

JESUS V. MERRITT, COMPLAINANT, VS. HERMINIO H. CACANINDIN, RESPONDENT.

Adm. Case No. 1422. October 27, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

Jesus V. Merritt seeks to disbar lawyer Herminio H. Cacanindin on the ground of gross misconduct. Merritt is the president of Merriville Realty and Housing Corporation, the owner of a parcel of land (TCT No. T-8337) with an area of more than thirty hectares located at Barrios San Joaquin and San Nicolas, Agoo, La Union (Exh. B).

On July 29, 1969, Merriville filed in the Court of First Instance of La Union an injunction suit against Filmag Mining Corporation to stop its mining operations in its Agoo property. Cacanindin was Filmag's lawyer in that litigation (Exh. C).

Sometime later, or on September 10, 1969, Cacanindin prepared a contract between Filmag and Andrew V. Merritt, the brother of Jesus V. Merritt, authorizing Filmag to conduct mining operations on a portion of about 26,640 square meters of the said Agoo property (Exh. A). Andrew was misrepresented in the contract as the land-owner when the truth was that the land was the registered property of Merriville Realty and Housing Corporation.

No copies of said document were filed with the notarial office (Exh. E). Neither was it recorded in the mining recorder's office (Exh. I and J).

On January 15, 1975, Jesus V. Merritt filed a complaint for disbarment against Cacanindin. He answered the complaint. Merritt filed a reply. The case was referred to the Solicitor General for investigation, report and recommendation.

Although duly notified, Cacanindin did not appear in any hearing in the Office of the Solicitor General. He did not present any evidence. Only the complainant presented his evidence.

In his answer to the Solicitor General's complaint for suspension, the respondent pleaded for compassion and understanding. He alleged that Jesus' full-blood brother, Andrew, and his half-brother, Nestor Pecson, who were not affluent, were the ones who negotiated with Filmag to conduct mining operations in the questioned area. They derived benefits from the contract.

We hold that respondent Cacanindin acted in bad faith in preparing the said contract because he knew that Andrew was not the owner of the land (Exh. A). Therefore, he is guilty of gross misconduct.

In view thereof and following the Solicitor General's recommendation, he is hereby suspended from the practice of law for a period of three months. He is warned that more drastic disciplinary action will be imposed if he commits another irregularity. A copy of this decision should be attached to his record in the office of the Bar Confidant.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Abad Santos, and Escolin, JJ., concur.

Guerrero, J., no part.

De Castro, J., on sick leave.

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