

PASAY LAW AND CONSCIENCE UNION, INC., COMPLAINANT, VS. ATTY. DAVID D.C. PAZ, RESPONDENT.

Adm. Case No. 1008. January 22, 1980

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

On June 5, 1971, the Pasay Law and Conscience Union, Inc. (PLACU) filed this disbarment case against David D.C. Paz, a member of the Philippine Bar. The complainant charged the respondent with malpractice, gross misconduct in office, gross immoral conduct and/or disloyalty to the Republic of the Philippines.[1]

In a resolution dated June 22, 1971, this Court required the respondent to file an answer to the complaint against him.[2]

After the respondent had filed his answer[3] and the complainant had submitted a reply,[4] this administrative case was referred to the Solicitor General for investigation, report and recommendation.[5]

On January 23, 1973, the Solicitor General, having found sufficient grounds to proceed against the respondent after due investigation of the administrative case against him, submitted, among others, sixteen copies, in a sealed envelope, of his complaint against the respondent, together with the transcript of stenographic notes taken during the investigation of the case, the folder of exhibits, the record of the investigation of the case and the original Supreme Court record.[6]

The Solicitor General charged Atty. D.C. Paz with representing clients with conflicting interests and gross misconduct in office.

Regarding the charge of representing clients with conflicting interests, the complainant alleged that in 1969, in the course of the investigation then being conducted by the "Charlie Division" of the Presidential Agency on Reforms and Government Operations, otherwise known as the PARGO, on the complaint of Dr. Irineo P. Sia for anti-graft against the then ex-Mayor Pablo Cuneta of Pasay City, the respondent, David D.C. Paz, was then PARGO's Legal Officer and Chief Prosecutor, as well as the head of the aforesaid "Charlie Division"; that in the series of follow-ups made with PARGO by Dr. Irineo P. Sia himself and at times in company of Atty. Galileo P. Brion, President of the complainant, PLACU, of the aforesaid anti-graft complaint against the then ex-Mayor Pablo Cuneta, the respondent enlisted the help of Dr. Irineo P. Sia and Atty. Galileo P. Brion in the gathering of evidence which included PLACU's copies of the records of Civil Case No. 72967 of the Court of First Instance of Manila, entitled "Vicente D. Isip vs. The Pasay City Government, et al."; that in the course of the investigation by the PARGO of the aforesaid anti-graft complaint, but prior to September 10, 1969, the respondent even administered oaths to some persons who had given written statements before the PARGO investigators; that on September 10, 1969, the respondent was detailed by the then PARGO Secretary Ramon D. Bagatsing as Executive and Police Adviser to the Mayor of Makati, Rizal; that on the same day, the respondent designated as division-in-charge Atty. Rodolfo Navarro, who was then Team Leader of Charlie-Two under PARGO's "Charlie Division" to act for and in respondent's behalf while not in office and while performing his duties and functions as

such adviser in Makati, Rizal; that later on, after respondent had resigned from the PARGO sometime in January 1970 and on the basis of the investigation conducted by the PARGO on the aforementioned anti-graft complaint of Dr. Sia, the PARGO's successor, the Complaints and Investigation Office (CIO) filed an anti-graft charge and another charge for technical malversation both against Pablo Cuneta and others with the Pasay City Fiscal's Office, docketed therein as I.S. Nos. 71712 and 71712-A, respectively; that on November 13 and 23, 1970, during the preliminary investigation by the Pasay City Fiscal's Office of I.S. Nos. 71712 and 71712-A, the respondent entered his appearance, participated and orally argued therein as one of the counsels of Pablo Cuneta; that while in subsequent hearings thereof, the respondent no longer appeared as counsel for Cuneta, it was only after his appearance had been questioned by Atty. Brion; that inasmuch as at least up to September 10, 1969, the respondent was then PARGO's Legal Officer and Chief Prosecutor, as well as head of PARGO's "Charlie Division", he had access to, and necessarily acquired, directly or indirectly, knowledge of the facts of the said anti-graft case, its weak as well as its strong points, and such knowledge is confidential and should be guarded with great care, lest it jeopardizes PARGO, an agency and instrumentality of the Republic of the Philippines whose interest respondent swore to serve and protect without any mental reservation, in the ultimate prosecution of the said case; that there was, therefore, then a relationship of attorney and client between respondent and the government; that for having appeared twice, participated and orally argued as counsel for Pablo Cuneta during the preliminary investigation of the charges for anti-graft and technical malversation filed by the CIO, successor of PARGO, against said Pablo Cuneta and others before the Pasay City Fiscal's Office, the respondent violated Section 6 of the Canons of Legal Ethics and Section 20(e) of Rule 138 of the Revised Rules of Court; and that the alleged withdrawal of the respondent as counsel for Pablo Cuneta, although in this connection there is nothing reflected in the records of the preliminary investigation, is of no moment for he had already violated the aforesaid Canons of Legal Ethics and that respondent's having appeared twice as counsel for Cuneta in the preliminary investigation of the aforesaid charges constitutes clear attempts on respondent's part to damage CIO's cause against Cuneta.

