

LUIS G. CONSTANTINO, COMPLAINANT, VS. ATTY. PRUDENCIO G. SALUDARES, RESPONDENT.

A.C. No. 2029. December 07, 1993

Ponente: BIDIN, J.

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BIDIN, J.:

In an Affidavit-Complaint dated April 21, 1978, complainant Luis G. Constantino charges respondent Atty. Prudencio S. Saludares with conduct unbecoming of a lawyer for the non-payment of a loan which the latter obtained from complainant's son Luis Constantino, Jr.

It appears that sometime in August 1977, respondent borrowed money in the amount of P1,000.00 from complainant's son Luis, Jr. Respondent procured the loan purportedly for an urgent personal obligation promising to pay it back promptly the following day.

Respondent failed to comply with his promise. Subsequent demands for payment were then made by Luis, Jr. but to no avail.

In the interim, Luis, Jr. left the country and afterwards wrote his father, authorizing the latter to collect the sum of money owed by respondent. Despite complainant's repeated demands however, respondent persistently refused to pay back the said amount, prompting the former to seek assistance from the Civil Relations Office of the Armed Forces of the Philippines (AFP) through an affidavit-complaint. The Civil Relations Office in turn endorsed the affidavit-complaint to this Court on April 24, 1978. (Rollo, p. 4)

The complaint alleges that respondent lawyer, by abusing the trust and confidence of complainant's son, was able to obtain a loan in the amount of P1,000.00 which he unjustifiably refused and still refuses to pay despite repeated demands. This act, complainant alleges, constitutes conduct unbecoming an officer of the court and is a clear violation of respondent's oath of office.

In compliance with this Court's resolution dated May 25, 1979, respondent filed his comment on the affidavit-complaint alleging among other things that the complaint was without basis and malicious in nature. He however, categorically admits having borrowed money from complainant's son, Luis, Jr. He reasons out that he was unable to repay the loan because Luis, Jr. failed to appear at the appointed place of payment. Respondent further cites the fact of Luis Jr.'s absence from the country to justify such act of non-payment.

Complainant, in his reply, challenged the veracity of respondent's contentions and reiterated his previous allegation of respondent's unjustified refusal to settle his indebtedness despite repeated demands.

On October 15, 1979, the case was duly referred to the Office of the Solicitor General for investigation, report and recommendation pursuant to Section 3 of Rule 139 of the Rules of Court and was assigned to the office of Solicitor Jesus G. Bersamira. After the investigation conducted by the said Solicitor, wherein respondent failed to appear despite due notice, the case was deemed submitted for report and recommendation. Solicitor Bersamira, however, was appointed to the Bench and no report nor recommendation was made by him. On November 8,

1984 the case was re-assigned to another Solicitor.

On March 12, 1990, the Solicitor General rendered its report, the dispositive portion of which reads:

"WHEREFORE, it is respectfully recommended that Atty. Prudencio S. Saldares be charged with violation of Section 27, Rule 138 of the Rules of Court of the Philippines and his Lawyer's Oath and that he be suspended for 1 year from the practice of law.

Attached is a copy of the complaint for suspension."

(Solicitor General's Report and Recommendation, p. 3)

The Solicitor General found that respondent's unjustified refusal to settle his debt was apparent from the averments in the affidavit-complaint and this fact was sufficiently established during the proceedings before the investigating Solicitor. The Solicitor General further adds that respondent's refusal to pay the debt constitutes a violation of his lawyer's oath under Section 27 of Rule 138 of the Rules of Court, and is therefore a proper subject for disciplinary action.

There is no doubt that respondent, borrowed P1,000.00 from Luis Constantino, Jr. purportedly for an urgent personal need, promising to pay it back the following day. As a matter of fact, the respondent admits said indebtedness but has not given any just and valid reason for his refusal to pay this debt.

It has been held that when a lawyer's integrity is challenged by evidence, it is not enough that he denies the charges against him, he must meet the issues and overcome the evidence for the relator and show proof that he still maintains the highest degree of morality and integrity which is at all times expected of him (*Quingwa vs. Puno*, 19 SCRA 439 [1967]).

