

PERFECTO ALFARO, COMPLAINANT, VS. JUDGE EUGENIO O. DE LEON, RESPONDENT.

Adm. Case No. 1096. November 24, 1972

Ponente: MAKASIAR, J.

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MAKASIAR, J.:

This disbarment proceedings against respondent Atty. Eugenio O. de Leon, municipal judge of San Leonardo, Nueva Ecija, was instituted on July 26, 1972 by complainant Perfecto Alfaro, who charges respondent with:

"MALPRACTICE

"On September 10, 1970 or thereabouts, respondent represented himself to the undersigned as a capable lawyer, solicited and entreated me to allow him to handle my case over the parcel of land left by my deceased parents, and collected from me the sum of P200.00, which I would not have paid were it not for respondent's insistence that he could handle my case as ably as any other lawyer, and that he would not exact from me a big fee but would give me a discount. Because of this representation and respondent's energetic solicitation, I reluctantly entrusted to him the papers relative to the case and allowed him to handle and prosecute the same.

"DECEIT

"When I entrusted the case aforementioned, respondent solemnly promised that he would personally handle the same, and that it would be instituted and/or filed with the Court of First Instance of Nueva Ecija (Gapan branch). Subsequently, or on December 4, 1971, he filed Civil Case No. 909 for Ejectment entitled PERFECTO ALFARO, et al. vs. Spouses Calixto Interior and Juliana Azarcon before the Municipal Court of San Leonardo, Nueva Ecija, over which the respondent is the presiding Judge. A photocopy of the complaint in Civil Case No. 909 aforecited is hereto attached marked as Annex "A". The same was personally prepared by him at his office, with the government typewriter and materials (such as coupon bond and carbon paper) and during his official time as presiding Judge of his Court. He hid from me the fact that the same case would be instituted at San Leonardo Municipal Court instead of CFI, Gapan, Nueva Ecija; later on, when I discovered it, and confronted him with it in relation to his representation that it would be filed at CFI, Gapan, Nueva Ecija, respondent sheepishly admitted that he indeed made that promise, but that I should not worry since Civil Case No. 909 aforementioned is only preliminary; besides, I have already a decided advantage over my opponent, according to him (respondent), if the case is filed before his Court, because he (respondent) already knows what to do.

"A few days before the first scheduled date of initial hearing, respondent called for me and told me that he has already referred my case to another lawyer, with whom he has already discussed the facts of my case, and who would handle the case from then on, instead of the respondent. When I again remonstrated and recalled to him his promise and representation that he would handle my case personally, again he told me not to worry since the lawyer to whom he referred my case would handle it well as he (respondent) had already an understanding with him. Besides, it was only then when respondent informed me that for him to be my counsel in Civil Case 909 filed before him would be illegal since it was to be heard and tried before a court over which he is the presiding judge. None of these, however, should preclude me from complying with my obligation of paying to

him the balance of three hundred pesos attorney's fees we agreed upon, as according to him, it was he who is the active participant in my case, and that he is entitled to the fees.

"In the face of this helpless situation, I have to resign to my fate. But what I did was to obtain the services of another lawyer of my own choice who handled my case.

"At the conclusion of the trial of my case, the respondent renewed his demand for payment of P300.00, but when I told him that I have already used the amount to my new lawyer, and that I could no longer be bound to pay him since he has ceased to be my counsel, respondent said that something serious will happen to my case. On November 15, 1971, Atty. Eugenio O. de Leon, in his capacity as presiding Judge of the Municipal Court of San Leonardo, Nueva Ecija rendered a decision dismissing my complaint for lack of jurisdiction. A copy of said decision is hereto attached marked as Annex "B". (pp. 2-4, rec).

On September 4, 1972, respondent filed his answer, alleging that:

"I. Refutation of the Charge of Malpractice

"On the charge of malpractice, respondent respectfully begs to inform this Honorable Court that respondent has not represented himself to complainant as a capable lawyer. Being the municipal judge of San Leonardo, Nueva Ecija for several years now, the capability of respondent as a lawyer is already well known to complainant, hence, there was no further need for the former to introduce himself to the latter, nor for complainant to inquire into the ability of the respondent. Neither has respondent allegedly solicited and entreated complainant to allow him to handle the latter's case in the court of first instance at Gapan, Nueva Ecija. Long before 10 September 1970, respondent has already ceased to engage in practice in compliance with the directive issued by the Judge of the Court of First Instance, Branch V, Gapan, who exercises administrative control and supervision over respondent, prohibiting all municipal judges within his jurisdiction from appearing and handling cases before the said court of first instance without first securing an authority to practice from the said Judge. Respondent has not filed a petition to handle cases and to engage in private practice, and not having secured the required authority, and knowing that he could not handle any cases before the said court without such authority having been first secured, the charge that respondent had purportedly entreated complainant to allow him to handle the case aforesaid is highly unbelievable. If it were true that respondent, as alleged, has really asked complainant to allow him to personally handle the case of complainant in the court of first instance, respondent could have easily petitioned for authority to engage in private practice which will thus enable him to file the complaint and prosecute the same in said court. But, as heretofore stated, respondent has ceased to handle civil and criminal cases in the court of first instance, a fact well known to complainant himself, and complainant knowing about it, it is inconceivable that he would still agree, even reluctantly, to allow respondent to handle his case.

