

MODESTA RODRIGUEZ, COMPLAINANT, VS. ATTYS. PEDRO TAGALA AND EFREN TAGALA, RESPONDENTS.

Adm. Case No. 1681. November 17, 1980

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In a verified complaint dated October 18, 1976, Modesta Rodriguez sought to disbar Messrs. Pedro Tagala and Efren Tagala for allegedly "deceitful, fraudulent and advantageous acts against an illiterate woman." In particular she said:

"On June 16, 1955 when I arrived at Larap, Camarines Norte from Catanduanes, I was informed by Salvacion Abrigo my neighbor, that my husband, a certain Antonio Regidor met an accident on June 12, 1955 while on board a truck they were then riding in. I was also informed by the same that they were brought to the hospital in Daet, Camarines Norte. Upon learning of the incident, I immediately rushed up and proceeded to the hospital. When I arrived at the hospital, a certain doctor told me that my husband is in the room, but when I entered, I saw my husband wrapped with a mat, dead!

On June 17, 1955 after the burial of my husband, a certain Mario Devesa the then chief of police of Mambulao, Camarines Norte came to my house and informed me that he has filed the case in court and that I have to bring witnesses to him so that he could take the statements, which I did.

On February 9, 1956, Atty. Pedro Tagala the owner of the truck and his driver Mamerto Raymundo who was then driving the truck when my late husband met the accident on that fateful day, came to my house and told me to go to Paracale, Camarines Norte and to bring with me my witnesses. On that same day I gathered my witnesses and we proceeded to Paracale. When we arrived at the residence of Atty. Pedro Tagala, he made the affidavits of the three witnesses namely: Salvacion Abrigo, Domingo Rodriguez and Antonio Regidor. Atty. Pedro Tagala in turn asked me a few questions then handed me a paper where there were typewritten words and forced me to sign without having read the contents thereof. He explained it to me that it was only a receipt in the amount of P100.00 as monetary contribution for the funeral expenses of my late husband.

On March 1956, Atty. Pedro Tagala came to my house accompanied by his driver. They asked me to come down for they are going to give me something, so I went down. When I approached them, Atty. Pedro Tagala handed to me a paper and said, this is an affidavit which I have to sign but I did not do so although I was being forced. The following morning, a policeman came to my house and told me that I have to go with him together with my witnesses Salvacion Abrigo and Domingo Rodriguez to the office of Fiscal Reyes. When we arrived at the office of Fiscal Reyes, I saw Atty. Pedro Tagala, Mamerto Raymundo and Antonio Regidor already there. Fiscal Reyes handed to me an affidavit and asked me to sign it for according to his explanation it was an affidavit attesting that I had received the amount of P100.00 from Atty. Pedro Tagala as funeral contribution for the funeral expenses of my husband. Believing on what the Fiscal told me, I signed the document.

After the lapse of several months, I received an affidavit already notarized by Atty. Efren Tagala, a relative of Atty. Pedro Tagala. Because I do not know how to read English, I went to the Headquarters of the Philippine Constabulary and asked somebody to translate it to me and I was told after that it was an affidavit of

desistance.

On March 20, 1956, I received a decision from the Court of First Instance, 10th Judicial District, Branch I, Camarines Norte that the criminal case filed against the driver of Atty. Pedro Tagala has been dismissed based on the affidavit which they alleged I have signed.

Having learned of the dismissal of the said case, I immediately sought help from several lawyers who in turned promised me that they will file a civil action against Atty. Pedro Tagala, which they did. After several communications with Atty. Pedro Tagala and Atty. Efren Tagala, they have abandoned my case, hence, the dismissal of the same in 1958."

Required to comment, Pedro Tagala said among other things:

"x x x Upon perusal of the records of the case specifically the surrounding circumstances of the accident, and the affidavits of the witnesses for the prosecution namely Domingo Rodriguez, Antonio Regidor, Salvacion Abrigo, clearly showing that accused Mamerto Raymundo was blameless for the accident'x x x

x x x

'x x x denies the accusation of Modesta Rodriguez that the former gave her P100.00 and forced her to sign some documents without allowing her to read the same, and which document turned out to be an affidavit of desistance, because these accusations are all lies.'

x x x

"That the reason why the civil case of complainant was dismissed was because of her failure and counsel to appear on the date scheduled for trial as shown by a xerox certified true copy of the order of Judge Melquides Ilao of the Court of First Instance, Camarines Norte, attached and marked as Annex '3' of this comment."