By his failure to present convincing evidence to justify his non-payment of the debt, not to mention his seeming indifference to the complaint brought against him made apparent by his unreasonable absence from the proceedings before the Solicitor General, respondent failed to demonstrate that he still possessed the integrity and morality demanded of a member of the Bar.

Granting *arguendo* that he failed to meet Luis, Jr. at the appointed place of payment, respondent does not deny the fact that he has refused and still refuses to repay the P1,000.00 loan despite repeated demands by complainant who was duly authorized to collect the same. Had respondent intended to settle his indebtedness, he could have done so in the several instances repayment was demanded of him.

It is clear from the records that after Luis, Jr. left the country, complainant and his wife took turns in trying to recover the debt from respondent, only to be repeatedly turned away empty-handed. This prompted Luis, Jr. to write respondent a letter dated February 3, 1978 reminding the latter of the P1,000.00 loan extended to him and at the same time demanding payment thereof. (*Rollo*, p. 19) This however, like the other demands, was left unheeded.

The foregoing factual antecedents compel Us to conclude that from the very beginning, respondent had no intention to honor and/or pay his just debt. We cannot simply close our eyes to the unwarranted obstinacy displayed by respondent in evading payment of a debt validly incurred. Such a conduct, to say the least, is unbecoming and does not speak well of a member of the Bar. A lawyer's professional and personal conduct must at all times be kept beyond reproach and above suspicion. He must perform his duties to the Bar, to the courts, to his clients, and to society with honor and dignity (*Marcelo vs. Javier*, 214 SCRA 1 [1992]).

The facts and evidence obtaining in this case indubitably establish respondent's failure to live up to his duties as a lawyer in consonance with the strictures of the lawyer's oath, the Code of Professional Responsibility and the

Canons of Professional Ethics, thereby degrading not only his person but his profession as well.

Rule 1.01 of the Code of Professional Responsibility clearly provides that a lawyer must not engage in unlawful, immoral or deceitful conduct. A member of the Bar must act with integrity, honesty and professional decorum. He must comport himself in a manner which will secure and preserve respect and confidence of the public. Both his professional and personal conduct must be kept beyond reproach and above suspicion. He is required not only in fact to be possessed of good moral character, but must also be perceived to be leading a life in accordance with the highest moral standards of the community. His conduct should be characterized by candor, competence and fairness (Roque Vs. Clemencio, 212 SCRA 618 [1992]).

It bears stressing that a lawyer can do honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients. No moral qualification for bar membership is more important than truthfulness and candor. (Fellner vs. Bar Association of Baltimore City, 131 A. 2d 729 as cited in Tan vs. Sabandal, 206 SCRA 473 [1992]). To this end nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty and integrity of the profession (Lyons vs. Hall [LQ App] 90 So2d 519, 60 ALR 2d 1003 as cited in Marcelo vs. Javier, supra).

While it is true that there was no attorney-client relationship between respondent and complainant, it is well-settled that an attorney may be removed or otherwise disciplined not only for malpractice and dishonesty in the profession, but also for gross misconduct not connected with his professional duties, showing him to be unfit for the office and unworthy of the privileges which his license and the law confer upon him (Lizaso vs. Amante, 198 SCRA 1 [1991]).

In the case at bar, it is clear to the Court that the conduct of respondent Saldares in failing to honor his just debt to complainant's son constituted dishonest and immoral conduct. This dishonest conduct was compounded by respondent's act of interjecting paltry excuses for his unwarranted refusal to pay a valid and just debt.

WHEREFORE, the Court hereby ORDERS the Suspension of Attorney Prudencio S. Saldares from the practice of law for a period of three (3) months from notice, with the warning that a repetition of the same or any other misconduct will be dealt with more severely. Let a copy of this resolution be spread on the records of said respondent, with copies thereof furnished to the Integrated Bar of the Philippines and duly circularized to all courts.

SO ORDERED.

Feliciano, (Chairman), Romero, Melo, and Vitug, JJ., concur.

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