

ATTY. JOAQUIN YUSECO AND BENJAMIN GRECIA, COMPLAINANTS, VS. DEPUTY COURT ADMINISTRATOR JUANITO A. BERNAD, RESPONDENT.

A.M. No. 94-1-061-SC. March 29, 1995

Ponente: MENDOZA, J.

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MENDOZA, J.:

This complaint was filed by Atty. Joaquin Yuseco and Benjamin Grecia against Deputy Court Administrator Juanito A. Bernad, charging him with suppressing facts and making false statements in his report to the Court in the disbarment case against complainant Grecia for the purpose of causing injury to him (Grecia).

The complaint for disbarment against Grecia was filed by Doctors Alberto Fernandez, Isabela Ongtengco and Achilles Bartolome and the St. Luke's Medical Center who charged him with dishonesty and grave misconduct in connection with the theft of some pages of a medical chart used in evidence in a damage suit[1] filed by Grecia's clients against the doctors and the hospital. The disbarment case[2] was assigned to respondent Bernad for investigation, report and recommendation.[3] On December 18, 1992,[4] respondent submitted a report in which Bernad found therein respondent Benjamin Grecia guilty of the charges. Bernad refrained from recommending the penalty but instead left the matter to the Court to determine, observing that whether the penalty should be disbarment or suspension, the two are "severe forms of disciplinary action [which] should be resorted to only in cases where a lawyer demonstrates an attribute or course of conduct wholly inconsistent with approved professional standard."[5]

On June 17, 1993, the Court rendered a decision in which it adopted the findings of respondent and ordered the disbarment of complainant Benjamin Grecia.[6]

Grecia filed a motion for new investigation and reconsideration but his motion was denied by the Court in its resolution of August 12, 1993.[7] He later sought reconsideration.

Grecia also moved for the reconsideration of the resolution of July 27, 1993 which denied his motion for extension to file a motion for reconsideration and directed the entry of final judgment. But in its resolution of October 19, 1993,[8] the Court denied both motions of the complainant and reiterated its resolution directing entry of final judgment.

Benjamin Grecia and his counsel in the disbarment case, Atty. Joaquin Yuseco, thereafter filed this complaint for "falsification by a public officer" as defined in Art. 171 of the Revised Penal Code and for violation of §3(e) of the Anti-Graft and Corrupt Practices Act (Rep. Act No. 3019) with the Office of the Ombudsman. This Court, taking cognizance of the complaint against Deputy Court Administrator Juanito A. Bernad, required him to comment.

On August 25, 1994, the Office of the Ombudsman dismissed the complaint on the ground that it was based on matters already decided by this Court in the disbarment case.

Complainants charge respondent with (1) submitting a report and recommendation to this Court in the disbarment case without furnishing complainant Benjamin Grecia with a copy thereof; (2) falsifying his written report by narrating facts which are absolutely false; (3) deliberately not revealing his relationship with former Chief Justice Marcelo Fernan, whose brother-in-law, Atty. Pompeyo Nolasco of the Quasha law firm, is the counsel for complainant-doctors in the disbarment case as well as in Civil Case No. 3548-V-91 which Grecia had filed against the doctors and the hospital.

We have considered the grounds of the complaint and found them to be without merit. Accordingly we have resolved to dismiss the complaint.

First. Respondent had no duty to complainant to furnish him a copy of his report in the disbarment case. That report was submitted to the Court solely for its use.[9] It was the decision of the Court, in connection with which the report was required, that complainant Grecia, as respondent in the disbarment proceeding, was entitled to receive. What was important was that he was given a copy of the Court's decision ordering his disbarment and not that a copy of respondent's report be furnished to him.

Second. Complainants cite fourteen (14) cases or instances in which respondent allegedly made false statements in his report to the Court. These instances, however, are the same ones cited in complainant Grecia's motion for new investigation and reconsideration which this Court denied way back on August 12, 1993.

This is shown by the following table, with indication of the corresponding pages of the complaint and the Motion for New Investigation and Reconsideration filed in the disbarment case (Adm. Case No. 3694).

