

ABUNDIO BALDOMAN, COMPLAINANT, VS. ROQUE LUSPO, RESPONDENT.

A.M. No. 1081. May 19, 1975

Ponente: ANTONIO, J.

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ANTONIO, J.:

This refers to a verified complaint for disbarment filed by Abundio Baldoman against respondent Atty. Roque Luspo on April 24, 1972, which was referred to the Office of the Solicitor General by a Resolution of this Court dated November 7, 1972, for investigation, report and recommendation.

The complainant charges respondent with coercion allegedly committed at about 5:00 o'clock in the afternoon of March 18, 1972 on the riceland of respondent in Cahayag, Tubigon, Bohol, when the palay which he harvested, as tenant of respondent, was about to be divided, and respondent arrived and threatened to kill him with his firearm if he would not divide the palay on a 50-50 basis. Simultaneously, the five (5) companions of respondent allegedly surrounded the complainant and the laborers whom he employed to harvest the palay, and brandished their respective firearms at the said complainant and his laborers. Two of the respondent's companions (Antonio Blantucas and Domingo Emipanso) fired their guns. It is asserted that due to the threat of the respondent, complainant was forced to divide the palay harvest on a 50-50 basis.

Respondent, in his answer, denied complainant's allegations, claiming that they were concocted by a lawyer of the FFF (an organization of tenants allegedly at loggerheads with the landowner). He explained that his tenant is not the complainant but Luisa Baldoman, mother of the forer, and that while he received 50% of the harvest after deducting the legal expenses incurred, this was pursuant to an agreement which he had with the aforesaid Luisa Baldoman and his other tenants. This agreement was reached after a conference with said tenants wherein it was agreed that the terms and conditions of the tenancy should be in accordance with the amicable settlement which was approved by the Court of Agrarian Relations in its decision dated September 26, 1967, in the case of Silverio Abellana vs. Roque Luspo (CAR Case No. 174), wherein the parties agreed:

"2. to divide the produce of the rice every harvest on the landholding in question on a 50-50 sharing basis, considering the fact that the landholding in question is second class and the herein defendant will shoulder the transplanting expenses, while the herein plaintiff will furnish the work animal, farm implement and undertake the final harrowing immediately before transplanting, besides his labor;"

Respondent further alleged that complainant agreed to abide with the agreement in the division of the crop after he was advised by the barrio captain to respect the agreement insofar as that harvest is concerned, which division of the crop was actually undertaken by respondent's overseer, Bruno Blantucas, together with the complainant.

On April 24, 1975, the Solicitor General submitted his report, dated April 4, 1975, recommending dismissal of the complaint for lack of merit. The relevant portion of the report stated:

"On July 31, 1973, the undersigned Solicitor, through Assistant Solicitor General Eulogio Raquel- Santos, subpoenaed the parties to the case, and required them to appear before her for investigation on August 16,

1973, at 9:00 o'clock in the morning. None of the parties or their counsels appeared, and instead, on August 23, 1973 the undersigned Solicitor received a Motion to Dismiss signed by the complainant Abundio Baldoman, which was verified and under oath, stating the following:

'2. That instead of filing a motion for postponement, I am filing this motion to dismiss, for the reason that, what really happened was that, I was not forced nor threatened by the respondent during the harvest last March 18, 1972;

'3. That respondent followed what he stated in his letter to the barrio captain, dated March 15, 1972, which the latter furnished me a copy during the harvest;

'4. That my filing of the complaint against the respondent, was only the result of hot feelings between the FFF of which I was a member and the land owners;

'5. That I have signed the foregoing motion to dismiss in my behalf, as I am no longer retaining the services of Atty. B. Baluyot.

'WHEREFORE, for the reasons stated above, this Honorable Court is most respectfully prayed to dismiss the complaint.

'Calape, Bohol, for Manila, August 15, 1973.'

"Assessing the allegations of both the complainant and the respondent in their respective pleadings and their annexes, we find on the basis thereof, that the allegations made by the respondent in his answer are more credible and sufficiently supported by evidence than those made by the complainant in his complaint. The crux of the complaint for disbarment in the instant case is the grave threats allegedly committed by the respondent and some five companions during the partitioning of the harvest in the ricefield of the respondent on March 18, 1972. This allegation of the complainant is supported only by the affidavits of two members of the FFF, apparently an organization of the tenants which is at loggerheads with the landowner, stated by the complainant in his motion to dismiss.

"The respondent satisfactorily disproved the above allegation of grave threats through the affidavits of Fulgencio Ricafort, a policeman of Tubigon Police Force, and two other disinterested residents of Cahayag, Tubigon, Bohol where the incident happened. All of them testified in their affidavits to the effect that the sharing of the palay of the respondent was peacefully made in accordance with a previous contract between the respondent and his tenants on the basis of the decision of the Court of Agrarian Relations, which was on a 50-50 sharing basis. As a matter of fact, Patrolman Fulgencio Ricafort, in his affidavit (Annex 3, Answer) states that the barrio captain was indeed present during the partition, and that he even advised the complainant to follow the said sharing system, rather than having the palay deposited with him if they could not agree. This corroborates to a certain extent the allegation of the respondent in his answer that his only companions during the partition was the said barrio captain whom he had previously invited through a letter, and that the sharing of the palay harvested was indeed peaceful and orderly.

"The affidavit of Ignacio Sab (Annex 4, Answer) is to the effect that the case of grave threats which he heard was filed against the respondent and four others, which arose out of the incident in question, was fabricated, and that although he is an FFF member, he would voluntarily testify in favor of the respondent and his co-accused, the charge being fabricated. Debunking the claims of complainant is the fact that the case of grave threats which he filed against the respondent and four others on the basis of the instant incident was dismissed by order of the court on September 28, 1972.

"The respondent has squarely met the charge in his answer and has proffered evidence to support his defense. Although a motion to dismiss does not necessarily cause a closure of a disbarment case, yet, as has been ruled by this Honorable Court, where there is no proof that respondent-lawyer was guilty of any unethical conduct, harassment and malpractice, the disbarment case against him should be dismissal (Ricafort vs. Baltazar, Adm.

Case No. 661, June 26, 1967, 20 SCRA 418; Delos Santos vs. Bolanos, Adm. Case No. 483, July 21, 1967, 20 SCRA 763) In disbarment proceedings, the burden of proof rests upon the complainant and the charge against the lawyer must be established by convincing proof (Go vs. Candoy Adm. Case No. 736, October 23, 1967, 21 SCRA 439; Toquib vs. Tomal, Jr., Adm. Case No. 554, March 25, 1970, 32 SCRA 156).

"Other than the affidavits of the two FFF members annexed to the complaint for disbarment, there is nothing on record upon which complainant may rely to support his charge of disbarment against respondent. Indeed, he has not even attempted to present any evidence, choosing to absent himself from the scheduled hearing. Instead, he filed a motion to dismiss the said charge, alleging that the filing of the complaint against the respondent was only the result of hot feelings between the FFF, of which he was a member, and the landowners. In view of the circumstances obtaining, we are inclined to agree and concur with complainant's statement, as well as his plea for dismissal."

We find the recommendation in accord with the evidence on record.

WHEREFORE, in view of the foregoing, this case is hereby dismissed.

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

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