

CESAR L. LANTORIA, COMPLAINANT, VS. ATTY. IRINEO L. BUNYI, RESPONDENT.

Adm. Case No. 1769. June 08, 1992

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PER CURIAM:

This is an administrative complaint filed by Cesar L. Lantoria, seeking disciplinary action against respondent Irineo L. Bunyi, a member of the Philippine Bar, on the ground that respondent Bunyi allegedly committed acts of "graft and corruption, dishonesty and conduct unbecoming of a member of the Integrated Bar of the Philippines, and corruption of the judge and bribery", in connection with respondent's handling of Civil Case Nos. 81, 83 and 88 then pending before the Municipal Court of Esperanza, Agusan del Sur, presided over by Municipal Judge Vicente Galicia[1] in which respondent Bunyi was the counsel of one of the parties, namely, Mrs. Constanica Mascarinas.

Respondent Bunyi alleged that Mrs. Constanica M. Mascarinas of Manila was the owner of a farm located in Esperanza, Agusan del Sur, and that herein complainant Lantoria was the manager and supervisor of said farm, receiving as such a monthly allowance. [2] It appears that the complaint in Civil Case Nos. 81, 83 and 88 sought to eject the squatters from the aforementioned farm. [3] These cases were assigned to the Municipal Court of Esperanza, Agusan del Sur, the acting municipal judge of which was the Honorable Vicente Galicia (who was at the same time the regular judge of the municipal court of Bayugan, Agusan del Sur). [4] The defendants in the mentioned civil cases were, in due course, declared in default.

In relation to the same three (3) civil cases, the records of the present case show that complainant Lantoria wrote a letter to respondent Bunyi, dated 23 April 1974, which reads as follows:

"Butuan City

23 April 1974

Atty. Ireneo Bunye

928 Rizal Avenue

Santa Cruz, Manila

Dear Atty. Bunye:

x x x x x x x x

Upon informing him of your willingness to prepare the corresponding judgements (sic) on the 3 defaulted cases he said he has no objection in fact he is happy and recommended that you mail the said decisions in due time thru me to be delivered to him.

x x x x x x x x

I will communicate with you from time to time for any future development.

My best regards to you and family and to Mrs. Constanca Mascarinas and all.

Very truly yours,

(SGD.) CESAR L. LANTORIA

Major Inf PC (ret)

Executive Director"[5]

On 01 June 1974, respondent Bunyi wrote to the complainant regarding the said three (3) cases, in this wise:

"June 1, 1974

Dear Major Lantoria,

At last, I may say that I have tried my best to respond to the call in your several letters received, which is about the preparation of the three (3) Decisions awaited by Judge Galicia. The delay is that I have been too much occupied with my cases and other professional commitments here in Manila and nearby provinces. Not only to Mrs. Mascarinas I would say that I am so sorry but also to you. Mrs. Mascarinas has been remind-ing me but I always find myself at a loss to pre-pare these Decisions at an early date sa (sic) possible. So also with my calendar as to the dates for the next hearing of the remaining cases over there.

Herewith now, you will find enclosed the three (3) Decisions against the (3) defaulted defendants. I am not sure if they will suit to satisfy Judge Galicia to sign them at once. However, it is my request to Judge Galicia, thru your kind mediation, that if the preparation of these Decisions do not suit his consideration, then I am ready and willing to accept his suggestions or correction to change or modify them for the better. And to this effect, kindly relay at once what he is going to say or thinks if he signs them readily and please request for each copy for our hold.

xxx xxx xxx

Please excuse this delay, and thanks for your kind assistance in attending to our cases there. Regards to you and family and prayer for your more vigor and success.

Brotherly yours,

(SGD.) IRINEO L. BUNYI" [6]

Counsel

It also appears that respondent Bunyi wrote an earlier letter to complainant Lantoria, dated 04 March 1974, the contents of which read as follows:

"928 Rizal Ave., Sta. Cruz

Manila

March 4, 1974

Dear Major Lantoria,

This is an additional request, strictly personal and confidential. Inside the envelope addressed to Judge Vicente C. Galicia, are the Decisions and Orders, which he told me to prepare and he is going to sign them. If you please, deliver the envelope to him as if you have no knowledge and information and that you have not opened it. Unless, of course, if the information comes from him. But, you can inquire from him if there is a need to wait from his words about them, or copies to be furnished me, after he signs them, it could be made thru you personally, to expedite receiving those copies for our hold. According to him, this envelope could be delivered

to him at his residence at No. 345 M. Calo St., Butuan City, during week end. Or, at Bayugan if you happen to go there, if he is not in Butuan City.

Thanking you for your kind attention and favor.