No. Allegations against Bernad

Page No. OMB-93-3223

Page No. Adm. Case No. 3694

1

ATTY GRECIA HAS NO REASON OR MOTIVE TO REMOVE OR DETACH THE ALLEGED PAGES 72 AND 73 OF THE MEDICAL CHART BECAUSE THE ENTRIES AND CONTENTS THEREOF ARE MATERIAL AND FAVORABLE TO THE CLAIM OF HIS CLIENTS AGAINST COMPLAINANTS.

5(A)

14(B.2)

2

THE CORRUPT PRACTICES AND UNHOLY ALLIANCE OF JUDGE BERNAD.

7(B)

10(A.1)

3

MASSIVE SUPPRESSION OF WHOLE BODY OF EVIDENCE DECISIVE OF THE INNOCENCE OF ATTY. GRECIA

9(C)

16(C)

4

JUDGE BERNAD SUPPRESSES AND WITHHELD FROM THE COURT THE STRONG AND POSITIVE DECLARATION OF JUDGE TERESITA CAPULONG THAT ATTY. GRECIA WAS NOT PRESENT WHEN THE ALLEGED INCIDENT HAPPENED AND THAT SHE DID NOT ASK HIM TO EXPLAIN ANYTHING.

21(D)

28(C.9)

5

JUDGE BERNAD SUPPRESSED AND WITHHELD FROM THE COURT THE ADMISSION OF COMPLAINANTS' LAWYER ATTY. BU CASTRO, THAT HE WAS THE ONE WHO BORROWED THE MEDICAL CHART AND NOT ATTY. GRECIA.

22(E)

30(C.10)

6

JUDGE BERNAD SUPPRESSED THE FACT THAT THERE WAS NO CONFUSION AND THAT THE MAN FROM WHOM JUDGE CAPULONG ALLEGEDLY GOT THE PAGES OF THE MEDICAL RECORD STAYED IN THE COURTROOM FOR SOMETIME BUT NEITHER THE CLERK, THE JUDGE NOR THE LAWYERS OF THE COMPLAINANTS CAUSED HIS ARREST FILED A MOTION FOR CONTEMPT OR GOT HIS NAME AND FULL IDENTITY.

25(F)

32(C.11)

7

JUDGE BERNAD CRIMINALLY SUPPRESSED AND WITHHELD THE FACT THAT NO COMPLAINT AND NO AFFIDAVIT WAS FILED IN THE CASE AND THAT THE RECORDS OF CIVIL CASE NO. 3548-V-91 DO NOT CONTAIN ANY REPORT, AFFIDAVIT OR COMPLAINT OR INFORMATION ON AN ALLEGED UNTOWARD INCIDENT.

29(G)

36(C.12)

8

JUDGE BERNAD SUPPRESSED THE FACT THAT LONG AFTER THE ALLEGED INCIDENT, THE QUASHA LAW OFFICE GOT BACK THE MEDICAL CHART WITHOUT ANY PROTEST OR RESERVATION THAT ANY PAGE OR PAGES THEREOF WERE LOST, DETACHED, TORN OR CRUMPLED.

31(H)

38(C.13)

9

JUDGE BERNAD DID NOT EXERT EFFORT TO HAVE THE MYSTERY MAN PRODUCED BEFORE HIM SO HE CAN BE CONFRONTED. HE ALONE CAN PROVE WHAT PAPER OR PAPERS WERE GIVEN TO HIM AND WHO GAVE IT TO HIM.

32(I)

39(C.14)

10

EVIDENCE OF SIMILAR ACT OF PLANTING EVIDENCE BY THE QUASHA LAW OFFICE WAS SUPPRESSED BY JUDGE BERNAD.

32(J)

39(C.15)

11

THE POLICE HAS RECENTLY GOTTEN HOLD OF HIS EXTREMELY VITAL WITNESS, THE "UNIDENTIFIED MAN" MENTIONED IN THE DECISION OF THE SUPREME COURT.

37(K)

2

12

JUDGE BERNAD SUPPRESSED AND DID NOT INCLUDE IN HIS FINDINGS THE FOLLOWING FACTS WHICH ARE DECIDELY DESTRUCTIVE OF HIS ABSOLUTELY FALSE FINDINGS OF FACTS: No one identified pages 72 and 73 of the medical chart as the one detached; pages 72 and 73 were not yet marked as exhibits of any party on July 16, 1991; no evidence was offered to link respondent to the unidentified man, etc.

