

**IN THE MATTER OF THE PETITION FOR DISBARMENT OF ATTORNEY
JOSE G. BALTAZAR, JR. FERNANDO E. RICAFORT, PETITIONER, VS.
JOSE G. BALTAZAR, JR., RESPONDENT.**

Administrative Case No. 661. June 26, 1967

Ponente: SANCHEZ, J.

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SANCHEZ, J.:

In January, 1965, Fernando E. Ricafort agreed to purchase on installment from S. L. Ocampo, Inc. of San Fernando, Pampanga, an Austin 1100 De Luxe Saloon, for P12,465.30. The sale was negotiated by Tomas Pangilinan, a company agent. The car was delivered to Ricafort at his residence at Sta. Rita, Pampanga. On January 20, 1965, to cover the down payment of P3,133.00, Lydia P. Ricafort, wife of Fernando E. Ricafort, issued a PNCB Check C-86958-M, postdated March 31, 1965. Cesar Ma. Ocam-po, manager of S.L. Ocampo, Inc., rejected that check, for it trenches upon company policy. On January 23, 1965, Pangilinan returned to the Ricafort residence. He requested that the check be made current. Thereupon, Lydia P. Ricafort erased the date "March 31", superimposed the date "January 23". She signed her name on top of the corrected date. On January 26 following, the company presented the check for payment. The drawee bank, the Philippine National Cooperative Bank, dishonored said check with the notation "Not arranged for".

It was then that S.L. Ocampo, Inc. referred the matter to its legal counsel, respondent Jose G. Baltazar, Jr. On February 9, 1965, respondent wrote petitioner Fernando E. Ricafort, re-requesting the latter to redeem the check in three (3) days; other-wise, criminal action would be filed. By letter of February 11, 1965, petitioner replied. He there alleged that the agreement between him and Tomas Pangilinan was that the check was not to be cashed or negotiated until March 31, 1965. Manager Ocampo de-nied Pangilinan's authority. Respondent obtained Pangilinan's affidavit. He advised the company that an estafa case could be filed against the Ricaforts. He, however, informed the company that he could not handle the case because the judge of the Municipal Court of San Fernando, Pampanga, is his father, Jose Baltazar, Sr.

On February 23, 1965, a criminal complaint for estafa was filed against Ricafort and his wife in the Municipal Court of San Fernando, Pampanga, by Pedro T. Sarmiento, assistant manager of S.L. Ocampo, Inc. For this case, the company retained the services of Atty. N.B.S. Navarro. On the same date that the complaint was filed, Judge Jose Baltazar, Sr. conducted a pre-liminary investigation, ordered the arrest of the couple, fixed their bail at P2,000 each, and directed the transmittal of the record to the provincial fiscal for the filing of the information.

On March 8, 1965, S.L. Ocampo, Inc., through Atty. Navarro, petitioned for a writ of attachment in the criminal case. The ground relied upon is that the accused "have concealed, re-moved, or disposed of their personal property or they are about to do so". Judge Jose Baltazar, Sr. granted the petition on March 10, upon a P12,465.30 -bond posted by the Asian Surety & Insurance Co., Inc. By virtue of this writ, the Austin car was seized from the possession of the Ricaforts.

On March 17, 1965, Atty. Ubaldo Lalin, counsel of the Ricaforts, requested the fiscal for a reinvestigation of the

estafa case. Reinvestigation was had. On March 24, 1966, Provincial Fiscal Regidor Aglipay and Special Counsel Jose P. Bondoc lodged with the municipal court a motion to dismiss the case. Ground therefor is that the "evidence on hand is insufficient to establish even a probable cause against the accused much less prove their guilt beyond reasonable doubt". On June 29, 1966, this motion was denied by Judge Baltazar. Failing in their effort to secure a reconsideration, the Ricaforts went to the Court of Appeals [CA-G.R. No. 38091-R] for certiorari, mandamus and prohibition, with a prayer for preliminary injunction. On September 20, 1966, the Court of Appeals issued a temporary restraining order. This case is pending decision.

Offshoot of the foregoing were the twin moves of the Ricaforts: an administrative charge against Judge Jose Baltazar, Sr.; and the present disbarment proceeding against the latter's son, Atty. Jose G. Baltazar, Jr., on grounds of malpractice, gross misconduct and harassment.

The case against Judge Baltazar, Sr. was investigated by Judge Honorio Romero, executive judge of the Fifth Judicial District. In that case, Judge Romero recommended exoneration of Judge Baltazar. The Undersecretary of Justice approved the recommendation.

We referred to the Solicitor General the petition for disbarment against Atty. Jose G. Baltazar, Jr. Hearings were conducted by Assistant Solicitor-General Felicisimo R. Rosete. On April 18, 1967, the Solicitor General submitted his report, recommended that respondent Atty. Jose G. Baltazar, Jr. be exonerated.

For the reasons following, the Solicitor General's recommendation should be sustained:

First, respondent did not right away file an estafa charge against complainant and his wife. He requested them first to make good the check. This act belies harassment, malpractice or misconduct. Upon the couple's failure to do so, it was but natural for respondent to counsel his client to take steps to protect the latter's interests.

Second, the fact that respondent caused to be typewritten the affidavit of Pangilinan, should not be taken against him. On February 18, 1965, when that affidavit was prepared, respondent had already received from complainant the letter of February 11, stating that he [complainant] had an agreement with Pangilinan that the check was not to be cashed or negotiated until March 31, 1965. It became respondent's duty to inquire about the truth from Pangilinan. The result was Pangilinan's affidavit. In this affidavit, Pangilinan stated that the agreement between him and the spouses Ricafort was that the car would be delivered upon a down payment of P3,133.00; that he agreed to accept the check "considering that they looked to be respectable", and that they delivered the check without informing him that they had no funds to cover the amount thereof. The facts stated in the affidavit are Pangilinan's. Nothing in the record would show that those facts are of respondent's making.

Third, neither is there proof of persecution. The estafa case was lodged in the court of Judge Baltazar, Sr. - not by respondent but by another attorney, N.B.S. Navarro. The evidence does not show that respondent influenced his father, the Judge. In fact, the Judge was exonerated from the administrative charges against him.

Fourth, with reference to the bond to procure a writ of attachment, it is true that Asian Surety & Insurance Co. Inc. was black-listed. Respondent signed that bond as agency manager of the surety company. But he explained that at the time he signed the bond, he had no knowledge that it was blacklisted; and that promptly, upon learning of that fact, he advised his client, S.L. Ocampo, Inc. to change the same.

Upon the record, we vote to dismiss the complaint for malpractice against respondent and to exonerate him from the charges.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, and Ruiz Castro, JJ., concur.

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