

GIL DE LOS SANTOS, COMPLAINANT, VS. MARIO BOLAÑOS, RESPONDENT.

Administrative Case No. 483. July 21, 1967

Ponente: ANGELES, J.

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ANGELES, J.:

A complaint for disbarment was filed by one Gil de los Santos against Atty. Mario L. Bolaños, an assistant provincial fiscal of Camarines Sur. Narrat-ing a long story, complainant alleges that respondent was guilty of fraud for having misappropriated the sum of P4,200.00 out of a loan of P5,000.00 which the latter had obtained from the Philippine National Bank after mortgaging a piece of land over which the com-plainant claims ownership to the extent of 3/4 thereof.

The answer, denying some of the allegations in the complaint, presents respondent's own version of the case, and claims that he committed no wrong to complainant as the latter has no right to the land mortgaged to the PNB.

The case was referred to the Solicitor General for investigation and said official has now submitted his report thereon.

It appears that the late Andres de los Santos, who died on March 11, 1959, had a parcel of land of about 21 hectares, situated in Barrera, Lupi, Camari-nes Sur, covered by Original Certificate of Title No. 27, which was issued to him after he married his second wife, Elisa Rañola. Upon the death of Andres, and claiming to be his only heir, Elisa Rañola executed an affidavit of summary settlement of the estate of her husband and thereupon the title to the land was issued in her name (T.C.T. No. 3053). On September 12, 1960, Rañola sold the land to the respondent for P8,500.00 and the latter, in turn, secured title in his name (T.C.T. No. 3289).

On December 27, 1960, the complainant filed Civil Case No. 5087 with the Court of First Instance of Cama-rines Sur against Rañola and the respondent, for parti-tion of the land mentioned above, alleging that he was the son of Andres de los Santos by the latter's first wife. Believing in the truth of this allegation, the respondent entered into an "AGREEMENT" with the com-plainant (Exh. B), pertinent portion of which reads:

"2. That a certain Gil de los Santos claiming that he is the only heir of Andres de los Santos with his first wife Genoveva de Claro, explained to me that he owns three-fourths (3/4) of the land covered by TCT-3053 (originally OCT-27) of the land I bought from Elisa Rañola constituting his inheritance from his late parents;

3. That believing that I am the owner of only ONE-FOURTH (1/4) of said land, I offered to sell this portion to Gil de los Santos;

4. That Gil de los Santos has no money to buy one-fourth (1/4) portion and we have agreed:

a. That if I can secure from the Development Bank of the Philip-pines an amount of ONE THOUSAND AND FIVE HUNDRED (P1,500.00) PESOS or more by mortgaging the land sold to me by Elisa Rañola under TCT-3053, the amount of EIGHT HUNDRED (P800.00) PESOS and expenses of the loan will be retained by the undersigned and the remaining balance of the loan obtained will be delivered by him (Atty. Bolaños) to Gil

de los Santos together with the sale of the entire 24.000 has. under TCT 3053, executed by the undersigned in favor of the latter.

b. That the consideration of the said deed of sale in favor of Gil de Los Santos to be executed by the undersigned will be the amount of the loan that was granted by the Bank to the undersigned which will be assumed by Gil delos Santos."

To give effect to the agreement, Rañola and the respondent had agreed to rescind the sale.

Thereafter, and before the respondent could apply for a loan with the DBP as agreed upon, Rañola discovered from a certain document that the complainant was not a son of Andres de los Santos. On February 2, 1961, Rañola, together with a sister of Andres de los Santos and the respondent, went to the office of complainant's counsel, Atty. Abel Flores, and confronted complainant about his paternity, in the presence of the latter's son, Alejandro de los Santos. After consultations among the complainant, his son and his lawyer, the complainant agreed to revoke the agreement above-quoted. This revocation is evidenced by a notation, in the Bicol dialect, at the left margin of the document, which was translated in English at the foot thereof, signed by the complainant and the respondent, and witnessed by complainant's son, Alejandro de los Santos.

Subsequently, on February 9, 1961, Gil de los Santos signed an acknowledgment that the property belongs to respondent and that he is a mere tenant thereon. This was attested to by Alejandro de los Santos and one Marcelo Glorioso.

Upon complainant's petition to the court for the dismissal of the case for partition, the same was dismissed. And in view of the cancellation of the agreement, Rañola's sale of the property to the respondent was no longer rescinded.

Being the sole owner of the land, the respondent mortgaged it to the Philippine National Bank for P5,000. The complainant demanded on respondent to deliver to him the proceeds of the loan, less P800.00, anchoring his claim on the rescinded agreement with the respondent, and the latter having refused the demand, the instant complaint for disbarment of the respondent was filed.

The Solicitor General recommends the dismissal of the complaint, to which we are fully in accord, for the reason that there is no sufficient ground to proceed against the respondent inasmuch as the complainant has failed to substantiate the charges against the respondent.

Complainant claims that respondent never intended to comply with the terms of their agreement (Exh. B) and only resorted to it as a bait to bring about the dismissal of Civil Case 5087. We find no proof in the record of any such motive of deceit or fraud on the part of respondent. It appears that when the respondent recognized the complainant as the owner of 3/4 of the land, it was on the belief, as represented by the complainant, that the latter was a son of Andres de los Santos, which representation, however, turned out to be false as proofs were found later on to belie the complainant's pretense of his paternity with Andres de los Santos. Elisa Rañola discovered from complainant's baptismal certificate that he was the son of Ramon Epifanio, but not of Andres de los Santos with his first wife, Genoveva de Claro. No less than a sister of the deceased confirmed the fact that he was not a son of her brother. Arrayed with such proofs showing the falsity of his claim as a son of Andres de los Santos, complainant voluntarily agreed to cancel the agreement entered into by and between him and the respondent, and in a memorandum handwritten by him, he recognized the respondent's ownership of the land.

There appearing to be no sufficient ground to hold the respondent liable for unethical conduct as a member of the legal profession, the case against him is hereby dismissed.

Reyes, JBL, Acting C.J., Makalintal, Bengzon, Zaldivar, Sanchez, Ruiz Castro, and Fernando, JJ., concur.

Concepcion, C.J., and Dizon, J., on official leave of absence.

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