

IN THE MATTER OF THE DISBARMENT OF EUGENIO DE LARA, ATTORNEY AND COUNSELOR AT LAW.

Special proceeding. March 17, 1914

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PER CURIAM:

On or about the 29th day of April, 1912, the following instrument, executed before Eugenio de Lara, a notary public, on the 21st day of February, 1912, came into the possession of the prosecuting attorney of the city of Manila, Honorable W. H. Bishop:

"Know all men by these presents: That we, Cirilo San Pedro and Petronila Trias, both of lawful age and residents of the city of Manila, P. I., solemnly state and declare:

"1. That the said Cirilo San Pedro states and promises that he will legally marry the said Petronila Trias within, 30 days following the death of his wife, to whom he is at present married.

"2. That the said Petronila Trias also states and promises that she will make no contract of espousal or of marriage with any other man than said Cirilo San Pedro while she remains single, she agreeing to await and fulfill that which she has agreed to in the present instrument

"3. Both parties are obligated to comply with the provisions of this instrument, and the party refusing to do so shall pay as damages the sum of P500.

"In witness whereof we sign the present agreement and bind ourselves to respect all the paragraphs thereof, this 21st day of February, 1912.

(Signed) "C. SN. PEDRO.

"PETRONILA TRIAS."

The prosecuting attorney made the following indorsement upon a copy of said instrument and forwarded the same to the Attorney-General:

"Respectfully referred to the Honorable the Attorney-General, inviting attention to the foregoing documents and testimony, taken before my assistant, Mr. Sobral.

"I do not believe that this matter is covered by the penal laws, but it occurs to me that a notary public who would execute such papers, particularly in view of paragraph 1 of the document, could be disciplined by the Supreme Court.

"Hence, I submit the matter to you for your consideration."

The Attorney-General made the following indorsement:

"Respectfully referred to the Honorable E. F. Johnson, Justice of the Supreme Court, inviting attention to the in closed papers.

"It is respectfully recommended that the notary herein referred to be removed from office under section 82 of Act No. 136."

On May 6, 1912, the Honorable E. Finley Johnson, vacation justice, made the following order:

"Respectfully forwarded to the clerk of the Supreme Court, with directions that an order be issued under the seal of the court, directed to Eugenio de Lara, the notary public mentioned in the within annexed documents, ordering him to appear personally before the Supreme Court at 9 o'clock a. m. on the 8th day of July, 1912, and to show in writing why he should not be removed as a notary public, in accordance with the provisions of section 82 of Act No. 136, for the alleged misconduct complained of by the prosecuting attorney of the city of Manila, and which is fully set out in the documents hereto attached.

"The clerk will accompany the order herein made by a certified copy of all the documents hereto attached."

On the 8th of July, 1912, Eugenio de Lara presented his answer to the order to show cause, in which appear the following paragraphs:

"That the complaint of the prosecuting attorney of the city of Manila in this matter refers to a contract of espousal signed and acknowledged before the undersigned by Cirilo San Pedro and Petronila Trias, said complaint being founded upon the declarations of Petronila Trias and her father, who allege that said instrument was drawn by tfy notary before whom it was acknowledged.

"On the 21st of February, 1912, the said Cirilo San Pedro and Petronila Trias came into the office of the undersigned notary with the documentjn prepared for ratification. The undersigned read the document and after having interpreted it to the parties thereto called their attention to its contents; they said that they were informed as to its contents and that it was in conformity with their will and purpose.

"The notary before whom the document was acknowledged neither induced nor counseled the parties thereto to execute or sign said document, nor did he intervene directly or indirectly in formulating it, which appears from the adjoined affidavit of the witness who signed the document and as also appears from the language and expressions appearing in the contract from beginning to end and which show that they never could have been written by a lawyer. There, therefore, exists no basis for the complaint presented by the Attorney-General.

"The mere fact that the said instrument was signed and acknowledged before a notary public, who annexed his name and official seal, is not, in the humble judgment of the undersigned, sufficient ground under Act No. 136 to require his removal from office, * * *."

Relative to the issues thus framed the Attorney-General took a considerable amount of evidence, and after duly considering¹ the same presented to this court, the following report:

"The undersigned, Attorney-General of the Philippine Islands, in compliance with the order of this court dated the 10th of July last, transferring to this office the answer and affidavit presented 'by the notary public Eugenio de Lara in order that this office might express its opinion with reference to said complaint, appears before the court and respectfully shows:

"1. That this office, in view of the denial of Eugenio de Lara, notary public, to having drawn the instrument acknowledged before him by Cirilo San Pedro &ndf Petronila Trias, presenting in support of his denial an affidavit signed and sworn to by one Regino Talag, obtained the opinion of a typewriter expert in the office of the Constabulary, Mr. Edwin C. Bopp, relative to whether the instrument in question ancTthe answer presented in his defense by Mr. Lara were written on the same typewriter.

"2. The said expert, after an examination of the two writings by aid of photography, by which the letters and characters were very much enlarged, which photographs are attached hereto, gave it as his opinion that the two documents were written not only upon the same jmachine but also by the same operator, as appears from his

report which is hereto attached. This opinion and the papers thereto attached demonstrate clearly that said contract in question was drawn in the office of Eugenio de Lara, in conformity with the testimony of one of the parties thereto, Petronila Trias, Mr. De Lara having, in his testimony taken in the office of the Assistant Attorney-General, Mr. Feria, declared that his answer filed herein and referred to above was written by his stenographer and on the machine which he has in his office.

"3. That, as still further corroboration of the fact that the instrument in question was written and drawn by Eugenio de Lara, the undersigned ordered the Assistant Attorney-General of this office, Mr. Felicisimo R. Feria, to visit the office of Mr. Campbell, where Regino Talag, who gave the affidavit to Mr. Lara, works, in order to take his declaration and that of his companion, who, according to the affidavit of Talag, drew the instrument in question.

