

EMILIO LLANES, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND HON. RUPERTO C. KAPUNAN, JR., PRESIDING JUDGE, COURT OF FIRST INSTANCE OF MANILA, BRANCH XVIII, RESPONDENTS.

G.R. No. L-26418. February 28, 1972

Ponente: CASTRO, J.

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CASTRO, J.:

Emilio Llanes filed with this court, on August 18, 1966, a petition for certiorari and mandamus with preliminary injunction against the Court of Appeals and the Court of First instance of Manila. In his petition (which was later amended) Llanes alleged that on April 1, 1966 he was later informed that a subpoena had been issued by the Court of First Instance of Manila ordering him to present himself thereat for the reading of the sentence rendered against him for theft, which was affirmed, on appeal by the Court of Appeals. Allegedly surprised by this turn of events, he conducted an investigation of the matter, and found out that a certain Atty. Jose A. Beltran had represented him in the Court of Appeals. On the theory that he had been represented by a counsel who hid not been authorized by him to do so, Llanes filed with the said court a petition to vacate its judgment of affirmance which petition was denied. A warrant for his arrest having been subsequently issued by the trial court Llanes filed the petition at bar.

From Llanes' own allegations, it appears that after his appeal was perfected, his counsel withdrew; that while he was looking for someone else to help him prosecute his appeal, he was approached by two persons who represented themselves as employees of the Court of Appeals; that upon their assurance of assistance, he parted with a total sum of P850 allegedly to defray the cost of printing his brief; that he later came to know their names as Buenaventura Padilla and Domingo Vargas; and that he forgot all about the case until he was informed, as aforesaid that he had to appear before the trial court to hear the sentence against him.

On August 24, 1966 we resolved to deny due course to the petition for failure to aver fraud and for lack of affidavit of merit. We nonetheless treated the petition as a complaint for unprofessional conduct against Attys. Padilla and Beltran. Llanes later amended his petition.

Atty. Padilla filed his answer to the petition. He denied that he is the "Padilla" referred to. Attached to his answer was an affidavit of Llanes stating that after having seen Atty. Padilla in person he (Llanes) was satisfied that Atty. Padilla is not the "Padilla" who talked to him in the Court of Appeals. Atty. Beltran also filed his answer-controverting Llanes' assertion of absence of client-lawyer relationship between him and Llanes; Atty. Beltran averred that he, in fact, has in his possession several pertinent documents that he had used in the preparation of the brief for Llanes in the Court of Appeals.

As rejoinder to these answers, Llanes alleged that he never asserted that Atty. Beltran intentionally appealed in his behalf without authority, as "Atty. Beltran may himself have been deceived into believing that appellant has engaged his services."

On August 28, 1967 we resolved to deny due course to the amended petition, and, noting from the answers of Attys. Padilla and Beltran that Llanes may have committed perjury when he filed his petition and amended petition with this Court, further resolved to "refer this matter to City Fiscal of Manila for investigation and report to the Court."

On April 23, 1968 we passed another resolution requiring -:

"(1) the Clerk of the Court of First Instance of Manila to inform this Court whether Emilio Llanes had already started to serve the sentence imposed upon him in the above-mentioned criminal case; and (2) the City Fiscal of Manila to inform this Court of the status of the investigation sought in the resolution aforesaid of this Court of August 28, 1967."

On May 29, 1968 the Clerk of Court of the CFI of Manila informed this Court in writing that Llanes had failed to appear before the said court for execution of the judgment, for which reason a warrant for his arrest was subsequently issued and his bond confiscated.

On June 19, 1968 Atty. Ernani C. Paño, the counsel employed by the petitioner after the latter filed the instant petition, manifested to this Court that he was withdrawing as counsel for the petitioner.

On June 14, 1971, after a prolonged period of waiting, this Court finally received from the City Fiscal's Office of Manila a letter manifesting that a criminal case for perjury has been filed against the herein petitioner with the CFI of Manila.

Because (1) the herein amended petition of the petitioner has been denied due course, (2) the petitioner himself has declared that Atty. Buenaventura Padilla is not the "Padilla" with whom he had negotiations concerning his appeal, and, with respect to Atty. Jose A. Beltran, that he does not assert that the said counsel intentionally misrepresented him, and (3) the City Fiscal's Office has already informed this Court of the action taken against the petitioner in connection with the resolution of this court dated August 28, 1967, it is clear that nothing more remains to be done in the present case.

ACCORDINGLY , this case is hereby dismissed for being moot and academic. No costs.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Fernando, Teehankee, Barredo, Villamor, and Makasiar, JJ., concur.

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