43(L)

43(C.16)

13

JUDGE BERNAD FAILED TO HAVE THE MAN TO WHOM THE ALLEGED PAGES OF THE MEDICAL REPORT WERE ALLEGEDLY HANDED LOCATED AND BROUGHT TO HIM FOR QUESTIONING.

51(M)

51(D)

14

EVIL MOTIVE BEHIND THE COMPLAINT AGAINST ATTY. GRECIA

52(N)

9(A)

Indeed, Grecia's complaint is nothing but an attempt to circumvent the resolution of this Court declaring the decision in the disbarment case final.

Third. What complainants must know is that while the Court in the disbarment case agreed with much of what was contained in the report of the Deputy Court Administrator, it did so only after it had examined the record of the case and found the report to be in accordance with the evidence. To the extent that the Court agreed with the findings of respondent, his findings became those of the Court and complainants have no basis for charging suppression of material facts. Indeed, "the Court assumes full responsibility for all its acts. Its personnel cannot answer and should not be made to answer for acts of the Court." [10] It is presumptuous for complainants to presume that because of alleged omissions and suppression of material facts in the report the Court was thereby misled in its decision.

The truth is that even a cursory examination of the grounds alleged in the present complaint will show the utter baselessness of the charges. Complainants allege —

[1]

Respondent did not include or mention in the slightest degree the contents and handwritten entries in the stolen pages which show beyond doubt that they were favorable to Grecia's clients.

This allegation is made in an effort to show that Grecia had no motive in stealing the pages. This defense might be considered if there was no evidence that Grecia had been seen removing the pages. But the fact is that two witnesses, who are personnel of the RTC in which the case was being heard, pointed to Grecia as the person who had removed two pages of the medical chart.

[2]

Respondent suppressed the testimony of Judge Capulong that Grecia was not present when the incident happened.

Judge Teresita Dizon-Capulong, before whom the case was pending at the time of the incident, did not testify that complainant was not present at the time of the incident. What she said was that she "could not see Atty. Grecia" during the confrontation with the unidentified person found in possession of the stolen pages. Judge Capulong's testimony did not exculpate Grecia. To the contrary, according to Judge Capulong, it was either Mrs. Avelina Robles, from whom Grecia allegedly got the medical chart, or Ms. Sandico, another court personnel who saw Grecia tear off the pages, who reported to her that Grecia had pulled pages of the medical record. [11]

[3]

Respondent suppressed the fact that it was the lawyers of complainants in the disbarment case who had secured a falsified document and passed it off as the missing pages which were recovered from an unidentified person.

There was no credible evidence presented in the disbarment proceedings to prove this allegation. The alleged discrepancy with respect to appearance and numbering of the stolen pages between the original copies and the photocopies was more apparent than real. It was mentioned in respondent's report but given no weight in view of the satisfactory explanation given by the personnel of St. Luke's who prepared the original copy and caused the numbering of the pages to be made in accordance with standard procedure. [12]

[4]

Respondent suppressed the material contradictions in the testimony of the two court personnel and the inherent impossibility of their testimony due to the arrangement of the chairs, tables, desk, etc., that completely obstructed their view and sight. Respondent also wrongfully withheld pictures which show their relative positions.

Contrary to complainants' claim, there were no material contradictions in the testimonies of the court personnel. Their testimonies were spontaneous and direct to the point, which make them credible and truthful. [13] On the

other hand, the pictures submitted by Grecia do not show that the witnesses could not have seen him in the act of detaching the pages. The arrangement of the chairs, tables and desks did not obstruct the view of the inside of the court. Anyone sitting on any of the chairs could easily be seen from any part of the court.

[5]

Respondent suppressed the admission of Mrs. Robles on cross-examination that she did not see Grecia removing the pages from the medical record.

