

BONIFACIO G. PUNLA, COMPLAINANT, VS. CLEMENTE M. SORIANO, RESPONDENT.

A.C. No. 1976. August 31, 1983

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AQUINO, Jx:

Bonifacio Punla seeks to disbar lawyer Clemente Soriano on the grounds of mental dishonesty, moral delinquency and lack of integrity.

Soriano was the private prosecutor in Criminal Case No. 49-74 of the municipal court of Masantol and Criminal Case No. 366 of the municipal court of Macabebe, both in Pampanga, which were cases for oral defamation filed by Marciano A. Flores against Punla who was represented by lawyer Ceferino S. Gaddi.

The municipal judges of Masantol and Macabebe both inhibited themselves from trying those cases. Accordingly, the District Judge designated Municipal Judge Salvador T. Calma of Apalit to hear those cases in Masantol and Macabebe.

Before the termination of the preliminary investigation, Judge Calma got sick. On March 11, 1976, he requested the Executive Judge that the preliminary investigation of the oral defamation cases be held in Apalit. The parties agreed that the proceedings be conducted in Apalit.

After the preliminary investigation and after he had issued a warrant for the arrest of Punla, Judge Calma assigned Special Counsel Andres F. Pangilinan to prosecute the cases. Soriano was to act as private prosecutor.

During the trial on the merits and after he had testified, Flores, the offended party, died. The defense counsel moved for the striking out of his testimony. In his opposition to that motion, Soriano signed for and in behalf of the prosecution.

Subsequently, the defense moved for the nullification of the proceedings in the municipal court of Apalit on the grounds of improper venue and lack of authority from either the Court of First Instance or this Court to conduct the preliminary investigation and trial in Apalit.

Upon the suggestion of the trial fiscal, the cases were heard in Masantol and Macabebe, respectively, pending the resolution in this Court of Judge Calma's request for "temporary change of venue".

When Criminal Case No. 49-74 was called for trial in Masantol, the defense counsel orally moved for the nullification of the proceedings in Apalit. In the presence of the trial fiscal, Soriano opposed that motion. The municipal judge then ordered the parties to submit their arguments in writing.

Soriano filed separate oppositions in Criminal Cases Nos. 49-74 and 366. He signed his oppositions in this manner:

"Respectfully,

ANDRES F. PANGILINAN

Trial Fiscal and

CLEMENTE M. SORIANO

Private Prosecutor

Suites 513-514 May Bldg.

Rizal Avenue, Manila

By:

(SGD.) CLEMENTE M. SORIANO

CLEMENTE M. SORIANO"

Meanwhile, this Court issued a resolution on June 7, 1977 declaring as void all the proceedings already had in Apalit (Administrative Matter No. 1982-MC). However, on July 28, 1977 this Court, acting on Soriano's motion, reconsidered that resolution and approved the agreement of the parties that the oral defamation cases be tried and decided by Judge Calma in Apalit. This Court considered as valid all the proceedings conducted therein.

Because he signed the two oppositions for the prosecution, Soriano was charged with falsification of public documents in the Court of First Instance of Pampanga (Criminal Cases Nos. 73-389-M and 73-390-M). The two informations, both dated May 23, 1978, alleged that Soriano made it appear that the trial fiscal participated in the preparation and filing of the aforesaid oppositions where in fact he did not authorize their preparation and filing.

Consequently, on November 28, 1978, Bonifacio G. Punla, through Gaddi, filed the instant complaint for disbarment, charging Soriano with "wilfull falsification, chicanery and lack of integrity in his dealings with the parties and the court". Attached to the complaint is a copy of Special Counsel Pangilinan's letter of April 21, 1977 addressed to the provincial fiscal stating that the said opposition(s) to motion was prepared by Soriano without Pangilinan's consent and intervention and that "the same is the sole responsibility" of Soriano.

In his answer to the complaint, Soriano affirmed that he had acted within the scope of his authority as private prosecutor when he prepared, signed and filed the oppositions concerned. We referred the case to the Solicitor General for investigation, report and recommendation.

While that investigation was being conducted or on December 15, 1980, the Court of First Instance of Pampanga acquitted Soriano of falsification. It found that the preparation and filing of the pleadings concerned were "not only known to the trial fiscal but were even authorized by him".

Considering that the instant disbarment case is based on the same facts for which Soriano was acquitted of falsification of public documents, we agree with the Solicitor General that this case should likewise be dismissed.

Although the questioned pleadings might have been prepared by Soriano alone, thus prompting Pangilinan to label them as Soriano's "sole responsibility"; Pangilinan was not really ignorant of Soriano's intention to file those pleadings. He was in court when Soriano orally opposed the defense counsel's motions. (See *People vs. Beriales*, L-39962, March 3, 1977, 76 SCRA 42.)

"The power to disbar attorneys ought always to be exercised with great caution, and only in clear cases of misconduct which seriously affects the standing and character of the lawyer as an officer of the court and member of the bar" (*Deles vs. Aragona, Jr.*, Adm. Case No. 598, March 28, 1969, 27 SCRA 633). There is no ground for subjecting Soriano to any form of disciplinary action.

WHEREFORE, the complaint for disbarment is hereby dismissed.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, Abad Santos, and Escolin, JJ., concur.
De Castro, J., on leave.

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