

PROSPERO HIPOLITO, COMPLAINANT, VS. ATTY. ROMEO J. CALLEJO, RESPONDENT.

A.C. No. 920. October 28, 1977

Ponente: SANTOS, J.

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SANTOS, J.:

This is a Petition filed on March 3, 1970 against respondent Atty. Romeo J. Callejo, counsel of Mobil Oil Philippines, Inc. in Civil Case No. 12754, entitled "Mobil Oil Philippines, Inc. vs. Prospero Hipolito, et al.", before the Court of First Instance of Rizal. The Petition, actually a Complaint, seeks disbarment of respondent, by complainant Prospero Hipolito, one of the defendants in said case. Complainant alleged that respondent counsel falsified the signature of Rogelio Panotes appearing in the verification of the complaint in said case.[1]

After respondent had submitted his answer denying the charge against him;[2] the reply thereto filed by complainant;[3] and the Rejoinder,[4] the matter was referred to the Solicitor General on June 8, 1970, for investigation, report and recommendation.[5]

On July 13, 1977, the Solicitor General sub-mitted his Report, recommending dismissal of the petition for disbarment against respondent.[6]

The facts, as found by the Solicitor General, are as follow:

"Sometime in December 1969 or January 1970, Mobil through its general counsel Atty. Avelino Cruz, engaged the services of respondent as its retained counsel to collect from herein petitioner Prospero Hipolito and his wife, the amount of P59,812.12 allegedly due from them as dealers of Mobil and as lessees of one of the service stations of said corporation, and to effect the rescission of the dealer-retail and lease contract between it and the spouses Hipolito, as well as the recovery of the equipment of the former then allegedly in the possession of the latter (Exh. '35' for respondent). Accordingly, respondent made the cor-responding demand upon said spouses but evidently the latter did not comply therewith. Instead, petitioner herein filed a complaint dated January 20, 1970, with the Court of First Instance of Quezon City (Br. IV) docketed as Civil Case No. 14001 entitled 'Prospero Hipolito vs. Mobil Oil Philippines, Inc., et al.,' for 'Reformation of Instrument With Preliminary Prohibitory Injunction' (Exh. '6-B' for respondent). Due to the alleged failure of the spouses Hipolito to comply with the aforementioned demand of respondent in behalf of Mobil, and unaware of the complaint filed by Prospero Hipolito with the Court of First Instance of Quezon City, respondent Romeo J. Callejo, upon consultation with Mobil's general counsel in the presence of two other lawyers of Mobil, Attys. Cesar Beroya and Rogelio Panotes, advised the filing of the corresponding complaint against the spouses Hipolito and their sureties. Conformably with his advice, respondent was requested to prepare the complaint with the instruction of the general counsel of Mobil that the complaint would be verified by Atty. Cesar Berroya.

"On January 27, 1970, respondent Romeo J. Callejo went to the office of the general counsel of Mobil to have Atty. Beroya sign the verification of the complaint against the spouses Hipolito. He arrived thereat shortly before noon but Atty. Beroya was not then available as he had earlier left the office to attend to an urgent official business. After a brief conference bet-ween respondent, Mobil's general counsel Atty. Avelino Cruz,

and Atty. Rogelio B. Panotes, it was agreed that Atty. Panotes would just sign the Verification so that said complaint could be forth-with filed and included in the raffle of cases for that day. Instead of retyping pages 7 and 8 of the complaint embodying the Verification, however, respondent, with the Conformity of the other two lawyers aforementioned, just crossed-out the typewritten name of Cesar Berroya appearing in the body and at the bottom of the Verification and wrote on top of each crossed-out name, the name 'Rogelio Panotes'. Thereafter, Atty. Rogelio Panotes affixed his signature immediately above the handwritten name 'Rogelio Panotes' at the bottom of the Verification on pages 8 of the complaint (Exhs. '2', '2-C' & '35' for respondent).

"The complaint was subsequently filed with the Court of First Instance of Rizal (Branch V) docketed as Civil Case No. 12754 (Exhs. '3', '3-F', for respondent), on the basis of which, the then Presiding Judge of said court, now Associate Judge (sic, should be justice) of the Court of Appeals, the Honorable Guardson Lood, issued an 'Order' dated January 28, 1970, directing the deputy sheriff of the court to take possession of the equipment described in the complaint allegedly in the possession of the spouses Hipolito (Exh. '26-D', for the respondent). The writ was served on said spouses in the afternoon of the same day at the Mobil gasoline station operated by them. The wife of herein petitioner who actually received a copy of the writ thereupon informed the sheriff of an alleged restraining order and requested him to wait for their lawyer. The lawyer who turned out to be Atty. Jose T. Francisco, subsequently arrived but he did not have with him the alleged restraining order. Instead, said lawyer requested for a copy of Mobil's bond which was readily furnished him by respondent and thereafter, left even as the sheriff gave him about twenty minutes to return with the restraining order in question. Atty. Francisco, however, failed to return within the allotted time and so, the sheriff proceeded to implement the said writ by virtue of which, he was able to take possession of four gasoline pumps from the gasoline station operated by the spouses Hipolito (Exh. '35', Ibid).

"As a counter-move, herein petitioner Prospero Hipolito through his counsel Atty. Jose T. Francisco, filed an 'Urgent Motion To Cite Defendants & Atty. Romeo J. Callejo For Contempt of Court, etc.' (Exh. '14-B', for respondent) with the Court of First Instance of Quezon City (Branch IV) before which the afore-cited case entitled 'Prospero Hipolito vs. Mobil Oil Philippines, et al.', was pending. The motion was set for hearing on January 31, 1970, but respondent Romeo J. Callejo received a copy thereof only in the afternoon of January 30, 1970. Later in the afternoon of said date, herein respondent was informed by Mobil that it had received in the morning of the same day, the summons in Civil Case No. Q-14001 together with a copy of the complaint and the restraining order dated January 24, 1970, issued in said case.

