

SIMPLICIO NATAN, AS ADMINISTRATOR OF THE INTESTATE ESTATE OF THE DECEASED MARIA SANDOVAL DE PATERO, COMPLAINANT, VS. ATTORNEY SIMEON CAPULE, RESPONDENT.*Administrative Case No. 76. July 23, 1952*

Ponente: LABRADOR, J.

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These proceedings were instituted by the Solicitor General upon complaint of Simplicio Natan against Simeon Capule, an attorney-at-law, who is charged with the following acts of misconduct in his office as lawyer: (1) for having failed to appear, without any justifiable reason, in the hearing of a case for which he had received his fees in full; (2) for having accepted professional employment in the very case in which his former client is the adverse party, and utilizing against the latter papers, knowledge, and information obtained in the course of his previous employment; and (3) for falsely accusing tenants of his former client and causing their detention, in order to compel them to enter into a compromise by giving him (respondent) one-half of their rice harvests.

Complainant Simplicio Natan is the judicial administrator of the estate of the deceased Maria Sandoval de Patero, appointed by the Court of First Instance of Palawan, and is in possession of all the properties of said deceased. During the lifetime of the decedent's husband, Santiago Patero, Natan had filed an action against Patero to recover the wife's share in the conjugal properties. Santiago Patero was condemned to deliver his wife's share in the conjugal assets to Natan and to render an accounting of the fruits thereof while he was in possession. As he failed to make such accounting, his one-half share in the hacienda known as Hacienda Minit was ordered delivered to Natan for administration.

The above proceedings took place before the year 1922. Santiago Patero died in August, 1925. Both he and his deceased wife left no descendants. In 1935 Natan filed a project of partition of the properties left by Maria Sandoval de Patero, and said partition was approved on March 23, 1937. Natan has continued in possession of the Hacienda Minit in his original capacity as administrator.

In the middle of the year 1949, Natan filed an action of forcible entry against Francisco Edonga, Jose Cabuñgan, and Piloromo Raon (Civil Case No. 15, in the Justice of the Peace Court of Coron, Palawan) for having illegally occupied and detained portions of the Hacienda Minit under Natan's administration, and contracted the services of the respondent herein, Simeon Capule, for the hearing of the case. The first professional act made by respondent in connection with that case was the preparation of an amended complaint and an opposition to a motion to dismiss the case. Capule received the amount of P50 as part of his fees at that time, and fixed his fees for the whole case in the amount of P250. From time to time he had been getting sums of money from the complainant as partial payments of his fee. Up to October 7, 1949, he had received the sum of P180. On this date the case was called for hearing and respondent appeared at the trial, but it had to be postponed to November 17, 1949. As respondent maintained an office in Manila and had to come to Manila before the hearing, he told his client not to worry as he would take a boat from Manila in time to reach Coron for the hearing on November 17, 1949. He

assured his client that in case he would not be able to arrive on time, he would ask the judge for postponement.

The respondent did not arrive on the date of the hearing, and as the judge refused to grant postponement, complainant handled his case personally being a lawyer himself, without the presence of respondent. All in all, he was able to collect the amount of P275 from complainant. On November 21, 1949, respondent filed a petition, with the conformity of Natan, to withdraw as attorney for the latter in said Civil Case No. 15.

The above are the facts involved in the first charge. With respect to the other charges, it appears that when Natan contracted respondent's professional services in the month of August, 1949, he delivered to respondent various documents, among which are a copy of the decision in Civil Case No. 96 of the Court of First Instance of Palawan instituted by Natan against the deceased Santiago Patero for the recovery of certain properties belonging to the latter's wife, Exhibit A-2, a copy of the decision in Civil Case No. 104 of the same court filed by Natan against Santiago Patero for the recovery of the wife's share in the conjugal properties in the possession of Patero, Exhibit A-3, the project of partition, Exhibit A-5, the order of the court approving the project of partition, Exhibit A-4, tax declarations of Hacienda Minit, Exhibits A-6, A-7, A-9, and A-10, the new tax declaration of Hacienda Minit in the name of the deceased Estefania Rodriguez, Exhibit A-8, various receipts for the payment of taxes, Exhibits A-11 to A-15, and the plan of Hacienda Minit, Exhibit A-16. Towards the end of the month of November, 1949, according to respondent's own witness Olimpio Patero, the latter had talked to respondent in connection with his claim to the Hacienda Minit, based on his pretension that he was a recognized child of the deceased Santiago Patero (see certificate of baptism, Exhibit 12). After respondent was employed by Olimpio Patero, the following incidents took place:

