

JUDGE ALEJANDRO E. SEBASTIAN, COMPLAINANT, VS. AMADO S. CENIZA, RESPONDENT.*A.C. No. 1500. December 14, 1978*

Ponente: AQUINO, J.

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This disbarment case, like the administrative case filed by Atty. Amado S. Ceniza against Judge Alejandro E. Sebastian, stemmed from Civil Case No. 614 of the Court of First Instance of Davao Norte, Tagum Branch VIII, entitled "Mariano Barreto vs. Alicia Luy Paglinawan". That case was assigned to Judge Sebastian. The parties therein, common-law husband and wife, were personally known to him and used to call him and his wife "Tatang" and "Nanang". Defendant Alicia Luy Paglinawan was Ceniza's client.

The complaint in that case was filed on October 25, 1974. According to Ceniza, Judge Sebastian issued an ex parte writ of mandatory injunction divesting the defendant of the possession of the properties in litigation. The judge also issued an order requiring the defendant to appear personally at the judge's residence at six o'clock in the evening of October 31, 1974 so that he could effect an amicable settlement of the case.

Believing that Judge Sebastian had committed irregularities in the management of that case, Ceniza filed with this Court on December 7, 1974 a complaint charging the judge with having committed libel and serious misconduct amounting to backsliding and a violation of the Anti-Graft and Corrupt Practices Law. Judge Sebastian answered the charges.

The case was dismissed in this Court's resolution of May 7, 1976 (Administrative Matter No. 846-CFI, Ceniza vs. Sebastian). Parenthetically, it should be stated that the retirement of respondent judge, who reached the age of seventy years on May 3, 1976, was approved on June 29, 1976 (Administrative Matter No. 138-Ret.). His personal record shows that he is now a resident of 7 Samat Street, Quezon City.

On the other hand, on December 9, 1974 (two days after Ceniza had filed the administrative charges), Judge Sebastian initiated this disbarment proceeding by charging Ceniza with (1) grave misconduct in office, (2) gross immorality and (3) reprehensible conduct. The complaint was served upon Ceniza on December 12, 1974. He filed a motion praying that the complaint be dismissed for lack of jurisdiction and, in the alternative, that Judge Sebastian should inhibit himself because he had allegedly a personal motivation for filing the complaint. That motion was denied by Judge Sebastian.

On January 2, 1975, Ceniza filed in this Court a petition for prohibition. He alleged therein that, after Judge Sebastian had "fined, jailed and libelled" him and his client, Alicia Luy Paglinawan, the judge sought to harass Ceniza whom the judge hated "to the marrow of his bones for having blunted and frustrated his (the judge's) capricious, whimsical and corrupt ends and interests in Civil Case No. 614". Ceniza prayed that Judge Sebastian be enjoined from proceeding with the disbarment case. The petition was dismissed on January 13, 1975 for being insufficient in form and substance (L-39900, Ceniza vs. Sebastian).

Ceniza did not answer the complaint for disbarment and did not appear at the hearing thereof. An assistant provincial fiscal and a practising lawyer were designated by Judge Sebastian to prove at the ex parte hearing the charges formulated by him (Adm. Case No. 6, Davao CFI, Branch VIII). Ceniza observed that in that proceeding Judge Sebastian played "the role of complainant, witness, prosecutor and judge".

On June 22, 1975, Judge Sebastian rendered a decision, finding Ceniza "guilty as charged" and ordering him suspended from the practice of law until the suspension is lifted by this Court. The record of the case was elevated and received in this Court on July 24, 1975. A copy of that decision was sent to Ceniza by registered mail. He failed to claim that copy at the post office.

In this Court's resolution of August 1, 1975, Ceniza was required to answer the charges lodged against him by Judge Sebastian. Respondent's answer was received only on August 15, 1978.

1. Grave misconduct. - Judge Sebastian found Ceniza guilty of grave misconduct when he falsely alleged in the answer, which he filed for defendant Alicia Luy Paglinawan in Civil Case No. 614, that the judge and his "bosom friend", retired Colonel Bruno Callejo (whose daughter is married to Manny Barreto, the son of plaintiff in said civil case), employed duress in making Alicia sign a compromise settlement of the case.

It should be noted that that answer provoked the judge to issue an order dated November 19, 1974, holding Ceniza and his client in direct contempt of court and sentencing each of them to ten days imprisonment and to pay a fine of P200. Ceniza and his client served the ten days' imprisonment and paid the fines.

Concerning the charge of grave misconduct, Ceniza averred that in the answer, which he filed for Alicia Luy Paglinawan in Civil Case No. 614, he just incorporated therein Alicia's declarations which were substantiated by oral and documentary evidence. He did not fabricate the imputation that Judge Sebastian unduly pressured Alicia into assenting to the amicable settlement.