"4. The said Assistant Attorney General went to the office of Mr. Campbell on the 9th of this month and took the sworn declaration of said Regino Talag, as well as of one Nemesio Agor, who, according to Talag, was the one who drew the instrument. From these sworn declarations, which are adjoined hereto, it appears that said Agor did not draw or write the said instrument nor did he know anything about it, nor did he see Cirilo San Pedro and Petronila Trias. This shows that the declaration of Talag presented to this court by Mr. De Lara and repeated in his sworn testimony before the Assistant Attorney-General is false.

"5. From the foregoing facts it appears: (1) That Mr. Eugenio de Lara is the one who wrote the instrument which is the object of the present complaint and that, therefore, he did not tell the truth in his answer presented to this court denying that act; and (2) that the sworn declaration of Regino Talag presented by Eugenio de Lara to this court to corroborate his denial that he wrote the said instrument and which also was repeated in his sworn declaration before the Assistant Attorney-General is not entitled to any credit whatever.

"Wherefore, we submit to the consideration of this honorable court that although there exists no penal law affecting the act of Mr. De Lara, such act ought not to pass without being corrected, especially when we take into consideration that said notary Mr. De Lara is also a lawyer."

Upon this report and the facts presented by the evidence upon which it was based, the Attorney-General initiated a proceeding against said De Lara for the revocation of his appointment as notary public. This court, however, upon said report and evidence, returned the same to the Attorney-General with instructions that, if in the opinion of the Attorney-General the facts warranted it, there be included in the complaint filed on January 10, 1913, the charge that the said Eugenio de Lara in an investigation instituted for the purpose of determining whether there was sufficient foundation to the charges against him notary public to warrant their prosecution, declaring as a witness, under oath, testified false and submitted, in support of his false evidence, other testimony which he at the time well knew to be false.

Thereupon the Attorney-General amended his complaint by inserting therein the allegation found in paragraph 3 thereof, to wit:

"3. That at the investigation held by Mr. Felicisimo R. Feria, an assistant attorney of this office, on the above contract on August 8, 1912, the said Eugenio de Lara testified falsely and submitted the testimony of one Regino Talag, well knowing that the same was false."

The prayer of the complaint was "that said Eugenio de Lara be removed and disbarred from practicing law in the courts of the Philippine Islands and that his appointment as notary public be revoked."

The accused attorney having answered the complaint, the matter was referred to the clerk of this court as a referee to take testimony. On the completion of the hearings the referee reported the case with the evidence to this court.

Upon the evidence and the record we are satisfied beyond any doubt whatever that the accused attorney upon the

investigation instituted in the proceeding to revoke his appointment as notary public, as a witness therein declaring under oath, testified falsely and did so deliberately, willfully, and corruptly. That he composed and drew the document in question there can be no doubt. The same typewriter was used with respect to the document in question as was used in the answer which the accused attorney filed to the charges made against him as notary public. The testimony of the other witnesses of the case and the failure of the accused attorney to present as a witness the person whose affidavit he filed in support of his own sworn declaration that he did not compose or draw the instrument in question, of themselves establish beyond doubt that he is guilty of the charges made. When taken together with the evidence of Mr. Bopp, and the exhibits presented in connection with his testimony, by which it is demonstrated to the point of absolute clearness that the instrument in question was written upon De Lara's typewriter and very likely by De Lara operator, his guilt is placed beyond the range of doubt.

Every lawyer who is admitted to practice in the courts of the Philippine Islands takes an oath, a part of which is as follows:

"I do solemnly swear that I will do no falsehood, nor consent to the doing of any in court; * * *" (Sec. 18, Code Civ. Proc.)

Section 21 of the Code of Civil Procedure provides:

"Disbarments.—A member of the bar may be removed or suspended from his office as lawyer by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, or by reason of his conviction of a crime involving moral turpitude or for any violation of either of the oaths aforesaid, or for the willful disobedience of any lawful order of the Supreme Court or Courts of First Instance, or for corruptly or willfully appearing as a lawyer for a party to an action or proceeding without authority so to do."

It needs no argument to demonstrate that the conduct of the respondent in this case is a violation of his oath of office, particularly that part thereof in which he deposed that he would do no falsehood in court and that he would conduct himself in the office of a lawyer within the courts according to the best of his knowledge and discretion, with all good fidelity to the courts as to his clients.

The proceeding for the removal of the respondent notary public was a proceeding, in effect, in court, court being the appointing power and the complaint against the respondent to that end having been presented to this court and referred by it to the Attorney-General.

In that investigation the respondent was guilty of the acts in this proceeding complained of and thereby violated the oath to which we have referred. The same conduct was persisted in upon the proceeding to disbar him. While we recognize and deeply appreciate that the permanent separation of a man from his chosen profession, to which he has dedicated a large part of his lifetime and which may be his only support, is a most important and solemn matter, we feel that this case warrants the severest penalty which the law imposes and that the responsibility under which we lie both to the public and to the bar demands the action which we take in the premises.

It is hereby adjudged and decreed that said Eugenio de Lara be and hereby is disbarred and inhibited as an attorney and counselor at law of the Philippine Islands and as an officer of the courts thereof; that his license to practice and act as such be and the same is hereby revoked, canceled, and annulled.

It is further adjudged and decreed that his appointment as notary public be, and the same is hereby, revoked, canceled, and annulled, and that his license and certificate to practice and act as such be and the same is hereby also revoked, canceled, and annulled.

Arellano C. J., Carson, Moreland, Trent, and Araullo, JJ.

Respondent disbarred from practice of law and his appointment as notary public revoked.

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