." There being no objection by the complainant against the said motion, and finding the same merito-rious, the agrarian court issued on June 21, 1962 the interlocutory order prayed for, directing "the respondent, her agent, or any person acting for and in her behalf to refrain from molesting or in any way interfering with the work of the petitioners in their respective landholdings."

On June 24, 1962, upon the agrarian court's direction, the PC detachment stationed in Sara, Iloilo, served copies of the or-der on the complainant's men, Bonifacio Margarejo and Carlos Fuentes, and restored the Aglinao brothers to the possession of their landholdings. On the same day, Margarejo and Fuentes in-formed their landlord, the complainant, about the said order.

For several months thereafter nothing of significance hap-pened in the C.A.R. cases until the palay planted on the land in question became ripe and ready for harvest.

Then on October 2, 1962 Enrique Soriano, Sr. showed to the respondent in Iloilo City a telegram[2] which reads as follows:

"BALASAN OCT 2 62

GILDA ACOLADO

ILOILO AMERICAN SCHOOL MARIA CLARA AVENUE

ILOILO CITY

TELL DADDY COMMUNICATE ARAGONA IM-MEDIATELY ALBERT HARVEST TODAY

MAMANG"

The sender of the telegram was Mrs. Isabel Soriano, wife of En-rique, the addressee Gilda Acolado, their daughter.

After reading the telegram, the respondent asked Soriano whether his wife (Mrs. Soriano) was coming to Iloilo City; when informed that she was arriving, he decided to wait for her. Mrs. Soriano arrived from Balasan in the

afternoon of that same day, October 2, 1962. She went to see the respondent, and informed the latter that it was she who had sent the telegram upon request of the Aglinao brothers; that she was personally present when one Albert, a tenant of the complainant, accompanied by many armed men, went to the land in question and harvested the palay thereon over the protests of the Aglinao brothers; that upon inquiring why the said Albert and his armed companions harvested the palay, she was told that they were acting upon orders of the complainant; and that instead of filing a complaint with the chief of police as she originally planned, she decided instead to see the respondent without delay.

Possessed of the above information, the respondent promptly prepared and filed with the agrarian court, on October 3, 1962, a verified "Urgent Motion to Declare Respondent in Contempt of Court" (hereinafter referred to as motion for contempt), praying that the complainant and "her armed goons" be declared in, and punished for, contempt of court for violating the interlocutory order of June 21, 1962. This motion for contempt elicited, on the very same day it was filed, an instant reply from the complainant who moved to strike it out from the records, claiming that the allegations therein libelled her, and that it was the respondent who should be punished for contempt for deliberately misleading the agrarian court. Moreover, not content with this reply and counter-motion for contempt, the complainant also lodged on October 4, 1962 a criminal complaint for libel against the respondent with the City Fiscal of Iloilo, based on the same allegedly libelous allegations made against her by the respondent in the latter's motion for, contempt filed in the C.A.R. cases. However, after preliminarily investigating the said complaint, the assistant city fiscal to whom it was assigned dismissed the same on the ground that the allegations of the motion for contempt were privileged communications. The complainant did not appeal from the said dismissal to the city fiscal; neither did she elevate the same for review to the Department of Justice.

Meanwhile, no action was taken by the agrarian court in the C.A.R. cases on the motion for contempt filed by the respondent against the complainant, as well as on the latter's counter-motion, also for contempt, against the former. Instead, by order dated October 24, 1963, the agrarian court dismissed C.A.R. cases 1254 and 1255, including the complainant's counterclaims therein, for lack of interest to prosecute on the part of the petitioners, the Aglinao brothers. As a matter of course, the dismissal of the main cases carried with it the dismissal of all incidents therein, including the motion for contempt and counter-motion for contempt. Again, the complainant did not ask for reconsideration of the order of dismissal, nor did she appeal therefrom. She filed instead the present administrative complaint against the respondent.

The only issue raised in the present disbarment proceeding is whether the respondent, Atty. Vicente E. Aragona, Jr., should be disciplined or disbarred for having prepared and filed under oath the "Urgent Motion to Declare Respondent in Contempt of Court" in C.A.R. cases 1254 and 1255-Iloilo, which allegedly contains false and libelous imputations injurious to the honor of the complainant.

For easy reference, the motion for contempt is hereunder reproduced in toto.

"COMES NOW the undersigned, in behalf of the petitioners in each of the above-entitled cases, and to this Honorable Court respectfully states that:

"1. Upon urgent and verified motion of the undersigned dated June 20, 1962, this Honorable Court issued an interlocutory order dated June 21, 1962, the dispositive part of which is as follows:

‘WHEREFORE, finding the motion meritorious, an interlocutory order is hereby issued ordering the respondent, her agent, or any person acting for and in her behalf, to refrain from molesting or in any way interfering with the work of the petitioners in their respective land-holdings, situated at Barrio Malapoc, Balasan, Iloilo, with an area of 2 hectares for each of them, in these two cases, pending the hearing of these cases on the merits.