2. Gross immorality. - To sustain this charge, Judge Sebastian raked up the records of five criminal cases filed against Ceniza, to wit: (a) the 1966 case wherein Ceniza was accused of having raped his thirteen-year old housemaid, Rosita Villafuerte; (b) the 1967 rape case involving his sixteen-year old housemaid, Socorro Malatag; (c) two 1972 rape cases involving his housemaids, Anita Lozada and Erlinda Cadenas, sixteen and seventeen years old, respectively, who were allegedly abused by Ceniza on the same day, one in the afternoon and the other in the evening, and (d) the 1970 seduction case involving Rosario Jandug, his sixteen-year old housemaid.

These five cases did not reach the trial stage. Hence, Ceniza was not convicted. The cases were dismissed due to the desistance of the complainants. In fact, the seduction case and the 1967 rape case were dismissed by Judge Sebastian himself. The seduction case spawned a disbarment case which was investigated by the provincial fiscal. As complainant Jandug was not interested in pushing it through, the fiscal recommended to the Solicitor General its dismissal (Administrative Case No. 1189, Jandug vs. Ceniza).

Nevertheless, Judge Sebastian argues that those five cases prove that Ceniza is not a person of good moral character.

3. Reprehensible conduct.- Judge Sebastian mentions five criminal cases wherein Ceniza was charged in the municipal court of Tagum with (a) estafa for not paying P12.45 as the cost of the food and beer which he obtained at the Sanitary Kitchen Restaurant in Tagum; (b) lesiones leves for having slapped Lucena Hao, a waitress in the same restaurant; (c) light threats for having threatened to shoot Lucena Hao; (d) unjust vexation for having touched the nipples of Lucena Hao, and (e) unjust vexation for having touched the nipples of Felisa Hao Lee of the said restaurant, all committed on August 31 and September 6, 1965 (Criminal Cases Nos. 2003, 2005, 2013, 2014 and 2015).

The five cases were dismissed by the court on February 23, 1966 on the basis of the joint affidavit of desistance of the offended parties, Lucena Hao and Felisa Hao Lee.

Judge Sebastian also mentions three other criminal cases for lesiones leves, trespass to dwelling, and slight oral defamation, all committed on August 6, 1958 which were filed against Ceniza in the municipal court of Tagum and which were dismissed on October 31, 1958 because of the desistance of the offended parties, Gloria Damos, Felicitas Poliquit and Rose Lagura (Criminal Cases Nos. 1405, 1408 and 1414).

Also dismissed were the criminal cases against Ceniza for direct assault of a person in authority, frustrated murder and illegal possession of a firearm (Criminal Cases Nos. 3004 and 3005).

Notwithstanding the dismissal or absence of any judgment of conviction, Judge Sebastian utilized those cases as grounds for disbarring or suspending Ceniza since his conduct was allegedly "disgraceful blot on the escutcheon of a lawyer".

Ceniza, in answer to the charge of reprehensible conduct, explained that the above-mentioned cases, like the seduction and rape cases, were masterminded by Constabulary Sergeant Francisco Piccio, his bitter enemy, who was the bodyguard of Mayor Hermenigildo Baloyo of Tagum, also his alleged political enemy. Ceniza prayed for the lifting of his suspension from the practice of law.

An objective and judicious review of the records reveals that Judge Sebastian had taken a personal interest in the compromise settlement of Civil Case No. 614 and that he resented respondent Ceniza's efforts to have a trial of the case on the merits.

The judge declared Ceniza and his client in contempt of court and sent them to jail. Ceniza retaliated by filing in this Court an administrative case against Judge Sebastian. Judge Sebastian countered by *motu proprio* initiating the instant disbarment proceeding and eventually suspending Ceniza from law practice. Ceniza filed a prohibition case against Judge Sebastian. It was dismissed by this Court.

Thus, judge and lawyer, who used to have friendly relations, became implacable antagonists, using intemperate, vituperative language against each other.

Taking into account these aspects of the case, we hold that it is not necessary to find that Judge Sebastian, who is already out of the service, acted with vindictiveness in filing this disbarment case and in disciplining Ceniza. Nor is it necessary to investigate further the charges lodged by him against Ceniza. The grave misconduct imputed to Ceniza is tied up with the judge's personal interest in Civil Case No. 614. The alleged gross immorality and reprehensible conduct are based on the criminal cases filed against Ceniza which did not result in any final judgment of conviction. Hence, the presumption of innocence in his favor was not overthrown. The offended parties in those criminal cases did not bother to file any disbarment case against him, except one case which was aborted.

WHEREFORE, the suspension of respondent Ceniza from the practice of law is hereby lifted and this case is considered closed and terminated.

SO ORDERED.

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

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