"II. Refutation of the Charge of Deceit:

"Aside from the foregoing, the truth of the matter is that respondent has never talked with complainant, neither has the latter consulted the former, regarding the filing and prosecution of the aforementioned case. As Municipal Judge, respondent has strictly adhered to the rule that he should not discuss an impending case involving a property situated within the jurisdiction of San Leonardo, Nueva Ecija, with the prospective litigants for respondent knows that he may be called upon to decide the case later on. How, where, and under what circumstances the complaint in Civil Case No. 909 (Annex "A" of the petition) was prepared, and it appears to have been prepared on December 1, 1970, is completely unknown to respondent. Insofar as the said complaint is concerned, respondent begs to inform this Honorable Court that if he has any participation at all therein, it is only the administration of the oath of plaintiffs therein on December 4, 1970. It was only on that date, December 4, when complainant and his co-plaintiffs have appeared before the respondent to have their oaths administered on the jurat of the complaint. Prior to that date, respondent had never conferred with complainant in connection with the aforesaid case.

"Complainant likewise alleges that respondent received the sum of P200.00 as partial attorney's fees, and that an additional fee of P300.00 shall be paid later. This is false. Respondent respectfully states that he has not received a single centavo from complainant. In fact, when complainant filed his Civil Case No. 909, he and his co-plaintiffs also filed a petition for litigate said case as paupers, for according to them, they could not afford to pay the docket fees. Realizing their plight, and upon complainant's own representation that they are poor and could not really pay the litigation expenses, respondent allowed them to litigate as paupers. If complainant could not even afford to pay the docket fee which is a meager amount, it is inconceivable that he would agree and be able to afford to pay a much bigger amount of P200.00. It may please likewise be stated that when complainant appealed the judgment rendered by respondent in Civil Case No. 909 to the Court of First Instance, he again asked to interpose the said appeal as pauper, which respondent granted.

"Complainant also alleges that, purportedly, 'a few days before the first scheduled date of initial hearing, respondent called for me and told me that he has already referred my case to another lawyer, with whom he has already discussed the facts of my case, and who would handle the case from then on x x x' (par. 2, p. 2, Petition). This is another fabricated charge. On the contrary, as early as December 4, 1970, when complainant has filed his complaint before the municipal court, respondent has advised complainant to look for his own lawyer and to engage the services of a counsel of his choice who will represent him during the hearing. In reply, complainant said that he was going to hire a lawyer himself, as in fact he has hired the services of Atty. Rolando S. Bala, and the latter has consistently appeared for complainant since the initial stages of the proceedings. Complainant being represented by his own counsel, it is indeed inconceivable that respondent would be demanding an additional sum of P300.00 as attorney's fees when, as aforesaid, he never acted as counsel for complainant.

"Finally, it has been insinuated by complainant that respondent decided the case adversely to him in view of his failure to give the sum of P300.00. Respondent has never demanded this amount from complainant. If the case was decided against him, it is only for the reason that respondent arrived at the honest conclusion that the evidence warranted such decision.

"III. Refutation of the Charge of
Violation of the Lawyer's Oath:

"Respondent has not violated his oath as a humble member of the Philippine Bar. As a lawyer and as a judge, respondent has always abided faithfully with his Lawyer's Oath. Respondent's priceless possession is his membership in the noble profession. This is his magnificent obsession, his cherished dream. Through hard work and determination, respondent was able to attain his ambition. Having sacrificed so hard in the realization of his ambition, respondent has made himself bold and invulnerable in protecting his career and his profession against the commission of acts such as those which are falsely imputed against him by complainant. It is only this well protected dignity as a lawyer which respondent could bequeath to his children.

"In filing the instant complaint, complainant was solely motivated by a nefarious design to destroy the good name of respondent as a lawyer and to avenge his defeat in the case against herein respondent. Such threats have been voiced by complainant soon after respondent has rendered his decision in Civil Case No. 909." (pp. 15-19, rec).