Truly yours,

(SGD.) ATTY. I. L. BUNYI" [7]

Three years after, that is, on 11 April 1977, complainant filed with this Court the present administrative case against respondent Bunyi, predicated mainly on the above-quoted three (3) letters dated 04 March, 23 April and 01 June, 1974. Complainant contends that respondent won the said three (3) cases because he (respondent) was the one who unethically prepared the decisions rendered therein, and that the preparation by respondent of said decisions warranted disciplinary action against him.

By way of answer to the complaint, respondent, in a motion to dismiss [8]the administrative complaint, admitted the existence of the letter of 01 June 1974, but explained the contents thereof as follows:

"X X X X X X X X

b) In the second place, the said letter of June 1, 1974, is self-explanatory and speaks for itself, that if ever the same was written by the Respondent, it was due to the insistence of the Complainant thru his several letters received, that the decisions in question be drafted or prepared for Judge Galicia, who considered such preparation as a big help to him, because he was at that time holding two (2) salas - one as being the regular Municipal Judge of Bayugan, and the other, as the acting Judge of Esperanza, both of Agusan del Sur, with many pending cases and it was to the benefit of the Complainant that the early disposition of the cases involved would not suffer inconsiderable delay. But, the intention to draft or prepare the decisions in question was never spawned by the Respondent. Instead, it came from the understanding between the Judge and the complainant who from his several letters, had demonstrated so much interest to eject at once the squatters from the farm he was entrusted to manage. Furthermore, the Complainant's conclusion that the said decisions were *lutong macao* is purely non-sense as it is without any factual or legal basis. He himself knew that Judge Galicia asked for help in the drafting of said decisions as at any rate they were judgments by default, the defendants lost their standing in court when they were declared in default for failure to file their answers and to appear at the place and time set for hearing thereof (See first paragraph, letter of June 1, 1974)

c) Thirdly, in the same letter, the decisions as prepared were in the form of drafts, as in fact, the letter mentioned - subject to suggestion or correction to change or modify for the better by Judge Galicia (Second paragraph, *Ibid*);

d) Fourthly, in the same letter, Responding (*sic*) even apologized for the delay in sending the same to the Complainant and expressed his gratitude for his assistance in attending to the cases involved (Last paragraph, *Ibid*.)"

In its resolution dated 28 November 1977, this Court referred the case to the Solicitor General for investigation, report and recommendation.[9] On 21 July 1980, the Solicitor General submitted his report to the Court, with the following averments, to wit: 1) that the case was set for hearing on April 12, September 29, and December 18, 1978, but in all said scheduled hearings only respondent Bunyi appeared; 2) that in the hearing of 16 January 1979, both respondent and complainant appeared; 3) that at the same hearing, the Solicitor General reported the following development -

"Atty. Mercado submitted a letter of complainant dated January 16, 1979, sworn to before the investigating Solicitor, praying that the complaint be considered withdrawn, dropped or dismissed on the ground that complainant 'could hardly substantiate' his charges and that he is 'no longer interested to prosecute' the

same. For his part, respondent manifested that he has no objection to the withdrawal of the complaint against him. At the same time, he presented complainant Lantoria as a witness and elicited testimony to the effect that complainant no longer has in his possession the original of the letters attached to his basic complaint, and hence, he was not prepared to prove his charges." [10] (emphasis supplied)

In his aforesaid report, the Solicitor General found as follows: a) that the letters of respondent Bunyi (dated 4 March and 1 June 1974), addressed to complainant, showed that respondent had indeed prepared the draft of the decisions in Civil Case Nos. 81, 83 and 88 of the Municipal Court of Esperanza, Agusan del Sur, which he submitted to Judge Vicente Galicia thru the complainant; b) that those letters indicated that respondent had previous communications with Judge Galicia regarding the preparation of the decisions; c) that the testimony of complainant to the effect that he had lost the original of said letters, and complainant's withdrawal of the complaint in the case at bar are of no moment, as respondent Bunyi, in his motion to dismiss filed with the Supreme Court, admitted that he prepared the draft of the decisions in the said civil cases, and he affirmed the existence of the letters.

Hence, in his report, the Solicitor General found that respondent is guilty of highly unethical and unprofessional conduct for failure to perform his duty, as an officer of the court, to help promote the independence of the judiciary and to refrain from engaging in acts which would influence judicial determination of a litigation in which he is counsel. [11]The Solicitor General recommended that respondent be suspended from the practice of law for a period of one (1) year. He filed with the Court the corresponding complaint against respondent.

In his answer[12]to the complaint filed by the Solicitor General, respondent manifested that in the future he would be more careful in observing his duties as a lawyer, and in upholding the provisions of the canons of professional ethics.

