

DOMINGO C. GAMALINDA, COMPLAINANT, VS. ATTYS. FERNANDO ALCANTARA AND JOSELITO LIM, RESPONDENTS.

A.C. No. 3695. February 24, 1992

Ponente: NARVASA, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-3695/>

NARVASA, C.J.:

In his verified letter-complaint dated June 19, 1991,[1] complainant Domingo Gamalinda charges retired Judge Fernando Alcantara and Atty. Joselito Lim with grave abuse of their profession ("labis nilang pag-abuso sa kanilang propesyon"), deception, threats, dishonoring and injuring the reputation of said complainant and bringing about the loss of his land.

The court finds the charges to be without basis and accordingly dismisses them.

The administrative complaint against retired Judge Fernando Alcantara is a futile attempt to resurrect the charges filed against him in Adm. Matter No. MTJ-90-494, which were dismissed by this Court in its resolution of September 8, 1988 for having become moot and academic. Adm. Matter No. MTJ-90-494 was filed only on July 22, 1987, or five (5) months after the respondent judge's retirement from the service on February 3, 1987. No motion for reconsideration having been seasonably filed by complainant, that resolution has become final and executory. It serves as a bar to a relitigation of the same charges against respondent judge.[2] That those charges are now being brought against respondent judge in his capacity as an attorney does not help the cause of complainant, for the change in the form of action or remedy pursued does not bar the application of the rule of res judicata.[3]

On the other hand, the record establishes that Atty. Lim was merely performing his duty as counsel for the plaintiffs in Civil Case No. 3827 when he did what is now complained of.[4]

In Civil Case No. 3827 of the Regional Trial Court of Tarlac, Branch LXIII, Salud Balot and Felicidad Balot had sued the heirs of Apolinario Gamalinda[5] for reconveyance, with damages, of the eastern half of Lot No. 3217 of the cadastral survey of Victoria, Tarlac, which was allegedly inadvertently included in the original certificate of title of Apolinario Gamalinda. In the course of the trial, plaintiffs were able to secure a writ of preliminary injunction against the "defendants, their agents, representatives or other persons acting in their behalf, ordering them to desist from threshing and carting away the palay harvest on Lot No. 3217 of the Cadastral Survey of Victoria, * * * until further order of this Court. * * *"[6] This injunction was made permanent in the decision of the lower court rendered on July 26, 1977 in favor of the plaintiffs.

Pending appeal to the Court of Appeals, complainant herein entered a portion of the area in dispute, in the belief that the whole of Lot No. 3217 belonged to him by virtue of a Deed of Extrajudicial Settlement with Quitclaim[7] executed in his favor by the heirs of Apolinario Gamalinda on May 6, 1985. It must be noted that at that time title to Lot No. 3217 was still in the name of Apolinario Gamalinda. Thus, when Maximiano Tiburcio, Protacio Cabatino and Maxima Mateo, tenants of Salud Balot, entered the portion being cultivated by complainant, the latter reported the incident to the police.

From Salud Balot's viewpoint, it was complainant who intruded into her land. Relying therefore on the injunction issued by the lower court, she filed through counsel, Atty. Lim, a motion to declare complainant Gamalinda in contempt of court.

Complainant interposed the defense that the area in dispute in Civil Case No. 3827 was different from the area occupied by him. To resolve the issue, the lower court with his agreement, ordered a resurvey of Lot No. 3217. The result of the resurvey showed that contrary to complainant's claim, the lot occupied by him was the very same land involved in Civil Case No. 3827. Accordingly, the lower court declared complainant in contempt in an order dated July 24, 1986 which was affirmed on appeal by the Court of Appeals in a decision rendered on March 21, 1998.[8]

Considering that Tiburcio, Cabatino and Mateo are tenants of Salud Balot and complainant is the successor-in-interest of the heirs of Apolinario Gamalinda, the defendants in Civil Case No. 3827, it is clearly erroneous for complainant to claim that neither he nor Tiburcio, Cabatino and Mateo had anything to do with said civil case. Being privies to the parties, they are necessarily bound by the orders rendered in said case.