The comment of Efren Tagala, insofar as relevant, is the following:

"x x x it appears that my only participation was the ratification of the affidavit brought to me by the party or parties sometime in 1956. After asking for their purposes, they identified themselves, and, I read carefully the contents of the affidavit and explained clearly the same, x x x I then affixed my signature and had them sealed with my notarial seal. They then left, without any complaint, protest, or misunderstanding.'

'The complaint in question show that all the transactions were between Atty. Pedro Tagala and the complainant, and even cited the participation of Fiscal Reyes. In the process, perhaps, Atty. Pedro Tagala might not have complied with his obligation.'

x x x

'If I committed a criminal act in performing my notarial work, she could have easily gone to the courts for my prosecution - all through these long TWENTY YEARS (1956-1976). And, possibly, the action prescribed already.'"

Thereafter, the complaint was referred by Us to the Solicitor General for investigation, report and recommendation. In his report the Solicitor General states in part:

"5. At the hearing of December 21, 1977, complainant's counsel, Atty. Gladys Garcia manifested that 'We are withdrawing the complaint because after going over the facts of the case the complainant is convinced there is no case against the respondent' (p. 3, t.s.n., December 21, 1977) and she thus filed a Motion To Withdraw Complaint dated December 21, 1977, signed and sworn to by complainant, pertinent portions of which read:

'2. That after going over the facts of the case and assessing the same I am convinced that I have no case against the respondents;

'3. That I am no longer interested in pursuing the said case.'

6. Action on the said motion was withheld because after complainant submitted her case for resolution, based on her desire to withdraw the same, she wrote the undersigned Solicitor [Felix M. de Guzman] and respondents' counsel Atty. Ramon J. Alojipan separate letters retracting her withdrawal of the case. For ready reference, pertinent portions of her said letters are reproduced below:

'It is sad to note, that you were not able to fully comply with the said agreement considering that you were able to give me only ONE THOUSAND FIVE HUNDRED PESOS (P1,500.00) last December 21, 1977, which is therefore short of FIVE HUNDRED PESOS (P500.00) more as stipulated in the compromise agreement' (Letter dated January 6, 1978 of complainant to Atty. Ramon J. Alojipan, counsel for respondent Atty. Pedro Tagala).

'Pagkatapos ko pong makipag-usap kay Atty. Gladys P. Garcia ay napagalaman ko na hindi pala pumayag si Atty. Alojipan na dagdagan ng limang daan (500) piso ang aming napagkasunduan na P1,500.00 dahil iyon lamang ang nasabi niya kay Atty. Pedro Tagala' (Letter dated March 8, 1978 of complainant to Sol. Felix M. de Guzman).

'Lingid po sa inyong kaalaman ay pinapirma ako ni Abogado Gladys P. Garcia sa isang kasulatan na may pamagat na 'Motion To Withdraw Complaint' tungkol sa dimanda kong ito noong ika-21 ng Disyembre, 1977 at pagkatapos ay binanggit niya sa akin na ibibigay na raw nila ang perang napagkasunduan ni Abogadong Alojipan. Sila naman po ay tumupad sa usapan ngunit ang aking tinanggap ay halagang P1,500.00 piso lamang at ito ay ibinigay sa akin ni Abogado Alojipan sa isang 'Canteen'. Ang pagkakamali ko lamang Kgg. de Guzman ay hindi ako nakahingi sa kanila ng resibo tungkol sa halagang aking tinanggap at ang isa pa ay hindi ginawa ang bayaran sa inyong tanggapan. Sa madaling salita ay kulang po ng halagang P500.00 piso ang kanilang ibinigay sa akin' (Letter dated April 11, 1978 of complainant to Sol. Felix N. de Guzman).

'There is no truth that I am no longer interested in further prosecuting this case. As a matter of fact, I would like that this case be reinvestigated immediately for the sake of justice on my part' (Letter dated June 30, 1978 of complainant to Sol. Felix M. de Guzman).

7. On January 8, 1979, this case was again set for investigation in connection with the said motion to withdraw complaint and the letter of complainant dated June 21, 1978 to Atty. Juanito C. Ranjo of this Honorable Court, portions of which state:

'It is sad to note, that out of this compromise, Atty. Alojipan was able to give me only P1,500.00, which is therefore short of P500.00. This shortcoming is not favorable on my side, considering that there was a violation of the compromise. I kept on demand-ing from him the remaining balance but my insistence proved to be futile.

'There is no truth that I am no longer interested in further prosecuting this case. As a matter of fact, I would like that this case be reinvestigated immediately for the sake of justice on my part.'

