

RICAREDO P. VELEZ, COMPLAINANT, VS. ATTY. AGUSTIN T. LOCSIN, RESPONDENT.*A.C. No. 973. January 21, 1974*

Ponente: ANTONIO, J.

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This is the second of two administrative complaints filed by Ricaredo P. Velez against respondent Agustin T. Locsin predicated on the alleged moral turpitude of respondent lawyer arising from his alleged use of the name of a religious organization in the importation of a car in order to avoid the payment of taxes and customs duties.

On December 9, 1970, complainant, thru his counsel, Atty. Benito C. Jalandoni, Sr., filed his first complaint for disbarment against respondent Locsin alleging, among others, that a Pontiac Sedan, 1967 Model, with Motor No. 2J678049, was registered in the name of the Barangay Sang Virgen, a mandated religious society or organization; that it was imported into the Philippines tax-free, it having been made to appear that the car was donated to the said religious society; that it was respondent lawyer who worked for its importation and paid for it, including the yearly registration fees therefor; that pursuant to Republic Act No. 1916, the donee, the Barangay Sang Virgen, should be the only one entitled to the car's use, but it was respondent who was actually using it daily as his own car in his business and profession, in contravention of the said law and of the rules and regulations of the Department of Finance; that respondent, in violation of Republic Act No. 1916, failed to indicate with appropriate markings on the car that the same was imported tax-free; and that respondent's act of wilfully, knowingly and feloniously using the name of a religious organization for his own personal ends in order to avoid the payment of taxes and customs duties, constituted moral turpitude.

Required by this Court to answer the complaint, respondent Locsin filed an answer on January 28, 1971, alleging, among others, that the car in question was being used by him because it was assigned to him by the Barangay Sang Virgen in view of his duties as its Chief Legal Counsel and as one of the principal lawyers of the Roman Catholic Bishop of Bacolod, aside from his various services to the Roman Catholic Church; that the filing of the complaint was instigated by Attys. Bernardo B. Pablo and Benito C. Jalandoni, Sr. out of personal ill will and improper motives; that since the complainant appeared to charge respondent with a violation of tax laws, the proper forum was the regular courts, not the Supreme Court; and that disciplinary action should be taken against Atty. Jalandoni. Attached to respondent's answer as Annexes "1" and "2" were the certifications of the National President of the Barangay Sang Virgen and the Roman Catholic Bishop of Bacolod, respectively, to the effect that the Pontiac car was assigned to respondent for his use in the performance of his duties as the Chief Legal Counsel of the Barangay and one of the principal lawyers of the Roman Catholic Bishop of Bacolod.

Respondent followed up his answer with a motion to dismiss, and, later, a supplemental motion to dismiss, reiterating therein his charge of harassment on the part of Attys. Pablo and Jalandoni and praying for disciplinary action against the last named lawyer.

Complainant filed a reply to respondent's answer, expressing doubts on the authenticity of Annexes "1" and "2" of

the answer, calling them "made-to-order certificates;" pointing out respondent's failure to traverse the allegations of the complaint regarding the non-appearance of proper markings on the car, as well as respondent's failure to claim that he ever rendered service to the Barangay Sang Virgen; denying that the administrative case was an "irresponsible proceeding," as termed by respondent in his answer; and alleging that one Patrick MacKenzie bought the car with respondent's money, and the two made it appear that it was a donation by Mackenzie to the Barangay so that the car could be tax-free.

On March 9, 1971, this Court resolved "to DISMISS the charges against respondent, without prejudice to the filing of the charges with the Bureau of Internal Revenue against the importer."

That was not, however, the end of the matter insofar as the disbarment case is concerned, for, on September 11, 1973, complainant, this time thru Attys. Bernardo B. Pablo, Benito C. Jalandoni, Sr., Jose O. Hizon and Jose O. Macasa, again filed an administrative complaint against respondent Agustin T. Locsin.

