

ALBERTO FERNANDEZ, ISABELO ONGTENGCO, ACHILLES BARTOLOME, AND ST. LUKES MEDICAL CENTER, COMPLAINANTS, VS. ATTORNEY BENJAMIN M. GRECIA, RESPONDENT.

A.C. No. 3694. June 17, 1993

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PER CURIAM:

This disbarment complaint against Attorney Benjamin M. Grecia was filed on August 20, 1991 by Doctors Alberto Fernandez, Isabelo Ongtengco and Achilles Bartolome and the St. Luke's Medical Center (hereafter "St. Luke's" for brevity) where they are accredited medical practitioners. The respondent is charged with dishonesty and grave misconduct in connection with the theft of some pages from a medical chart which was material evidence in a damage suit filed by his clients against the aforementioned doctors and St. Luke's.

Disciplinary proceedings like this one are- in a class by themselves. As we observed in *In Re Almacen*, 31 SCRA 562, 600, they are neither purely civil nor purely criminal. "Public interest is the primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such." The purpose is "to protect the court and the public from the misconduct of officers of the court" (*In Re Montagne & Dominguez*, 3 Phil. 577, 588), or to remove from the profession a person whose misconduct has proved him unfit to be entrusted with the duties and responsibilities belonging to the office of an attorney (*Ledesma vs. Climaco*, 57 SCRA 473; *Atienza vs. Evangelista*, 80 SCRA 338).

Disbarment is nothing new to respondent Grecia. On November 12, 1987, he was disbarred for his immoral complicity or "unholy alliance" with a judge in Quezon City to rip off banks and Chinese business firms which had the misfortune to be sued in the latter's court (*Prudential Bank vs. Judge Jose P. Castro and Atty. Benjamin M. Grecia* [Adm. Case No. 2756], 155 SCRA 604).

Three years later, on December 18, 1990, the Court, heeding his pleas for compassion and his promise to mend his ways, reinstated him in the profession. Only eight (8) months later, on August 20, 1991, he was back before the court facing another charge of dishonesty and unethical practice. Apparently, the earlier disciplinary action that the Court took against him did not effectively reform him.

The complaint of St. Luke's against Attorney Grecia was referred by the Court to Deputy Court Administrator Juanito A. Bernad for investigation, report and recommendation. The following are Judge Bernad's findings:

The late Fe Linda Aves was seven (7) months pregnant when she was admitted as a patient at St. Luke's Hospital on December 20, 1990. She complained of dizziness, hypertension, and abdominal pains with vaginal bleeding. Dr. Fernandez, head of the OB-GYNE Department of St. Luke's, Dr. Ongtengco, Jr., a cardiologist, and Dr. Bartolome, a urologist, examined Mrs. Aves and diagnosed her problem as mild pre-eclampsia (p. 63, Rollo). Five (5) days later, on Christmas Day, December 25, 1990, Mrs. Aves was discharged from the hospital, to celebrate Christmas with her family.

However, she was rushed back to the hospital the next day, December 26, 1990. On December 27, 1990, she died

together with her unborn child.

Blaming the doctors of St. Luke's for his wife's demise, Attorney Damaso B. Aves, along with his three (3) minor children, brought an action for damages against the hospital and the attending physicians of his wife. Their counsel, respondent Attorney Benjamin Grecia, filed a complaint entitled: "Attorney Damaso B. Aves, et al. vs. St. Luke's Medical Center, Drs. Alberto Fernandez, Isabelo Ongtengco, Jr. and Achilles Bartolome" in the Regional Trial Court of Valenzuela, Bulacan, where it was docketed as Civil Case No. 3548-V and assigned to Branch 172, presided over by Judge Teresita Dizon-Capulong.

On July 4, 1991, the medical records of Fe Linda Aves were produced in court by St. Luke's, as requested by Attorney Grecia. The records were entrusted to the Acting Branch Clerk of Court, Avelina Robles.

On July 16, 1991, between 8:30-9:00 o'clock in the morning, upon arriving in court for another hearing of the case, Attorney Grecia borrowed from Mrs. Robles the folder containing the medical records of Mrs. Aves.

While leafing through the folder, Grecia surreptitiously tore off two (2) pages of the medical records. The respondent's act was noticed by Mrs. Robles and Maria Arnet Sandico, a clerk. They saw Grecia crumple the papers and place them inside the right pocket of his coat. He immediately returned the folder to Mrs. Robles (who was momentarily rendered speechless by his audacious act) and left the office.

Mrs. Robles examined the medical chart and found pages "72" and "73" missing. She ordered Sandico to follow the respondent. Sandico saw Grecia near the canteen at the end of the building, calling a man (presumably his driver) who was leaning against a parked car (presumably Grecia's car). When the man approached, Grecia gave him the crumpled papers which he took from his coat pocket, Sandico returned to the office and reported what she had seen to Mrs. Robles. The latter in turn reported it to Judge Capulong. The three of them - Judge Capulong, Mrs. Robles and Ms. Sandico - went downstairs. Ms. Sandico pointed to Judge Capulong the man to whom Grecia had given the papers which he had filched from the medical folder of Linda Aves. Judge Capulong told Sandico to bring the man to her chamber. On the way back to her chamber, Judge Capulong saw the plaintiff, Attorney Damaso Aves, and St. Luke's counsel, Attorney Melanie Limson. She requested them to come to her office.

