

FERMIN U. IMBUIDO, PETITIONER, VS. ATTY. FIDEL SOB. MANGONON, RESPONDENT.

Adm. Case No. 200. March 31, 1962

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Petitioner filed a charge of malpractice against respondent in view of certain misbehavior he has committed as member of the bar.

Petitioner claims that on June 14, 1948, he sold with the consent of his wife 10 parcels of land located at Manaoag, Pangasinan, which are covered by a certificate of title, with option to repurchase, to Mrs. Maria E. Gonzales for P3,600.00, of which P3,000.00 were actually paid and the balance of P600.00 was applied to the payment of interest. It was intimated then that of the parcels of land sold 7 had been previously encumbered in favor of other persons who were thereby placed in their possession. According to the deed of sale the lands would be repurchased on or before December 31, 1948 but unfortunately petitioner failed to exercise his right of redemption and so Mrs. Gonzales consolidated her ownership over them and a new certificate of title was issued in her name.

Sometime in December, 1949, petitioner engaged the services of respondent in an effort to negotiate the redemption of the lands from Mrs. Gonzales which commission respondent accepted although no mention was made then regarding his attorney's fees. Petitioner raised the sum of P4,600.00 from the same persons to whom the 7 parcels of land had been encumbered with the understanding that their previous contract would be changed into absolute sales for the amounts respectively taken from them and delivered the same to respondent. Thereupon, respondent proceeded to negotiate with Mrs. Gonzales for the repurchase of the lands having succeeded in doing so for the sum of P4,056.00, including incidental expenses. The balance of the money was kept by respondent as professional fee.

But to his astonishment, petitioner discovered that respondent repurchased the lands in his own name in disregard of his instruction and had done so even without his knowledge and consent. Respondent did more than that. After putting the lands in his name and securing a transfer certificate of title in his favor, respondent disposed of them in favor of other persons realizing therefrom an aggregate amount of P20,000.00, thereby depriving petitioner of the three parcels of land which were not previously encumbered.

On March 17, 1951, petitioner filed an action before the Court of First Instance of Pangasinan against respondent to recover the lands he misappropriated, plus damages, which was eventually decided in favor of petitioner by granting him one year period within which to redeem the lands sold by respondent. Because of this irregularity, petitioner filed a complaint against respondent with the Presidential Complaint and Action Committee which in due course referred the matter to the Department of Justice for investigation.

Petitioner prays that corresponding disciplinary action be taken against respondent.

Respondent in his answer denied having been engaged by petitioner as his lawyer in connection with the redemption of the parcels of land sold by petitioner to Mrs. Maria E. Gonzales. He avers that those who engaged his services to effect such redemption were the persons to whom petitioner had previously encumbered the lands by executing merely private documents evidencing the receipt of P17,400.00. When these persons approached respondent in order that he may help them redeem the lands he advised them after studying the matter that in spite of the expiration of the period of redemption the lands could still be redeemed in accordance with Section 119 of Commonwealth Act No. 141 because the lands were formerly public lands provided that they raise the necessary amount to pay the purchase price. Respondent and his clients went to see petitioner whom they intimated that his action in selling the lands after having previously encumbered them in favor of his clients was irregular for which he could be charged with estafa because he sold them without informing thereof the previous creditors who gave him the sum of P17,400.00 with the result that Mrs. Gonzales consolidated her ownership and obtained a new title over them. Respondent further warned petitioner that being then the municipal mayor he could be suspended from office because of the irregularity he has committed. It was then that petitioner who was afraid of being suspended pleaded to respondent that he exert his influence in raising the necessary amount to effect the redemption of the lands from Mrs. Gonzales with the understanding that the lands would be conveyed to his clients for the amounts they had given to petitioner. Respondent finally avers that he did not know petitioner personally and only came to know him when his clients broached to him the transactions they had with petitioner. As a special defense, respondent charged petitioner with malice and unjustifiable motives in filing this complaint against him.

In a resolution entered on January 12, 1955, this Court referred the case to the Solicitor General for investigation, report and recommendation. Thereafter, this official, having found probable cause, filed a formal complaint against respondent in accordance with our own rules. Respondent answered the complaint, and after hearing was held, the Solicitor General submitted a memorandum recommending that respondent be given the corrective penalty that the facts may warrant.

It appears proven that the 10 parcels of land in question were formerly registered in the name of petitioner although apparently they originally belonged to his wife and mother-in-law. Seven parcels of these lands had been encumbered by petitioner with the consent of his wife and his mother-in-law in favor of several persons from whom he received the aggregate sum of P17,400.00. Then on June 14, 1948, petitioner, also with the consent of his wife, sold the 10 parcels of land with option to repurchase for the sum of P3,600.00 to Mrs. Maria E. Gonzales of which P3,000.00 only was delivered because the balance of P600.00 was considered as interest. And because 7 of the above parcels of land had already been, encumbered to other persons it was agreed that Mrs. Gonzales would not share in the produce of the land during the period of redemption. When said period expired and petitioner failed to redeem the land Mrs. Gonzales consolidated her ownership and obtained the issuance of a new title in her name. As a consequence, Mrs. Gonzales brought an action for ejectment against those who were in possession of the land including the persons to whom they had been previously encumbered. To forestall the prejudice that such action would cause to said persons, petitioner contracted the services of respondent in an attempt to find ways by which the lands could be redeemed. Respondent accepted the commission although no specific agreement was had with regard to his attorney's fees. And after studying the case he found that the lands could still be redeemed under the provisions of Section 119, Commonwealth Act 141, and so he asked petitioner to raise the amount necessary for such redemption. Petitioner contacted the persons to whom the lands were previously encumbered to inform them of the necessity of raising the sum of P4,600.00 and they agreed to contribute such amount provided that the 7 parcels of land thus encumbered be conveyed to them in full payment of the amounts they had advanced, and after this amount was raised it was given to respondent in order that he may effect the redemption. Respondent then entered into negotiations with Mrs. Gonzales who was finally prevailed upon to resell the 10 parcels of land for the sum of P4,056.00, but instead of executing the sale in favor