In this second disbarment complaint, complainant reiterated by reference the averments of his previous complaint and in addition alleged that when the car in question was impounded by the CIS or the PC, it was respondent who took the trouble of securing the release of said car, and at his own expense; that it was respondent who paid to the Bureau of Customs the overdue taxes and customs duties in his own name, although the amount of taxes he paid was very much lower than that required by law; that neither the Catholic Bishopric of Bacolod City nor the Barangay Sang Virgen ever lifted a finger to have the car released by the PC when it was impounded; that although, before, respondent had been saying that the car was owned by the Barangay, the moment he had paid the taxes thereon he started claiming that he was the real owner thereof; that subsequently the Barangay executed a deed of conveyance over the car in favor of respondent for the consideration of P5,986.00, which amount respondent paid to the Bureau of Customs by way of taxes and duties, but obviously the said sale was effected only to establish the legal ownership of the car by respondent, considering that the CIS had already established that the true owner thereof was respondent himself, although it was registered in the name of the Barangay Sang Virgen, hence, if the taxes were not paid, the only recourse of the government would be to confiscate the car; that after the dismissal of the first administrative complaint on March 9, 1971, complainant brought the matter to the attention of the Bureau of Customs, and after martial law had been declared on September 21, 1972, he assiduously pursued the matter before the Department of Finance, the Department of National Defense, the PC and the CIS. Complainant concluded in his second complaint that on the basis of respondent's acts, it was undeniable that respondent bought the subject car with his own money, and to avoid the payment of taxes and customs duties, he made it appear that it was a donation to a religious organization.

Pursuant to this Court's resolution dated September 20, 1973, requiring respondent lawyer to file an answer to the second complaint, an answer was accordingly filed on October 18, 1973, wherein respondent alleged, among others, that he was all along of the impression that after the dismissal by this Court of the first administrative complaint against him, the matter before this Court regarding the car was forever closed; that someone from the Military, an investigator from the Bureau of Internal Revenue, another from the Department of Finance and a representative from the Bureau of Customs, Iloilo, came to him on different occasions and interviewed him regarding the car, and after each of them had left, nothing more about the matter was heard from any of them; that the suggestion to pay the taxes under the tax amnesty provisions of Presidential Decree No. 52 was originally made by CIS Sgt. Castaneda, which the Collector of Customs in Iloilo later adopted; that after the car had been impounded for seventeen days and exposed to the elements, the Barangay, with the approval of the Bishop, decided to pay the amount of taxes due under the above-mentioned decree, and accordingly the Bureau of Customs computed the amount; and that after the car had been imported into the country, the legend to the effect that it had entered the Philippines tax-free under Republic Act No. 1916, was painted on the car, per pictures

submitted by respondent to the Bureau of Customs. Respondent prayed for the dismissal of the second administrative complaint and for disciplinary action against Attys. Pablo, Jalandoon, Hizon and Macasa.

On October 25, 1973, complainant filed a reply to respondent's answer, alleging, among others, that the car never bore the required legend; that complainant was not a tool of Attys. Pablo, et al., for with or without said lawyers as his counsel, he would push through the present complaint because he was convinced that respondent was abusing the privileges accorded by law to a religious organization for his own enrichment and to enhance his personal prestige; and that before the car had been impounded, respondent was not yet the Chief Legal Counsel of the Barangay.