8. At the hearing of January 8, 1979, complainant thru her new counsel, Atty. Renato U. Galimba of the Office of the Legal Aid, U.P. College of Law, manifested that she is still open for the settlement of the case to which respondents' counsel readily commented, to wit:

'ATTY. ALOJIPAN:

Although really, on principle and records we have maintained that the settlement is full and complete settlement in 1977, to obviate further investigation the demand of the complainant is for me to give P500.00 to complete the balance. I am ready to comply on condition this will be the final settlement of the case.' (pp. 5-6, t. s. n. , January 8, 1979).

9. In view of an accord reached by the parties, complainant also on January 8, 1979 executed another document, entitled 'PAG-UURONG NG DEMANDA' which does not only supplement her motion to withdraw complaint dated December 27, 1977 but also confirms her withdrawal of the complaint against respondents. The pertinent portions thereof are reproduced below:

'2. Na pagkatapos na mabayaran ng mga nakademanda sa kasong ito ang halagang P500.00 na kakulangan sa halagang aming napagkasunduan na P2,000.00, kusa at malaya kong ini-uurong ang aking demanda laban kay EFREN TAGALA at PEDRO TAGALA;

'3. Na na-uunawaan at na-iintindihan ko na sa pag-uurong ko ng demandang ito laban kina Efren Tagala at Pedro Tagala, wala na akong karapatan upang buhayin muli ito, ngayon o sa hinaharap.

'BILANG PATOTOO sa lahat ng salaysay kong ito kusa at malaya kong lalagdaan ang salaysay na ito dito sa Lungsod ng Maynila, ngayon ika-8 ng Enero, 1979.'

10. Apparently, not satisfied with the settlement of the instant case, complainant in a letter dated March 7, 1979, addressed to respondent at '2419 St. Paul Street, Baltimore, Maryland 21218 U.S.A.' and another letter dated April 2, 1979, addressed to the undersigned Investigator advised that in view of the delay in the settlement of her case by respondents' counsel Atty. Alojipan, she was constrained to renew her complaint with the Supreme Court; that while complainant received the additional amount of P500.00 from respondents on January 8, 1979, she demanded the further payment of damages allegedly arising from fraud and malfeasance, attributed to respondents.

11. On April 6, 1979, complainant's counsel Atty. Renato U. Galimba filed a notice of withdrawal of appearance on the ground 'that on January 8, 1979, complainant, through her own suggestion and volition, and assisted by the undersigned as her counsel, filed a 'Pag-uurong ng Demanda' against herein respondents; that in view of the fact that the undersigned is a signatory to said 'Pag-uurong ng Demanda', the undersigned feels and of the opinion that he will be inconsistent with himself as a lawyer and in the face of his brother lawyers if he shall continue in the prosecution of this instant case as counsel for said complainant.'

12. At the hearing on June 19, 1979, Atty. Eпитacio Sobejano entered his appearance for the complainant Modesta Rodriguez. On direct examination, complainant declared that she filed a criminal case (Criminal Case No. 874, People v. Raymundo) arising from a vehicular accident against Mamerto Raymundo, driver of respondent Pedro Tagala; that she likewise filed a civil case (Civil Case No. 918-D, Modesta Rodriguez v. Pedro Tagala, et al.) against respondent Atty. Pedro Tagala; that the criminal case against Mamerto Raymundo was dismissed (Exh. "2" Order dated March 10, 1956, CFI-Camarines Norte) on the basis of an affidavit sworn to before respondent Atty. Efren Tagala; that respondent Atty. Pedro Tagala paid P100.00 to her after the execution thereof; that likewise the civil case was dismissed (Exh. "3", Order dated December 15, 1958) for failure to prosecute; that in the said civil case (Exh. "B") she claimed for the payment of damages in the amount of P3,000.00; that it is her intention to collect damages in this disbarment case; and that she will no longer continue with the prosecution thereof if she is paid the damages sought (pp. 6, 9, 10, 11, 12, 28 and 30, t.s.n., June 18, 1979).

13. It is, therefore, obvious that complainant's cause of action, if any, arose from the order issued in 1956 by the Court of First Instance of Camarines Norte, Branch I, dismissing the criminal case wherein complainant's husband was killed in a vehicular accident (Letter-complaint, pp. 1 and 2, Record) which dismissal was attributed to respondent Atty. Pedro Tagala who she claims forced her sign an affidavit of desistance notarized by respondent Atty. Efren Tagala, a relative of Atty. Pedro Tagala.

Be that as it may, the truth is that complainant received a copy of said order dismissing the criminal case as early as March 20, 1956 but it was only after the lapse of 20 years, i.e. on October 22, 1976, that she filed the instant

action for disbarment against the respondents.