"The Commanding Officer of the Constabulary Detachment of the 56th PC Company stationed at Sara, Iloilo, or his duly authorized representative, is here-by ordered to implement this order and to report to this Court his proceedings in this particular within a week from the date of his implementation of this order.

'SO ORDERED.

Iloilo City, June 21, 1962.

'(SGD.) JUAN C. TERUEL

Commissioner'

"2. Pursuant to the above-quoted order, the Commanding Officer of the 56th PC Company stationed at Sara, Iloilo, ordered the respondent and her men not to enter the landholdings in question and to refrain from molesting or in any way interfering with the work of petitioners in their respective landholdings; the report of said Commanding Officer is now on file with the records of the above-entitled cases;

"3. On this date, the undersigned was just surprised when he received a telegram from the petitioners, through Mrs. Isabel Soriano, copy of which is hereto attached as Annex 'A' and made part hereof, informing the undersigned that respondent, thru a certain Albert, with the aid of armed goons, harvested the palay of the petitioners yesterday despite the vehement opposition of the petitioners not to enter their landholdings

"4. The said acts of respondents and her men in harvesting the palay of the petitioners, knowing fully well the existence and implementation of the interlocutory order of this Court dated June 21, 1962, is a gross and open defiance and disobedience of said order and a challenge to the legal processes and authority of this Court in the peaceful administration of justice;

"5. This rebellious and seditious conduct of the respondent and her men against the authority of this Court constitutes wanton resistance and contumacious contempt of court;

"6. Unless the respondent and her armed goons are declared in contempt of Court and duly punished, the lawful orders, processes and authority of this Court would be a mockery and rendered useless by the stubborn resistance and defiance of the respondent.

"IN VIEW OF THE FOREGOING, it respectfully prayed of this Honorable Court that respondent and her armed goons be declared and punished for contempt of Court until such time that she turns over the produce of the landholdings in question which she harvested illegally and until such time that she fully complies with the interlocutory order of this Court.

"Petitioners pray for such other relief and remedies just and equitable under the premises.

Iloilo City, October 3, 1962.

"E.I. Soriano Jr. and V.E. Aragon

Counsel for the Petitioners

Lopez Bros. Bldg., Iznart Street Iloilo City

By:

(sgd.) VICENTE E. ARAGONA JR."

The complainant's testimony is to the effect that (1) on October 2, 1962 she was not in Balasan but in Iloilo City where she testified at the trial of C.A.R. cases 1254 and 1255, after, which she left for her home which is situated

also in Iloilo City; (2) the distance between Balasan and Iloilo City is 135 kilometers, and to reach Balasan from Iloilo City one has to travel four hours by car or six hours by bus; (3) although she knows that the person Albert, mentioned in the motion, is Alberto Boneta, a helper of Carlos Fuentes, one of the tenants she had placed on the lands in-volved in the C.A.R. cases, she never met or saw Boneta or Fuen-tes from the time she was informed of the interlocutory order da-ted June 21, 1962 in the aforesaid cases, until October 2, 1962 when the said Alberto Boneta and several armed men allegedly harvested the crops on the lands in question; (4) she did not order Boneta to harvest the said crops; and (5) she never visited the aforesaid lands in 1962. Her uncontradicted testimony lends cre-dence to her claim that she did not order Alberto Boneta to har-vest, with the aid of armed men, the crops on the Aglinao bro-thers' landholdings.

Nonetheless, this Court is loath to uphold the view that the preparation and the filing of the questioned motion for contempt, furnish sufficient basis for disciplinary action against the respon-dent.

In *People vs. Aquino*[3] this Court laid down the decisional authority that

"[S]tatements made in the course of judicial proceedings are absolutely that is, privileged – that regardless of defamatory tenor and of the presence of malice - if the same are relevant, pertinent or material to the cause in hand or subject of the inquiry. And that; in view of this, the person who makes them - such as a judge, lawyer, or witness - does not thereby incur the risk of being found liable thereon in a criminal prosecution or an action for the reco-very of damages." (emphasis supplied)

Since there is no doubt that the allegations made by the respondent in the questioned motion for contempt are statements made in the course of a judicial proceeding - i. e., in C.A.R. cases 1254 and 1255 - besides being relevant, pertinent or material to the subject-matter of the said cases, they are absolutely privileged, thereby precluding any liability on the part of the respondent.

