

FRANCISCO RADOMES, COMPLAINANT, VS. FERNANDO FABRIGARAS, RESPONDENT.*A.C. No. 641. November 19, 1982*

Ponente: FERNANDO, C.J.

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The accusation for grossly immoral conduct, deceit, and breach of his oath as member of the bar was made against respondent Fernando Fabrigaras, the offense imputed to him that, being married to one Felicidad Jumagdao, he contracted a second marriage with a certain Rosario Laureta. There was a denial of such a charge, characterizing complainant as "a vindictive, ruthless, and cruel person." [1] He added that he had "an ax to grind against respondent." [2] He further alleged in such answer: "The main cause leading to the filing of this complaint was the filing by the Provincial Fiscal of Samar of an Information for 'Attempted Murder' * * * docketed as 'Criminal Case No. 6691', against the complainant and his son, Francisco Radomes, Jr., wherein the respondent is the offended party. [A certified true copy of the Information was attached] and made an integral part of [the] answer. Respondent nearly lost his life in that incident mentioned in the said Information and it was only the will of Almighty God which saved him. After the filing of said Information, complainant has been demanding the respondent to dismiss the case against him, but respondent did not accede to such demand. In view of the refusal of respondent to accede to complainant's demand, complainant filed this case of disbarment." [3] He sought the dismissal of the case.

The case was thereafter referred to the Office of the Solicitor General for report and recommendation. [4] After such investigation duly conducted, such report embodying the recommendation was submitted on November 10, 1982. It summarizes its finding thus: "1. Petitioner has nothing to show, by way of documentary proof, that there was such marriage between respondent and Felicidad Jumagdao; 2. What he knew of such marriage was what he merely heard, hence, hearsay; 3. He has also no document to prove that Severino, Urbano, Betilda, and Yolanda, all surnamed Fabrigaras, are respondent's children by Felicidad Jumagdao, having learned of this only through rumors; 4. In spite of his search of the records of the Office of the Municipal Treasurer and the local parish priest, he has failed to locate the documents in support of his claim of marriage between respondent and Felicidad Jumagdao; 5. Municipal Treasurer Babon (who also was the local civil registrar), vouched that the Book of Marriages of the municipality for 1942 is complete. It was brought to the hearing and examined; 6. Petitioner saw for himself that the Book of Marriages of the parish priest of Wright is intact; and that it has no record of such marriage; 7. Exhibit 1 (Fr. Emilio Bernardo's certificate) attests that no such record of marriage exists." [5]

The recommendation is that respondent be exonerated.

The Court agrees with such recommendation. There is relevance to this excerpt from the opinion of Justice Malcolm in *Santiago v. Calvo*: [6] "The success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored. Private persons, and particularly disgruntled clients, may not, therefore, be permitted to use the courts as vehicles through which to vent their spleen on attorneys." [7] The doctrine set forth in *Edwards v. McCoy*, [8] a 1912 decision, Justice Moreland being

the ponente, bears repeating: "A verdict or decision with absolutely nothing to support it is a nullity, at least when directly attacked, and a body which affirms such a decision does not exercise either deliberative discretion or authority." [9] It is worthwhile to note that in the leading case of *Ang Tibay v. Court of Industrial Relations*, [10] such a principle was paraphrased by Justice Laurel in this wise: "While the duty to deliberate does not impose the obligation to decide right, it does imply a necessity which cannot be disregarded, namely, that of having something to support its decision. A decision with absolutely nothing to support it is a nullity, a place when directly attacked." [11]

WHEREFORE, the complaint against respondent Fernando Fabrigaras is dismissed for lack of merit. No costs.

Makasiar, Aquino, Concepcion, Jr., Guerrero, De Castro, and Escolin, JJ., concur.

Abad Santos, J., no part.

[1] Answer, 4.

[2] Ibid.

[3] Ibid.

[4] Solicitor General Estelito P. Mendoza was assisted by Assistant Solicitor General Eduardo G. Montenegro and Solicitor Celso P. Ylagan.

[5] Report and Recommendation, 5-6.

[6] 48 Phil. 919 (1926).

[7] Ibid, 923.

[8] 22 Phil. 598.

[9] Ibid, 601.

[10] 69 Phil. 635 (1940).

[11] Ibid, 642.

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