

PATRICIO SALAMANCA, COMPLAINANT, VS. ATTY, FELICIANO E. BAUTISTA, RESPONDENT.

Adm. Case No. 204. July 31, 1963

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

The client charges his lawyer with having fraudulently made him sign a compromise agreement favoring his adversary. The respondent says the signature was stamped on the document with full knowledge of its contents.

After an investigation wherein both sides presented evidence, the Office of the Solicitor General, found for the client and submitted the reglementary complaint, recommending disciplinary action.

Required to answer, the attorney reiterated his innocence, asked for, and was granted, opportunity to submit additional evidence—which he did before the Clerk of this Court. The latter filed his report, copies of which were furnished to the parties in interest.

The material facts are these: on March 28, 1948, the complainant sold his sugar mill located in San Jose, Nueva Ecija, to Juan Torres, who promised to pay therefor the amount of P3000 on or before March 30, 1949. As the price was not paid on the date due, complainant engaged the services of herein respondent to prosecute his claim. Accordingly the corresponding complaint (Civil Case No. 1246) was filed to recover said amount with interest, damages and attorney's fees, on August 1, 1953 in the Court of First Instance of Nueva Ecija. Served with summons three days later, Juan Torres accompanied by his son-in-law, Vicente Jose, went to see the complainant for extra-judicial settlement. The three proceeded to the respondent's house where after a short conversation, the respondent typed in Tagalog, a document which he asked the complainant to sign, and the latter signed after receiving P200 that came from Juan Torres. Salamanca claims—and so testified—he did not know the contents of the document he signed. On the other hand Attorney Bautista swore he translated it to him and that Salamanca otherwise knew it was an amicable settlement.

The main issue is whether Salamanca knew the contents of the document at the time he signed it. The Solicitor General's Office believes he did not, because (1) it was written in Tagalog, which the lawyer "must have used" to deceive his Ilocano client, who did not understand the national language and (2) it was prejudicial to the client, who received only P200 out of his claim of P3000.

In our view the first point does not mean much, considering that, according to the Solicitor General, the contract signed by Salamanca employing the services of respondent, was also written in Tagalog; yet there is no claim of deceit in the establishment of their professional relationship.

Indeed, in San Jose, Nueva Ecija, where the incident occurred, Tagalog is generally understood, according to Justice of the Peace Gelacio T. Yusi of that town.

The second point besides contradicting parts of the document, has entirely rejected the attorney's explanation which seems to tally with the document and subsequent events. It is not accurate to assert that Salamanca got

P200 (or P260)[1] only; the paper stipulates that the mill would be sold and the proceeds given to Salamanca.. In fact, the parties foresaw the possibility of selling it for more than P2000 and so, they agreed that the excess, if any, would also be delivered to Salamanca. Furthermore, the parties agreed that if the mill could not be sold, Salamanca could get it back. As to the difference between P3000 and P2,200, Atty. Bautista said he was informed that Torres had made previous partial payments.

On the other hand the position of the client appears to be unbelievable on several counts. First. How could he swear he did not know what the P200-peso was for? He knew it came from his adversary, who had asked him to "settle the case amicably"[2] and in whose presence it was given to him (Exh. A).

Second. He was required to sign, according to him, a paper the contents of which he allegedly did not know; and yet for several months he made no efforts to have it translated—he having a grandnephew who was then studying law (Bienvenido Salamanca), who by the way declared later before the investigator, that his said relative understood the contents of the document, so much so that he told him (Bienvenido) way back in 1953 that his case had been settled.

Third. Again, remembering that the document was signed in August, 1953 and that Salamanca objected to it only in January, 1955, one is apt to inquire, why the delay? The answer is, because the sugar mill could not be sold,[3] Salamanca did not receive the P2000 and did not want to get the sugar mill back. As respondent explained before the investigator, his client all but blamed him for their failure to sell the mill, and so they had a tiff which culminated in this accusation.[4] At this juncture we observe that this significant delay had not passed unnoticed to the complainant (or to the person who drafted the complaint for him), because he dated the charges January 14, 1954 although he filed them here only on January, 1955.

Fourth. Now if it were true, as suggested by complainant that in drafting the compromise agreement respondent had connived with Juan Torres, respondent would have hurriedly asked for withdrawal of the complaint in order not to give Salamanca time to consult others about the document[5] and then repudiate it. Yet none of this happened. On the contrary, the petition to withdraw was actually presented to the Court only when Salamanca, attempting to ignore it, pressed for further action on his judicial demand.

At this juncture a few paragraphs of clarification are needed.

When our Clerk of Court was commissioned to receive additional evidence for respondent, he sent for the original record of the case (Salamanca vs. Torres) in the Court of First Instance of Nueva Ecija.[6] Having found therein that the question whether the compromise agreement had actually been fully understood and approved by the client was debated before the court, he reported[7] the advisability of awaiting such court's decision and/or the Court of Appeals decision if any, on the factual issue. Copies of the report were furnished the parties; and none of them objected to the suggestion.

Said Court record shows that copy of Salamanca's complaint to recover P3000 pesos had been served on the defendant Torres on August 3, 1953. Up to February, 1955 no step was taken or pleading filed in the case. Now, we think, if there had been no compromise, the defendant would ordinarily have answered on time or the plaintiff would have asked for default, and presentation of his evidence. No such move was taken; obviously because both parties knew there was a settlement, which superseded the court proceedings.

It was only when herein complainant decided to repudiate the compromise[8] that he hired a new lawyer, and the latter upon reading the court record as then existing as for default of defendant in March, 1955—and obtained favorable action. But defendant Torres promptly showed the compromise agreement[9] and, explaining the failure to file a motion to withdraw the complaint pursuant thereto, asked for relief. Acting on the motion the court

dismissed the complaint, in the face of the compromise. The plaintiff then countered with a motion to reconsider the dismissal, repeated his allegations of deceit, and referred to his denunciation of Attorney Bautista in this court. Wherefore on April 28, 1955 the Nueva Ecija Court ordered plaintiff to furnish copies thereof—marked as annexes—to defendant. The court further directed that

"* * * And the hearing on the motion for reconsideration filed by the plaintiff is hereby suspended until the defendant is furnished with the copies of the said annexes. And the motion again set for hearing by plaintiff"
(Italic supplied)

Fifth. To repeat, the above order was issued on April 28, 1955. And yet up to March 8, 1962 plaintiff Salamanca did nothing in the expediente. His counsel knows—or ought to know—that the complaint could be properly dismissed by the court for failure, within a reasonable time, to prosecute or to comply with the court's order.[10] His counsel also is aware of our clerk's recommendation that the case here should be held in abeyance until the court below had decided the matter; and yet for seven years he failed to bring to judgment his action against Torres. Why? Because the circumstances do not support the allegation of deception by Attorney Bautista, who, according to the evidence, enjoys a good reputation in the community in which he practices his profession.

WHEREFORE, this complaint for malpractice must be, and is hereby dismissed. So ordered.

Padilla, Bautista Angela, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala and Makintal, JJ. concur.

[1] An additional amount for court expenses was P60.00 also paid.

[2] So he said in his complaint.

[3] In fact Santos Copicoy offered to buy it, but for less than P2000.

[4] Which he had to make to be able to welsh on the compromise.

[5] Bautista gave him—Why did he give it, if he wanted to deceive Salamanca?

[6] Civil Case No. 1246.

[7] December, 1957.

[8] Because the mill could not be sold.

[9] Which undoubtedly Bautista neglected to present believing that the litigation had ended, as the parties had made up.

[10] Sec. 3, Rule 30, Rules of Court.

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