(1) On January 13, 1950, Olimpio Patero filed a motion that he be allowed to intervene in Civil Case of the Court of First Instance of Palawan, entitled Simplicio Natan vs. Francisco Edonga, et al (the same Civil Case No. 15 of the Justice of the Peace Court of Coron, supra), in which the professional services of respondent had been contracted and paid for by Natan (Exhibits L and N). The intervention is improperly designated third party complaint. Both motion and pleading are, however, signed by Olimpio Patero.

(2) On February 27, 1950, respondent herein filed on behalf of Olimpio Patero a petition in the administration proceedings (Civil Case No. 71, Court of First Instance of Palawan), alleging that Olimpio Patero is the sole heir of Santiago M. Patero, and that he is in possession of Hacienda Minit; that the administrator of the estate of the deceased Maria Sandoval de Patero, complainant herein Simplicio Natan, had been encroaching upon the land constituting the Hacienda Minit, interfering with its use and occupation and depriving Olimpio Patero of the harvests of coconut and palay; and praying that Simplicio Natan be restrained from interfering with the occupation and enjoyment of the Hacienda Minit by Olimpio Patero, and that Natan should be ordered to return to Olimpio Patero 400 cavanes of palay representing his one-half share in the land, or the equivalent value of P4,400, as well as the coconuts and copra which he may have gathered amounting to not less than 37 tons valued at not less than P13,320 (Exhibit O). This petition was opposed by Natan (Exhibit Q). In the petition the lands constituting the Hacienda Minit are set forth in accordance with the description appearing in Tax Declarations Nos. 5785 and 7862, both in the name of Santiago Patero (Exhibits A-9 and A-6). The petition also contains a statement of the area of the land constituting the Hacienda Minit, together with the number of coconut trees thereon, also based on Tax Declaration No. 2037 (Exhibit A-7), which was furnished respondent by complainant herein.

(3) On May 5, 1950, Olimpio Patero signed an affidavit that he was the sole heir of the deceased Santiago Patero, stating the number of cattle and carabaos left by his deceased father and describing the land also left by him, and asserting that he adjudicated to himself the entire estate of the deceased under Rule 74, Section 1, of the Rules of Court (Exhibit P-1). Before the end of the year 1949, a complaint had been filed by Natan against Olimpio Patero

for trespass. In a motion for postponement of the hearing of said case filed by Patero (Exhibit 7), he alleges that his lawyer was to come from Manila, and this lawyer must have been respondent herein. Again in the month of March, 1950, another complaint was filed against Olimpio Patero, et al. charging him and others of frustrated murder committed on the persons of Arsenio Santillan and Manuel Natan (Exhibit Y).

(4) Olimpio Patero had filed on January 10, 1950, an action for robbery with attempted homicide against Ernesto Natan and cases for swindling against Benigno Rios, Maximiano Pabia, Balbino Yapla, and Juan Bermudes (Exhibits C, D, E, F). The above accusations were, however, dismissed by the justice of the peace on the ground that there was no probable cause that the crimes had been committed (Exhibits J and K). Upon the filing of the complaint for estafa the four accused were arrested and detained in the municipal jail of Coron. Thereupon, respondent herein went to see them and secured from three of them a written statement that they would deliver to Olimpio Patero, the owner of Hacienda Minit, his share in the harvest that the three had obtained from the portions they had cultivated (Exhibit 6). When the three accused signed the affidavit, respondent asked the chief of police to release them, but when they went to get the palay in the granary where their harvests were being kept, the granary was closed. Thereupon, respondent asked them to break open the lock, but the three refused, so the respondent told the chief of police to take them back into his custody again, and so they were put back in jail.

