

MANUEL R. GO, COMPLAINANT, VS. ROMULO CANDROY, ADMITTED TO THE PHILIPPINE BAR: MARCH 9, 1957, RESPONDENT.

A.C. No. 736. October 23, 1967

Ponente: CASTRO, J.

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CASTRO, J.:

This is an administrative case for disbarment instituted by Manuel R. Go on October 24, 1966 against Atty. Romulo Candoy on the basis of acts committed by the latter allegedly constituting "deceit and grossly immoral conduct".

The complaint recites that by virtue of a "previous agreement" between the complainant Go and the respondent Candoy over "Lot 11, Block 16 (LRC) Psd-12510 Magallanes Village P-1 with an area of 350 sq. m. located at Makati, Rizal," Go gave to the Makati Development Corporation[1] on March 4, 1964 his personal check for P7,140, which sum represents the initial payment on the said lot plus the required cash bond; that by virtue of this payment, the corporation executed an "Agreement to Purchase and Sell" in favor of Candoy; that on the same date, "in view of the foregoing consideration and the additional amount of P2,000 in cash given" by Go to Candoy, the latter executed an "Agreement to Purchase and Sell" in favor of Go; that on March 31, 1964 Go gave to the corporation another personal check for P16,337.01, which amount represents the "unpaid balance of the purchase price of the said lot"; that in view of this last payment, the corporation on the same date executed a "Deed of Absolute Sale" in favor of Candoy; that on August 30, 1965 Candoy and his wife, by virtue of a "Contract to Sell", sold the land to the spouses Amado Barrientos and Astrid N. Barrientos; that to protect his rights, Go instituted a civil case (9047, CFI of Rizal) against Candoy and his wife, the spouses Barrientos and the corporation, as well as a criminal prosecution for estafa (15756, CFI of Rizal) against Candoy; and that both cases are now pending adjudication.

In answer to the complaint, Candoy admits the existence of the "Agreement to Purchase and Sell" in favor of Go as well as the "Deed of Absolute Sale" executed by the corporation in his (Candoy's) favor. He likewise admits having executed a "Contract to Sell" in favor of the spouses Barrientos, but avers that he did so only "after the petitioner (complainant) had defaulted and after the respondent had given him all the opportunity to comply, but nevertheless, the petitioner failed, so the respondent was compelled to rescind his agreement with the petitioner and it was only then that the respondent sold the lot in question to the spouses Amado Barrientos and Astrid Barrientos". As a special and affirmative defense, he asserts that there was no deceit, much less any immoral conduct, on his part in rescinding the sale to Go and selling the land to the spouses Barrientos, because he gave Go "all the opportunity to comply with their agreement and it was only after the petitioner refused to comply with their agreement that the respondent decided to rescind the agreement."

The case was referred to the Solicitor General for investigation, report and, recommendation. On January 23, 1967 Candoy, with the conformity of Go, moved to dismiss the case on the ground that they had reached an amicable settlement. On March 17, 1967 the Solicitor General, without any hearing had in the case, submitted his report and recommendation, the pertinent portions of which read as follows:

"Although this case may be disposed of in the light of the joint motion for dismissal filed by the parties and their counsel, it appears from the very answer of respondent that the double sale complained of was occasioned by a very trivial alleged violation of the first vendee of the condition of the sale, namely, the alleged non-payment of association dues in the amount of around P52.50 which in the mind of the undersigned should not have been taken advantage of by respondent. Besides, it is hard to believe the denial made under oath by respondent of receipt of P2,000.00 as additional consideration of the land sale as alleged in paragraph 3 of the petition;

"Under the circumstances, in order that lawyers may be restrained from doing any act which in any manner may be tainted with some degree of unfairness or oppressiveness, albeit legal, which, in this case is doubtful because the alleged lesion was not serious, it is advisable that the respondent be correspondingly admonished."

