

IN RE: COMPLAINT AGAINST ATTY. FLORENTINO E. PILAR FOR CONDUCT UNBECOMING OF A LAWYER. LEOPOLDO B. DORADO, CLERK OF COURT OF CAPIZ, PETITIONER.

Adm. Case No. 263.. October 28, 1958

Ponente: BENGZON, J.

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BENGZON, J.:

The Capiz clerk of court informed against Atty. Florentino E. Pilar, who has written to him four allegedly insulting letters falsely and maliciously attacking his integrity in connection with Civil Case No. V-1095 of that court, entitled "Maria Vda. de Cesar, et al. vs. Consolacion Adarme."

The defendant in said case, it seems, did "her best to avoid service of the summons" for several months, and on January 27, 1956, the Clerk of Court notified Atty. Pilar, representing plaintiffs, of the failure of the last effort to serve such summons upon her. On January 30, 1956, said counsel wrote his first letter (Annex "A") enclosing a petition for the issuance of another summons for publication. Protesting against the delay in summoning defendant, he stated:

"* * * I am filing administrative action against him (sheriff) with the Secretary of Justice. I am only waiting for advise from you whether said City Sheriff has made any return or not on that particular summons. I am almost sure there is collusion between the defendant in this case and the Sheriff, otherwise there could be no good reason for failing to serve this summons. The defendant has never changed her address from the time this case was filed up to the present." (Italics ours.)

Coincidentally, however, the summons had finally been delivered to defendant on January 27, 1956, by the Deputy Sheriff, who advised the Clerk of such service on January 30, 1956; and on February 6, 1956, Consolacion Adarme filed her answer with special affirmative defenses and a counterclaim.

On February 18, 1956, Atty. Pilar filed a petition for an early hearing of the case. And on February 20, 1956, he presented a motion praying that Pedro Cesar, Jr. be made party defendant with the corresponding amendment to his complaint. As this last motion had fixed no date for its submission, the Clerk notified the parties that it would be submitted—and it was—on March 10, 1956.

Having received no news about these two petitions, respondent Pilar addressed on May 25, 1956, his second letter Annex "B" of the following tenor:

"* * * It appears clear that there is or there are some persons trying to obstruct the ordinary course of justice by deliberately refusing to take proper action or actions on this case. In view whereof I am forced to take proper steps to protect the interest of my clients by filing a formal charge or charges against any person or persons who might be responsible in trying to defeat the ordinary course of justice at the expense of my clients. I am however giving you ten (10) days within which to answer this letter to inform the undersigned what steps you have taken to remedy this anomalous practice in your office, otherwise I am filing administrative charges against you. * * * I will do this to protect the interest of my clients and to have this serve as a proper warning

to other public officials who are trying to fool around with their official functions. (Italics ours.)

On May 28, 1956, the Court, by order, admitted the amended complaint and required service thereof upon the new defendant Pedro Cesar, Jr. On the same day the Clerk mailed a letter to Atty. Pilar attaching copy of the order and requesting for copy of the amended complaint, for service on the additional party defendant. In acknowledging receipt of the Clerk's last communication, respondent Pilar wrote in his letter Annex "C" on June 1st, 1956, as follows:

"* * * in this connection, I wish to find out from you why this motion was taken up only on May 28, 1956, when this was set for hearing on March 10, 1956, I also want to find out who is the person in your office responsible for * * * this anomalous practice of causing delay in the administration of justice. * * * But if I will not know who the person is, then I am sorry to say that you will be the one personally involved because this delay has been caused by your Office."

The Clerk immediately replied to respondent explaining the various steps and proceedings as above outlined. Referring specifically to the motion of February 20, 1956, which was granted on May 28, 1956, the Clerk wrote on June 6, 1956:

"Said motion was calendared and set for hearing at the instance of this office on March 10, 1956, and the same was submitted for the resolution of the Court. This motion was only acted by the Court in its order dated May 28, 1956. Please be informed that the undersigned has no authority whatsoever to tell the Honorable Judge to act on any matter submitted to the Court for resolution. * * *."

On the same date, the Clerk complained to this Court of respondent's conduct, forwarding copies of aforesaid three letters. Obviously, he also furnished respondent Pilar with a copy of his charges; because the latter on June 20, 1956, wrote the Clerk a letter, the pertinent parts of which will hereinafter be quoted.