The records contain no such admission by Mrs. Robles. Nowhere in the report of the hearings conducted, particularly the hearing of August 4, 1992 when Mrs. Robles testified, does it appear that Mrs. Robles contradicted her earlier testimony that she had seen Grecia removing two pages of the medical chart. To the contrary, together with Ms. Sandico, Mrs. Robles stoutly maintained that it was Grecia who had detached the pages.

[6]

Respondent suppressed and withheld from the court the admission of complainants' lawyer, Atty. Bu Castro, that he was the one who borrowed the medical chart and not Atty. Grecia.

It was unnecessary to mention this considering that according to Mrs. Robles, the official custodian of the report, both Atty. Castro and Grecia had separately borrowed the report. What was important was that there was direct testimony as to who was responsible for tearing off the pages.

[7]

Respondent suppressed the fact that there was no confusion and that the man from whom Judge Capulong allegedly got the pages of the medical record stayed in the courtroom for sometime but neither the clerk, the judge nor the lawyers of the complainants caused his arrest, filed a motion for contempt, or got his name and full identity.

This is not true. The removal of pages of the medical report created a commotion in the court as a result of which Mrs. Robles fainted and she had to be taken to the hospital. The records show this happened after the stolen pages had been recovered and the incident was reported to the police at the instance of Judge Capulong. Mrs. Robles, Ms. Sandico and Judge Capulong gave testimonies about the incident to respondent Bernad at the hearing of the disbarment case.

[8]

Respondent criminally suppressed and withheld the fact that no complaint and no affidavit was filed in the case and that the records of Civil Case No. 3548-V-91 do not contain any report, affidavit or complaint or information on the alleged untoward incident.

There was no evidence in the record of the disbarment case to show the supposed lack of complaint against Grecia or the unidentified person as a result of the incident. Accordingly no such "fact" could have been mentioned in the report. Nor was it material that there was allegedly no complaint made of the attempt to destroy evidence by the removal of certain pages of the medical record. Judge Capulong explained that she and the court personnel were so unnerved by the incident that they failed to get the name of the person from whom they recovered the missing pages and charge him in court. The Judge testified, however, that she instructed Ms. Sandico to report the matter to the police.

Nor is there truth to the claim of the complainants that no report or information regarding the incident was

mentioned in the damage suit, Civil Case No. 3548-V-91. In her orders dated July 16, 1991 and July 23, 1991, Judge Capulong specifically mentioned the "untoward incident" which she explained in her testimony to be the incident involving the tearing off of pages of the medical chart.

[9]

Respondent suppressed the fact that long after the alleged incident, the Quasha Law Office got back the medical chart without any protest or reservation that any page or pages thereof were lost, detached, torn or crumpled.

Whether the medical record was intact and received by the law office without protest that it was not complete is immaterial to the charge against complainant Grecia. The issue against him was the removal, not the recovery, of the pages in question.

[10]

Respondent did not exert effort to have the mystery man produced before him so he can be confronted. He alone can prove what paper or papers were given to him and who gave it to him. He did not seek the help of the National Bureau of Investigation to find the unidentified person.

Respondent did not have a duty to bring the unidentified man before him. That was the duty of the parties to the case. His job was to make findings on the basis of evidence submitted to him. On the basis of such evidence Grecia was found to have torn off the pages and later given them to the unknown person.

[11]

Respondent withheld evidence of similar act of planting evidence by the Quasha Law Office.

This is not true. On page 15 of his report respondent stated:

These statements of Atty. Yuseco were controverted by the lawyers from the Quasha Law Office who asserted that in the Tan Ping Hok case, there was no eyewitness to sustain the charge of evidence planting, while in the instant case, there are two eyewitnesses who are judicial personnel and whose integrity as witnesses was never doubted nor put in issue by both parties.

[12]

Respondent suppressed and did not include in his findings the following facts which are decidedly destructive of his absolutely false findings of facts:

a. No one identified the stolen pages as the ones which had been detached.

This allegation is false. At the hearing held on August 4, 1992, the pages were identified by Mrs. Robles as those which had been filched by Grecia and later recovered from the unidentified person. They were marked as Exhibits A and B.[14]

b. The testimony of Damaso Aves that he saw Atty. Castro holding the medical record and later hand a piece of paper to the unidentified person.