On September 12, 1972, complainant filed an urgent motion for the suspension of respondent pending the hearing of this case on the ground that:

"(a) Extant in the petition is the allegation that the respondent has prepared Annex 'A' at his office 'with the government typewriter and materials (such as coupon bond and carbon paper).' In order to prevent the tampering of such instruments as indicated in the petition, and other documents over which the respondent has administrative control, it is imperative that the respondent be divested of such control, and this could only be done by the respondent being preventively suspended from his office;

"(b) Petitioner vis-a-vis the respondent, is a lowly government employee, bereft of the power and influence which the respondent possess. Thus, respondent could subtly seduce witnesses, morally coerce or prevent persons from testifying using the awesome powers and influence of his office in doing so." (p. 22, rec).

Thereafter, the case was referred to the Solicitor General for investigation, report and recommendation.

On October 9, 1972, complainant filed the following sworn motion to dismiss in Tagalog:

"1. Na, ako ang nagsusumbong sa asuntong ito laban kay Hukom Municipal Eugenic O. de Leon sa salang MALPRACTICE, DECEIT at VIOLATION OF THE LAWYER'S OATH sa mga kadahilanang nabanggit sa aking sumbong na may pecha Diciembre 7, 1971;

"2. Na, ang pagkakahain ko ng nasabi kong sumbong sa Kgg. na Hukumang ito laban kay Judge Eugenio O. de Leon ay dala at sanhi lamang ng aking kabiglaanan sapagkat sa hindi ko inaasahan ay nagbigay ng hatol laban sa akin si Judge de Leon sa aking Caso Civil No. 909 ng Hukumang Municipal ng San Leonardo, Nueva Ecija;

"3. Na, sa pagkakagawa at pagkakahain ng nasabi kong Caso Civil No. 909 ay walang ano mang kinaalaman si Judge de Leon; hindi si Judge de Leon o ang sino mang kawani niya sa kanyang Hukuman oTanggapan ang siyang gumawa ng nasabi kong demanda at hindi rin ang mga papel at iba pang kagamitan sa kanyang tanggapan ang ginamit sa paggawa ng aking demanda sa nasabing Caso Civil No. 909; wala akong naibigay ni isang kusing o sentimo man lamang kay Judge de Leon tungkol sa nasabing asunto at ako ay hindi kailan man hiningan ng kahit na ano mang halaga o ano mang bagay man kaya ni Judge de Leon tungkol sa kanyang paglilitis o pag-hatol sa nasabing asunto; sa halip ay hinahangaan ko si Judge de Leon sa kanyang katapatan sa kanyang panunungkulan at sa pagganap ng kanyang tungkulin bilang Hukum Municipal ng San Leonardo, Nueva Ecija, bagaman hindi ako sangayon sa hatol na kanyang ibinigay sa aking Caso Civil No. 909;

"4. Na, ang Kahilingang ito ay ginagawa ko ng kusang loob; walang sino mang tao, lalong-lalo ng hindi si Judge Eugenio de Leon, na humikayat o umakit sa akin, tumakot o nagbigay na pabuya sa akin, upang isagawa ko ang kaliilingang ito at/o ang lahat ng aking mga isinasaad dito ngayon; ang lahat ng mga nilalaman ng kahilingang ito ay buong katotohanan;

"5. Na, dahil at alang-alang sa lahat ng mga nabanggit sa itaas nito ay aking hiniling sa Kgg. na Corte Supremang ito na pawalang bisa ang aking sumbong laban kay Judge Eugenio O. de Leon." (pp. 26-27, rec), which was likewise referred to the Solicitor General.

At the hearing on October 22, 1972 before Solicitor Jesus O. Ibay, respondent appeared with his counsel Arty. Tirso de Leon, while the complainant appeared without counsel. In response to the questions propounded by Solicitor Ibay, said complainant expressly and categorically identified and affirmed the contents of his motion to dismiss and reiterated that he is withdrawing his complaint against respondent, and that he is moving for the dismissal of the complaint without any threat or intimidation or promise of award.

Accordingly, the Solicitor General recommended the dismissal of the case.

WHEREFORE, THIS ADMINISTRATIVE CASE IS HEREBY DISMISSED.

Zaldivar, Ruiz Castro, Fernando, Barredo, Antonio, and Esguerra, JJ, concur.

Concepcion, C.J., I concur in the view expressed by Justice Teehankee.

Teehankee, J., concurs, but submits that complainant's sworn withdrawal now denying his own sworn complaint should be referred to the fiscal for investigation and prosecution, if warranted.

Makalintal, J., is on official leave.

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