This fourth communication the Clerk submitted to this Court as additional grievance.

Required to defend himself, respondent Pilar admitted the authenticity of his four letters, attempted to explain that he merely remonstrated against the delay in the service of the summons and tried to find out the court employee who had caused the delay; that he acted with good intentions; and that anyway he attacked the integrity neither of the court nor of the judge. He urged that his conduct was nothing more than "the warm and zealous fulfilment of the duties" of a lawyer to his clients.

Let us analyze the letters. The first, Exh. "A" may be disregarded, since it contained nothing against the Clerk. It railed against the Sheriff, for whose conduct the Clerk was not responsible.

The second and third included caustic remarks about "persons trying to obstruct justice" and persons "trying to fool around with their official functions" in the Clerk's Office, and protests against "this anomalous practice."

Strong language, to be sure, but perhaps it may be considered as included in the privilege of the citizen, especially a lawyer acting on behalf of his client, to protest against what he believed to be unjustified delay in the administration of justice. Remember that more than two months had already elapsed from March 10, when his simple motion was submitted, up to May 25, when he wrote the letter. In the light of previous slowness in the service of summons there was some ground for respondent's impatience. Yet a reminder in moderate terms would have invited attention just the same. Respondent may not say at this time, in justification, that his language galvanized the Clerk into action, because as the latter explained, it was not he but the judge, who had the matter in his hands. In fact, if respondent had more perspicacity he would have realized that if the Clerk had desired to obstruct his clients' cause, he (the Clerk) would not have taken the trouble of setting a date for the hearing of the motion, which through respondent's oversight included no request for such hearing. The motion would have

remained unacted for an indefinite period of time—and no blame could have been properly laid at the Clerk's door. The latter quietly reminded him of this circumstances in the letter of June 6, 1956, explaining what happened so far.

None the less, the attorney was not appeased by the explanation. Nor was he stopped by the Clerk's recourse to this Court. In his communication of June 20, 1956, he directly charged the latter with having wilfully blocked judicial action:

"* * * I want to make it plain to you. however that I am not questioning the actuations of the Honorable Court of First Instance of Capiz for the fact is you have ably prevented that Court from taking any action in tny ease, and therefore, there is no actuation of the Court which could be subject of criticism. I am however questioning the actuations of that personnel in the "Clerk of Court's Office" who might have been instrumental in causing unreasonable delay in the prosecution of the case in question. I have but a hazy idea though as to who the person is, so I have to go slow in making any further move. I want to be sure of my grounds first. (Italics Ours.)

Instead of dealing with generalities or veiled insinuations he now singled the Clerk out as guilty of misfeasance. Observe carefully, he does not simply say "you have prevented" but he says "you have ably prevented," thereby imputing wilfulness or unworthy motives to this official's conduct. Had he expressed these feelings before receiving the latter's explanation, perhaps respondent might argue in extenuation, that even though his charge was false (prevented action) there was bona fide belief in its truthfulness. But after receipt of the Clerk's letter, respondent could not validly invoke good faith, since he was told the matter had not been retained in the latter's hands, that action had not depended upon the Clerk. Unless of course, he possessed evidence that the official lied; yet he did not present such evidence here, nor offered to present it.

The respondent's behaviour, his counsel insists, was nothing more than "the warm and zealous fulfilment of the duties and obligations of the lawyer in the interest of his client."

Undoubtedly, lawyers should be allowed some latitude of remark or comment in the furtherance of causes they uphold. For the felicity of their clients they may be pardoned some infelicities of phrase. Nevertheless, when they unfairly impeach the motives of Court officers, a line must be drawn, neither blurred nor wavering.

We find the respondent to be at fault. We think, however, that no disciplinary action is called for. Enough to warn him that offensive language is self-defeating in the long run, and that although public officials are not supposed to be onion-skinned, neither are they supposed to be so thick-skinned as to be impervious to groundless personal attacks. His subsequent offenses of similar nature will be dealt with more severely.

Paras, C. J., Padilla, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L. and Endencia, JJ., concur.

Respondent found at fault and warned that subsequent offenses of similar nature will be dealt with more severely.

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