

SATURNINO S. MONZON, COMPLAINANT, VS. ATTY. ARSENIO R. REYES, RESPONDENT.

A.C. No. 1056. October 27, 1975

Ponente: BARREDO, J.

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BARREDO, J.:

Complainant charges respondent with: (1) violation of the attorney's oath in that a lawyer should do no falsehood nor consent to the doing of any in court; and (2) corruptly or wilfully appearing as an attorney for a party to a case without proper authority.

To understand fully the present charges, a recital of the antecedent facts stated in the decision of the Court of Appeals in "Saturnino S. Monzon vs. Court of First Instance of Manila, CA-GR. NO. 42375, March 26, 1969" is necessary, to wit:

“x x x By reason of the death of Ramona Roño, on July 31, 1962, her surviving spouse Catalino C. Fausto filed an intestate proceedings with the Court of First Instance of Manila (Sp. Proc. No. 51102) whereby he prays, among others, that letters of administration be issued in his favor. Upon the death of Ramona Roño, she left five heirs, namely, her husband Catalino Fausto and her four children with the latter, Roñosario, Aida, Fe, Severino, all surnamed Fausto. As Catalino Fausto was suffering from 'congestive heart failure', sometime in 1963 Catalino Fausto 'consented to have also his 1/2 share in the conjugal property administered by the Philippine Trust Company, which was then appointed as administrator of Ramona Roño's intestate estate.’

"On March 1, 1965, Catalino Fausto executed a deed of absolute sale, a thermofax copy of which is Annex "B-1", whereby he sold, transferred, and conveyed unto the vendee Gertrudes Francisco his 1/2 share, interest, and participation on two parcels of land situated at the corner of Misericordia and Laguna streets, Manila, covered by TCT No. 26049 of the Register of Deeds of Manila, more particularly described in said deed of sale, for the sum of P62,500.00, Philippine Currency. The thermofax copy of the deed of sale (Annex B-1) which was ratified before the Notary Public Arsenio R. Reyes on March 1, 1965 does not bear the signatures of the vendor Catalino Fausto and the vendee Gertrudes Francisco but the same bears the signatures of the two witnesses thereto.

"On May 19, 1965, Atty. Arsenio R. Reyes filed a petition with the probate court for the approval of the deed of sale dated March 1, 1965 executed by Catalino Fausto.

"On October 10, 1965, Catalino Fausto died of 'congestive heart failure' and on October 12, 1965 his second wife, Ponciana Francisco Fausto filed an intestate estate proceedings, through her counsel, Atty. Arsenio R. Reyes (respondent in the present disbarment case) to settle the estate of Catalino Fausto. On February 18, 1966 the ex-parte petition for the approval of the deed of sale dated March 1, 1965 executed by Catalino Fausto in favor of Gertrudes Francisco was duly granted by the court.

"On October 7, 1967, Fe Fausto-Monzon, one of the children and heirs of the aforesaid deceased spouses Ramona Roño and Catalino Fausto, died of 'heart attack' and her surviving spouse, herein petitioner (complainant in the present disbarment case), was appointed 'to substitute for her in both the intestate estates of

her father and mother.'

"On July 5, 1968, herein petitioner filed a 'Petition for Relief' alleging therein the absence of vendor's and vendee's signatures in the deed of absolute sale (Annex B-1) and on August 5, 1968, the court dismissed the petition for lack of merit.

"On August 16, 1968, a 'motion for reconsideration was filed, calling the court's attention to its having overlooked the allegation pertaining to the missing vendor's and vendee's signatures' to the deed of sale; however, on October 10, 1968, the motion was again denied for lack of merit." (See pp. 22-23, OSG Report)

Apparently, the case reached the Court of Appeals wherein the legality of the deed of sale of March 1, 1965 was again brought out and defended thus:

"The other respondents answering the petition allege, among others, that petitioner's allegation that the deed of sale dated March 1, 1965 bears no signatures of the vendor and vendee is not true because it was properly signed, witnessed and notarized; that the petition for relief covering said transaction of March 1, 1965 was dismissed for lack of merit by Judge Juan O. Reyes and not satisfied with the latter's ruling, petitioner filed a petition for certiorari on February 27, 1968 with the Supreme Court but the same was denied; that the intestate estate of Ramona Roño was terminated after the Project of Partition and statement of accounts were approved and the estate and inheritance taxes were fully paid; that a petitioner is a complete stranger to the transaction of March 1, 1965 entered into by his father-in-law Catalino Fausto and Gertrudes Francisco and covering his father-in-law's 1/2 share and participation in the conjugal partnership property; . . . " (See p. 24, OSG Report)

Ruling on the legality of the said deed of sale of March 1, 1965, the Court of Appeals, in the aforesaid decision, decreed:

"Upon a careful examination of the records of the case, we find the claim of the petitioner as regards the said deed of absolute sale having no vendor's and vendee's signatures and the failure of the respondent court to appoint a guardian ad litem for the incompetent heir Roño sario Fausto to be without factual bases. For it appears from Annex "2" of the answer of the respondents represented by Atty. Arsenio R. Reyes that the deed of absolute sale executed by Catalino Fausto on March 1, 1965 bears his signature and that of the vendee Gertrudes Francisco, as well as the instrumental witnesses thereto; and the final deed of absolute sale, Annex "3" executed on July 30, 1965 also bears the signatures of the vendor Catalino Francisco and the vendee Gertrudes Francisco. The originals of the two documents were filed with the Register of Deeds of Manila" (See p. 25, OSG Report)

On May 8, 1969, complainant Saturnino Monzon filed a criminal complaint with the City Fiscal's Office of Manila (I.S. No. 69-10641) for falsification against respondent Atty. Arsenio R. Reyes. The same deed of sale of March 1, 1965 was involved. This was subsequently dismissed. (See pp. 25, 28, OSG Report)

On December 29, 1971, complainant coured a letter-complaint for disbarment with this Court against respondent. The core of his charges again is the deed of sale of March 1, 1965. "Although in his complaint he alleges that 'Exhibit E' (marked in this proceeding as Exh. "F" for complainant) was fabricated by respondent, Arsenio R. Reyes, he (complainant Monzon) categorically testified that the action for disbarment merely involves the alleged false statements made by respondent in pleadings filed through deceit and in violation of his attorney's oath to do no falsehood nor consent to the doing of any in court" (pp. 77-86, tsn, July 14, 1972). In other words, it is not for the alleged falsification of the deed of absolute sale that respondent is charged but for having falsely stated in his answer filed in the Court of Appeals in CA-GR. No. 43275-R that he had filed the original thereof with the Register of Deeds of Manila, when in truth what he filed was only a certified true copy thereof. (See pp. 28-29, OSG Report)

Before discussing the alleged false statements of respondent, it should first be pointed out that the deed of sale of

March 1, 1965, as well as the Final Deed of Sale of July 30, 1965, (subject matter of Exhibits "C", "F" and "G" for the complainant and Exhibits "2" and "3" for the respondent) were in fact duly executed and entered into, as found by the Court of Appeals in CA-GR. No. 43275-R and by the State Prosecutor dismissal of I.S. No. 69-10641, referred to above. To quote the report of the Solicitor General, "To strengthen this assumption are: Exh. "2" — the original of the Deed of Absolute Sale dated March 1, 1965 duly signed by the parties and their witnesses, and bearing the notarial acknowledgment by the respondent, and his seal; Exh. "3" — a duplicate original of the Final Deed of Absolute Sale dated July 30, 1965 duly signed by the parties and their witnesses, and bearing notarial acknowledgment and seal; the testimonies of respondent himself (p. 21, tsn, Feb. 22, 1973; p. 7, tsn, May 31, 1973), Aida Fausto Custodio (p. 5, tsn, Nov. 21, 1973), and Getrudes de Vera (pp. 15-17, tsn, Dec. 5, 1973). Also of persuasive effect is the letter of the Undersecretary of Justice Efren I. Plana to the complainant Monzon, dated March 19, 1973, ruling on the review of the dismissal by the City Fiscal of Manila of I.S. No. 69-10641 (Exhibits "179-A", "179-B" and "179-C"). Undersecretary Plana in said letter, citing the ruling of the Court of Appeals in CA-GR. No. 42375-R which sustained the genuineness and due execution of the Deed of Absolute Sale dated March 1, 1965, upheld the dismissal of the criminal charge for falsification of a public document." (See pp. 29-30, OSG Report)

Now, as to the supposed false statements made by respondent, the record bears that: (1) In CA-GR. No. 42375-R (decided as aforesaid on March 26, 1969), respondent had indeed categorically stated in his answer to the petition that the "originals of these sales (Deed of Sale of March 1, 1965, Exh. "2"; Deed of Absolute Sale of July 30, 1969, Exh. "3") were filed with the Register of Deeds of Manila and at any time it could be verified thereat" and that the Court of Appeals made reference to said assertion in its decision. It is clear, however, that said court made an independent inquiry into the due execution and validity of the deed of sale itself, which it confirmed. Subsequently, upon verification with the Register of Deeds of Manila, Vicente Gella, the latter issued a "certification" (dated September 8, 1970)[1] belying entirely the claim of respondent and stating that "it was not the 'original' copy of the said document that was entered but a mere certified copy or at most a carbon copy" and that at any rate, the same might have been withdrawn from the records by respondent himself. (2) In I.S. No. 69-10641 (of the City Fiscal's Office of Manila), respondent did not contradict the "certification" of the Register of Deeds of Manila and, instead, asserted that what he did file therein was an adverse claim on the property subject matter of the deed of sale of March 1, 1965 and attached with said claim the "original duplicate" of the said deed. (3) In the instant disbarment proceeding, respondent in his answer stated that the sale of March 1, 1965 is not falsified; that he had the "original" of the same deed; that he did not file the same with the Register of Deeds of Manila; that what he did file with the said Office was a "certified true copy" which he did attach with the adverse claim he filed therewith; and that at any rate the final deed of sale of July 30, 1969 did mention on the previous sale of March 1, 1965.

