

IN THE MATTER OF THE COMPLAINT OF CATALINA CEBU AGAINST ATTORNEY EMILIANO TRIA TIRONA.

Special Proceeding. March 25, 1914

Ponente: TRENT, J.

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TRENT, J.:

Catalina Cebu, administratrix of the estate of her deceased husband, Gregorio Paman, preferred charges of unprofessional conduct against Attorney Emiliano Tria Tirona, arising out of his connection with the settlement of the said estate. This court referred these charges and the answer of Attorney Tirona thereto to the Attorney-General for investigation on October 4, 1913, and his report is now before us for consideration.

Catalina Cebu was appointed administratrix of the estate on August 1, 1910, and assumed charge thereof on August 19, 1910. There were four surviving children, Sinforosa, aged 16; Ricardo, aged 13; Trinidad, aged 7; and Ligaya, 1 year old. At the time these charges were preferred, Sinforosa was married to one Crispulo Malia.

On January 17, 1913, Judge Gale of the Court of First Instance ordered the administratrix to present to him on or before January 21, 1913: (1) the accounts of her administration; (2) a detailed report of the assets of the estate with their incumbrances, if any; (3) a list of the heirs; (4) a liquidation of all the sociedades in which the deceased had participated and of the conjugal partnership; (5) a tentative plan for the partition of the estate. The following day, the administratrix presented her accounts, showing a balance in favor of the estate for the year ending, August 18, 1911, of P78.26; for the year ending August 18, 1912, a balance of P395; and for the period August 19 to December 31, 1912, of P66. On January 21, 1913, the court appointed Catalina as the guardian of her minor children. The following day, January 22, a complaint signed by the daughter, Sinforosa, was filed with the clerk, in which it is alleged that Catalina had sold and mortgaged some of the property of the estate, and that the income of the estate had been disposed of in some unknown manner. On January 24, the administratrix asked for additional time within which to prepare the tentative plan of partition of the estate. On February 28, according to her own testimony, the administratrix filed a document in the court entitled "Additional Statement of Accounts," in which she shows a total balance in favor of the estate for the period August 18, 1910, to December 31, 1912, of P5,806.55. On February 10, 1913, she filed another statement of accounts in the office of the clerk, materially at variance with both of the former statements, in which a balance is due the estate for the year ending August 18, 1911, of P1,852.56; for the year ending August 18, 1912, P457.04, and for the period August 19 to December 31, 1912, P452.28. With this third statement of her accounts, she filed a motion asking that it be substituted for the other two, and alleging that the second statement filed on February 28 was false and that she had been induced to sign it through the fraud and deceit of the respondent attorney. Further postponements were made, and the case finally culminated in a compromise agreement between the parties, under which the assets of the estate were divided. This compromise agreement is dated March 24, 1913.

Catalina Cebu filed her complaint against the respondent attorney on September 27, 1913. This complaint may be said to contain two charges: One that the respondent attorney acted maliciously in preparing the document signed by the daughter Sinforosa, in which she alleged irregularities in her mother's administration of the estate; and (2)

that the respondent attorney induced her, by means of false and fraudulent representations, to sign the "Additional Statement of Accounts" presented by her on February 28, 1913, in which she acknowledges that she has a balance in favor of the estate of something over P5,000.

The first charge is easily disposed of. Sinforosa states that she sought the assistance of Tirona in his professional capacity in relation to her mother's misconduct in office; that she represented to him that her mother had sold some of the property of the estate; and that he prepared the document in question upon her express solicitation, after she had refused to follow his advice of attempting to settle the matter amicably with her mother. This is all the testimony in the record on this point. As a matter of fact, it appears that there was good reason for filing the complaint, as the administratrix herself admitted, during the course of the present investigation, that she had delivered land to one Vicente Acosta, who tilled it and paid the taxes, thus indicating that the land was being improperly disposed of. It is also apparent from the conflicting statements of account submitted by her under dates of January 18 and February 10, that she had not kept her accounts during her administration in the proper manner. The conduct of the respondent attorney in preparing the complaint of Sinforosa was perfectly proper.

The second charge is based upon the document entitled "Additional Statement of Accounts" filed by the administratrix on February 28, 1913. It is admitted that this document was prepared by Tirona at his house on the evening of February 27, 1913. Sinforosa and her husband, her mother Catalina, and Andres Villanueva, justice of the peace of the municipality and, up to that time, a trusted personal friend of Catalina, came to his house in connection with the dispute which had arisen between Sinforosa and her mother over the affairs of the estate. It is alleged by the administratrix that she had gone there at the solicitation of Sinforosa and her husband to discuss a plan for the partition of the estate, and that she signed the document in question upon the representations of the respondent attorney, believing it to be a tentative plan for the partition and distribution of the estate. It is asserted by Sinforosa and her husband that they went there at the earnest solicitation of the administratrix to endeavor to arrive at an amicable agreement regarding the charges made by Sinforosa in her complaint to the court above referred to, and that the additional statement of accounts was the result of a compromise agreement between the parties. As Attorney Tirona prepared the document in question, it is clear that if the conference was concerning the partition of the estate, and the administratrix signed the said document believing that it related to that matter, the charges against Tirona are serious. If, on the other hand, the subject of the conference was a compromise agreement concerning the accounts of the administratrix and the latter signed the document knowing that it greatly increased her liabilities to the estate, the charges are false and the respondent attorney was guilty of no professional misconduct whatever.

