

ESTEBAN M. LIBIT, COMPLAINANT, VS. ATTYS. EDELSON G. OLIVA AND FLORANDO A. UMALI, RESPONDENTS.

A.C. No. 2837. October 07, 1994

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PER CURIAM:

In Civil Case No. 84-24144 of the Court of First Instance of Manila, entitled “Pedro Cutingting, plaintiff versus Alfredo Tan, defendant”, the Honorable Presiding Judge Domingo Panis issued the following order:

The Director of the National Bureau of Investigation (NBI) is hereby ordered to conduct an investigation with the end in view of determining the author of the Sheriff's Return which appears to have been falsified and to institute such criminal action as the evidence will warrant. (p. 1, Final Report.)

After conducting the necessary investigation, the National Bureau of Investigation (NBI), through herein complainant, charged respondents, as follows:

That sometime in May 1984 in the City of Manila, at the Regional Trial Court, Branch XLI, Manila, Philippines, the above-named Respondents, as Counsels for PEDRO CUTINGTING in Civil Case No. 84-24144, entitled PEDRO CUTINGTING, Plaintiff vs. ALFREDO TAN, Defendant, did then and there, knowingly, wilfully introduced/presented in evidence before the aforesaid Regional Trial Court, a falsified Sheriff's Return of summons during the hearing of the aforesaid Civil Case thereby impeding and/or obstructing the speedy administration and/or dispensation of justice, (p. 2, Final Report, ff. p. 69, Record.)

Respondents in their respective answers denied having any hand in the falsification of the said sheriff's return.

Pursuant to Rule 139-B of the Rules of Court and the resolution of the Court En Banc of April 12, 1988, the case was referred to the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) for investigation, Report, and recommendation.

In view, however, of the report of the National Bureau of Investigation to the effect that the signature above the typewritten name Florando Umali on the last page of the complaint in said civil case is not his signature, complainant, through counsel, agreed to the dismissal of the case with respect to Atty. Umali.

With respect to Atty. Edelson G. Oliva, the IBP submitted the following report and recommendation:

There is ample evidence extant in the records to prove that Atty. Oliva has something to do with the falsification of the Sheriff's Return on the Summons in said Civil Case No. 84-24144.

The oral and documentary evidence of the complainant strongly tend to show the following: (1) The Sheriff's Return of the Summon in the said civil case was falsified as it was not signed by Deputy Sheriff Rodolfo Torella (Exh. "J" -Sworn Statement of Rodolfo Torella dated February 1, 1985, and Exh. "S", which is the falsified Sheriff's Return); (2) The summons was received from the Clerk of Court of the Manila RTC-Branch LXI by Ronaldo Romero, a messenger in the law office of Attys. Umali and Oliva and said messenger brought the summons to the law office of the respondents (Exh. "H" - Sinumpaang Salaysay ni Ronaldo Romero, and Exh. "G", Exh. "I" -Sworn Statement dated February 28, 1985 of Mariano Villanueva, Chief Staff Asst. 2, RTC, Manila; (3) On the basis of the falsified Sheriff's Return on the Summons, Atty. Oliva, counsel for the

defendant [should be plaintiff] in said civil case/ filed a typewritten Motion to Declare Defendant in Default (Exh. "R" - Motion To Declare Defendant In Default in said civil case signed and filed by Atty. Oliva); (4) On March 29, 1984, Atty. Oliva, in his capacity as Operations Manager of Judge Pio R. Marcos Law Office, sent a final demand letter on Alfredo Tan, the defendant in said civil case, for payment of the sum of P70,174.00 (Exh. "T" - Demand Letter dated March 28, 1984 of Atty. Oliva addressed to Alfredo Tan); (5) The demand letter of Atty. Oliva (Exh. "T"), the complaint in said civil case (Exh. "Q", "Q-1" and "Q-2"), the falsified Sheriff's Return on the Summons (Exh. "S"), the Motion To Declare Defendant In Default dated October 30, 1984 signed and filed by Atty. Oliva (Exh. "R" and R-1") were typed on one and the same typewriter as shown in the Questioned Document .Report No. 198-585 dated 19 June 1985 (Exh. "Q", "Q-1" and "Q-2"; Exh. "V", "V-1" and "V-2"),

After a careful review of the record of the case and the report and recommendation of the IBP, the Court finds that respondent Atty. Edelson G. Oliva committed acts of misconduct which warrant the exercise by the Court of its disciplinary powers. The facts, as supported by the evidence, obtaining in this case indubitably reveal 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. A lawyer's responsibility to protect and advance the interests of his client does not warrant a course of action propelled by ill motives and malicious intentions against the other party.

At this juncture, it is well to stress once again that practice of law is not a right but a privilege bestowed by the State on those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege. One of these requirements is the observance of honesty and candor. It can not be gainsaid that candidness, especially towards the courts, is essential for the expeditious administration of justice. Courts are entitled to expect only complete candor and honesty from the lawyers appearing and pleading before them. A lawyer, on the other hand, has the fundamental duty to satisfy that expectation. It is essential that lawyers bear in mind at all times that their first duty is not to their clients but rather to the courts, that they are above all court officers sworn to assist the courts in rendering justice to all and sundry, and only secondarily are they advocates of the exclusive interests of their clients. For this reason, he is required to swear to do no falsehood, nor consent to the doing of any in court (Chavez vs. Viola, 196 SCRA 10 [1991]).

In this case, respondent Atty. Edelson Oliva has manifestly violated that part of his oath as a lawyer that he shall not do any falsehood. He has likewise violated Rule 10.01 of the Code of Professional Responsibility which provides:

A lawyer shall not do any falsehood, nor consent to the doing of any in court nor shall he mislead or allow the court to be misled by any artifice.

Accordingly; the Court resolved to impose upon Atty. Edelson Oliva the supreme penalty of DISBARMENT. His license to practice law in the Philippines is CANCELLED and the Bar Confidant is ordered to strike out his name from the Roll of Attorneys.

The case is ordered dismissed as against Atty. Florando Umali.

SO ORDERED.

Narvasa, C.J., Cruz, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.
Feliciano, J., on leave.

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