

TOMAS BATNAG, COMPLAINANT, VS. ATTY. OCTAVIO M. BANTA, RESPONDENT.

Adm. Case No. 3072. December 02, 1987

Ponente: FELICIANO, J.

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FELICIANO, J.:

Complainant filed with this Court on 8 July 1987 a sworn complaint charging respondent with having violated his lawyer's oath, specifically the portion which states: "I will not wittingly or willingly promote or sue any groundless, false or unlawful suit."

Respondent, as an Assistant City Fiscal of Baguio City, had filed three (3) criminal cases for libel against complainant in the Regional Trial Court of Baguio. These informations for libel were filed by respondent after a preliminary investigation had been conducted by Acting Third Assistant City Fiscal Pastor B. de Guzman, Jr. where probable cause was found. The complainant was there charged with having made libelous statements against Atty. Alfredo Lamén in several letters sent by complainant to the Supreme Court, with copies to the Office of the Solicitor General and other persons, in connection with disbarment proceedings filed by complainant against Atty. Lamén pending before the Supreme Court.

Complainant claims that the libel suits brought against him were groundless, arguing that the Investigating Fiscal (Assistant City Fiscal Pastor de Guzman, Jr.) should have dismissed the complaints for libel by Atty. Alfredo G. Lamén. Petitioner attached to his complaint in this administrative case a copy of a Resolution, dated 29 August 1986, by the Provincial Fiscal, San Fernando, La Union, holding that a prima facie case existed against Atty. Alfredo Lamén for perjury. The complaint for perjury against Atty. Lamén had been brought by complainant himself.

The Court required respondent to file an answer to the complaint. In his Answer dated 24 September 1987, respondent notes that he had not been the Investigating Fiscal who had conducted the preliminary investigation of the complaint for libel brought by Atty. Lamén against complainant. Respondent had been transferred to the Branch of the Regional Trial Court where the libel cases were already pending, as a consequence of reorganization and reassignment of prosecution officers under BP Blg. 129. Respondent also urges that the circumstance that the perjury case had been filed by complainant against Atty. Lamén and is presently pending before the Metropolitan Trial Court of Baguio, is not adequate basis for dismissal of the libel cases against complainant. Respondent submits that both the libel and perjury cases should be left to the courts for final determination. Respondent also notes that complainant had indicated in writing that he would withdraw the disbarment case against respondent provided that the libel cases against complainant were dismissed. In a letter dated 13 July 1987 addressed to respondent, complainant wrote:

"I have the honor to furnish you xerox copies of my disbarment complaint against you and Atty. Alfredo G. Lamén for your information. Should you cause the REGIONAL TRIAL COURT OF BAGUIO AND BENGUET [to] dismiss the Criminal Cases Nos. 2055, 2056 and 2058 for Libel against me, I will withdraw my disbarment complaint against you.

I am also furnishing you copies of my letter to Honorable Judge Rodolfo D. Rodrigo and my MOTION TO SUSPEND PROCEEDINGS OR DISMISS." (Answer, dated 24 September 1987, Annex "4"; emphasis supplied)

In his Reply dated 7 October 1987 to the respondent's Answer, complainant contends that the libel charges against him are a deliberate falsehood, the Affidavit executed by Atty. Alfredo G. Lamen to substantiate the latter's complaint for libel having been found by the Provincial Fiscal to have been perjured. Complainant also contends that the proceedings in the libel case should be suspended pending final resolution of the perjury case brought by complainant against Atty. Lamen.

The Court considers that this complaint for disbarment is clearly bereft of merit. As respondent has pointed out, the respondent was not the Investigating Fiscal who had found a prima facie case for libel against complainant. But even if respondent had been the Investigating Fiscal, a resolution of another Investigating Fiscal issued in the perjury case brought by complainant against Atty. Lamen, that Atty. Lamen's Affidavit imputing libel to complainant had been perjured, is no adequate basis for holding that respondent had violated his lawyer's oath by deliberately filing a groundless suit. Complainant has not made a prima facie case against respondent for deliberately and maliciously commencing a groundless suit against complainant. It appears, on the contrary, that respondent, in prosecuting the libel cases against complainant, was merely carrying out his duties as a public officer; there is no showing that respondent acted maliciously, that he prosecuted a case knowing that it was a groundless suit.

That the libel cases which, so far as the records of this administrative case are concerned, remain pending in court, are groundless, simply cannot be proved by the resolution of the Provincial Fiscal in the perjury case. In his resolution in the perjury case, the Provincial Fiscal took the position that the statement made in Atty. Lamen's Affidavit that the complainant's three (3) letters were "wildly published" was incorrect or untrue. The Provincial Fiscal held that the complainant's three (3) letters, alleged to contain libelous statements, which had been furnished to the Solicitor in the Office of the Solicitor General in-charge of the investigation of complainant's disbarment case against Atty. Lamen, and to the Supreme Court itself, could not be regarded as having been "wildly published". It is obvious that this point made by the Provincial Fiscal does not relate to whether or not the statements imputed to petitioner and set forth in his three (3) letters were, in fact, defamatory and libelous and whether or not the allegedly libelous statements fell within the scope of a privileged communication. The Provincial Fiscal's resolution, in other words, could be correct and the libel cases against complainant not groundless, at one and the same time.

It appears, finally, that complainant may have commenced this disbarment charge against the respondent Assistant City Fiscal in the expectation that complainant would thereby acquire some leverage in the libel cases being prosecuted by the respondent. At least, this is an inference which reasonably arises from complainant's letter dated 13 July 1987, quoted above, an inference which complainant has not successfully dispelled.

ACCORDINGLY, the Court Resolved to DISMISS the complaint for disbarment against respondent for lack of merit.

Fernan, (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

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