On October 12, 1987, the Court of Appeals rendered a decision, affirming in toto the judgment of the lower court in Civil Case No. 3287.[9] After the appellate court's decision had become final, Atty. Lim moved for the execution of the affirmed judgment,[10] and when the writ of execution was returned unsatisfied, filed an "Urgent Motion to Require Domingo Gamalinda to Surrender TCT 186299 to the Clerk of Court and to Authorize the Latter to Execute s Reconveyance of Lot 3217-A in Favor of Plaintiffs." [11] That motion was granted by the lower court, but complainant refused to surrender the Owner's Copy of TCT No. 186299, prompting Atty. Lim to file the questioned "Motion to Declare Owner's Copy of TCT 186299 Null and Void," [12] which the lower court granted on July 31, 1989.

It is clear from the foregoing that the questioned acts of Atty. Lim were all done in line with his duty to prosecute his clients' cause in Civil Case No. 3827. The first motion was filed to protect his clients' possessory rights over the property in dispute while the second motion was made to procure execution of the decision in Civil Case No. 3827.

A lawyer owes fidelity to the cause of his client and must be mindful of the trust and confidence reposed in him.[13] He shall serve his client with competence and diligence,[14] and his duty of entire devotion to his client's cause not only requires, but entitles him to employ every honorable means to secure for the client what is justly due him or to present every defense provided by law to enable the latter's cause to succeed.[15] An attorney's duty to safeguard the client's interests commences from his retainer until his effective release from the case[16] or the final disposition of the whole subject matter of the litigation.[17] During that period, he is expected to take such reasonable steps and such ordinary care as his client's interests may require.

This is precisely what Atty. Lim was doing when he filed the motions complained of. He should be commended, not condemned, for diligently and competently performing his duties as an attorney.

With respect to the complainant's contention that the Deed of Sale of Unregistered Land relied upon by the lower and appellate courts in Civil Case No. 3827 is a forged or fake instrument, suffice it to say that this is a matter that should have been litigated in said case instead of being raised for the first time in these proceedings. In any case, there being no showing that Atty. Lim was aware of any defect in that deed, the charge of deception against him will not lie. Absent, too, is any showing that Atty. Lim had anything to do with the preparation of the criminal information, and for the same reason he cannot be called to account for it.

ACCORDINGLY, the administrative charges against retired Judge Fernando Alcantara and Atty. Joselito Lim are

DISMISSED for lack of merit.

SO ORDERED.

Cruz, Grino-Aquino, and Medialdea, JJ., concur.

[1] Written in Tagalog and received by the Court on July 11, 1991, pp. 1-4, Rollo

[2] Sy Kao vs. Court of Appeals, 132 SCRA 302

[3] Medija vs. Patcho, 132 SCRA 530

[4] Atty. Lim is being faulted for filing two (2) motions in Civil Case No. 3827: 1) motion to declare complainant Domingo Gamalinda in indirect contempt of court; and 2) motion to declare complainant's Owner's Copy of TCT No. 186299 null and void. Complainant claims that he has nothing to do with said civil case and that the lot involved therein is different from his (complainant's) land.

[5] Namely: Jose, Irineo, Leon, Socorro, Cirilo, Wilhelmina, and Fortunato, all surnamed Gamalinda; Francisca, Praxedes, Porfirio, Pacifico, Alejandria, and Federico, all surnamed Allarde; and Avelina and Basilia, both surnamed Rigor

[6] Annex "A" to Annex "5" of Comment of Atty. Lim, p.67, Rollo

[7] Exhibit IV-A, pp. 22-26, Rollo

[8] Annex "7", Comment of Atty. Lim, pp. 73-78, Rollo

[9] CA-G.R. No. CV No. 62907, Annex "14", Ibid, pp. 105-112, Rollo

[10] Annex "15", Ibid, pp. 113, Rollo

[11] Annex "16", Ibid, pp. 115-117, Rollo

[12] Annex "17", Ibid, p. 119, Rollo

[13] Canon 17, Code of Professional Responsibility

[14] Canon 18, Ibid

[15] Canon 15, Canon of Professional Ethics; cf. Economics Ins. Co. vs. Uy Realty, G.R. No. 28056, August 31, 1970, cited in Agpalo, Legal Ethics, 4th Ed., 1989, p. 163

[16] Wack Wack Golf & Country Club vs. CA, 106 Phil. 501 (1959); Guanzon v. Aragon, 107 Phil. 315 (1960)

[17] Visitacion vs. Manit, G.R. No. 27231, March 27, 1969; Ward vs. Todd, 103 U.S. 327, 26 L Ed. 339 (1881)

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.