In the presence of Attorneys Aves and Limson, Mrs. Robles, Ms. Sandico, and a visitor, Judge Capulong confronted the man and ordered him to give her the papers which Grecia had passed on to him. The man at first denied that he had the papers in his possession. However, when Sandico declared that she saw Grecia hand over the papers to him, the man sheepishly took them from his pants pocket and gave them to Judge Capulong. When the crumpled pages "72" and "73" of the medical folder were shown to Sandico, she identified them as the same papers that she saw Grecia hand over to the man.

After the confrontation, Sandico and Robles went back to their office. Mrs. Robles collapsed in a dead faint and was rushed to the Fatima Hospital where she later regained consciousness.

In the ensuing excitement and confusion of recovering the stolen exhibits, no one thought of ascertaining the identity of the man from whom they were recovered. Judge Capulong belatedly realized this, so she directed the Valenzuela Police to find out who he was. She also ordered Sandico to submit a formal report of the theft of the exhibits to the police.

A police investigator, PO3 Arnold Alabastro, tried to ascertain the name of Grecia's driver who was known only as "SID." He located Grecia's house in Quezon City. Although he was not allowed to enter the premises, he was able to talk with a housemaid. He pretended to be a cousin of "SID" and asked for the latter. The housemaid informed him that "SID" was sent home to his province by Grecia.

He talked with Grecia himself .but the latter denied that he had a driver named "SID."

PO3 Alabastro also talked with one of Grecia's neighbors across the street. The neighbor confirmed .that Grecia's driver was a fellow named "SID".

The incident caused enormous emotional strain to the personnel of Judge Capulong's court, so much so that the Acting Branch Clerk of Court, Avelina Robles, was hospitalized. Because of the incident, Judge Capulong inhibited .herself from conducting the trial of Civil Case No. 3548-V.

On August 20, 1991, St. Luke's filed this disbarment case against Grecia.

At the investigation of the case by Judge Bernad, Attorney Damaso Aves, the surviving spouse of the late Fe Linda Aves and plaintiff in Civil Case No. 3548-V, testified that it was Attorney Bu Castro, counsel of the defendants in said Civil Case No. 3548-V, who lifted two pages from the medical folder which lay among some papers on top of the table of Acting Branch Clerk of Court Robles. When he allegedly went outside the courthouse to wait for Attorney Grecia to arrive, he noticed Attorney Castro come out of the building and walk toward a man in the parking lot to whom he handed a piece of paper. Afterward, Attorney Castro reentered the courthouse.

Respondent Grecia denied any knowledge of the theft of the exhibits in the Aves case. He alleged that the person who was caught in possession of the detached pages of the medical record was actually "planted" by his adversaries to discredit him and destroy his reputation.

He denied that he had a driver. He alleged that his car was out of order on July 16, 1991, so he was fetched by the driver of Attorney Aves in the latter's "Maxima" car. He arrived in the courthouse at exactly 9:15 in the morning and went straight to the courtroom on the second floor of the building. He did not leave the place until his case was called at 9:40. Since it was allegedly a very warm day, he wore a dark blue barong tagalog, not a business suit. He branded the testimony of Ms. Sandico as an absolute falsehood. He alleged that he would not have done the act imputed to him, because the medical chart was the very foundation of the civil case which he filed against St. Luke's and its doctors. He wondered why the man, alleged to be his driver, to whom he supposedly gave the detached pages of the medical chart, was neither held nor arrested. His identity was not even established.

He likewise branded the testimony of Police Investigator Alabastro as a fabrication for he had never seen him before.

He underscored the fact that none of the lawyers in the courthouse, nor any of the court personnel, accosted him about the purloined pages of the medical record and he alleged that the unidentified man remained in the courtroom even after the confrontation in the Judge's chamber.

In evaluating the testimonies of the witnesses, Judge Bernad found the court employee, Maria Arnie Sandico, and Acting Branch Clerk of Court Avelina Robles entirely credible and "without any noticeable guile nor attempt at fabrication, remaining constant even under pressure of cross examination" (p. 11, Judge Bernad's Report).

That the Acting Branch Clerk of Court, Mrs. Robles, who is not even -a lawyer, and her lowly clerk, Ms. Sandico, did not promptly raise a hue and cry on seeing Grecia tear off two pages of the medical record, was understandable for they hesitated to confront a man of his stature. Nevertheless, they had the presence of mind to immediately report the matter to their Judge who forthwith took appropriate steps to recover the exhibits. Robles, Sandico and PO3 Alabastro had absolutely no motive to testify falsely against the respondent.

While Judge Capulong took the blame for failing to ascertain the identity of Attorney Grecia's "driver," her swift action in summoning and confronting him "led to the recovery of the stolen pages of the medical chart.