On the charge of gross misconduct in office, the complaint stated that in the course of the investigation by the PARGO of Dr. Sia's anti-graft complaint against the then ex-Mayor Pablo Cuneta of Pasay City, but prior to September 10, 1969, the respondent borrowed and received from Atty. Brion the PLACU's copies of the record or expediente of Civil Case No. 72967 of the Court of First Instance of Manila entitled "Vicente D. Isip vs. The Pasay City Government, et al.", in the presence of Dr. Sia and Atty. Alidio for the purpose of making xerox copies of such relevant documents therein to be utilized as evidence in the said anti-graft case; that notwithstanding repeated requests by Atty. Brion, the respondent never returned to the former the aforesaid PLACU's copies of the record or expediente, and when Atty. Brion manifested before Pasay City Fiscal Pineda during the preliminary investigation on November 13, 1970 of the anti-graft and technical malversation charges against Pablo Cuneta and others about the non-return to him of said expediente, respondent denied having borrowed and received the same, to the prejudice of PARGO's prosecution of the said charges, so that PARGO, through Atty. Brion, had to reconstitute the answer and its seventeen annexes which formed part of the said record or expediente, and it was only then that these documents were presented in the aforementioned preliminary investigation; and that the respondent's conduct in this regard tended to prevent and obstruct the administration of justice by concealing evidence, thus constituting gross misconduct in office.[7]

In his answer filed on February 24, 1973, respondent, David D.C. Paz, specifically denied the allegation contained in paragraphs 1 to 9 of the complaint on representing clients with conflicting interests, the same being contrary to the evidence of record submitted to the investigation conducted by Solicitor Eulogio Racquel Santos and averred that the respondent Paz did not participate in the investigation of the Cuneta anti-graft case except to swear the witnesses; that the Secretary of PARGO issued Mission Order No. 362 directing Atty. Rodolfo Navarro and

Engineers Platon Chavez, Ventura Villarosa, Gabriel Abellada, Jr. and agents Lysias G. Manalo and Edilberto Arguelles, Jr. and Henry Consina to undertake a special mission and carry out instructions given by the Secretary in connection with the confidential investigation being undertaken by PARGO; that according to the affidavit of Lysias Manalo of the Philippine Constabulary, the Secretary of PARGO, by virtue of Mission Order No. 362, directed the continuance of the re-investigation of the complaint of Dr. Irineo P. Sia, against the ex-Mayor Pablo Cuneta and others for violation of the anti-graft and corrupt practices Act; that in fact, in 1969, the respondent Paz was on detail as police adviser of the Mayor of Makati, Rizal and in 1970, he resigned from PARGO and transferred to Congress; that except for the self-serving declarations of Atty. Brion and Dr. Irineo Sia, no other evidence was presented to prove that the respondent Paz investigated the said anti-graft case in the PARGO; that it is true that respondent Paz appeared among a battery of lawyers for Mayor Cuneta but when his appearance was questioned by Atty. Brion, it was withdrawn; and that the anti-graft case against Mayor Cuneta was finally dismissed.

Anent the charge of gross misconduct in office, the respondent denied the allegation in paragraphs 1 to 6 of the second count, the same being contrary to the evidence of record and alleged that the charge is a fabrication; that Atty. Brion was also a special assistant in the PARGO; that when the respondent Paz resigned from the PARGO, he was granted a clearance dated January 2, 1970 clearing him from any record or money accountability; that Hector Lumba, Docket Officer of PARGO who was presented by Atty. Brion as a witness, admitted on cross-examination that the respondent Paz had been cleared of accountabilities by the Docket Section; and that at the time the clearance was granted, the respondent had no pending cases in his possession; that Atty. Brion admitted that the alleged expediente supposedly borrowed by the respondent Paz was merely his lawyer's file as intervenor in Civil Case No. 72967; that his motion for intervention was, however, denied; that the lawyer's file was allegedly finally reconstituted and presented in the preliminary investigation of the anti-graft case against Pablo Cuneta; that Atty. Brion declared that the respondent Paz "receipted" for the same expediente but during the investigation conducted by Solicitor Racquel Santos, Atty. Brion could not produce any receipt; that neither could Atty. Brion present any proof that he addressed a written complaint or demand to PARGO for the return of the alleged expediente and Dr. Sia admitted that the evidence gathered were turned over to Atty. Cuaresma and Mangase, not to respondent Paz.

