

ZOILO E. CADELIÑA, COMPLAINANT, VS. GENOVEVO Q. MANHILOT, RESPONDENT.*A.C. No. 1974. January 15, 1988*

Ponente: FELICIANO, J.

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This administrative complaint arose out of Special Proceeding No. 116233, Court of First Instance of Manila, Branch XIV, entitled “In the Matter of the Intestate Estate of Don Antonio Rodriguez” instituted by Jose B. Rodriguez, Delfin M. Rodriguez and Rosalinda R. Pellosis Eco, in which Special Proceeding complainant, Zoilo E. Cadeliña, served as counsel for Jose B. Rodriguez. Zoilo Cadeliña claimed that during the pendency of this special proceeding, he learned that he was replaced, without being formally notified, by the herein respondent Genovevo Q. Manhilot. Feeling aggrieved, complainant instituted this administrative case charging that respondent Genovevo Manhilot entered his appearance in the intestate proceeding of Don Antonio Rodriguez in gross violation of Section 26, Rule 138 of the Rules of Court and of Sections 7 and 29 of the Canons of Professional Ethics which act amounted to deceit, malpractice, dishonest conduct or other gross misconduct.

By a Resolution dated 13 December 1978, the Court required respondent to file a Comment on the Complaint. In his Comment dated 5 January 1979, respondent argued that Mr. Jose Rodriguez never intended to terminate complainant's engagement without notice because Mr. Rodriguez actually tried and exhausted all means to notify complainant but failed as complainant no longer occupied his office address of record and did not leave any forwarding address.

In his Comment, respondent also, in turn, charged complainant with “deceit, malpractice, dishonest conduct or other gross misconduct [as an officer of the court], or for corruptly or wilfully appearing as an attorney for a party to a case without authority so to do, in gross violation of Section 27 of the Rules of Court and the pertinent provisions of the Canons of Professional Ethics.” Respondent set out the following details in respect of his counter-charge:

“It is clear from the allegation in paragraph 3 of said affidavit that, Atty. Zoilo Cadeliña is a complete stranger to petitioner, Jose B. Rodriguez; that he had appeared as counsel for said petitioner on the mere ‘say so’ of a discredited ‘attorney-in-fact;’ that, his appearance did not meet the approval of said petitioner; that, as early as September 1978, the termination of his services had already been conveyed upon thru the said ‘attorney-in-fact;’ that in sum, Atty. Cadeliña has acted as counsel for petitioner Jose B. Rodriguez without the latter's authority so to do — a Sawyer whom a client had not met nor communicated with in any manner whatsoever, thereby giving rise to a very strange ‘lawyer-client relationship.’”[1]

By another Resolution dated 14 February 1979, the Court resolved to refer this case to the Solicitor General for investigation, report and recommendation.

The Solicitor General, in his Report dated 17 September 1987, reduced the basic issue to “whether or not entry of respondent in Special Proceeding No. 116233 as counsel for Jose B. Rodriguez at the time when complainant was

still counsel on record for the same client constitutes deceit, malpractice, dishonesty or gross misconduct of office warranting administrative sanctions against him. “The Solicitor General went on to state that:

“It is a rule that an attorney may not retire from any action or special proceeding without the written consent of his client filed in court. However, a client may at any time dismiss his attorney or substitute another in his place (Rule 138, Sec. 26).

Applying the rule to this case, the substitution of complainant Atty. Zoilo E. Cadeliña by the client Jose B. Rodriguez with respondent Atty. Genovevo Q. Manhilot as his counsel in Special Proceeding No. 116233 is no doubt authorized and within his prerogative. There seems to be no justification to hold respondent administratively liable for the action taken by Jose B. Rodriguez in the premises. Complainant’s recourse for redress of grievance (if he has any) should be directed against Rodriguez. But, definitely not against respondent! For, there is no iota of evidence to even hint that he influenced or prevailed upon the client Rodriguez to discharge or relieve complainant as his counsel. Instead, before he formally entered his appearance, he exerted sincere effort to locate complainant to get his conformity. He accompanied Rodriguez to the law office of complainant at Room 101, Quiapo Building, Manila, but the latter was no longer holding office there. He advised Rodriguez to communicate by mail with Atty. Cadeliña and Isabelo B. Austria and convey to them his (Rodriguez) decision to discharge complainant and to hire another lawyer. The mail matter was however returned to the sender unclaimed.

It is to be noted that the Notice of Appearance of respondent which bears the conformity of Jose B. Rodriguez is dated October 18, 1978. It was however filed by him only on October 23, 1978, after all attempts to contact and communicate with complainant failed. Indeed, respondent did in the premises more than what was expected of him as a lawyer and member of the Bar for the protection of the interest of a brother-lawyer.

The record also shows that after the parties had rested, counsel for the complainant filed a motion asking that he be allowed to withdraw Exhibit “A” and “B” (pictures) he presented on behalf of the complainant because the latter had died on November 25, 1981. Considering, however, that a disbarment case against a member of the Bar is imbued with public interest and that a lawyer is entitled to the full protection of his name, the undersigned are disposed to render this report, the death of the complainant notwithstanding.”[2]

The Solicitor General accordingly recommended the dismissal of the complaint the complainant having “failed to submit clearly preponderant evidence to justify the disbarment or suspension of respondent from the practice of law (Arboleda vs. Gatchalian, 58 SCRA 64).”

The Court agrees with and adopts the recommendation of the Solicitor General.

The Solicitor General did not deal with respondent’s countercharge against complainant, presumably because complainant passed away on 25 November 1981. While respondent’s countercharges have in fact become moot and academic by reason of complainant’s death, the Court believes that those countercharges should be resolved and disposed of, for reasons that will become clear in a moment. Respondent Manhilot failed to substantiate his countercharge that complainant acted as counsel for Jose B. Rodriguez in Special Proceedings No. 116233 without the authority of Jose B. Rodriguez. On the contrary, complainant Cadeliña attached a photocopy of a “Contract of Engagement as Attorney” dated 28 July 1978 as Annex “A” of his “Comment on Respondent’s Comment and Countercharge” dated 30 January 1979. This Contract was signed and acknowledged by Jose B. Rodriguez and Rosalina R. Pellosis Eco and expressly authorized “Zoilo E. Cadeliña and Associates” to represent them in Special Proceedings No. 116233. Respondent Manhilot did not deny or attack the genuineness and authenticity of this “Contract of Engagement as Attorney.” Respondent’s countercharge against deceased petitioner is thus clearly without merit. Petitioner’s family is entitled to clear his name and reputation as a lawyer which constitute the most precious legacy he could leave them.

ACCORDINGLY, the Court Resolved to DISMISS the Complaint against Genoveno Manhilot for lack of merit; and to DISMISS the countercharge against Zoilo E. Cadeliña, now deceased, as moot and academic and for lack of merit.

Fernan (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

[1] Paragraph 7 of Respondent's Comment: Rollo, p. 11

[2] "Atty. Zoilo E. Cadeliña" and "Atty. Cadeliña" appearing in the Report of the Solicitor General should be Atty. Zoilo E. Cadeliña

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