

ROMULO G. DINSAY, PETITIONER, VS. ATTY. LEOPOLDO D. CIOCO, RESPONDENT.*A.C. No. 2995. November 27, 1996*

Ponente: FRANCISCO, J.

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Sometime in 1980, Planters Machinery Corporation (PLAMACO) mortgaged to Traders Royal Bank (the Bank) certain properties as security for the payment of its loan. PLAMACO defaulted in the payment of the loan for which reason the Bank extrajudicially foreclosed the mortgage. At the foreclosure sale held on March 8, 1994 and conducted by Deputy Sheriff Renato M. Belleza, the mortgaged properties were sold to the bank, the sole bidder. Thereafter, a Certificate of Sheriff's Sale^[1] was executed by respondent Atty. Leopoldo D. Cioco, then Clerk of Court and Ex-Officio Sheriff,^[2] which document was notarized by Judge Vivencio T. Ibrado, Sr.^[3] on the same day.^[4]

In April of 1984,^[5] records disclose that Page Four (4) of the said Certificate was surreptitiously substituted. The new page lowered the bid price from the original amount of P3,263,182.67^[6] to only P730,000.00.^[7] Consequent to such anomaly, respondent and Deputy Sheriff Renato M. Belleza, were administratively charged. In the first Dinsay case, a per curiam resolution promulgated on December 12, 1986, we decreed their dismissal for "grave misconduct highly prejudicial to the service".^[8]

In the instant complaint, respondent Atty. Leopoldo D. Cioco is now sought to be disbarred on the basis of the aforementioned incident that triggered his untimely dismissal.

Respondent, interposing *res adjudicata*, maintains that he may no longer be charged with disbarment as this was deemed adjudicated in the first Dinsay case.

We find this contention to be without merit. "The doctrine of *res adjudicata* applies only to judicial or quasi-judicial proceedings and not to the exercise of the [Court's] administrative powers,"^[9] as in this case. Neither can it be successfully argued that the instant disbarment case has been already adjudicated in the first Dinsay case. Therein, respondent was administratively proceeded against as an erring court personnel under the supervisory authority of the Court.^[10] Herein, respondent is sought to be disciplined as a lawyer under the Court's plenary authority over members of the legal profession. While respondent is in effect being indicted twice for the same misconduct, it does not amount to double jeopardy as both proceedings are admittedly administrative in nature.

As a general rule, a lawyer who holds a government office may not be disciplined as a member of the bar for misconduct in the discharge of his duties as a government official.^[11] However, if that misconduct as a government official is of such a character as to affect his qualification as a lawyer or to show moral delinquency, then he may be disciplined as a member of the bar on such ground.^[12]

In this case, we agree with the findings of the Office of the Bar Confidant (OBC) that the participation of the

respondent in the changing of the bid price in the Certificate of Sheriff's Sale affects his fitness as a member of the bar. As a lawyer, respondent knows that it is patently illegal to change the content of the said certificate after its notarization, it being already a public document.[13] Respondent cannot seek refuge behind his averment that it was purely ministerial on his part to sign the new Page Four (4) of the Certificate.[14] We struck down this argument in the first Dinsay case and we will not adopt a different view here. At any rate, respondent cannot disclaim knowledge of the legal consequences of his illegal act. Thus:

"It should be noted that the substitution done would have left PLAMACO open to a deficiency judgment case whereas the original bid by the BANK would totally extinguish PLAMACO's obligation to the former. In such case, PLAMACO was effectively defrauded of the difference between original bid and that substituted by respondent." [15]

Considering the foregoing, we find the recommendation of the OBC that respondent be suspended from the practice of law for a period of one (1) year, as proper.

WHEREFORE, ATTY. LEOPOLDO D. CIOCO is hereby SUSPENDED from the practice of law for a period of one (1) year from notice hereof, with a warning that repetition of similar acts and other administrative lapses will be dealt with more severely.

Let a copy of this Resolution be made part of the personal record of the respondent in the Office of the Bar Confidant, Supreme Court of the Philippines, and copies thereof be furnished to the Integrated Bar of the Philippines and circulated to all courts.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] Dated March 8, 1984; Exhibit "A"; Rollo, pp. 19-23.

[2] Metropolitan Trial Court, Bacolod City.

[3] Presiding Judge of the Metropolitan Trial Court of Bacolod City.

[4] Exhibit "A-1"; Rollo, p. 23.

[5] Annex "A"; Rollo, p. 9.

[6] Exhibit "A-2"; Rollo, p. 22.

[7] Exhibit "E-1"; Rollo, p. 27.

[8] Dinsay v. Cioco, 146 SCRA 146 (1986).

[9] 50 CJS 603; See Nasipit Lumber Co., Inc. v. NLRC, 177 SCRA 93, 100 [1989].

[10] See Icasiano, Jr. vs. Sandiganbayan, 209 SCRA 377 [1992].

[11] Gonzales-Austria vs. Abaya, 176 SCRA 634, 649 [1989].

[12] Id., citing In Re Lanuevo, 66 SCRA 245 [1975]; See Collantes vs. Renomeron, 200 SCRA 585 [1991].

[13] Rule 132, Sec. 19.

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Public documents are:

(b) Documents acknowledged before a notary public except last wills and testaments; x x x.

[14] Rollo, p. 38.

[15] Report and Recommendation, OBC, p. 4; Rollo, p. 56.

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