

ROMULO SANTOS, COMPLAINANT, VS. ALBERTO M. DICHOSO, RESPONDENT.

A.C. No. 1825. August 22, 1978

Ponente: GUERRERO, J.

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GUERRERO, J.:

Upon a sworn complaint for disbarment dated October 10, 1977, Romulo Santos, complainant herein, charged Atty. Alberto M. Dichoso for alleged deceit, malpractice, gross misconduct and violation of his lawyer's oath.

The records disclose that in Special Proceeding No. 2452-P before the Court of First Instance of Pasay City, Branch XXIX, complainant Romulo Santos and his brother, Lamberto Santos, sought to be appointed as joint guardians over the person and property of their 75 year old father, Emilio Santos, who figured in a near tragic vehicular mishap that so impaired his mental faculties and physical mobility as to render him incompetent. Respondent Atty. Alberto Dichoso, on the other hand, is the counsel of one Flordeliza Aniana, Oppositor in the aforementioned guardianship proceeding, claiming to be a daughter of Emilio Santos.

As embodied in his sworn complaint, the complainant accused respondent counsel of surreptitiously filing notices of lis pendens covering properties of Emilio Santos with the Register of Deeds of Makati, Metro Manila and of Tagaytay City and taking advantage of his position and knowledge of the law, said respondent deliberately and wilfully misled and made false representation thus beguiling and deceiving the Register of Deeds into making the annotation to the damage and prejudice of the registered owner. Complainant also alleged that in an action for unlawful detainer [docketed as Civil Cases Nos. 3761 to 3763] which complainant in representation of his father, Emilio Santos, brought against one Ester Chavez and Marcela Dizon with respondent as counsel, the scheduled hearing had to be postponed by respondent because "he will be busy with the inauguration of a new construction bridge, although as a practising lawyer he has nothing to do with the inauguration of bridges, that it is very plain and clear that respondent has no motive except to impede, obstruct and delay the administration of justice to the damage and prejudice of the complainant."

In his answer dated November 21, 1977, respondent specifically denied the charge of surreptitious filing of notice of lis pendens on the real properties of Emilio Santos. Respondent also negated complainant's accusation that he had taken advantage of his position and knowledge of the law in having deliberately and wilfully misled and misrepresented himself as Counsel of Plaintiff. Anent this charge, respondent explained the mistake as a mere clerical error committed by his new clerk, Romulo Vicente, in the following tenor:

"x x x (T)he word Counsel for Plaintiff should have been Counsel for the Oppositor and this is a mere clerical error committed by the clerk of the respondent in typing Plaintiff instead of Oppositor. In the guardianship proceeding, there is no plaintiff but petitioner and the said allegation that the respondent had misled and made representation to the Register of Deeds is not true, for when the notice of lis pendens was filed by the clerk of the undersigned together with the client, the undersigned was sick and still suffering from stroke

(hypertension) and that there was an immediate necessity of filing the notice of lis pendens because the oppositor, my client, was informed from reliable source that Romulo Santos, the complainant and the petitioner in the guardianship proceeding was about to dispose or to squander and to abscond the estate of their father, the incompetent, so there was an urgent need of filing a notice of lis pendens so that the clerk of the respondent, Romulo Vicente, who is still new and has no legal background and experience simply copied some form of notice of lis pendens filed by the undersigned in other cases. When the notice of lis pendens was handed by Romulo Vicente together with Flordeliza Aniana for the signature of the respondent, he called the attention of Romulo Vicente to change the word plaintiff to Oppositor, and he is now surprised to learn that he did not change the word Plaintiff to Oppositor. x x x "

We consider respondent's explanation reasonable and satisfactory. As to complainant's imputation that the respondent's motion for continuance of a scheduled hearing in Civil Case Nos. 3761 to 3763 for Ejectment in the Municipal Court of Parañaque, Metro Manila was intended to impede, obstruct and delay the administration of justice, to the alleged damage of complainant who is representing his father as Plaintiff, respondent lawyer submitted the following answer, thus:

"(T)he said motion was filed in good faith and its soundness and reasonableness had been passed upon by the court to have granted said request of the respondent. With respect to the transfer of the hearing for August 10, 1977 to September 9, 1977 due to a motion filed by the respondent, for reason of a case pending in the City Court of Manila instead of the Justice of Peace Court of Manila, is a clerical error for there is no justice of the Peace of Manila, it is true and certification of the clerk of City Court of Manila to this effect that the undersigned is the private prosecutor in Civil Case No. 00218, C.R., People of the Philippines vs. Marina Obhamia and the date of the hearing coincided with the date of hearing at the Justice of the Peace of Parañaque, which is hereunto attached, and with respect to the request for postponement filed by the respondent to transfer the hearing on September 9, 1977 due to the inaugu-ration of an important bridge in my hometown and the undersigned attorney having been a Mayor of the town and the town is a beneficiary of the bridge which was inaugurated, the long availed realization of a promise of the undersigned and the President of the Philippines which was inaugurated in connection with his visit and birthday in our hometown, which is a very rare and important occasion to me. This is the only secondary reason, for the main reason of the request for postponement is that, the undersigned counsel is the counsel of the accused in Criminal Case No. 787-VI, CFI, Ilocos Norte, set on the 9th of September, 1977. However, the clients of the undersigned respondent were all present during the hearing in court and they were instructed to get another lawyer to represent them in case said motion for postponement is denied, so that there is no delay in the disposition of the case. The reasonableness, justification and soundness in granting my motion for postponement had been passed upon by the court which is within its judicial discretion."

From the above quoted answer of the respondent, We find no showing that he acted with deceit. The acts complained of do not constitute malpractice, gross misconduct nor violation of the lawyer's oath.

The purpose of disbarment is to protect the court and the public from the misconduct of officers of the court and to ensure the administration of justice by requiring that those who exercise this important function shall be competent, honorable and trustworthy men in whom courts and clients may repose confidence. An attorney enjoys the legal presumption that he is innocent of the charges preferred against him until the contrary is proved; and as an officer of the court, he is presumed to have performed his duty in accordance with his oath. In disbarment proceedings, the burden of proof rests upon the complainant, and for the court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof. Indeed, considering the serious consequences of the disbarment or suspension of a member of the Bar, the Supreme Court has consistently held that clearly preponderant evidence is necessary to justify the imposition of administrative

penalty.

The records reveal that respondent may not be faulted for having filed the notices of lis pendens. Being the counsel of the Oppositor in the guardianship proceeding, respondent has the duty to pursue with zeal and dedication the best interests of his client and the filing of the notices of lis pendens was well within the scope of his authority as counsel. The lawyer owes entire devotion to the interests of his client. Besides, the annotation of notice of lis pendens is permissible in guardianship proceedings for it is a precautionary measure against instances wherein the incompetent may dispose of his properties in favor of persons who may take undue advantage of the incompetent's advanced age and weak mental and physical condition.

As regards the imputation of indiscriminate postponement of the hearing in the cases adverted to, no less than the court before whom the cases of Ejectment were heard found the motions to be in order and well-taken.

The profession of an attorney is acquired after long and laborious study. It is a lifetime profession. By years of patience, zeal and ability, the attorney may be able to amass considerable means to support himself and his family, besides the honor and prestige that accompany his office and profession. To deprive him of such honored station in life which would result in irreparable injury must require proof of the highest degree, which We find nowhere here. While courts will not hesitate to mete out proper disciplinary punishment upon lawyers who fail to live up to their sworn duties, they will, on the other hand, protect them from the unjust accusations of dissatisfied litigants. The success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored. Private persons, and particularly disgruntled opponents, may not, therefore, be permitted to use the courts as vehicles through which to vent their rancor on members of the Bar.

WHEREFORE, this complaint for disbarment is dismissed for lack of merit.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Fernandez, JJ., concur.

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