Complainant failed to explain her inaction for 20 years. There is, no doubt, laches that places her in estoppel (*Laurel-Manila v. Galvan*, 20 SCRA 198 [1967]). Moreover, the lapse of many years from the date complainant should have done it is indicative of the weakness of her cause of action (*Tuazon v. Luzon Stevedoring Co., Inc.*, 1 SCRA 189 [1961]). And there being an inequitable lapse of time, to allow her to enforce her right, if any, constitutes laches that bars her belated claim. Thus, it was held that under the principle of laches where a case was not instituted until almost 7 years after the rendition of the decision its filing is barred (*Aurora Villamin Sy v. Commissioner of Immigration*, 15 SCRA 446 [1965]); that a party is guilty of laches because of his failure to assail for almost 5 years the decision (*Lim Son v. Board of Commissioners of the Bureau of Immigration*, 6 SCRA 384 [1962]); that the delay for over 8 years from the date of the accident within which he files an action constitutes inexcusable delay amounting to laches (*Pacursa v. Del Rosario*, 24 SCRA 125 [1968]).

Wherefore, complainant's failure to assert her right within a reasonable time can be taken as, either that she has abandoned it or that she declined to assert it (*Tijam v. Sibonghanoy*, 23 SCRA 29 [1968]) and cannot be excused even on the ground of ignorance (*Vda. de Delima v. Tio*, 32 SCRA 516 [1970]).

14. Thus, it is clear that complainant is not entitled to the payment of damages not only because both the criminal and civil cases instituted by her in the Court of First Instance of Camarines Norte arising from the death of her husband were dismissed but also because she failed to prosecute her claim for damages within the reasonable time and at the proper forum. The instant proceeding is definitely not the proper forum for her to recover from respondents damages inasmuch as a disbarment case is a proceeding that is intended to protect the court and the public from the misconduct of its officers; to protect the administration of justice by requiring that those who exercise this important function shall be competent, honorable and reliable, men in whom courts and clients may repose confidence (*Paras v. Vailoces*, 1 SCRA 954 [1961]). And disbarment proceedings do not partake of the nature of a criminal proceeding (*id.*, citing *In Re Montagne and Dominguez*, 3 Phil. 577 [1904]). It is not also an ordinary civil case where damages could be awarded. Moreover, the letter-complaint does not seek relief sought to this effect.

15. It may be that respondent Atty. Pedro Tagala gave P1,500.00 to complainant on December 27, 1977 and another P500.00 on January 8, 1979 just to put an end to the litigation once and for all, considering that complainant averred she has no case against respondents, as disclosed in her admission: 'x x x I have no case against respondents' (Motion to withdraw complaint dated December 21, 1977).

At one of the hearings conducted in the investigation of this case, Atty. Gladys Garcia of the Citizens Legal Assistance Office (CLAO) and former counsel of complainant in the instant administrative case confirmed complainant's lack of a cause of action against respondents when she testified that she had no participation in the preparation of the complaint; that she only took a hand in the case after the letter-complaint was filed by complainant; that after respondents filed their comments thereto she went over the records of the case and found out that respondents had a good defense; that her client's case (complainant) was a losing one; that without her knowledge complainant wrote the Supreme Court claiming for the payment of damages in the amount of P3,000.00; that it is this reason that she advised complainant that while she cannot recover monetary remuneration in a disbarment case she will, nevertheless, try to convince the counsel of respondent Atty. Pedro Tagala to give her something in the spirit of 'christian charity' (pp. 52, 53, 54, 55, *t.s.n.*, June 19, 1979).

16. Thus, although the withdrawal of the instant complaint for disbarment is premised upon sums of money which complainant received from respondents, it is submitted that this case was settled not for monetary considerations but on the basis of merit as discussed above.

WHEREFORE, in view of the foregoing, we respectfully recommend that the instant complaint be dismissed."

The reasons given in the report justify the recommendation contained therein. The complainant, blowing hot and cold after over twenty years from the time her alleged cause of action against the respondents occurred, has used an inappropriate remedy to extract money which does not appear either in law or equity to be due to her. Since she initiated her action she has had no less than three attorneys. First to appear for her was Gladys Garcia of the CLAO who believed that complainant has no cause of action. Next came Renato U. Galimba of the U.P. College of Law Legal Aid Office who withdrew because complainant failed to keep her word to withdraw her complaint. In the final hearing, she was represented by Eпитacio Sobejano. Solicitor Felix M. de Guzman has shown commendable patience in not recommending earlier the dismissal of the charges.

WHEREFORE, as recommended, the complaint for the dis-barnment of Messrs. Pedro and Efren Tagala is hereby dismissed.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., and De Castro, JJ., concur.

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