

WELLINGTON REYES, COMPLAINANT, VS. ATTY. SALVADOR M. GAA, RESPONDENT.

A.M. No. 1048. July 14, 1995

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PER CURIAM:

This administrative complaint for disbarment charges respondent, a former Assistant City Fiscal of Manila, with malpractice and willful violation of his oath as an attorney.

I

On March 30, 1971, at around 9:00 A.M., complainant reported to the National Bureau of Investigation (NBI) that he had been the victim of extortion by respondent, an Assistant City Fiscal of Manila, who was investigating a complaint for estafa filed by complainant's business rival. According to complainant, he had given respondent P500.00 on March 1, 1971 and a total of P500.00 on three other occasions. He said that another "payoff" was scheduled at 11:00 A.M. that day in respondent's office at the City Hall.

An entrapment was set up by the NBI.

Complainant furnished the NBI agents several peso bills totalling P150.00 for marking. The paper bills were sent to the Forensic and Chemistry Division of the NBI and subsequently returned to complainant for use in the entrapment.

When complainant went to respondent's office, he was told that the latter would not return until around 2:30 P.M. So complainant and the NBI agents went back at around 2:30 P.M. As there were other persons doing business with respondent, complainant had to wait for thirty minutes. When finally complainant was able to see respondent, the latter greeted him in Tagalog "Ano ba ang sa iyo?" Complainant answered "Hindi tayo nagkita kaninang umaga." To which respondent replied "Oo, kanina pa kita hinihintay." Complainant then handed to respondent the marked money which he placed inside his right pocket. The NBI agents then apprehended respondent and brought him to the NBI Forensic and Chemistry Division for examination. Respondent's hands were found positive of the yellow florescent powder applied earlier to the marked money. Respondent was thereafter taken to the Office of the Anti-Organized Crime Division of the NBI where he was photographed, fingerprinted and record checked. Respondent declined to give a sworn statement to explain his side of the case, invoking his right against self-incrimination.

On the same date, the NBI recommended the prosecution of respondent for violation of Section 3(b) of R.A. No. 3019.

On April 13, 1971, the NBI recommended to the Secretary of Justice the filing of administrative charges and the institution of disbarment proceedings against him.

On April 21, 1971, President Marcos suspended respondent from office pending investigation and disposition of his administrative case (Case No. 74).

Aside from the criminal complaint and Administrative Case No. 74, two other cases were earlier filed against respondent: namely, Administrative Case No. 10 for Grave Misconduct filed by one Angel Alora on October 13, 1969, wherein respondent was found guilty as charged and was recommended for suspension; and Administrative Case No. 10-A for partiality filed by Fabiola Fajardo on April 26, 1970, which was pending resolution.

In his answer to the complaint for disbarment, respondent asserted that complainant surreptitiously planted the marked money in his pocket without his knowledge and consent.

He further said that the criminal case (IS No. 71-6558) filed against him by the NBI at the instance of complainant was still pending preliminary investigation by the City Fiscal of Manila. In connection with the incident of March 30, 1971, he said that he had filed a criminal complaint for incriminatory machination, perjury and attempted corruption of a public official against complainant with the City Fiscal of Manila.

In reply to the answer, complainant denied that the several cases against respondent were motivated by revenge, malice or personal ill will. He said that the investigating fiscal had recommended the dismissal of the charges filed by respondent against him.

In a resolution dated December 23, 1971, this Court resolved to refer the disbarment case to the Solicitor General for investigation, report and recommendation. However, upon the adoption of Rule 139-B of the Revised Rules of Court, the case was transferred to the IBP Board of Governors for investigation and disposition.

On March 15, 1993, Commissioner Vicente Q. Roxas of the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) recommended that respondent be disbarred. Said recommendation was approved by the IBP Board of Governors in its resolution dated March 26, 1994.

II

We agree with the recommendation of the IBP Board of Governors.

In the case at bench, respondent was caught in flagrante delicto in the act of receiving the marked money from complainant during the entrapment conducted by the NBI agents, which resulted in his arrest and the subsequent filing of administrative and criminal cases against him. In his defense, respondent merely denied the charge of extortion and retorted that the marked money was planted by complainant.

It is settled that affirmative testimony is given greater weight than negative testimony (*Delos Reyes v. Aznar*, 179 SCRA 653 [1989]). When the integrity of a member of the bar is challenged, it is not enough that he denies the charges against him; he must meet the issue and overcome the evidence against him (*Malcolm, Legal and Judicial Ethics* 93 [1949]). He must show proof that he still maintains that degree of morality and integrity which at all times is expected of him (*Bayasen v. Court of Appeals*, 103 SCRA 197 [1981]; *Vda. de Ramos v. Court of Appeals*, 81 SCRA 393 [1978]).

Where the misconduct of a lawyer as a government official is of such a character as to affect his qualification as a lawyer or to show moral delinquency, then he may be disciplined as a member of the bar on such grounds (*Gonzales-Austria v. Abaya*, 176 SCRA 634 [1989]).

The extortion committed by respondent constitutes misconduct as a public official, which also constitutes a violation of his oath as a lawyer. The lawyer's oath (Revised Rules of Court, Rule 138, Section 18; *People v. De Luna*, 102 Phil. 968 [1958]), imposes upon every lawyer the duty to delay no man for money or malice. The lawyer's oath is a source of his obligations and its violation is a ground for his suspension, disbarment or other disciplinary action (*Agpalo, Legal Ethics* 66-67 [1983]).

WHEREFORE, respondent is DISBARRED and his name is ordered STRICKEN OFF from the Roll of Attorneys. Let a copy of this resolution be furnished the Bar Confidant and the Integrated Bar of the Philippines and spread on the personal records of respondent.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Regalado, Davide, Jr., Romero, Quiason, Puno, Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

Bellosillo, J., on leave.

Melo, J., no part.

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