

IN RE – ATTORNEY JOSE AVANCEÑA, RESPONDENT.

Administrative Case No. 407. August 15, 1967

Ponente: ANGELES, J.

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ANGELES, J.:

On January 12, 1951, the Supreme Court entered a resolution as follows:

"In Administrative Case No. 407, In re Atty. Jose Avanceña, it appear-ing that respondent was convicted in criminal case No. 10220 of the Court of First Instance of Manila, entitled People of the Philippines vs. Jose Avanceña, of the crime of falsifica-tion of public document under Art. 172 of the Revised Penal Code, and that in the decision rendered to that effect the Court has found that said respondent has taken advantage of the law profession in committing said crime to de-fraud his clients, the Court or-dered that respondent be, as he is hereby, provisionally sus-pended from the practice of law, pending final termination of the criminal case No. 10220, now pending appeal in the Court of Appeals."

Jose Avanceña, a member of the Bar, was charged with falsification of public document before the Court of First Instance of Manila, in criminal case No. 10220. After trial, he was found guilty as charged and was sentenced to suffer an indeterminate penalty of two years to six years of prision correccional, to pay a fine of P5,000.00, with subsidiary imprisonment in case of insolvency, and to pay the costs. The trial court also found that he took advantage of the law profession in committing the crime of falsification of public document to defraud his clients. A copy of the decision was sent to the Supreme Court for whatever action it may deem appropriate to take in the premises. Conformably thereto, the Supreme Court adopted the re-solution hereinabove quoted.

From the decision of the lower court, Jose Avanceña appealed to the Court of Appeals. On February 28, 1962, the Court of Appeals affirmed the decision of the lower court.

On a petition for review of the decision of the Court of Appeals to the Supreme Court, the latter Court, on June 13, 1962, dismissed the petition for lack of merit.

On January 21, 1963, Jose Avanceña was committed to prison at the National penitentiary.

On September 25, 1963, the President of the Philippines extended conditional pardon to Jose Avan-ceña.

On October 1, 1963, Jose Avanceña was discharged from confinement.

In the decision of the trial court, the following is said:

"The evidence on record conclu-sively establish the guilt of the accused beyond reasonable doubt as the author of the falsifica-tion of the Power of Attorney (Exhibit A), with grave abuse of confidence. The accused is a law-yer and has taken advantage of the law profession in committing the crime of falsification of a public document to defraud his clients. A lawyer of the type of the accused is a disgrace to the law profess-ion and should be disbarred."

In affirming the decision of the trial court, the Court of Appeals said:

"A la vista de los datos ex-puestos el Juzgado cree y asi con-cluye, que el apelante no ha expli-cado satisfactoriamente como llego a su posesion el poder especial Exhi-bito A; la presuncion es concluyente que aquel es el autor de la falsifi-cacion de las firmas de los hermanos Joa que aparecen en el poder especial Exhibito A. (People vs. Astudillo, 60 Phil., 338.)

"La conclusion es, pues, que el apelante fue quien preparo el exhibito A; fue quien falsifico las firmas de los hermanos Jao que aparecen en dicho documento; y, fue quien llevo dicho documento a la oficina del notario Tumblos para su ratificacion.

"EN SU VIRTUD, habiendose probado fuera de toda duda racional la culpa-bilidad del apelante, y la decision apelada estando de conformidad con las pruebas y la ley, la misma se confirma in toto, con los costas con-tra el apelante."

There can, therefore, be no doubt, that Jose Avan-ceña has committed the crime of falsification of public document against his clients with grave abuse of confi-dence, having been found guilty thereof by final judgment of competent jurisdiction. His acts amount to de-ceit, malpractice or misconduct in office as an attorney, which constitute grounds for removal from office under Section 27, Rule 138 of the Rules of Court, not to mention conviction by final judgment of a crime involving moral turpitude.

The fact that the respondent was extended condi-tional pardon by the Chief Executive is of no moment. Such conditional pardon merely partially relieved him of the penal consequences of his act, but did not operate as a bar to his disbarment, especially so when he is be-ing disbarred on the ground of professional misconduct for which he had been convicted by final judgment. (Cf. In re Lontok, 43 Phil. 293.)

WHEREFORE, judgment is hereby entered declaring Jose Avanceña disbarred from the practice of law, and striking his name from the roll of attorneys.

Reyes, J.B.L., Makalintal, Bengzon, Zaldivar, Sanchez, Castro, and Fernando, JJ., concur.
Concepcion, C.J., and Dizon, J., on official leave.

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