

IN RE LUIS B. TAGORDA

. March 23, 1929

Ponente: MALCOLM, J.

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MALCOLM, J.:

The respondent, Luis B. Tagorda, a practising attorney and a member of the provincial board of Isabela, admits that previous to the last general elections he made use of a card written in Spanish and Ilocano, which, in translation, reads as follows:

"LUIS B. TAGORDA

"Attorney

"Notary Public

"CANDIDATE FOR THIRD MEMBER

"Province of Isabela

" (Note.—As notary public, he can execute for you a deed of sale for the purchase of land as required by the cadastral office; can renew lost documents of your animals; can make your application and final requisites for your homestead; and can execute any kind of affidavit. As a lawyer, he can help you collect your loans although long overdue, as well as any complaint for or against you. Come or write to him in his town, Echague, Isabela. He offers free consultation, and is willing to help and serve the poor.)"

The respondent further admits that he is the author of a letter addressed to a lieutenant of barrio in his home municipality written in Ilocano, which letter, in translation, reads as follows:

ECHAGUE, ISABELA, September 18, 1928

"MY DEAR LIEUTENANT : I would like to inform you of the approaching date for our induction into office as member of the Provincial Board, that is on the 16th of next month. Before my induction into office I should be very glad to hear your suggestions or recommendations for the good of the province in general and for your barrio in particular. You can come to my house at any time here in Echague, to submit to me any kind of suggestion or recommendation as you may desire.

"I also inform you that despite my membership in the Board I will have my residence here in Echague. I will attend the sessions of the Board in Ilagan, but will come back home on the following day here in Echague to live and serve with you as a lawyer and notary public. Despite my election as member of the Provincial Board, I will exercise my legal profession as a lawyer and notary public. In case you cannot see me at home on any week day, I assure you that you can always find me there on every Sunday. I also inform you that I will receive any work regarding preparations of documents of contract of sales and affidavits to be sworn to before me as notary public even on Sundays.

"I would like you all to be informed of this matter for the reason that some people are in the belief that my residence as member of the Board will be in Ilagan and that I would then be disqualified to exercise my

profession as lawyer and as notary public. Such is not the case and I would make it clear that I am free to exercise my profession as formerly and that I will have my residence here in Echague.

"I would request your kind favor to transmit this information to your barrio people in any of your meetings or social gatherings so that they may be informed of my desire to live and to serve with you in my capacity as lawyer and notary public. If the people in your locality have not as yet contracted the services of other lawyers in connection with the registration of their land titles, I would be willing to handle the work in court and would charge only three pesos for every registration.

"Yours respectfully,

(Sgd.) "LUIS TAGORDA

"Attorney

"Notary Public"

The facts being conceded, it is next in order to write down the applicable legal provisions. Section 21 of the Code of Civil Procedure as originally conceived related to disbarments of members of the bar. In 1919 at the instigation of the Philippine Bar Association, said codal section was amended by Act No. 2828 by adding at the end thereof the following: "The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice."

The statute as amended conforms in principle to the Canons of Professional Ethics adopted by the American Bar Association in 1908 and by the Philippine Bar Association in 1917. Canons 27 and 28 of the Code of Ethics provide:

"27. ADVERTISING, DIRECT OR INDIRECT.—The most worthy and effective advertisement possible, even for a young lawyer, and especially with his brother lawyers, is the establishment of a well-merited reputation for professional capacity and fidelity to trust. This cannot be forced, but must be the outcome of character and conduct. The publication or circulation of ordinary simple business cards, being a matter of personal taste or local custom, and sometimes of convenience, is not per se improper. But solicitation of business by circulars or advertisements, or by personal communications or interviews not warranted by personal relations, is unprofessional. It is equally unprofessional to procure business by indirection through touters of any kind, whether allied real estate firms or trust companies advertising to secure the drawing of deeds or wills or offering retainers in exchange for executorships or trusteeships to be influenced by the lawyer. Indirect advertisement for business by furnishing or inspiring newspaper comments concerning the manner of their conduct, the magnitude of the interests involved, the importance of the lawyer's position, and all other like self-laudation, defy the traditions and lower the tone of our high calling, and are intolerable.

"28. STIRRING UP LITIGATION, DIRECTLY OR THROUGH AGENTS.—It is unprofessional for a lawyer to volunteer advice to bring a lawsuit, except in rare cases where ties of blood, relationship or trust make it his duty to do so. Stirring up strife and litigation is not only unprofessional, but it is indictable at common law. It is disreputable to hunt up defects in titles or other causes of action and inform thereof in order to be employed to bring suit, or to breed litigation by seeking out those with claims for personal injuries or those having any other grounds of action in order to secure them as clients, or to employ agents or runners for like purposes, or to pay or reward directly or indirectly, those who bring or influence the bringing of such cases to his office, or to remunerate policemen, court or prison officials, physicians, hospital attaches or others who may succeed, under the guise of giving disinterested friendly advice, in influencing the criminal, the sick and the injured, the ignorant or others, to seek his professional services. A duty to the public and to the profession devolves upon every member of the bar having knowledge of such practices upon the part of any practitioner immediately to inform thereof to the end that the offender may be disbarred."

Common barratry consisting of frequently stirring up suits and quarrels between individuals was a crime at the common law, and one of the penalties for this offense when committed by an attorney was disbarment. Statutes

intended to reach the same evil have been provided in a number of jurisdictions usually at the instance of the bar itself, and have been upheld as constitutional. The reason behind statutes of this type is not difficult to discover. The law is a profession and not a business. The lawyer may not seek or obtain employment by himself or through others for to do so would be unprofessional. (State vs. Rossman [1909], 53 Wash., 1; 17 Ann. Cas., 625; People vs. Mac Cabe [1893], 19 L. R. A., 231; 2 R. C. L., 1097.)

It becomes our duty to condemn in no uncertain terms the ugly practice of solicitation of cases by lawyers. It is destructive of the honor of a great profession. It lowers the standards of that profession. It works against the confidence of the community in the integrity of the members of the bar. It results in needless litigation and in inciting to strife otherwise peacefully inclined citizens.

The solicitation of employment by an attorney is a ground for disbarment or suspension. That should be distinctly understood. ""Giving application of the law and the Canons of Ethics to the admitted facts, the respondent stands convicted of having solicited cases in defiance of the law and those canons. Accordingly, the only remaining duty of the court is to fix upon the action which should here be taken. The provincial fiscal of Isabela, with whom joined the representative of the Attorney-General in the oral presentation of the case, suggests that the respondent be only reprimanded. We think that our action should go further than this if only to reflect our attitude toward cases of this character of which unfortunately the respondent's is only one. The commission of offenses of this nature would amply justify permanent elimination from the bar. But as mitigating circumstances working in favor of the respondent there are, first, his intimation that he was unaware of the impropriety of his acts, (second, his youth and inexperience at the bar, and, third, his promise not to commit a similar mistake in the future. A modest period of suspension would seem to fit the case of the erring attorney. But it should be distinctly understood that this result is reached in view of the considerations which have influenced the court to be relatively lenient in this particular instance, and should, therefore, not be taken as indicating that future convictions of practice of this kind will not be dealt with by disbarment.

In view of all the circumstances of this case, the judgment of the court is that the respondent Luis B. Tagorda be and is hereby suspended from the practice as an attorney-at-law for the period of one month from April 1, 1929.

Street, Johns, Romualdez, and Villa-Real, JJ., concur.
Johnson, J., reserves his vote.

DISSENTING

OSTRAND, J.:

I dissent. Under the circumstances of the case a reprimand would have been sufficient punishment.

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