Unfortunately, the inquiry made by Police Investigator Arnold Alabastro into the identity of the man was fruitless for he was never seen again.

Attorney Aves' allegation that it was St. Luke's counsel, Attorney Castro, not Grecia, who stole the pages from the medical folder and slipped them to an unidentified man, is an incredible fabrication. Not only is it directly contradicted by Mrs. Robles and Ms. Sandico, but, significantly, Attorney Aves failed to mention it during the confrontation with the man inside Judge Capulong's chamber where he (Attorney Aves) was present.

His other allegation that he saw the man inside the courtroom afterwards, is not credible for he would have called the attention of Judge Capulong who, he knew, had been looking for the man to ascertain his identity.

In view of his obvious bias for his counsel, Aves' testimony was properly disregarded by the investigator, Judge Bernad. Likewise wanting in truth and candor was Grecia's testimony. Judge Bernad noted that while Grecia was punctilious when testifying on the hour of his arrival in court (9:15 A.M.) on July 16, 1991, and he even remembered that on that day he wore a dark blue barong tagalog (an apparel that has no pockets), his memory was not as sharp when he was cross-examined regarding more recent events. For instance, he insisted that Judge Bernad was absent on August 4, 1992, but the truth is that a hearing was held on that date as shown by the transcript.

When he was confronted with exhibits "A" and "B," Grecia tried to make an issue of the absence of a court order to deposit Linda Aves' medical chart in court. He forgot that it was he who asked that the chart be left with the clerk of court.

His allegation that he would be the last person to remove pages 72 and 73 of the medical chart for the entries therein are favorable to his client's cause is specious. As a matter of fact, the entries show that after Mrs. Aves was readmitted to the hospital on December 26, 1990, the doctors were able to stabilize her blood pressure with a normal reading of 120/80.

On the basis of the evidence presented before Judge Bernad, the Court is convinced that the charge against Attorney Benjamin M. Grecia is true. By stealing two pages from Linda Aves' medical chart and passing them on to his driver, he violated Rule 1.01, Canon 1 of the Rules of Professional Responsibility as well as Canon 7 thereof which provide that:

"Canon 1. x x x

"Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral and deceitful conduct."

"Canon 7. A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the Integrated Bar.

A lawyer is an officer of the courts; he is "like the court itself, an instrument or agency to advance the ends of justice" (People ex rel Karlin vs. Culkin, 60 A.L.R. 851, 855). An incorrigible practitioner of "dirty tricks," like Grecia would be ill-suited to discharge the role of "an instrument to advance the ends of justice."

The importance of integrity and good moral character as part of a lawyer's equipment in the practice of his profession has been stressed by this Court repeatedly.

"x x x The bar should maintain a high standard of legal proficiency as well as of honesty and fair dealing. Generally speaking, 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. 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. (Marcelo vs. Javier, Sr., A.C. No. 3248, September 18, 1992, pp. 13-14.)

"x x x. The nature of the office of an attorney at law requires that he shall be a person of good moral character. This qualification is not only a condition precedent to admission to the practice of law; its continued possession is also essential for remaining in the practice of law, in the exercise of privileges of members of the Bar. Gross misconduct on the part of a lawyer, although not related to the discharge of professional duties as a member of the bar, which puts his moral character in serious doubt, renders him unfit to continue in the practice of law." (Melendrez vs. Decena, 176 SCRA 662, 676.)

"x x x public policy demands that legal work in representation of parties litigant should be entrusted only to those possessing tested qualifications and who are sworn to observe the rules and the ethics of the profession, as well as being subject to judicial disciplinary control for the protection of courts, clients and the public." (Phil. Association of Free Labor Unions [PAFLU] vs. Binalbagan Isabela Sugar Company, 42 SCRA 302, 305.)

By descending to the level of a common thief, respondent Grecia has demeaned and disgraced the legal profession. He has demonstrated his moral unfitness to continue as a member of the honorable fraternity of lawyers. He has forfeited his membership in the BAR.

"Generally, a lawyer may be disbarred or suspended for any misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, in honesty, probity and good demeanor or unworthy to continue as an officer of the court, or an unfit or unsafe person to enjoy the privileges and to manage the business of others in the capacity of an attorney, or for conduct which tends to bring reproach on the legal profession or to injure it in the favorable opinion of the public." (Marcelo vs. Javier, Sr., A.C. No. 3248, September 18, 1992, p. 15.)

WHEREFORE, the Court finds Attorney Benjamin Grecia guilty of grave misconduct, dishonesty, and grossly unethical behavior as a lawyer. Considering that this is his second offense against the canons of the profession, the Court resolved to impose upon him once more the supreme penalty of DISBARMENT. His license to practice law in the Philippines is hereby CANCELLED and the Bar Confidant is ordered to strike out his name from the Roll of Attorneys.

SO ORDERED.

Cruz, Feliciano, Bidin, Grino-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo and Quiason, JJ., concur.

Narvasa, C.J., No Part. Related to counsel of one party.

Padilla, J.,

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