To be sure, the charges levelled by the respondent against the complainant in the questioned pleading lack sufficient factual basis. But even this circumstance will not strengthen the complain-ant's position. "The privilege is not affected by factual or legal in-accuracies in the utterances made in the course of judicial proceed-ings." [4] In fact, "Even when the statements are found to be false, if there is probable cause for belief in their truthfulness and the charge is made in good faith, the mantle of privilege may still co-ver the mistake of the individual. The privilege is not defeated by the mere fact that the communication is made in intemperate terms... A privileged communication should not be subjected to microscopic examination to discover grounds of malice or falsity. Such excessive scrutiny would defeat the protection which the law throws over privileged communications. The ultimate test is that of bona fides." [5]

Indeed, the actuations of the respondent were motivated by the legitimate desire to serve the interests of his clients. For, contrary to the complainant's claim, the respondent did not rely merely on Mrs. Soriano's telegram (exh. 5) when he prepared the motion for contempt. According to his un rebutted testimony, when Mr. Soriano brought to him the said telegram on October 2, 1962, he asked the former whether his wife, the sender of the telegram, was coming to Iloilo City, and, when informed that she was arriv-ing, he waited for her. True enough, Mrs. Soriano saw the respon-dent in the afternoon of that same day and informed him that she was personally present when one Albert, a tenant of the complainant, accompanied by several armed men, went to the landholdings of the Aglinao brothers and, against the objections of the latter, harvested the palay crop thereon, and that upon her inquiry, she was informed that they were acting upon orders of the complainant.

Considering that the foregoing information which impelled the respondent to file the questioned motion for contempt, was ob-tained by him first-hand from someone who claimed to have actual-ly witnessed the incident in question, coupled with the complain-ant's own admission that the Albert referred to by Mrs. Soriano was indeed a

helper of Carlos Fuentes, one of the tenants whom she had illegally placed once on the landholdings of the Aglinao brothers, it was not unseemly for the respondent to assume that Albert did act at the behest of the complainant. After all, the complainant had, in the past, committed the same forcible act of entering the said landholdings on June 18, 1963, only two days after she had assured the agrarian court that she would not disturb or interfere with the Aglinao brothers' possession, pending final resolution of the petitions filed by them against her. In truth, it is precisely such forcible entry into the said lands that precipitated the issuance of the very interlocutory order dated June 21, 1962 which the respondent accused her of disobeying in his motion for contempt. Unquestionably, the aforementioned circumstances provided the respondent a probable cause for belief in the truthfulness of the allegations which he couched in rather intemperate language in his motion for contempt. He had merely acted in righteous indignation over the wrong supposedly done to his aggrieved clients - believing as he did in the truth of his charges - without deliberate intention whatsoever to malign and vilify the complainant.

The doctrine of privileged communication is not an idle and empty principle. It has been distilled from wisdom and experience. "The privilege is not intended so much for the protection of those engaged in the public service and in the enactment and administration of law, as for the promotion of the public welfare, the purpose being that members of the legislature, judges of courts, jurors, lawyers, and witnesses may speak their minds freely and exercise their respective functions without incurring the risk of a criminal prosecution or an action for the recovery of damages." [6] Lawyers, most especially, should be allowed a great latitude of pertinent comment in the furtherance of the causes they uphold, and for the felicity of their clients they may be pardoned some infelicities of language. [7]

The object of a disbarment proceeding is not so much to punish the individual attorney himself, as to safeguard the administration of justice by protecting the court and the public from the misconduct of officers of the court, and to remove from the profession of law persons whose disregard for their oath of office have proved them unfit to continue discharging the trust reposed in them as members of the bar. [8] Thus, the power to disbar attorneys ought always to be exercised with great caution, and only in clear cases of misconduct which seriously affects the standing and character of the lawyer as an officer of the court and member of the bar. [9]

In this case, there is no evidence whatsoever tending to prove unfitness of the respondent to continue in the practice of law and remain an officer of the court.

ACCORDINGLY, the administrative complaint against the respondent is hereby dismissed.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, Teehankee, and Barredo, JJ., concur.

[1] Admitted to the Bar in 1960.

[2] Exhibit 5.

[3] L-23908, Oct. 29, 1966, 18 SCRA 555, 558.

[4] Sison vs. David, L-11268, Jan. 28, 1961, 1 SCRA 60.

[5] U. S. vs. Bustos, 37 Phil. 731, 743.

[6] People vs. Aquino, supra; Sison vs. David, supra, quoting 33 Am. Jur. 123-124.

[7] Dorado vs. Filar, 104 Phil. 743, 748.

[8] In re Montagne and Dominguez, 3 Phil. 577; In re McDougall, 3 Phil. 70; 5 Am. Jur 411; see also Re Caughan, 24 ALR 858, 189 Cal. 491, 209 P 353; Re Rotchrock, 131 ALR 226, 16 Cal. 2d 449, 106 P2d 907; Re Keenan, 96 ALR 679, 287 Mass. 577, 192 NE 65; Re Kerl, 8 ALR 1259, 32 Idaho 737, 188 P 40.

[9] Ex Parte Wall, 107 U.S. 265, 2 S Ct 569; 27 Led 552.

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