

IN RE ATTY. ROQUE SANTIAGO, RESPONDENT.

Adm. Case No. 923. June 21, 1940

Ponente: LAUREL, J.

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LAUREL, J.:

This is an administrative case initiated upon complaint of the Solicitor-General against the respondent Roque Santiago, charging the latter with malpractice and praying that disciplinary action be taken against him.

It appears that one Ernesto Baniquit, who was living then separately from his wife Soledad Colares for some nine consecutive years and who was bent on contracting a second marriage, sought the legal advice of the respondent, who was at the time a practicing attorney and notary public in the Province of Occidental Negros. The respondent, after hearing Baniquit's side of the case, assured the latter that he could secure a separation from his wife and marry again, and asked him to bring his wife on the afternoon of that same day, May 29, 1939. This was done and the respondent right then and there prepared the document Exhibit A in which it was stipulated, among other things, that the contracting parties, who are husband and wife authorized each other to marry again, at the same time renouncing or waiving whatever right of action one might have against the party so marrying. After the execution and acknowledgment of Exhibit A by the parties, the respondent asked the spouses to shake hands and assured them that they were again single and as such could contract another and subsequent marriage. Baniquit then remarked, "Would there be no trouble?" Upon hearing it the respondent stood up and, pointing to his diploma hanging on the wall, said: "I would tear that off if this document turns out not to be valid." Relying on the validity of Exhibit A, Ernesto Baniquit, on June 11, 1939, contracted a second marriage with Trinidad Aurelio. There is also evidence to show that the respondent tried to collect for this service the sum of P50, but as the evidence on this point is not clear and the same is not material in the resolution of the present case, we do not find it necessary to make any express finding as to whether the full amount or any portion thereof was paid or, as contended by the respondent, the services were rendered free of charge.

The respondent did not deny the preparation of Exhibit A, but put up the defense that he had the idea that seven years separation of husband and wife would entitle either of them to contract a second marriage and for that reason prepared Exhibit A, but immediately after the execution of said document he realized that he had made a mistake and for that reason immediately sent for the contracting parties who, on June 30, 1939, came to his office and signed the deed of cancellation Exhibit C.

There is no doubt that the contract Exhibit A executed by and between the spouses Ernesto Baniquit and Soledad Colares upon the advice of the respondent and prepared by the latter as a lawyer and acknowledged by him as a notary public is contrary to law, morals and tends to subvert the vital foundation of the family. The advice given by the respondent, the preparation and acknowledgment by him of the contract constitute malpractice which justifies disbarment from the practice of law. The admission of a lawyer to the practice of law is upon the implied condition that his continued enjoyment of the privilege conferred is dependent upon his remaining a fit and safe person to society. When it appears that he, by recklessness or sheer ignorance of the law, is unfit or unsafe to be entrusted with the responsibilities and obligations of a lawyer, his right to continue in the enjoyment of this

professional privilege should be declared terminated. In the present case, respondent was either ignorant of the applicable provision of the law or carelessly negligent in giving the complainant legal advice. Drastic action should lead to his disbarment and this is the opinion of some members of the court. The majority, however, have inclined to follow the recommendation of the investigator, the Honorable Sotero Rodas, in view of the circumstances stated in the report of said investigator and the fact that immediately after discovering his mistakes, respondent endeavored to correct it by making the parties sign another document cancelling the previous one.

The respondent Roque Santiago is found guilty of malpractice and is hereby suspended from the practice of law for a period of one year. So ordered.

Avanceña, C.J., Imperial, Diaz, Concepcion, and Moran, JJ., concur.

Respondent suspended from practice of law for one year.

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