On 10 December 1980, the date set by this Court for the hearing of this case, the hearing was postponed until further notice. On 9 March 1981, respondent filed a manifestation[13]alleging that no hearing was as yet set in the case since the last setting on 10 December 1980, and he requested that the next hearing be not set until after six (6) months when he expected to return from the United States of America where he would visit his children and at the same time have a medical check-up.

On 28 October 1981, the date set by this Court for hearing in this case, respondent Bunyi and the Solicitor General appeared, and respondent was directed to submit his memorandum. Respondent Bunyi filed his memorandum on 16 November 1981. In said memorandum,[14] respondent submitted that although he prepared the draft of the decisions in the civil cases, he did not offer Judge Galicia any gift or consideration to influence the Judge in allowing him to prepare the draft decisions.[15] He also offered his apology to the Court for all the improprieties which may have resulted from his preparation of the draft decisions.

We agree with the observation of the Solicitor General that the determination of the merits of the instant case should proceed notwithstanding complainant's withdrawal of his complaint in the case, the respondent himself having admitted that the letters in question truly exist, and that he even asked for an apology from the Court, for whatever effects such letters may have had on his duty as a lawyer.

With the admission by respondent of the existence of the letters upon which the present administrative complaint is based, the remaining issue to be resolved is the effect of the acts complained of on respondent's duty both as a lawyer and an officer of the Court.

We find merit in the recommendation of the Solicitor General that respondent, by way of disciplinary action, deserves suspension from the practice of law.

The subject letters indeed indicate that respondent had previous communication with Judge Galicia regarding the preparation of the draft decisions in Civil Case Nos. 81, 83, and 88, and which he in fact prepared. Although nothing in the records would show that respondent got the trial court judge's consent to the said preparation, for a favor or consideration, the acts of respondent nevertheless amount to conduct unbecoming of a lawyer and an officer of the Court.

Clearly, respondent violated Canon No. 3 of the Canons of Professional Ethics (which were enforced at the time respondent committed the acts admitted by him), which provides as follows:

"3. Attempts to exert personal influence on the court

Marked attention and unusual hospitality on the part of a lawyer to a judge, uncalled for by the personal relations of the parties, subject both the judge and the lawyer to misconstructions of motive and should be avoided. A lawyer should not communicate or argue privately with the judge as to the merits of a pending cause and deserves rebuke and denunciation for any device or attempt to gain from a judge special personal consideration or favor. A self-respecting independence in the discharge of professional duty, without denial or diminution of the courtesy and respect due the judge's station, is the only proper foundation for cordial personal and official relations between bench and bar."

In the new Code of Professional Responsibility^[16] a lawyer's attempt to influence the court is rebuked, as shown in Canon No. 13 and Rule 13.01, which read:

"CANON 13 - A lawyer shall rely upon the merits of his cause and refrain from any impropriety which tends to influence, or gives the appearance of influencing the court.

Rule 13.01 - A lawyer shall not extend extraordinary attention or hospitality to, nor seek opportunity for, cultivating familiarity with judges."

Therefore, this Court finds respondent guilty of unethical practice in attempting to influence the court where he had pending civil case.^[17]

WHEREFORE, respondent Atty. Irineo L. Bunyi is hereby **SUSPENDED** from the practice of law for a period of one (1) year from the date of notice hereof. Let this decision be entered in the bar records of the respondent and the Court Administrator is directed to inform the different courts of this suspension.

SO ORDERED.

Narvasa, C.J., (Chairman), Paras, Padilla, Regalado, JJ., concur.
Nocon, J., on leave.

[1] Rollo, p. 28

[2] Rollo, p. 97

[3] Ibid.

[4] Ibid.

[5] Rollo, p. 5

[6] Id., p. 6

[7] Ibid., p. 7

[8] Rollo, p. 36

[9] Ibid, p. 47

[10] Id., p. 58

[11] Rollo, p. 63

[12] Ibid, pp. 85 and 86

[13] Id., p. 89.

[14] Rollo, pp. 99 and 100

[15] Respondent alleged that at the time complainant filed his complaint in the case at bar, Judge Galicia was already dead, and was followed by the death of Mrs. Mascarinas. (Rollo, p. 98)

[16] promulgated by the Supreme Court on 21 June 1988

[17] In the case of Artiaga, Jr. vs. Villanueva (163 SCRA 638, July 29, 1988), Atty. Enrique C. Villanueva was found guilty of three (3) unethical practices, namely: (1) causing his client to perjure himself; (2) lack of candor and respect toward his adversary and the courts; and (3) abuse of the right of recourse to the courts. He was suspended indefinitely from the practice of law.

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