Commenting on the foregoing recommendation, Candoy in his memorandum expressed surprise "as to how the Solicitor General has arrived at the conclusion that 'it is hard to believe the denial made under oath by the respondent of receipt of P2,000.00 as additional consideration' when there was no investigation whatsoever conducted and the complainant has not presented any evidence to prove his allegation." Candoy argues that even on the assumption that the violation committed by Go is trivial, the fact remains that the latter committed a breach of contract justifying rescission of their agreement, and that such rescission cannot in any manner be regarded as constituting "deceit and grossly immoral conduct" on Candoy's part.

Notwithstanding the joint motion to dismiss filed by the parties, this Court can still hold the respondent Candoy accountable for breach of professional conduct, if he has committed any relative to his contractual relations with the complainants. A lawyer, whenever his moral character is put in issue, should satisfy this Court that he is a fit and proper person to enjoy continued membership in the Bar. He can not dispense with nor downgrade the high and exacting moral standards of the law profession. For this reason, a case of suspension or disbarment may proceed "regardless of interest or lack of interest of the complainants if the facts proven so warrant."^[2] It is of no moment, therefore, that the parties herein "have considered this matter closed with the termination of the transaction had" by them. What matters is whether, on the basis of the facts borne out by the record, the charge of deceit and grossly immoral conduct has been duly proven.

It is quite elementary that in disbarment proceedings, the burden of proof rests upon the complainant. To be made the basis for suspension or disbarment of a lawyer, the charge against him must be established by convincing proof. The record must disclose as free from doubt a case which compels the exercise by this Court of its disciplinary powers. The dubious character of the act done as well as of the motivation thereof must be clearly demonstrated.^[3]

Coming back to the case at hand, it is our view that the Solicitor General erred in concluding that "it is hard to believe the denial made under oath by the respondent of receipt of P2,000 as additional consideration of the land sale". Apart from the bare allegation that the complainant gave the respondent "the additional amount of P2,000.00 in cash", which allegation was squarely traversed by the latter under oath, the record is absolutely bereft of any proof that the said amount was in fact paid to, and received by, the respondent. It was easy enough for the complainant to prove payment of the amount of P2,000, by the mere tender of the corresponding receipt. Since there was no investigation conducted in the case, and the complainant has not at all presented any evidence of payment by him of the said amount, the respondent was under no obligation to prove his exception or defense.

In his report and recommendation, the Solicitor General observed "that the double sale complained of was occasioned by a very trivial alleged violation of the first vendee of the condition of the sale, namely, the alleged non-payment of association dues in the amount of around P52.50," and concluded that the rescission of the contract by the respondent was "tainted with some degree of unfairness or oppressiveness." We disagree. The

Solicitor General overlooks the fact that the breach of the "Agreement to Purchase and Sell" committed by the complainant did not embrace alone "non-payment of association dues" but as well and, more importantly, failure to pay the full consideration of the sale of the lot in question. In the said agreement, the complainant bound himself to "pay to Makati Development Corporation the balance of P19,460.00 on or before April 1, 1965 including 12% interest per annum on the said balance". The complainant paid the sum of only P16,337.01, leaving, therefore, the sizeable unpaid balance of P3,122.99. Although the question of rescission is now academic, the parties having settled their differences amicably, this Court is not prepared to say that in rescinding the agreement the respondent acted with "unfairness and oppressiveness", as he merely exercised a power explicitly conferred upon him by the said agreement, this power being one of the special stipulations and covenants thereof "strict and full compliance" with which the complainant unequivocally bound himself.

ACCORDINGLY, the complaint for disbarment against Atty. Romulo Candoy is hereby dismissed.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Angeles, and Fernando, JJ., concur.

[1] The Makati Development Corporation was the original owner of the lot in question which the respondent was authorized by the corporation to purchase.

[2] Bolivar vs. Simbol, Adm. Case 377, April 29, 1966, and the authorities therein cited.

[3] See People vs. Hammond, 191 N.E. 215, 216, and the cases therein cited.

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