

CATALINO T. SAPADEN, COMPLAINANT, VS. FEDERICO S. TOLENTINO, RESPONDENT.

Administrative Case No. 1943. July 17, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

Catalino T. Sapaden in a verified complaint dated August 24, 1978 charged lawyer Federico S. Tolentino with malicious prosecution and having thus violated his attorney's oath.

Tolentino in his answer denied the charge. The case was referred to the Solicitor General for investigation, report and recommendation.

The record discloses that Tolentino assisted his client, Jose Cancio, Jr., in filing on October 8, 1976 a complaint for estafa against Sapaden in the municipal court of Guagua, Pampanga (Criminal Case No. 7343).

It was alleged that Sapaden misappropriated the proceeds of the sale of 265 bags of cement which Cancio had entrusted to Sapaden for sale on commission.

After conducting the corresponding preliminary examination, the municipal court issued a warrant for the arrest of Sapaden, fixing the bail at two thousand pesos. Sapaden was arrested on November 10, 1976 in his office at the Marinduque Mining and Industrial Corporation in Makati, Metro Manila where he was employed as assistant manager of the purchasing-traffic department. He was brought to San Fernando, Pampanga and detained in jail for two days before he was released on bail.

The estafa case was elevated to the Court of First Instance of Pampanga, Guagua Branch II where it is still being tried (Criminal Case No. 1214).

The issue is whether respondent Tolentino committed a gross misconduct in assisting his client in filing an estafa charge which, according to Sapaden, was fabricated.

We find that respondent lawyer acted in good faith in helping Cancio file the estafa charge and that he regularly performed his professional duty to Cancio. That cannot be a ground for disbarment.

Sapaden's claim that he was framed up by the respondent was not proven. The municipal court found that there was a prima facie case against Sapaden or that there was a reasonable ground to believe that he committed estafa. In fact, up to this time, he has not been exonerated of the estafa charge.

WHEREFORE, the complaint for disbarment is dismissed.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

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