

QUINTIN SEGOVIA AND JUANITA SEGOVIA, PETITIONERS, VS. JUDGE JOVENTINO S. SARDAÑA, RESPONDENT.*A.C. No. 1191. November 25, 1976*

Ponente: ANTONIO, J.

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In their complaint dated March 10, 1973, petitioners Quintin Segovia and his wife, Juanita Segovia, charge respondent Judge Joventino S. Sardaña, with malpractice or gross misconduct in the practice of law. They allege that in the latter part of 1971, prior to the appointment of respondent as Municipal Judge of Manito, Albay, they retained his services as counsel for their son, Ruben Segovia, who was then accused and whose case was appealed to the Court of Appeals. As such counsel, petitioners paid him the fees which he required. Petitioners also claim to have delivered to the respondent the necessary amount to defray the cost of the printing of the brief for the appellant, together with the payment of his fees for the preparation of the brief, which he asked from them, but respondent, however, failed to file the brief for the appellant. As a consequence thereof, the appeal was dismissed and the Court of Appeals subsequently remanded the case to the court of origin for execution of the judgment. When the appellant was subpoenaed by the trial court for the promulgation of the decision, petitioners allegedly consulted the respondent but the latter advised them not to allow their son to appear during the promulgation. Relying on such advice, their son did not appear before the court during the date set for the promulgation of the decision and as a result his bond was declared forfeited, and he was ordered arrested. Due to the alleged failure of respondent to pay the amount of the bond in the sum of P7,000.00, their real properties submitted as security for the bond were sold at public auction. Their son is now serving sentence at the National Penitentiary at Muntinlupa, Rizal. The petitioners claim that they gave respondent all the chances to make good his commitment to pay them the amount of the bond in order that they can redeem the said properties, but respondent failed to comply with such commitment, hence, they had to redeem the properties themselves.

Acting on the complaint, this Court, on May 31, 1973, resolved to require the respondent to file an answer within ten (10) days from notice of the Resolution. Respondent, although duly notified of said Resolution, failed to answer the complaint within the required period and so on March 26, 1974, this Court resolved to require him to show cause within ten (10) days from notice why he should not be held guilty of contempt of court for such failure. Respondent, however, failed to comply with such order, hence, this Court per Resolution of July 9, 1974, imposed upon him a fine of two hundred pesos (P200) and further required him to comply with the Resolution of March 26, 1974 also within ten (10) days from notice. Again, respondent failed to comply with the Resolution of March 26, 1974 and to pay the fine of two hundred pesos. On September 19, 1974, this Court set the hearing of the case for October 31, 1974 and required the respondent to appear personally. When the case was called for hearing on October 31, 1974, respondent requested for postponement. This Court resolved to allow the complainants to submit a memorandum together with the corresponding annexes consisting of the documentary evidence in support of their complaint and the affidavits of their witnesses and requiring complainants to furnish respondent with copies thereof. In the same Resolution of October 31, 1974, this Court, in view of respondent's failure to comply with this Court's Resolution of July 9, 1974, suspended the respondent from office effective

upon receipt of the Resolution and until further orders from this Court.

Complainants and respondent complied with the Resolution of October 31, 1974 by submitting their respective memoranda within the prescribed period. Thereafter, on February 25, 1975, this Court re-ferred this case to the Judicial Consultant for investigation, report and recommendation. On March 13, 1975, however, this Court resolved to set aside the Resolution of February 25, 1975 and to refer this case to the Executive Judge, Court of First Instance of Albay, Legaspi City, for investigation, report and recommendation.

Before any hearing could be held by the Investigating Judge (Executive Judge Arsenio G. Solidum himself) on the case, the complainants, in a motion dated November 5, 1975, prayed for the dismissal of the complaint on the grounds, to wit: (1) that their material witnesses could not be located, their whereabouts being unknown; and (2) that without the testimonies of said witnesses their complaint could not be prosecuted successfully.

On November 5, 1975 also, respondent moved for the hearing of the petition on November 11, 1975 for the purpose of presenting his side of the case. The motion was granted and on said date, without the presence of the complainants and their counsel who had been duly notified of said hearing, respondent was allowed to present his evidence.

In his Investigation Report and Recommendation dated November 25, 1975, the Investigating Judge discussed the respondent's stand, the merits thereof, and his recommendation relative thereto, as follows:

"The stand of the respondent is practically that contained in his memorandum filed with that Court on January 20, 1975. In substance he contends that he was hired by the complainant, Juanita Segovia, to handle the appeal of her son, Ruben Segovia, who was convicted by the Court of First Instance of Albay in Criminal Case No. 4737 for robbery. The respondent denies that he was ever retained by the other complainant, Quintin Segovia, contending that the case of Ruben Segovia was even suppressed lest it come to the knowledge of Quintin who was already fed up and angered by the several skirmishes of his son with the law. It is also the stand of the respondent that Mrs. Segovia, on her own, could not and was not able to raise the amounts necessary for the cost of printing the appellant's brief and as a result of this no appellant's brief was filed at all with the Court of Appeals, leading to the dismissal of the appeal and the remand of the decision to the Court of First Instance of Albay for promulgation.