The testimony of Aves was accounted for in respondent's report, although respondent did not give it much weight for the following reason stated in his report:

Assuming arguendo that the unidentified man accosted and confronted by Judge Capulong was the man actually seen by Atty. Aves receiving the questioned papers from Atty. Castro, it is rather surprising why Atty. Aves did not mention such incident to Judge Capulong during the meeting in her chambers. And instead of simply insisting

that nobody, but nobody, took interest in detaining the unidentified man and establishing his identity, why did not Atty. Aves take such initiative considering that he has as much interest in establishing the identity of that person? Moreover, from among those concerned, he alone had the opportunity to observe that the unidentified man was still present in the courtroom even after the confrontation in the chamber of Judge Capulong.[15]

[13]

Respondent failed to reveal the evil motive behind the complaint against Grecia. This motive originated from Grecia's successful cross-examination of the doctors who were the defendants in the case for damages from whom damaging admissions were elicited.

This was mentioned although again it was not believed by respondent. On page 15 of his report, respondent Bernad stated:

On the purported scheme to destroy respondent Atty. Grecia, this has something to do with the hearing on June 24, 1991 where the latter succeeded in calling Dr. Alberto Fernandez to the witness stand as his hostile witness and allegedly elicited from him damaging admissions over the vigorous objections of Atty. Bu Castro. A perusal of the transcript of stenographic notes taken during the hearing (Exhibits "E to E-42", pp. 219 to 261, *ibid*) do not, however, show such fiasco.

Fourth. Complainants allege that respondent Bernad is a close personal friend of Atty. Pompeyo Nolasco, counsel of the complainants in the disbarment case against Grecia, and that because of this Bernad's objectivity and impartiality were in "grave doubt and in serious question."

Atty. Nolasco is a brother-in-law of former Chief Justice Marcelo B. Fernan. While acknowledging his gratitude to the former Chief Justice for appointing him to his present position, respondent denies that he is beholden to the former Chief Justice or that he maintains "fellowship" with him and Atty. Nolasco. As respondent points out, the fact was that the disbarment case was assigned to him three months after Chief Justice Fernan had retired from the Court. Indeed, aside from this allegation, there is no evidence in the record to support the charge of complainants.

In conclusion, we find no basis for the charge that respondent suppressed material facts in his report which this Court adopted in its decision disbarring complainant Grecia. What complainants charge as suppressions in the report are in reality omissions of facts which in the exercise of sound judgment were found to be immaterial. Complainants confuse appreciation of evidence with suppression of facts. The so-called omissions are the inevitable result of the evaluation of the evidence — the sifting of the grain from the chaff — rather than the suppression of the truth.

WHEREFORE, the complaint is DISMISSED.

SO ORDERED.

Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Kapunan, and Francisco, JJ., concur. Narvasa, C.J., and Vitug, J., no part.

[1] Heirs of Fe Linda Aves, et al. v. St. Luke's Medical Center, et al., Civil Case No. 3548--V-91, Regional Trial Court, Valenzuela, Metro Manila (Br. 172).

[2] Alberto Fernandez, et al. v. Atty. Benjamin M. Grecia, Administrative Case No. 3694.

[3] In accordance with the Resolution dated February 20, 1992 of the Court En Banc. See Respondent's Comment, Annex B.

[4] Respondent's Comment, Annex C.

[5] Id., pp. 16-17.

[6] Rollo, pp. 62-73.

[7] Respondent's Comment, Annex F.

[8] Id., Annex P.

[9] *Social Weather Station, Inc. v. Judge Maximiano C. Asuncion*, Adm. Matter No. RTJ-93-1049, October 14, 1993; *Manuel "Manly" Fulgar v. Judge Ireneo B. Escandor*, Adm. Matter No. RTJ-93-990, March 2, 1994.

[10] *Borromeo v. Court of Appeals*, 186 SCRA 1, 7 (1990).

[11] TSN, July 29, 1992, pp. 6-11.

[12] TSN, November 12, 1992, pp. 25-27.

[13] TSN, April 27, 1992, pp. 5-89.

[14] TSN, Aug. 4, 1992, pp. 24-25.

[15] Respondent's Report, pp. 12-13.

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