

BETTINA B. YANGSON, COMPLAINANT, VS. EDGARDO M. SALANDANAN, RESPONDENT.

A.C. No. 1347. November 12, 1975

Ponente: AQUINO, J.

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AQUINO, J.:

This Court in its minute resolution of October 1, 1975 denied the motion of respondent Edgardo M. Salandanan for the reconsideration of its resolution of August 27, 1975 which directed the Solicitor General to proceed with the investigation of Bettina B. Yangson's complaint for disbarment against Atty. Salandanan.

In that October 1 resolution, it was observed that the pendency of Civil Case No. B-1081 of the Court of First Instance of Laguna entitled "Rolando J. Morales vs. Edgardo M. Salandanan" would not be a ground for the suspension of the disbarment proceeding against Atty. Salandanan because the parties and the issues in that civil case and in the instant disbarment case are not the same and whatever decision might be rendered in the civil case would not ineluctably control the decision in this proceeding.

Respondent Salandanan in his aforementioned motion stated that this Court's August 27 resolution was "a gross and serious departure" from established precedents, "without reason or justification, either factual or legal" (Page 4, par. 8).

In view of the derogatory implications of that observation, which was couched in intemperate, indecorous and vicious language and which was baseless, since it was belied by the resolution itself that stated the reason for requiring the Solicitor General to proceed with the investigation of the disbarment case, the Court in that aforementioned October 1 resolution required Attys. Salandanan and Zosimo G. Linato, who signed the motion under the firm name of "E. M. Salandanan, Aguilar, Linato & Associates" to show cause why they should not be adjudged in contempt of court.

Although the offensive and disrespectful observation appears to be an act of direct contempt in facie curiae and could, therefore, be summarily punished without hearing (Sec. 1, Rule 71, Rules of Court; *Salcedo vs. Hernandez*, 61 Phil. 724; *De Joya vs. CFI of Rizal*, 99 Phil. 907; *Malolos vs. Reyes*, 111 Phil. 1113; *Sison vs. Sandejas*, 105 Phil. 1279), nevertheless, the Court afforded Attys. Salandanan and Linato a chance to be heard.

Attys. Salandanan and Linato in their "manifestation-explanation" argued their second motion for the reconsideration of the August 27 resolution, which second motion was filed without prior leave of court and which cannot therefore be entertained, and also their motion for the reconsideration of the October 1 resolution.

They apologized for the offensive statement already mentioned. They indicated that it was not their intention to show disrespect to the Court. They explained that they were "carried away by their anxiety or emotion in their efforts or desire to call the attention of the Court to" what they believed was the more appropriate and applicable ruling.

In view of the explanation and inasmuch as the power to punish for contempt should be exercised on the

preservative and not the vindictive principle and on the corrective rather than the retaliatory idea of punishment (People vs. Marcos, 70 Phil. 468, 480), the Court resolved to admonish Attys. Salandanan and Linato to exercise greater care and circumspection in the preparation of their pleadings and to refrain from using abrasive and offensive language.

Respondent Salandanan insists that the disbarment proceeding should be suspended not only because of the pendency of Civil Case No. B-1081 but also because of Criminal Case No. 19636, an alleged perjury case against Atty. Rolando J. Morales who probably will be a witness of the complainant in this disbarment case.

The Court has scrupulously refrained from prejudging the merits of respondent Salandanan's defenses in this case so as not to prejudice him. On the other hand, the complainant's side of the case cannot be overlooked.

Her complaint on its face shows a prima facie case against the respondent. It is alleged therein that some sort of deception was practised by the respondent against the complainant. Whether that deceit would justify disciplinary action against Atty. Salandanan can only be determined by the presentation of evidence. That simple issue is not inextricably intertwined with the complicated questions raised in Civil Case No. B-1081 and in Criminal Case No. 19636.

A discussion of those questions in this disbarment case would only becloud the uncomplicated issue herein which is whether Atty. Saladanan's alleged false statement in the "Deed of Assignment", that the Morsal Transportation "is the owner" of certain buses, amounts to "deceit or gross misconduct" that warrants disciplinary action against him.

If, as underscored in his pleadings, he could show by means of his evidence that there was no such deceit, then he should not evince any reluctance to submit to the administrative investigation to be conducted by the Office of the Solicitor General.

WHEREFORE, respondent's motion for the reconsideration of the October 1 resolution is denied for lack of merit. The Solicitor General is directed to proceed promptly with the investigation of the complaint against the respondent. Let the admonition indicated above be noted in the records of Attys. Linato and Salandanan in the Bar Confidant's Office.

SO ORDERED.

Barredo, Acting Chairman, Antonio, Concepcion Jr., and Martin, JJ., concur.

Fernando, J., is on leave.

Martin, J., was designated to sit in the Second Division.

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