"The respondent denies ever having advised Ruben Segovia not to appear during the promulgation of the sentence. It is in support of this stand that the respondent submitted Exhibits 'D', 'E' and 'F' to show that at about the same time when the sentence of Ruben Segovia was about to be read he was also absent during the trial of other criminal cases filed against him in the City Court of Legaspi, in which the respondent was not the counsel.

"Anent the evidence presented by the complainants intended to buttress their charge that indeed the respondent received amounts from the complaining spouses that would have been used to defray the cost of printing the appellant's brief and for expenses for filing the same, the respondent, in addition to denying the same, proceeded to show that in his earnest desire to help the complainants, particularly Mrs. Segovia, in the redemption of the properties condemned and forfeited in favor of the government and finally in reimbursing the said complainants the amounts paid by them in redeeming the properties, he voluntarily consented to take the superficial blame, in consideration for a piece of real property which Mrs. Segovia undertook to sell to him and to his wife at 40% off the selling price. This arrangement, however, did not materialize. The respondent also informed that as an added inducement, Mrs. Segovia even promised him that aside from the 40% discount that he was going to get from the purchase of the land, the balance thereof will only be paid on installments and that certain installments may even be condoned.

* * * * *

"There is merit in the main contention of the respondent that Mrs. Juanita Segovia, who being the mother, was naturally expected to love a son more than her husband, to have retained the services of the respondent for purposes of appeal-ing the decision of conviction against said son even if this had to be done without the knowledge of the father and maybe even against his very wishes. There is ample evidence to show that Ru-ben Segovia, at or about the time when he was to be sentenced for robbery, had at least two pend-ing criminal cases against him. This lend sup-port to the claim of the respondent that at that time, at least, Quintin Segovia was already reluctant, to say the least, to bail him out of his several brushes with the law. Unfortunately for Mrs. Segovia and for the respondent, both were in no financial position to handle the monetary requirements in the prosecution of the appeal. Hence, when Mrs. Segovia failed to raise the ne-cessary amount with which to pay the costs of printing the appellant's brief and respondent likewise in no position to advance the money, the appeal was dismissed and the accused accordingly sentenced. What made the matter worse was that the properties put up for the provisional liberty of the accused were ordered confiscated and for-feited to the government and finally sold at pub-lic auction. It is at this point where the expla-nation of the respondent is not easily credible. Neither is it also incredible. He promised to raise the money with which to redeem the property from the government and when he failed in this he again promised to refund the complainants the to-tal expenses incurred by them in their redemption of the properties. What induced the respondent into undertaking these commitments is the promise of Mrs. Segovia to sell to him a choice lot in their subdivision at a 40% discount, with the ad-ded assurance that the balance which may be paid in installments, may even still be further reduced. The explanation given by the respondent appears plausible especially when it is to be borne in mind that the complainants and the respondent are not only relatives but are even close-door neighbors. Added to this is the fact that the respondent appeared to have acquired a sense of sympathy over the plight of Mrs. Juanita Sego-via who, out of filial love for her son, unilate-rally hired the services of the respondent to handle the appeal of her son and out of the same considerations of sympathy and love for relatives and neighbors, the respondent, at a great risk to himself, protected Mrs. Segovia from her husband by keeping the matter of Ruben Segovia's convict-ion a secret until it was finally discovered. It is the observation of the undersigned Investigat-ing Judge that while complainant Quintin Segovia had always treated this matter with an air of in-difference, Mrs. Segovia has always appeared to be friendly and sympathetic towards the respond-ent during their several meetings in the court-room.

"In view of the foregoing it is recommended that, with respect to the main prayer seeking the referral of the matter to the Solicitor General for investigation leading to the disbarment of the respondent, the same be DISMISSED as not war-ranted by the evidence. * * *"

In the absence of convincing proof of miscond-uct on the part of the respondent, as in this case here the complainants moved to dismiss the complaint for lack of witnesses and failed not only to substantiate the charges but also to appear in the hearing thereof before the Investigating Judge despite due notice to them and counsel, We find the recommendation of the Investigating Judge to dis-miss the complaint to be meritorious. Well settled is the rule that an attorney enjoys the legal presumption that he is innocent of the charges pre-ferred against him until the contrary is proved. It is only when such presumption is overcome by convincing proof of the lawyer's misconduct that the serious consequences of disbarment or suspension should follow.[1]

It must be noted, however, that respondent's suspension from office was imposed upon him not because of the charges but for his contumacy in refusing to comply with the previous orders of this Court. In view of his apology and explanations, and further, because of his payment of the fine and his suspension from office, We now consider him to have been sufficiently punished for his contumacious behavior.

WHEREFORE , the present complaint against the respondent for malpractice is DISMISSED, and the suspension order is hereby considered lifted as of November 1, 1976.

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

[1] *Hermito Siervo v. Judge Juan E. Infante*, Adm. Case No. 1363, promulgated on September 28, 1976.

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