

TEODORO I. CHAVEZ, COMPLAINANT, VS. ATTY. ESCOLASTICO R. VIOLA, RESPONDENT.

Adm. Case No. 2152. April 19, 1991

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PER CURIAM:

In a letter-complaint dated 9 May 1990[1] addressed to this Court, complainant Teodoro I. Chavez prayed for the disbarment of or other appropriate penalty upon respondent Escolastico R. Viola, a member of the Philippine Bar, for gross misconduct or malpractice.

The letter-complaint stated that respondent Viola was engaged by Felicidad Alvendia, Jesus Alvendia and Jesus Alvendia, Jr. as their counsel in connection with Civil Case No. 3330-M[2] filed sometime in 1966 with the then Court of First Instance ("CFI") of Bulacan against Teodoro Chavez (herein complainant), Lucia dela Cruz, Alpon dela Cruz and Eugenio dela Cruz. In the complaint,[3] respondent alleged, on behalf of the Alvendias (plaintiffs therein), that Felicidad Alvendia and Jesus Alvendia were the holders of Foreshore Lease Applications Nos. V-1284 and 2807 covering portions of public land situated in Barrio Baluarte, Municipality of Bulacan, Province of Bulacan, and that lease contracts[4] had been executed in their favor by the Secretary of Agriculture and Natural Resources. Respondent prayed in the complaint that his clients (the Alvendias) be declared "bona fide lessees of the land in controversy x x x." [5] In an Order dated 2 October 1969,[6] the CFI dismissed the complaint filed in Civil Case No. 3330-M for non-appearance of the Alvendias.

On 18 June 1966, Congress passed Republic Act No. 470, which provides:

"SECTION 1. The parcel of public domain comprising a portion of the foreshore fronting the Manila Bay along the Province of Bulacan x x x is hereby withdrawn from sale or settlement and reserved for communal fishing ground purposes which shall hereafter be called the Bulacan Fishing Reservation." [7] (Underscoring supplied)

It appears that the foreshore land being occupied by the Alvendias was part of the communal fishing ground reserved by Republic Act No. 470.

On 8 November 1977, respondent filed, on behalf of the Alvendias, Amended Application for Original Registration of Title[8] in Land Registration Case ("LRC") No. 3711-M with the then CFI of Bulacan praying that the land covered by Psu-141243, Amd. 2[9] be registered in the name of the spouses Alvendias. Respondent alleged in the Amended Application that the applicant Alvendias were the owners of the land, they having acquired the same from one Teresita Vistan by sale sometime in 1929.

It is petitioner's contention that respondent, in filing the Amended Application for Original Registration of Title in LRC No. 3711-M stating that his clients were the owners of the property applied for despite his full knowledge of the fact that his clients were mere lessees of the land in controversy as so described in the complaint respondent had filed in Civil Case No. 3330-M, had willingly aided in and consented to the pursuit, promotion and prosecution of a false and unlawful application for land registration, in violation of his oath of office as a member of the Bar.

In his Answer,[10] respondent alleged that the Application for Original Registration of Title was originally instituted by one Atty. Montesclaro, and when said lawyer withdrew his appearance therein, respondent filed the Amended Application for Original Registration of Title; that he believed his clients had the right to apply for the registration of the land; and that assuming his clients did not in fact have any such right, the court where the Application for Original Registration of Title was filed had not yet passed upon it; hence, this complaint for disbarment was filed prematurely.

Complainant filed a Reply to the Answer.[11]

In a Resolution dated 29 October 1980, the Court resolved to refer the case to the Solicitor General for investigation, report and recommendation.

On 11 March 1981, respondent filed a Motion to Dismiss[12] the complaint for disbarment. In said Motion, he alleged -- for the second time -- that he was not the original lawyer who filed the application in the land registration case, but a certain Atty. Montesclaro. Respondent further alleged:

"x x x Your respondent, not content with just having conferred with Atty. Montesclaro when he took over, even went to the extent of verifying from the Bureau of Lands if the application was proper. The Legal Department of the Bureau of Lands assured your respondent that it was. He was informed that judicial application for registration is one of the methods of acquiring such lands, said lands being 'alienable and disposable.' There are, however, other means of obtaining the said lands, but the applicants (with Atty. Montesclaro) chose the present action for land registration.

Undersigned wishes to point out that he merely took over from the original lawyer when said counsel withdrew his appearance. Your respondent, hence, was in good faith when he took over the land registration case, subject matter of this present administrative investigation."

The Court, in a Resolution dated 8 June 1981, forwarded the Motion to Dismiss to the Solicitor General.