"As respondent Romeo J. Callejo was scheduled to attend the hearing of another case in the Court of First Instance of San Fernando, Pampanga, on the same day that the aforesaid Motion of Prospero Hipolito was set for hearing, he accordingly requested Atty. Rogelio Panotes to appear before the Quezon City Court, in behalf of Mobil (Exh. '35', Ibid).

"Evidently noting the difference between the signature of Rogelio Panotes appearing in petitioner's aforementioned Motion to cite Mobil and respondent Callejo for contempt, and the signature of Rogelio Panotes written above the crossed-out name Rogelio Panotes appearing at the bottom of the Verification of the Complaint in Civil Case No. 12754, petitioner Prospero Hipolito thereafter filed the present petition for disbarment against Romeo J. Callejo." [7]

This case was first assigned to then Assistant Solicitor General, Eduardo C. Abaya--now Judge of the Court of First Instance--who conducted hearings on January 21, 1971, February 4, 1971 and February 11, 1971, wherein only one witness, complainant's counsel Atty. Jose T. Francisco, was able to testify. In a letter dated December 9, 1971, complainant and his counsel sought the withdrawal of their evidence, both testimonial and documentary, presented during the hearings, as well as the withdrawal or dismissal of their Petition for disbarment filed with this Court.[8] Attached thereto was an affidavit executed by complainant stating that his petition for disbarment against respondent was due to a misunderstanding of the facts; that the actuations of respondent in regard to the complaint in Civil Case No. 12754 were above-board and that the signature of Atty. Rogelio E. Panotes in said

complaint is genuine.[9] No action was, however, taken on this letter of complaint.

Thereafter, Solicitor Franklin S. Farolan, to whom the case was subsequently re-assigned, set the case for hearing on July 6, 1976. Complainant's counsel meanwhile filed a Manifestation reiterating complainant's letter-request for the withdrawal of the evidence preserved during the investigation of the case and of the petition for disbarment and stating further that complainant had already gone to the United States. He then prayed that the hearing set for July 6, 1976 be dispensed with and that complainant's letter-request be granted. Consequently, only respondent appeared at the hearing on July 6, 1976, who filed on the same date, a "Manifestation and Urgent Motion" to grant complainant's letter-request to withdraw all evidence presented and to dismiss petition for disbarment. Said motion of respondent was not resolved as he was required to present his evidence ex-parte.

In recommending the dismissal of the petition for disbarment against respondent, the Solicitor General made the following observations:

"The request of petitioner and his counsel for the withdrawal of their evidence and for the dismissal of the petition embodied in their letter dated December 9, 1971 (Exh. '32') coupled by petitioner's declaration in his affidavit executed under date of December 20, 1971, that the questioned signature of Rogelio Panotes appearing at the bottom of the complaint in Civil Case No. 12754 is genuine and that the actuations of Romeo J. Callejo in this regard are 'aboveboard' ineluctably render the charge against respondent Romeo J. Callejo without merit. It is of no moment that there was an alleged report made by one Col. Jose G. Fernandez to the effect that the questioned signature of Rogelio Panotes was a forgery. This alleged report is at best hearsay and has no weight in evidence considering that said Col. Fernandez was not presented as a witness and the alleged report was never offered by petitioner as evidence. Furthermore, it cannot be over-emphasized that Atty. Rogelio Panotes had firmly avowed that the illegible signature appearing at the bottom of the Verification of the Complaint in Civil Case No. 12754 is his signature. Said witness has convincingly explained in his affidavit and supplemental affidavit executed on March 25, 1970 and July 29, 1976, respectively (Exhs. '2-2-D' and '34') that the illegible signature in controversy is his genuine signature whereas his name appearing in petitioner's 'Motion To Cite Defendant and Atty. Callejo For Contempt, etc.' in Civil Case No. Q-14001, has been written by him in the ordinary way he writes his name. Against this unequivocal declaration of Atty. Rogelio Panotes, such alleged report of forgery even if considered in evidence, must necessarily fail.

"As regards the claim of petitioner that the said complaint in Civil Case No. 12754 is a falsity in that it is stated in the Verification thereof that Rogelio Panotes is the 'the counsel of the plaintiff in the above-entitled case' when the real counsel as indicated in said complaint is respondent Romeo J. Callejo, suffice it to say that there is nothing irregular much less illegal in this respect, since Rogelio Panotes then was undisputedly a counsel of Mobil. Besides, respondent has satisfactorily explained that the phrase in the above-entitled case' in the Verification is but descriptive of the word 'plaintiff' immediately preceding the phrase in question." [10]

In the absence of convincing proof of misconduct on the part of respondent, as in this case where complainant moved to dismiss the petition for disbarment and failed to substantiate the charges, and considering the satisfactory explanation given by respondent concerning the circumstances surrounding the filing of the complaint in Civil Case No. 12745 before the Court of First Instance of Rizal, We find the recommendation of the Solicitor General to dismiss the petition to be well taken.

WHEREFORE, the Petition for Disbarment against respondent is hereby DISMISSED. Let an entry of this dismissal be spread in the BAR records of Respondent.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Record, pp. 1-5.

[2] Id., pp. 31-46.

[3] Id., pp. 66-83.

[4] Id., pp. 86-93.

[5] Id., p. 85.

[6] Id., pp. 105-117.

[7] Report and Recommendation, Records, pp. 110-115.

[8] Exhibit 32 for respondent.

[9] Exhibit 32-A for respondent.

[10] Report and Recommendation, *supra*, pp. 115-116.

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