To show how she had been deceived, the administratrix testified that she sat at one end of the room, away from the other persons present, and that her daughter Sinforosa, the latter's husband, Tirona, and Villanueva talked in Spanish, a language which she did not understand; that at the conclusion of the conference, Tirona prepared the document and handed it to Sinforosa, who in turn handed it to her (the administratrix), saying that it was all right and that she should sign it; that she stayed at the home of Villanueva that night. She did not ask Villanueva what the contents of the document were that night, because the hour was late when they reached Villanueva's house and everyone immediately retired. She did not ask him the next morning because she did not have time to do so before the train left for Cavite, where she went to present the document to the court. Yet she stated later on in her testimony that on the morning following the conference and before train time, she asked Villanueva about the document and he told her it was all right and that she should sign it. More than this, she testified that she went over to the house of her daughter Sinforosa before train time, and asked her and her husband about it, both of whom also told her that the document was all right and that she should sign it. On arriving at the court she was on the stairway when the judge called her name, and the sheriff told her to hurry up. She thereupon went into the clerk's office where Teofilo Viado was acting as clerk, and asked him to affix her name to the document, which he

did, and then she placed her mark on the document and hurried into the courtroom. Viado did not have time to examine the document. She simply told him it was all right and that she wanted to sign it.

On the other hand, it is perfectly clear from the record that the administratrix knew that her daughter was dissatisfied with her administration and the accounts presented by her. The administratrix herself admits that at a conference with her daughter at which Viado was present, she had agreed to render new accounts. This was only a short time before the meeting on February 27 at which the statement of accounts was prepared by Tirona. The administratrix knew that Tirona had prepared the complaint submitted to the court by her daughter in which her administration was seriously attacked; she knew that this document contained nothing relating to the partition of the estate, and that her daughter's grievance did not relate to that matter at all. There is nothing to show that the daughter changed her position between January 22, the date the complaint was filed, and the night of February 27, when the conference at the house of Tirona took place, and that she was then seeking to partition the estate. On the contrary, the administratrix herself admits, as above stated, that shortly before that conference she had a talk with her daughter, as a result of which she had manifested her desire to submit new accounts. It is highly improbable that she went to Tirona's house on the night of February 27 with the understanding that they were to discuss the partition of the estate. That her daughter was not at all satisfied with the practically negligible balance in favor of the estate represented by her accounts of January 18, 1913, and that Sinforosa had sought the services of Tirona in securing, through legal channels, an investigation of the affairs of the estate, were facts amply sufficient to put her on her guard in attending the conference in question. She now professes complete ignorance of what the other persons who attended the conference were talking about, and of the contents of the document prepared thereat by Tirona. As administratrix of the estate, as the owner of one-half the assets of the estate, which consisted entirely of conjugal property, it is incredible that she should sit dumb in one end of the room while the others did all the talking in an unknown language and made arrangements for the partition of the assets of the estate. It is also incredible that, after all the trouble she had had with these very people over her accounts, that she should leave that conference believing that the partition of the estate was the only matter discussed. She testified that she was endeavoring to ascertain the following morning before she took the train for Cavite what the document related to. She asked Villanueva; she asked her daughter, and the latter's husband; and received an unvarying reply from each that the document was all right and that she should sign it. Upon the strength of this information, and fully cognizant of all her past troubles with her daughter over the accounts, and knowing that her interests in the property were large, she appeared before Viado in the clerk's office the following morning, saying to him that the document was all right, and requesting that he affix her name to it. We cannot credit her, a woman in the full possession of her faculties, with such childish simplicity and confidence. Nor can we believe that Viado, accustomed to handle documents and well acquainted with the affairs of the estate, who, in fact, had prepared every document presented by the administratrix in reference to her administration, who had shortly before endeavored to reconcile mother and daughter in reference to the accounts of the estate, could have signed the administratrix' name to the document in question without making at least a superficial examination of it, and discovering that it was a most substantial correction of the accounts prepared by him and submitted by the administratrix on January 18, 1913. This document is an exceedingly simple affair and consists of barely two and one-half typewritten pages. On the last page, where Viado affixed the administratrix' signature, is a heading in capital letters, "An explanation in reference to the accounts already presented." And a mere glance at any one of the pages of this document would have been sufficient to indicate its character to Viado, who had taken such a large interest in the administration of the estate. The story that Viado did not discover the nature of the document before he affixed the administratrix' name to it is too improbable to be believed. If she herself knew the nature of this document and if Viado also knew its contents, there is absolutely no basis to her contention that Tirona falsely represented to her that the document related to the partition of the estate.

The voluminous record in that case is excellently discussed in the report of the Attorney-General. We have discussed the main facts of the case. The remainder of the record but serves to strengthen the impression that the administratrix' charges against the respondent attorney are without merit. We fully concur in the recommendation of the Attorney-General that the charges ought to be dismissed. The respondent, Emiliano Tria Tirona, is therefore absolved from the charges.

Arellano, C. J., Carson, Moreland, and Araullo, JJ., concur.

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