In connection with the complaint filed against the four above-named persons, including complainant's son, respondent denied having acted as lawyer for Olimpio Patero, or for having asked them to compromise their criminal case upon giving him the palay which is the share of the owner of the land. But we can not agree to his claim. Olimpio Patero was already his client when the estafa cases were filed, and the same are evident attempts to get possession of the land and get the tenants of the Hacienda Minit to recognize him as the owner, clearly for the direct benefit of his client. He admits that he was present when the compromise was being signed, but that it was not he who secured the signatures thereto. For what purpose was he present, if not in the ultimate interest of his client? As between his uncorroborated denial and the positive assertion of three members of the poor working class, that he asked them to sign the compromise, our choice is the latter, not only because respondent's own testimony must necessarily be biased and that of his opponents more impartial, as they are indifferent to the results of these proceedings, but also because the lowly and the indigent are generally reputed to be timid, God-fearing, and truthful.

We are convinced that the respondent had utilized the papers and the knowledge and information that he had received from his former client Simplicio Natan, in relation to the Hacienda Minit, against Natan and for the benefit of his new client Patero. The data appearing in the petition that he had filed in Civil Case No. 71, intestate proceedings of the deceased Maria Sandoval de Patero, could have been obtained by him only from the papers of said case (Exhibit A-2). We are also convinced that the respondent must have been the one who induced Olimpio Patero (his client) to accuse falsely the tenants of the complainant in Hacienda Minit of the crime of estafa. More than that, as the respondent knew that his client was not in possession of the hacienda, he also must have known that his new client had no right to demand the harvests thereon from the tenants of the complainant. He also must have known that under no circumstances whatsoever could the tenants be guilty of estafa for their failure or refusal to deliver the harvests to his new client. From all of these it is apparent that the action for estafa must have been maliciously conceived to obtain unlawfully what he could not lawfully get.

As to the first charge, however, we find that respondent's failure to appear, as he had agreed and promised, was involuntary on his part, because it appears that he had never expected that the judge before whom the case was pending would refuse to grant his motion for postponement.

It is evident from the foregoing that respondent, because of his previous relationship with the complainant herein, was disqualified to accept the case of Olimpio Patero, who claimed ownership of the Hacienda Minit. The

immediate objective of Patero was to wrest possession of the Hacienda Minit from respondent's former client, Natan, which possession it was the latter's duty to protect and support. The fact that respondent herein retired from the forcible entry case on November 21, 1949, prior to retaining the case of Olimpio Patero, did not relieve him from his obligation of fidelity and loyalty to his former client. (7 C. J. S. 827.) The inconsistency between his position as attorney for Olimpio Patero and that as attorney for complainant was so apparent that it could not have escaped respondent's attention. Respondent may not excuse his conduct behind the shield of the presumption of good faith, because the inconsistency was clear. But what makes the violation of his obligation of fidelity more improper is the fact that in forwarding Patero's interests, he did actually utilize the papers, knowledge, and information which he had received in the course of his employment as lawyer for complainant herein.

An attorney is forbidden to do either of two things after seizing his relationship with a former client. He may not do anything which will injuriously affect his former client in any matter in which he formerly represented him, nor may he at any time use against his former client knowledge or information acquired by virtue of the previous relationship. *Wutchumna Water Co. vs. Bailey*, 15 P.(2d) 505, 509, 216 Cal. 564 (7 C. J. S. 828.)

But if the conduct of the respondent in accepting Patero's case and in using papers and documents to the prejudice of his former client is unexcusable, in prosecuting the tenants of his former client for estafa without reasonable grounds, causing their imprisonment in order to compel them to deliver portion of their palay harvests to his second client, his conduct was reprehensible, constituting not merely unethical practice but a clear and direct violation of the following portion of his oath as lawyer:

* * *. I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same; I will conduct myself as a lawyer according to the best of my knowledge and discretion, with all good fidelity as well to the courts as to my clients; * * *. (Italics ours.)

His conduct evinces a character wanting in truthfulness, and devoid of that sense of fairness and justice so essential to the profession that he has embraced. But this is the first occasion that respondent is charged in this Court with misconduct, and we prefer to grant him the opportunity to reform. But we can not let his misconduct pass unpunished; we must impose upon him a penalty which would, at the same time, serve the purpose of a warning. The majority of this Court believes that suspension from his office as lawyer for a period of two (2) years would serve both purposes.

Wherefore, this Court absolves respondent from the first charge, but finds him guilty of all the other charges proffered against him by the Solicitor General and suspends him from the exercise of his profession as attorney-at-law for a period of two (2) years, the period to commence upon receipt by him of notice of the final resolution of this Court in this case.

Paras, C. J., Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, and Bautista Angelo, JJ., concur.

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