

TAN KUI, DOING BUSINESS UNDER THE NAME AND STYLE OF SUN HING BAZAR, PETITIONER, VS. THE COURT OF APPEALS AND SO TIAN KIT, RESPONDENTS, ATTY. RAMON TUANGCO AND ATTY. ROLANDO C. A...*G.R. No. L-36808. November 29, 1973*

Ponente: FERNANDO, J.

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It is a rather unusual, not to say bizarre, situation that confronts this Court in this inquiry as to how it came about that a petition identical with one previously submitted, was filed, both denied for lack of merit[1] the attorney of record in this appeal by way of certiorari being Rolando C. Alvez, practicing in Cebu, and the counsel in the earlier case being Ramon Tuangco, with office in Manila. Hence our resolution of September 13, 1973: "This Court, in its resolution of June 14, 1973, denied the petition for lack of merit and likewise on the ground that a previous identical petition docketed as G.R. No. L-36729 involving the same parties had previously been denied in a resolution of May 24, 1973. There was need, therefore, and this Court did require in such resolution, for petitioner as well as his counsel to explain within ten (10) days from notice why they should not be held in contempt for filing a petition which is an identical copy of G.R. No. L-36729. An attempt by petitioner and his counsel, Rolando C. Alvez, to explain how such an anomalous situation arose was made in a pleading submitted on July 16, 1973, wherein the previous filing of a petition by Attorney Ramon Tuangco was made to appear as without authorization on the part of petitioner whose services were retained 'for purposes solely of helping Attorney Rolando C. Alvez, the counsel of record, in the hearing of the motion for reconsideration' in the Court of Appeals. Necessarily, in view of such allegation, this Court, in a resolution of July 20, 1973, required comment from Attorney Ramon Tuangco. In the aforesaid comment submitted on August 20, 1973, there was an express allegation by Attorney Ramon Tuangco to the effect that he was duly authorized by petitioner to prepare and file the petition for review in L-36729. At the same time, he enclosed with such comment two affidavits, one from Commissioner Jose Mendoza of the Commission on Elections, and another from a certain Agustin Go, seeking to fortify his assertion that he was indeed so authorized. Considering the above antecedents, this Court resolved to refer the matter to its investigator, Attorney Victor J. Sevilla, for the purpose of ascertaining as to whose version, that of petitioner and Attorney Rolando C. Alvez on the one hand and that of Attorney Ramon Tuangco on the other, is in conformity with the truth, and to report to this Court as soon as such investigation is terminated." [2]

Such an investigation was duly conducted, and on November 20, 1973, a report was submitted by Attorney Victor J. Sevilla. It was his finding that respondent Ramon Tuangco, with his law office in Manila, was properly authorized by respondent Rolando C. Alvez, counsel of record for the petitioner in the Court of Appeals practicing as he did in Cebu, to take the necessary steps to file a petition for certiorari in this Court to have the adverse decision of the Court of Appeals revoked. It was so testified by both respondent Alvez as well as petitioners Tan Kui and a certain Agustin Go, who acted as interpreter for petitioner, who was unable to speak either English or Filipino. It is his conclusion then that respondent Tuangco "cannot, therefore, be made

answerable for misbehavior in his actuations as a lawyer in this case." [3]

As to respondent Alvez, it was noted in such report that he "filed the second petition for certiorari, without being aware that Atty. Tuangco had filed the first petition; that he was not notified by his client, Tan Kui, about the matter. Atty. Alvez confessed that he finds difficulty in communicating with Tan Kui, even in the lower courts because of language barrier. The undersigned himself found difficulty in communicating with Tan Kui, as he can neither speak English nor Filipino. Tan Kui knows a smattering of Visayan, but even Atty. Alvez, a Visayan, finds difficulty in understanding him. Tan Kui was later on permitted to testify in Chinese, with Mr. Go acting as interpreter. It is clear, therefore, that the confusion in the filing of two petitions for review on certiorari was the result of a communication gap between Atty. Alvez and his client, Tan Kui; and between Atty. Alvez and Atty. Tuangco, all caused by a language barrier due to the inability of Tan Kui to speak either English or Pilipino." [4] Under the circumstances, while conceding that respondent Alvez was motivated by a canon of judicial ethics requiring the utmost zeal and fidelity in the defense of a client's cause, [5] it thus appears that had he exercised a little more care by pursuing the matter with more thoroughness and thus properly informing himself as to what had been done by respondent Tuangco who had been authorized to file a petition, no such contretemps would have occurred. This kind of negligence and inattention cannot pass unnoticed. Members of the bar certainly are called upon to ascertain what pleadings, if any, have been filed before any court. Certainly, that is a burden all the greater and inescapable when the tribunal involved is the highest in the land.

WHEREFORE, respondent Ramon Tuangco is absolved of any responsibility, and respondent Rolando C. Alvez is admonished to behave with more circumspection and display the necessary diligence with the end in view of his being properly informed at all times of what is happening or had happened in any litigation where his professional services were retained. Let a copy of this resolution be spread on the records of both respondents.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.

Barredo, J., did not take part.

[1] Tan Kui v. So Tian Kit, G.R. No. L-36729, denied in a resolution of May 24, 1973.

[2] Resolution of September 13, 1973.

[3] Report and Recommendation, 6.

[4] Ibid.

[5] According to Canon 15 of the Canons of Judicial Ethics: "The lawyer owes 'entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability,' to the end that nothing be taken or be withheld from him, save by the rules of law, legally applied. * * *." Malcolm, Legal and Judicial Ethics, 222 (1949).

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