of petitioner she executed it in the name of respondent. This was done at the request of respondent. And when petitioner came to know this fact he filed this complaint alleging that respondent has committed an irregularity for which he should be disciplined as member of the bar.

The claim of respondent that petitioner has never contracted his services as lawyer in order to negotiate with Mrs. Gonzales the redemption of the parcels of land which were sold to her under pacto de retro by petitioner cannot be entertained in the face of what appears in the letter he sent to Mrs. Gonzales relative to the redemption which, because of its bearing hereon, we quote hereunder:

"My dear Mr. & Mrs. Gonzales:

Mayor FERMIN U. IMBUIDO of San Fabian, Pangasinan, came to my LAW OFFICE, Manaoag, Pangasinan, in connection with his TEN (10) PARCELS of land sold to you under a 'VENTA CON PACTO DE RETRO' in the amount of P3,600.00. He told me that the real amount of money he received from you was P3,000.00, but you collected from him the additional amount of P600.00 as interest of the P3,000.00. Apparently, the transaction is usurious especially considering that within a short period of six (6) months your original capital earned P600.00 plus the ten (10) parcels of land the ownership of which you consolidated in your name for which TRANSFER CERTIFICATE OF TITLE NO. 5912 was issued. Mayor IMBUIDO desires to repurchase the land conditionally sold to you as aforementioned because under the law applicable in the premises, he can redeem said land and you can be obliged to execute the corresponding Deed of Reconveyance.

With this letter, we are therefore making the formal demand from you before we deposit the amount of P3,600.00 in the Office of the Clerk of Court, Lingayen, Pangasinan. May we request you to inform us within a reasonable time whether you will agree to have said lands redeemed or not, otherwise, if we cannot hear from you until Saturday, December 31, 1949, we will be constrained, much against our wish, to file the corresponding action for the reconveyance of said parcels of land in the Court of First Instance.

Hoping to hear from you and wishing you a very Merry Christmas and a Happy and Prosperous New Year.

Very respectfully,

(Sgd.) Fidel Sob. Mangonon
Attorney for Mayor Fermin U. Imbuido
Manaoag, Pangasinan"

Note that copy of the above letter was sent by respondent to petitioner at the foot of which appears the following notation:

"Dear Mayor:

Here is a copy of my letter to the Gonzales. I sent it by registered mail today.

Yours,
Atty. Mangonon"

A perusal of said letter would readily show that respondent has written it in his capacity as lawyer of petitioner for it not only contains a veiled threat that the transaction concerning the sale of 10 parcels of land was usurious in character because the interest earned was not in proportion to the relatively short period given for their redemption but because it contains a warning that if the request is not allowed the corresponding action would be taken in the proper court for the reconveyance of the property. It is not, therefore, correct to say that the ones who hired the services of respondent in connection with the redemption were the persons to whom the lands had been previously encumbered as claimed by respondent. Having been established that between petitioner and respondent there existed the relation of attorney and client when the former negotiated with Mrs. Gonzales the redemption of

the lands it would appear strange if not suspicious that respondent would undertake the redemption of the lands not only in the absence of petitioner but even without his knowledge, and what is worst, respondent went to the extent of persuading Mrs. Gonzales to execute the deed of resale in his own name. This is not only irregular but a serious breach of professional duty towards petitioner whose trust respondent disregarded and violated.

It is true that respondent claims that he acted the way he did because he was then representing not the petitioner but the persons to whom the lands had been previously encumbered. Even if this may be true, the fact however remains that the vendor of the land in the sale to Mrs. Gonzales was the petitioner and common sense dictates, as respondent should know, that the reconveyance should be made in the name of the vendor. The fact that respondent has afterwards executed different deeds of conveyance of the 8 parcels of land to several persons among whom were those to whom they had been previously encumbered for the amounts they had respectively advanced cannot erase the irregularity he has committed for that is contrary to the ordinary course of law and the understanding he had with his client. Nor can respondent justify the fact that he kept for himself the two parcels of land involved in the transaction under the pretext that he had them placed in his name in payment of his attorney's fees, for there is nothing in the evidence that may justify such claim. On the contrary, the evidence shows that out of the sum of P4,600.00 that was given to him to effect the redemption he only paid P4,056.00 and kept the balance to himself. In our opinion, these two parcels of land should be returned to petitioner without prejudice to determining later the amount of professional fees respondent is entitled to in an appropriate action.

WHEREFORE, the Court finds respondent guilty of professional misconduct and so hereby suspends him as member of the bar for a period of one (1) year from receipt of this decision.

Bengzon, C.J., Padilla, Labrador, Concepcion, Barrera, Paredes, Dizon, and De Leon, JJ., concur.

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