

HIPOLITO BALBARONA, PETITIONER, VS. ATTY. HERMINIO SANTOS, RESPONDENT.*Adm. Case No. 652. September 30, 1969*

Ponente: FERNANDO, J.

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This complaint against Herminio Santos, a member of the Philippine bar, was filed by petitioner Hipolito Balbarona on January 25, 1965. The charge was "for deceit and gross violation of his oath of office as a lawyer, by giving wittingly and willingly, aid and consent to do falsehoods and consenting to the same in court, to the benefit of respondent and to the prejudice of petitioner, committed as follows: 1. That petitioner is a claimant in a Workmen's Compensation Case No. RO4-78787, entitled: 'Hipolito Balbarona vs. T. Santos Transportation Co.,' in the Regional Office No. 4, Department of Labor, Manila; 2. That an Award dated August 23, 1963, was issued by the Acting Regional Administrator, Regional Office No. 4, Department of Labor, Manila directing the T. Santos Transportation Co., employers of the Petitioner, to pay the latter thru the said Office, compensation benefits in the total amount of P2,662.63; 3. That on September 25, 1963, Mr. Teodoro Santos and Mr. Dionisio Santos, Owner and Manager, respectively of the T. Santos Transportation Co., through false representation, undue machinations, deceit and trickery deceived the herein petitioner into affixing his signature on a document purportedly necessary in the adjudication of petitioner's social security claim; That the herein respondent notarized the said document in connivance with his relatives, Teodoro and Dionisio Santos, by placing and affixing his notarial seal below petitioner's signature showing supposedly that petitioner has been sworn and subscribed before him at Malabon, Rizal, on September 26, 1963, the contents of the document showing that petitioner received from the Santos or from the T. Santos Transportation Co., the total amount of P2,662.63, representing full and complete payment of compensation due him for the loss of his left arm; That in truth and in fact, the herein petitioner never went to Malabon, Rizal, much less swore or subscribed before the respondent that petitioner received from the T. Santos Transportation Co., the amount of P2,662.63; * * *." [1]

On February 22, 1965, we issued the following resolution: "The respondent in Administrative Case No. 652 (Hipolito Balbarona vs. Atty. Herminio Santos) is ordered to file, within 10 days from notice hereof, an answer to the complaint (not a motion to dismiss)."

In the answer of respondent Santos, filed on April 7, 1965, there was a vehement and emphatic denial of "the charge of deceit and gross violation of his oath of office as a lawyer" with the further affirmation "that he has not given, willingly or wittingly, aid and consent to do falsehood nor consent to the doing of the same in court, for his or anybody else's benefit, to the prejudice of anyone, more particularly the petitioner herein." Respondent while admitting "an award dated August 23, 1963, issued by the Acting Regional Administrator, Regional Office No. 4, Department of Labor, Manila, directing the T. Santos Transportation Co., Inc., to pay the petitioner compensation benefits in the amount of P2,662.63," denied the allegations of deceit and trickery, the truth of the matter being, according to him: "On September 26, 1963, the petitioner, was for the first time met by the respondent when in the company of Mr. Dionisio Santos and Teodoro Santos, manager and proprietor

respectively of the above-mentioned transportation company, they came asking the respondent to administer an oath to the petitioner, attesting to the truth of matters stated in receipt for P2,662.63, which they themselves brought. Respondent then was in the Rural Bank of Malabon, Inc. at Malabon, Rizal where he acts as Bank Notary and Legal Counsel." He closed his explanation in his answer thus: "As is the usual procedure, the respondent asked the petitioner herein if he understands the meaning of what he is signing, explaining further, in the vernacular, the nature of the document. This question was answered in the affirmative by the petitioner herein, as well as the question if he swears to the truth of the contents of the document. Petitioner then affixed his signature and presented his Residence Certificate, followed by the affixing of respondent's signature and notarial seal." [2]

The matter was then referred to the Solicitor-General for investigation, report and recommendation in our resolution of April 21, 1965.

The report of the then Solicitor-General, the Honorable Antonio P. Barredo, now a member of this Court, was submitted on January 16, 1968. As noted therein: "This is a case involving public document duly notarized, to which complainant claims he signed without being aware of the contents thereof, while respondent on the other hand denies the imputation stating that he signed after explaining the contents thereof in the vernacular." [3]

Then came statement therein of what transpired next: "Complainant testified during the hearing of February 9, 1966, in the absence of respondent (pp. 53-54 rec.), but he was never cross-examined, as he failed to appear in subsequent scheduled hearings. The last hearing of this case was April 29, 1967, with only respondent appearing and since then complainant has not moved for the continuance of the hearing or at least for the formal offer of his evidence." [4]

Under the above circumstances, it was his recommendation: "It appearing that not all the evidence had been presented to justify a report on the merits, provisional dismissal at the moment would be in order." [5]

In a resolution of January 31, 1968, we required complainant Hipolito Balbarona to comment within 10 days from notice on the above report of the then Solicitor-General Barredo. Up to this date, no such comment had been filed. It is quite obvious, therefore, that complainant, for reasons best known to him, had lost any further interest in prosecuting the charge against respondent Santos. Under the circumstances, the recommendation for a provisional dismissal appears to be justified.

WHEREFORE, the petition filed for disbarment by complainant Hipolito Balbarona against Herminio Santos, a member of the bar, is hereby provisionally dismissed. Without pronouncement as to costs.

Concepcion, C.J., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, and Teehankee, JJ., concur.

Barredo, J., did not take part.

Reyes, JBL, J., on official leave.

[1] Petition, pp. 1-2.

[2] Answer, pp. 1-2.

[3] Report, pp. 2-3.

[4] Ibid, p. 3.

[5] Ibid.

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