

DALTON WOODROW WORTHINGTON, COMPLAINANT, VS. FELIPE FERNANDEZ, RESPONDENT.

A.M. No. 1085. June 10, 1976

Ponente: AQUINO, J.

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AQUINO, J.:

Dalton Woodrow Worthington lodged in 1972 a complaint for disbarment charging Atty. Felipe Fernandez with malpractice, fraud and deceit in connection with an estafa case filed in 1968 against Worthington in the office of the City Fiscal of Manila.

The subject matter of the estafa case was the blending tobacco imported by the Eastern Tobacco Trading Corporation (of which Worthington was the president). The tobacco was seized by the Bureau of Customs. The estafa case was dismissed due to the efforts of Fernandez.

Worthington alleged that on December 28, 1968 he and Fernandez entered into a contract whereby it was agreed that Eastern Tobacco Trading Corporation would pay Fernandez as attorney's fees twenty percent of the proceeds of the sale of the blending tobacco.

Worthington averred that the contract was simulated because its real purpose was to secure to himself a share in the proceeds of the sale of the seized tobacco. He denounced certain irregularities committed by Fernandez in connection with the release and disposition of the blending tobacco.

Fernandez denied the charges. He insinuated that it was Worthington who failed to live up to his commitment to pay him his attorney's fees. He filed a counterclaim for damages in the sum of P300,000.

The case was referred to the Solicitor General for investigation, report and recommendation.

Due to interminable postponements the case was never heard. Thus, at the instance of Worthington, the hearings set for August 15, September 15 and 27 and December 21, 1972 were postponed. The parties agreed to cancel the hearings set for December 4 and 5, 1972 and January 4, February 8 and March 8, 1973. Due to Worthington's nonappearance, the hearings scheduled on April 13 and 16 and July 19, 1973 were not held.

On May 8, 1973 respondent Fernandez filed in the Office of the Solicitor General a motion to dismiss the case because of Worthington's failure to prosecute it. The Acting Solicitor General in his report dated April 20, 1976 recommends that the case be dismissed.

Inasmuch as complainant Worthington had apparently lost interest in the case and as there is no justification for proceeding further against the respondent, this case, including the counterclaim, which cannot be ventilated in a disbarment proceeding, is dismissed.

SO ORDERED.

Fernando, (Chairman), Barredo, Antonio and Martin, JJ., concur.

Concepcion, Jr., J., is on leave.

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