

GEORGE MARTIN AND VICTORIANA MARTIN, COMPLAINANTS, VS. ATTYS. JUAN MORENO AND EULALIO VENTURA, RESPONDENTS.

A.C. No. 1432. May 21, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In a verified complaint, the spouses George and Victoriana Martin sought the suspension of Juan Moreno and Eulalio Ventura as members of the Philippine Bar. They alleged that the two respondents had conspired to defraud them of compensation due their son Virgilio who died of tuberculosis in the course of his employment as a driver for BLU-CAR Taxi.

The complaint was referred to the Solicitor General for investigation, report and recommendation.

The comprehensive report of the Solicitor General states, among other things, that the deceased Virgilio Martin was not actually the son of the complainants; that they were but his guardians and hence not entitled to the benefits of the Workmen's Compensation Act; that because of such fact the complainants requested Atty. Juan Moreno to enter into an ami-cable settlement with BLU-CAR Taxi; that the settlement was embodied in a Motion to Dismiss which was prepared by Atty. Moreno; that the settlement was for the payment of P2,000.00 to the spouses but the Motion to Dismiss also stated that Virgilio had received from BLU-CAR Taxi during his lifetime the amount of P4,000.00 so that the dismissal would be with prejudice; and that the Motion to Dismiss was explained to the spouses by Atty. Eulalio Ventura, counsel for BLU-CAR Taxi who gave them a check for P2,000.00.

The complaining spouses in effect accuse Attorney Moreno of pocketing the P4,000.00 mentioned in the Motion to Dismiss and both Attorneys Moreno and Ventura of pocketing part of the P2,000.00 settlement. However, the Solicitor General states:

"It is admitted that some amount of money was received on April 26, 1973, when said Motion to Dismiss was signed by complainants George Martin and Victoriana Martin for the death of Virgilio Martin (pp. 23-24, 27, tsn., March 9, 1976). However, complainant Victoriana Martin claims she actually received only P750.00 (p. 24, tsn., March 9, 1976), while Atty. Eulalio Ventura claims that P2,000.00 was paid to complainant (pp. 91-92, tsn., March 30, 1976). Atty. Juan Moreno also claims P2,000.00 was paid to complainant (pp. 7, 15-16, tsn., April 27, 1976; p. 3, Atty. Moreno's Memorandum). Considering that the sworn motion to dismiss signed by complainant, which was translated to her and George Martin before they signed it, states that complainant received P2,000.00 (Exh. E, p. 5, rec.; p. 89 tsn., March 30, 1976), the fact that seems to have been established is that P2,000.00 was paid to complainant.

"Complainants cannot charge that the late Virgilio Martin did not receive the other amount of P4,000.00 which Atty. Moreno allegedly pocketed as his own after receiving the same from the Blu-Car Taxi, because there is no competent evidence to prove this charge. Virgilio is now dead. Apart from complainant's denial, there is no other evidence to show that Atty. Moreno received the P4,000.00 from the Blu-Car Taxi and failed to deliver the same to the late Virgilio Martin. The records of the Blu-Car Taxi could have been presented if there is truth

that Atty. Moreno received the same, but no such evidence was presented. Atty. Moreno's claim that the P4,000.00 was never paid to him (p. 22, rec.) should be sustained." (Report, pp. 12- 13.)

The foregoing notwithstanding, the Solicitor General has accused Atty. Moreno of knowingly making a false statement in the Motion to Dismiss, thus:

"2. That on April 26, 1973, in Mandaluyong, Rizal, he filed a sworn Motion to Dismiss with the Rizal Provincial Office, Workmen's Compensation Unit, Mandaluyong, Rizal, stating that Virgilio Martin during his lifetime received P4,000.00 from the BLU-CAR TAXI as illness compensation benefits, although in truth and in fact as he was fully aware of, no such amount was paid to Virgilio Martin (Exh. E, p. 6, rec; Exh. B, p. 23, rec.);

"3. That such utterance of falsehood vio-lates the lawyer's oath." (Rollo, p. 62.)

Required to file an answer to the complaint, Moreno did admit the falsification but explained that he had to do it for legal and technical reasons. He averred that:

"x x x In the instant case, the employer, for humanitarian purposes, agreed to pay the claimants P2,000.00, to which compro-mise the claimants agreed. A mere motion to dismiss the claim based on the payment of this P2,000.00 would not be sufficient under the law.

'x x x such agreement in order to be valid, shall provide, at least, the same amount of compensation as that prescribed by this Act x x x.' (Sec. 29, Workmen's Compensation Act).

In order to fill the gap, the parties herein the employer and the claimants, as duly approved by the Commission, had to devise a procedure by making it appear that the difference of P4,000.00 was already paid in advance. So P4,000.00 plus P2,000.00 makes up P6,000.00 which amount is the maximum the employer would be liable on the assumption that the claim is compensable." (Rollo, p. 68.)

Moreno pleads for leniency thus:

"Yes, Your Honors with deep regret and repentance I admit, I have committed a mistake, which mistake, however, is seemingly sanctioned by law, if we are to go deep into the spirit of the Workmen's Compensation Act, as amended, and for which reason, I humbly implore the forgiveness of this Highest Tribunal." (Id., p. 69.)

Moreno's ready admission of the falsification coupled with his explanation and plea for forgiveness incline Us not to be severe in dealing with him. Moreover, his act did not cause material damage to anyone.

WHEREFORE, respondent Juan Moreno is hereby suspended from the practice of the law for one (1) month, severely censured and warned that a repetition of the offense of falsification shall be visited with a more drastic punishment.

Respondent Eulalio Ventura is exonerated. SO ORDERED.

Aquino, Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

Makasiar, J., (Chairman), see dissenting opinion.

DISSENTING OPINION

MAKASIAR, J.:

Moreno's claim that he did it in good faith and for humanitarian reasons, is incredible; because –

1. the compromise for P2,000.00 – less than the P6,000.00 allowed by law – is void as against public policy;
2. Only P730.00 was received by complainants;
3. Balance of P1,270.00 was kept by Moreno, more than P600.00 allowed as attorney's fees for a claim of P6,000.00. P200.00 is 10% of P2,000.00 actually paid by employer; and
4. Obviously, he took advantage of the ignorance of complainants as to the allowable compensation of P6,000.00. Hence, penalty is too lenient.

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