

RUPERTO S. GECALE, COMPLAINANT, VS. EDUARDO R. SANTOS, RESPONDENT.*Adm. Case No. 721. June 29, 1973*

Ponente: FERNANDO, J.

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In this disbarment proceeding, the complainant, Ruperto S. Gecale, himself a lawyer, filed charges against respondent Eduardo R. Santos on August 17, 1966. The latter was accused of deceit, malpractice, gross misconduct, bad moral character and violation of his oath of office as such member of the bar. Upon being required to answer, he did so on September 19, 1966. It appeared quite clear from the pleadings that complainant and respondent were opposing counsel in connection with the disposition of the estate of the deceased Saturnina Abrigo Jamilano, an elderly lady who died on her 108th year. She apparently was a woman of means. There developed, not surprisingly, a dispute over the property left by her. Complainant represented some of the heirs of the deceased, and respondent, a granddaughter, who likewise considered herself as belonging to such category. It was equally evident that perhaps out of excess of zeal in the protection of their clients' interests, both counsel, unmindful that their conduct could be skirting the edge of impropriety, went at each other hammer and tongs, at times unmindful of the demands of sobriety and fairness. They must have overlooked the prescription of this Canon of Professional Ethics: "Clients, not lawyers, are the litigants. Whatever may be the ill-feeling existing between clients, it should not be allowed to influence counsel in their conduct and demeanor toward each other or toward suitors in this case." [1] As Justice Laurel took pains to point out: "It should be observed, in this connection, that mutual bickerings and unjustifiable recriminations, between brother attorneys detract from the dignity of the legal profession and will not receive any sympathy from this court." [2] Nor is this all. It turned out that complainant had earlier been criminally charged for falsification by respondent. The motivation for the institution of this case against respondent would appear to be clear.

At any rate, the matter was submitted for investigation to the Office of the Solicitor General. According to the report and recommendation filed with us on June 15, 1973, of Acting Solicitor General Limcaoco: [3] "The case was partially heard by Assistant Solicitor General Isidro C. Borromeo on June 7, 1967. Hearing was interrupted with his elevation to the judiciary. When the hearing of the case was resumed on August 30, 1972, Attorney Rustico de los Reyes, Jr., counsel for complainant, submitted a written manifestation to the effect that the complainant is already dead. * * * Upon suggestion of said counsel, we tried to subpoena the widow of complainant but she did not appear. In view of the non-appearance of the widow, we ordered counsel to submit a copy of the death certificate of complainant and the daughter of the deceased complainant upon request of counsel submitted a xerox copy of the death certificate of complainant, * * *. We have gone over the evidence submitted by complainant which consists of his direct testimony and his unfinished cross-examination prior to his death and we find the same to be far from complete, and consequently, insufficient even to establish a prima facie case." [4] He would have this Court, then, dismiss the case for insufficiency of evidence.

Upon perusal of the records, this Court is inclined to accept such recommendation. There is no basis for

disciplinary action against respondent Eduardo R. Santos. He is well-advised, however, to keep always in mind that the defense of a client's cause can be efficiently and faithfully carried out without any infringement of the necessarily exacting standards of the profession, included in which is avoidance of unseemly wrangle with opposing counsel, without condoning, of course, conduct outside the pale.

WHEREFORE, in view of the foregoing, the case against respondent Eduardo R. Santos is dismissed.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Teehankee, Barredo, Makasiar, and Esguerra, JJ., concur.
Antonio, J., did not take part.

[1] Canon 17, Malcolm, Legal and Judicial Ethics, 222 (1949).

[2] Javier vs. Cornejo, 63 Phil. 293, 295 (1936).

[3] He was assisted by Pio C. Guerrero, Solicitor.

[4] Report and Recommendation dated June 15, 1973, 1-2.

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