Analyzing these inconsistencies, the Solicitor General points out:

"That there was, therefore, a degree of misrepresentation in respondent's Answer To Petition for Certiorari, dated December 26, 1968 (Exh. 'E', folder of Exhibits for complainant), in CA-G.R. No. 42375-R, we have no doubt. However, the fact that the finding of the Court of Appeals that 'the originals of the two documents (the two deeds of sale in question) were filed with the Register of Deeds of Manila', may be erroneous, does not and cannot overturn the finding as to the documents' genuineness and due execution. Nonetheless, the issue posed is whether or not respondent's conduct provide basis for disbarment or other disciplinary measure.

"As can be gleaned from the aforequoted testimony (tsn of July 31, 1973; see pp. 39-40, OSG Report) of the respondent, he admits the possibility of a 'mistake' but insists that he had filed or registered a 'duplicate original'. Afterwards, he changed his mind as to say that what he attached (to the affidavit of adverse claim) was a 'certified true copy' of the questioned deed of absolute sale. But then, he changed his mind again to deny

and retract the preceding statement.

"To us, respondent's erratic and inconstant nature in the premises disclose a conscious but unwieldy behavior that derive more from a 'petty' attitude towards matters that to him appear inconsequential or trivial.

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"To determine the seriousness of respondent's deed the next question that should be resolved is whether or not respondent was motivated by deceit or malice.

"In the preceding paragraphs, we discussed what to us appear to be the basic frame of mind of the respondent, in the light of human experience and the common or predictable behavior of man. What removes respondent's conduct from the deceitful and the malicious is, however, the recklessness with which he puts it into effect, so much so that the end-result is even more adverse to him than to the party to whom his protestations are directed." (See pp. 40-43, OSG Report.)

The foregoing discussion merely describes respondent's conduct as a "careless or reckless behavior in the making of inaccurate or untruthful statements before the Court of Appeals as well as before the Office of the Solicitor General, among others." Indeed, as it does not appear that substantial prejudice has been actually caused complainant or the forum to whom the statements have been addressed, the truth or falsity of the statement or representation in question being irrelevant in the resolution of the cases at hand, the same do not justify his disbarment. However, since said conduct falls short of the exacting standard of candor and fairness required of lawyers (Canon 22, Canons of Professional Ethics), the same is censurable.

The second charge[2] in the instant case was embodied in complainant's Memorandum dated February 7, 1975, that is, that respondent "corruptly or wilfully appeared as an attorney for a party (Catalino Fausto) to a case without authority so to do," in violation of Sec. 27, Rule 138 of the Rules of Court. He based his charge on the claim of respondent during the investigation, particularly during the hearing of February 9, 1973, that he was the lawyer of Catalino Fausto (complainant's father-in-law) before the Court of First Instance in a case. (See pp. 52-53, OSG Report) To belie respondent's claim, complainant invites attention to the testimony of Atty. Jorge V. Jazmines attesting to the fact that he was the counsel of Catalino Fausto until the intestate proceedings of Ramona Roño (Deceased) was terminated, and that he was never replaced by respondent Atty. Arsenio Reyes as such counsel (pp. 16-17, tsn, Oct. 25, 1973).[3] True, Atty. Jazmines testified in that manner, but then he also declared that "during the pendency of the Intestate proceedings of Ramona Roño, Atty. Reyes (respondent) has also intervened there". (p. 12, tsn, Oct. 25, 1973). Atty. Jazmines, in addition, confirmed the participation of the respondent, as an attorney, in other transactions of the family of Catalino Fausto where he had been witness to (pp. 13-15, tsn, Oct. 25, 1973).

From the declarations of Atty. Jazmines, the inevitable conclusion can be drawn that he and respondent had acted as lawyers of Catalino Fausto. A client, no doubt, may have as many lawyers as he can afford. One need not replace the other, just as in this case, Atty. Jazmines need not have been replaced by respondent. Apparently, both of them coordinated and collaborated with each other in solving the legal problems of Catalino Fausto and his family. Consequently, the second charge lacks merit.

WHEREFORE, as to the first charge — the prayer for disbarment for violation of the attorney's oath in that a lawyer should do no falsehood nor consent to the doing of any in court should be as it is hereby denied, but respondent is reprimanded for being reckless in making statements of fact in his pleadings and admonished that a repetition of such offense would be dealt with more severely. As to the second charge, — for corruptly or wilfully appearing as an attorney for a party to a case without proper authority — the same should be as it is hereby dismissed for lack of merit.

Antonio, Muñoz Palma, Concepcion, Jr., and Martin, JJ., concur.

[1] See p. 26, OSG Report.

[2] Second charge was advanced only after reception of evidence for both parties in this case. (See p. 31, OSG Report)

[3] See pp. 32-33, OSG Report.

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