On the basis of the parties' pleadings and the documents attached thereto as annexes, the following essential facts have been established: that the car in question was imported into the Philippines tax-free under Republic Act No. 1916, the same having been donated and consigned to the Barangay Sang Virgen, a religious organization, for its use; that the car was assigned by the Barangay to respondent lawyer for the use of respondent as the Chief Legal Counsel of said religious organization and as one of the principal lawyers of the Roman Catholic Bishop of Bacolod; that after this Court had dismissed on March 9, 1971 the first administrative complaint tiled by complainant against respondent, complainant brought the matter of the car to the attention of the Bureau of Internal Revenue and later to the Bureau of Customs, and after martial law had been declared on September 21, 1972, complainant pressed his complaint with the Department of Finance, the Department of National Defense, the Philippine Constabulary and the CIS; that none of these governmental entities ever held respondent accountable for non-payment of duties and taxes on the car, although he was duly investigated by all of them, obviously at the instigation of complainant, until December 11, 1972, when respondent was invited by the CIS detachment and again investigated and the car was impounded; that it was suggested by the CIS Investigator that taxes and duties be paid under Presidential Decree No. 52, which suggestion the Bishop and respondent refused, because in their view it would have been an admission of some irregularity in the importation, but because of the continued impounding of the car and its deterioration as a result of its exposure to the elements, the Barangay Sang Virgen, with the prior approval of the Bishop of Bacolod, acceded to the importunings of the CIS Investigator and paid the taxes and duties under Presidential Decree No. 52; that since the Barangay had no funds with which to pay the taxes and duties, Mr. Jose Ma. Locsin, a relative of the National President of the Barangay and also of respondent, advanced the necessary amount; and that the Barangay executed a deed of absolute conveyance over the car in favor of respondent "* * * in consideration of the sum of ONE (P1.00) PESO, Philippine Currency, and other good and valuable considerations received by the TRANSFEROR from the TRANSFEREE, including the payment by the TRANSFEREE to the Government of the sum of FIVE THOUSAND EIGHT HUNDRED NINETY-SIX (P5,896.00) PESOS covering customs duties and taxes under Presidential Decree No. 52. * * *," respondent thereafter taking care of liquidating the Barangay's monetary obligation to Mr. Jose Ma. Locsin.

Under these facts one is hard put to impute moral turpitude on respondent's part. Pursuant to Republic Act No. 1916, the car was exempt from payment of all taxes and duties. That it was respondent who has been using the car, is of no moment in the face of the certification of the religious organization to which it was donated, that respondent was its Chief Legal Counsel and that it had assigned the car to him for his use in the performance of his duties as such legal officer. In any event, thru the insistence of the military authorities, and to prevent further loss and damage to the car by its continued impounding, the Barangay Sang Virgen and the Roman Catholic Bishop of Bacolod were constrained to pay the taxes due thereon under Presidential Decree No. 52 so that the car could be released.

Section 1 of Republic Act No. 1916 provides that "all donations in any form and all articles imported into the

Philippines, consigned to a duly incorporated or established international civic organization, religious or charitable society or institution for civic, religious or charitable purposes shall be exempt from the payment of all taxes and duties upon proof satisfactory to the Commissioner of Customs and or Collector of Internal Revenue that such donations in any form and articles so imported are donations for its use or for free distribution * * *." The word "use" means to employ for the attainment of some purpose or end. Evidently, the car could be used by the religious organization in any manner for the attainment of its purposes. The circumstance that the religious organization authorized respondent to use the car, after its importation, to facilitate the performance of his duties as counsel of said organization, cannot therefore constitute proof per se that the car was imported to circumvent the provisions of Republic Act No. 1916. It is for this reason that this Court resolved to dismiss the original charges filed by complainant "without prejudice to the filing of the charges with the Bureau of Internal Revenue against the importer." We cannot conclude also that there was a violation of the statute from the circumstance that the provisions of Presidential Decree No. 52 were availed of, considering the explanation given by respondent why taxes had to be paid pursuant to said decree. Similarly, the subsequent sale of the car to respondent cannot in itself be confirmatory of complainant's suspicion that the car was imported by respondent for himself, using the name of the Barangay. A plausible explanation for the sale is that the Barangay's obligation to Mr. Jose Ma. Locsin was assumed by respondent, and in connection with this, there is the undeniable circumstance that after all it was respondent who had been using the car, hence, in such a situation it was but logical that any offer for its sale should first be made to respondent.

Complainant claims, however, that Presidential Decree No. 52 provides that "[t]his tax amnesty shall apply only to vehicles which have been acquired or transferred prior to October 12, 1972," but here the deed of conveyance was executed on January 25, 1973, hence, the decree has no valid application to this case. It must be borne in mind that the Bureau of Customs computed the amount of duties and taxes due on the basis of the provisions of Presidential Decree No. 52 and accepted the payment thereof. The question whether or not the provisions of said decree were improperly availed of is one which should have been ventilated in an appropriate proceeding before the proper governmental agency and not in the present proceedings for disbarment.

Wherefore, the present administrative complaint is dismissed.

Makalintal, C.J., Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Makasiar, Esguerra, Fernandez, Muñoz Palma, and Aquino, JJ., concur.

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