In a Report[13] dated 28 February 1990, the Solicitor General stated that:

"In his answer to the letter complaint, respondent avers that his clients, i.e., the Alvendias, have the right to apply for registration of the land in question. However, respondent does not deny that he prepared and signed the Amended Application for Original Registration of Title in Land Reg. Case No. 3711-M wherein he alleged that the Alvendias are the owners of the land covered by Psu 141243, Amd. 2. Respondent does not offer any explanation at all as to why his submission in said application was diametrically opposite to his allegations in the complaint in the earlier Civil Case No. 3330-M that the Alvendias were permittees and later the lessees of the same property.

It is evident, then, that respondent has knowingly made a false statement to the court in the land registration case. As proven by complainant, respondent has willingly aided and consented in the filing and prosecution of a groundless, if not false, application for land registration, in violation of his oath as a lawyer and member of the bar.[14]

It is well to stress again that the practice of law is not a right but a privilege bestowed by the State on those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege.[15] One of those requirements is the observance of honesty and candor. It cannot be gainsaid that candidness, especially towards the courts, is essential for the expeditious administration of justice. Courts are entitled to expect only complete candor and honesty from the lawyers appearing and pleading before them. A lawyer, on the other hand, has the fundamental duty to satisfy that expectation. Otherwise, the administration of justice would gravely suffer if indeed it could proceed at all. It is essential that lawyers bear in mind at all times that their first duty is not to their clients but rather to the courts, that they are above all officers of court sworn to

assist the courts in rendering justice to all and sundry, and only secondarily are they advocates of the exclusive interests of their clients. For this reason, he is required to swear to do no falsehood, nor consent to the doing of any in court.[16]

In the instant case, respondent Viola alleged in an earlier pleading that his clients were merely lessees of the property involved. In his later pleading, he stated that the very same clients were owners of the same property. One of these pleadings must have been false; it matters not which one. What does matter is that respondent, who, as a member of the ancient and learned profession of the law, had sworn to do no falsehood before the courts, did commit one. It was incumbent upon respondent to explain how or why he committed no falsehood in pleading two (2) incompatible things; he offered no explanation, other than that he had not originated but merely continued the registration proceedings when he filed the Amended Application, and that he really believed his clients were entitled to apply for registration of their rights. Respondent's excuses ring very hollow; we agree with the Solicitor General and the complainant that those excuses do not exculpate the respondent.

It is clear to the Court that respondent Viola violated his lawyer's oath and as well Canon 22 of the Canons of Professional Ethics which stated that "[t]he conduct of the lawyer before the court and with other lawyers should be characterized by candor and fairness" (now Canon 10 of the Code of Professional Responsibility prescribing that "[a] lawyer owes candor, fairness and good faith to the courts)". He has been deplorably lacking in the candor required of him as a member of the Bar and an officer of the court. In his apparent zeal to secure the title to the property involved for his clients, he disregarded his overriding duty to the court and to the law itself.

WHEREFORE, finding respondent Escolastico R. Viola guilty of committing a falsehood in violation of his lawyer's oath and of the Canons of Professional Ethics (now the Code of Professional Responsibility), the Court Resolved to SUSPEND respondent from the practice of law for a period of five (5) months, with a WARNING that commission of the same or similar offense in the future will result in the imposition of a more severe penalty. A copy of this Resolution shall be spread on the personal record of respondent in the Office of the Bar Confidant.

Fernan, C.J., (Chairman), Gutierrez, Jr., Feliciano, Bidin, and Davide, Jr., JJ., concur.

[1] Rollo, pp. 1-4.

[2] The complaint was filed for the purpose of having plaintiffs therein declared as the bona fide lessees of the land involved therein and of having defendants therein vacate the property.

[3] Rollo, pp. 5-10, Annex "A" of complaint.

[4] Id., pp. 13-16, Annex "C" of complaint.

[5] Id., p. 9, Complaint in Civil Case No. 3330-M.

[6] Id., p. 11, Annex "B" of complaint.

[7] Id., p. 25, Annex "E" of complaint.

[8] Id., pp. 28-31, Annex "G" of complaint.

[9] The land identified in Psu-141243, Amd. 2 had by that time been subdivided into four (4) lots.

[10] Rollo, pp. 39-40.

[11] Id., pp. 42-44.

[12] Id. pp. 58-63.

[13] Id., pp. 78-83

[14] Id., pp. 81-82; Report of the Solicitor General, pp. 4-5.

[15] *Sabayle v. Tandayag*, 158 SCRA 497 (1988).

[16] *Pangan v. Ramos*, 93 SCRA 87 (1979). See also *Casals v. Cusi, Jr.*, 52 SCRA 58 (1973).

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