

CORNELIO ANTIQUERA, COMPLAINANT, VS. VICENTE M. TUPASI, RESPONDENT.*Adm. Case No. 629. November 29, 1973*

Ponente: FERNANDO, J.

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It remains something of a puzzle why on May 28, 1973 a petition of this character was filed at all. It sought to set aside our resolution, dating back to August 14, 1964, dismissing an administrative complaint for disbarment for nonpayment of a sum of money owed, against respondent Vicente M. Tupasi, who was thereafter appointed on July 31, 1971, Judge of the Court of First Instance, stationed at Quirino Province and compulsorily retired on July 19, 1973, after attaining the age of seventy. For evidently, our dismissal had long since attained finality, a motion for the reconsideration of our resolution of dismissal having been denied on October 10, 1964. The ostensible explanation, to follow such petition, is that the purpose of the New Society would best be served if the matter were reopened. While legally such a plea is far from conclusive, still this Court deemed it best to ask the comment of respondent Tupasi in view of the fact that at that time he was still on the bench, and public faith in the judiciary would best be vindicated by the realization of its occupants that the slightest reflection on their conduct would be inquired into. Accordingly, he was required to comment.

Respondent Tupasi's comments were duly forthcoming. In a pleading entitled Compliance received by this Court on June 23, 1973, he set forth the antecedents of the administrative complaint against him thus: "1. Sometime in November, 1963, the herein complainant filed with the Municipal Court of Bayombong, Nueva Vizcaya, Civil Case No. 226, against the herein respondent, for the collection of a sum of money alleged to be for the legal services that said complainant, then plaintiff, may render in connection with a certain Civil Case then pending in the Court of First Instance of Nueva Vizcaya. The herein respondent, then defendant, answering the complaint, interposed the defense that for lack of consideration (lack of legal services rendered) the agreement sought to be enforced is unenforceable; 2. That while the said Civil Case No. 226 was still pending in the Municipal Court of Bayombong, Nueva Vizcaya, and irked by the special defense interposed by the herein respondent, then defendant, the herein complainant filed sometime on August 3, 1964, with this Honorable Supreme Court an administrative complaint against the herein respondent; 3. That even without requiring the herein respondent to either make his comments on the said administrative charge, or, to answer the same, this Honorable Supreme Court, in its resolution dated August 14, 1964, dismissed the said administrative complaint on the ground that the proper remedy should be a civil action; 4. That on September 2, 1964, the complainant filed with this Honorable Court his Motion for Reconsideration of the resolution of this Honorable Supreme Court dismissing the administrative complaint; 5. Again, without even requiring the herein respondent to file his reply or opposition to the Motion for Reconsideration filed by the complainant, this Honorable Supreme Court, in its resolution dated October 10, 1964, denied the said Motion for Reconsideration; 6. In the meantime, Civil Case No. 226 of the Municipal Court of Bayombong, Nueva Vizcaya, was decided, and from the decision of the said Municipal Court, the herein complainant, then plaintiff, appealed the case to the Court of First Instance of Nueva Vizcaya wherein it was docketed as Civil Case No. 1645. The Court of First Instance of Nueva Vizcaya dismissed the appeal of the

herein complainant, then plaintiff-appellant, and from the decision of the Court of First Instance of Nueva Vizcaya dismissing the appeal, the herein complainant again appealed the case to the Court of Appeals where it is docketed as CA - G. R. No. 44976-R, and where it is still pending up to now; 7. Now, after almost nine years since the denial of the complainant's Motion for Reconsideration of the Resolution dismissing the administrative complaint, said complainant again filed his present Petition to Set Aside Resolution. In other words, by his present petition, the complainant seeks to revive his administrative complaint against the herein respondent which was dismissed almost nine years ago." [1]

As he pointed out in the penultimate paragraph of his comments: "[Since] the herein complainant manifested in his present petition that the Civil Case which is now pending in the Court of Appeals to where he brought it on appeal is the antecedent of this administrative case; and since it was ruled by this Honorable Supreme Court in its resolution dated August 14, 1964, that the proper remedy should be a civil action, for which the Honorable Supreme Court dismissed the administrative complaint, the herein complainant should heed the ruling of the Supreme Court, and wait with patience, for the decision of the Court of Appeals." [2]

His prayer, therefore, was to deny complainant's petition to set aside our resolution of August 14, 1964. Such a plea should be granted. Independently of the matter having long since become final, complainant, as a member of the Philippine Bar, ought to have been aware that with the matter still pending in the courts of justice, the imputation of liability for nonpayment of debt to respondent would be bereft of any legal justification. He should be the first to observe the requirements of the rule of law. It could be that the grievance entertained by him, which he would ascribe to respondent's determined opposition not to settle what he must have felt is a just money claim, was so deep-seated that it still rankles after all these years. It could likewise be that because of his advanced years, his admission to the bar dating back to 1929, complainant betrayed an understandable feeling of impatience. There must have been for him a sense of urgency about the whole affair at this stage of life. What-ever may be the reason, it is clear that this petition is bereft of support in law.

WHEREFORE, the petition to set aside our resolution of August 14, 1964 is denied for lack of merit.

Zaldivar, (Chairman), Antonio, Fernandez, and Aquino, JJ., concur.

Barredo, J., no part.

[1] Compliance, pars. 1-7.

[2] Ibid, 3.

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