On the charge of representing clients with conflicting interests, the evidence has duly established that the respondent, David D.C. Paz, as PARGO's Legal Officer and Legal Prosecutor and head of the "Charlie Division", took part in the investigation of the anti-graft case against ex-Mayor Cuneta by administering oaths to witnesses and gathering evidence. He acquired knowledge of the facts and circumstances surrounding the anti-graft case. The respondent obtained confidential information and learned of the evidence of the PARGO against ex-Mayor Cuneta. There was undoubtedly a relationship of attorney and client between the respondent David D.C. Paz and the PARGO.

It is also a fact that at the early stages of the preliminary investigation conducted by the City Fiscal of Pasay of the anti-graft case against ex-Mayor Pablo Cuneta, the respondent appeared as counsel for said Cuneta. This is the same anti-graft case investigated by the PARGO when the respondent was head of the "Charlie Division" thereof. That the respondent later withdrew his appearances as counsel of Cuneta is of no moment. He had already violated the Canons of Legal Ethics and Sec. 20(e) of Rule 138, Revised Rules of Court which provides:

"Sec. 20. Duties of attorneys. - It is the duty of an attorney:

xxx xxx xxx

(e) To maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client, and to accept no compensation in connection with his client's business except from him or with his knowledge and

approval;

xxx xxx xxx"

The respondent has displayed a lack of concern for his duties as a lawyer and an officer of the court. In *Nombrado vs. Hernandez*,^[8] this Court said:

"The Solicitor General is of the opinion, and we find no reason to disagree with him, that even if respondent did not use against his client any information or evidence acquired by him as counsel it cannot be denied that he did become privy to information regarding the ownership of the parcel of land which was later litigated in the forcible entry case, for it was the dispute over the land that triggered the mauling incident which gave rise to the criminal action for physical injuries. This Court's remarks in *Hilado vs. David*, 84 Phil. 571, are apropos: 'Communications between attorney and client are, in a great number of litigations, a complicated affair, consisting of entangled relevant and irrelevant, secret and well known facts. In the complexity of what is said in the course of dealings between an attorney and client, inquiry of the nature suggested would lead to the revelation, in advance of the trial, of other matters that might only further prejudice the complainant's cause.'

'Whatever may be said as to whether or not respondent utilized against his former client information given to him in a professional capacity, the mere fact of their previous relationship should have precluded him from appearing as counsel for the other side in the forcible entry case. In the same case of *Hilado vs. David*, supra, this Tribunal further said:

'Hence the necessity of setting down the existence of the bare relationship of attorney and client as the yardstick for testing incompatibility of interests. This stern rule is designed not alone to prevent the dishonest practitioner from fraudulent conduct, but as well to protect the honest lawyer from unfounded suspicion of unprofessional practice. x x x It is founded on principles of public policy, of good taste. As has been said in another case, the question is not necessarily one of the rights of the parties, but as to whether the attorney has adhered to proper professional standard. With these thoughts in mind, it behooves attorneys, like Ceasar's wife, not only to keep inviolate the client's confidence, but also to avoid the appearance of treachery and double-dealing. Only thus can litigants be encouraged to entrust their secrets to their attorneys which is of paramount importance in the administration of justice.'"^[9]

Under the circumstances, the respondent should be punished by suspension from the practice of law for two (2) months,^[10] with a warning that a repetition of the same offense will be dealt with more drastically.

There is no sufficient evidence that the respondent had borrowed the record of Civil Case No. 72967 of the Court of First Instance of Manila entitled "*Vicente D. Isip vs. The Pasay City Government, et al.*". According to Atty. Galileo Brion, the respondent issued a receipt for the record. However, no such receipt could be presented at the investigation. Moreover, Dr. Irineo Sia admitted that the evidence in connection with the Cuneta anti-graft case was turned over to Attys. Mangase and Cuaresma, both of the PARGO. In view thereof, the respondent cannot be held guilty of the charge of serious misconduct.

WHEREFORE, the respondent is found guilty of representing clients with conflicting interests and he is hereby suspended from the practice of law for two (2) months, with a warning that a repetition of the same offense will be dealt with more drastically. The respondent is exonerated of the charge of gross misconduct in office. SO ORDERED.

Teehankee, Antonio, Concepcion, Jr., Santos, Guerrero, Abad Santos, De Castro, and Melencio-Herrera, JJ., concur.

Fernando, C.J., and Barredo, J., took no part.

Makasiar, J., concur but opines that the penalty should be increased to six months suspension.

[1] Rollo, pp. 1-4.

[2] Rollo, p. 6.

[3] Rollo, pp. 8-17.

[4] Rollo, pp. 20-22.

[5] Rollo, p. 23.

[6] Rollo, p. 24.

[7] Rollo, pp. 25-33.

[8] Administrative Case No. 555, November 25, 1968.

[9] 26 SCRA 13, 16-17.

[10] Batoy vs. Blanco, Administrative Case No. 1233, August 14, 1978, 84 SCRA 585, 593.

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