

PETRA SANTOS, RAMON SANTOS, DOMINGA SANTOS, AND CRISTETA VDA. DE SANTOS, COMPLAINANTS, VS. ATTORNEYS ARTEMIO V. PANGANIBAN, JR., JAIME S. LINSANGAN, AND ROMEO V. VILORIA, RESPON...

Adm. Case No. 1094. February 28, 1983

Ponente: FERNANDO, C.J.

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FERNANDO, C.J.:

It was the alleged duplicity and failure to live up to his obligation of fidelity to the cause of his clients that led complainants[1] to file this administrative complaint against respondent members of the bar[2] for deceit, malpractice, and violation of their oath of office. After setting forth that respondent-lawyers were their counsel in a land registration case wherein they were the applicants, the complaint went on to state that respondents, after resting their case, filed a Manifestation With Motion to Withdraw Application[3] without informing them of said action and without securing their prior consent or conformity thereto and that, as a result of the withdrawal of their application, they were prevented from presenting additional evidence to prove their title to the land applied for, and that said withdrawal resulted in an adverse decision.[4]

Respondents were required to answer. Two of them, Attorneys Panganiban and Linsangan alleged they had no knowledge of the withdrawal motion complained of and that the filing of the said motion was respondent Viloria's sole act and responsibility.[5] In his separate answer, Attorney Viloria admitted that both Panganiban and Linsangan had nothing to do with the filing of said withdrawal motion, the case having been handled by him while he was an associate of the Panganiban Law Office.[6] By way of defense, he claimed that complainants had knowledge of the subject motion, and had given their assent thereto.[7] He then alleged that the motion to withdraw application was necessary and justified under the circumstances, denying any intention on his part under the complaints' interests.[8] The case was then referred to the Office of the Solicitor General for investigation, report and recommendation.[9] As far back as August 25, 1973, the complaint was set for hearing. Then as well as on subsequent dates scheduled later hearings, either the complainants or their counsel, except on two occasions, failed to come despite due notice. Upon manifestation of respondent Viloria that complainants appeared to have lost interest in prosecuting the case and that delay in the investigation of the same was prejudicial to him, complainants were given a last chance to appear. Complainants Petra Santos and Cristeta Vda. de Santos and their witness Luis Torres did so. When asked whether they understood the nature of the proceedings, Petra Santos, speaking for them, manifested that they did not really understand the same. They were under the impression that the proceeding would enable them to recover the land which they lost in the registration case aforementioned. After they were informed that the hearing was on their administrative action, complainants stated that they were no longer interested in pursuing the case and that they would not testify against the respondents. Moreover, Petra Santos also agreed to execute an affidavit of desistance. It was prepared with the help of her co-complainant Cristeta Vda. de Santos and witness Luis Torres. They signed such affidavit, written in the vernacular, before the investigating Solicitor who acknowledged the same.[10] At that time, complainants' counsel was absent. He was

given an opportunity to appear on June 18, 1974. He failed to do so, but he called up to inform the investigator that he would be filing a motion to dismiss the complaint against respondents.

The affidavit of desistance notwithstanding, the investigator required respondent Vilorio to submit evidence in his defense, and set the case for hearing on June 18, 1974. On the scheduled date, neither complainants nor their counsel, as noted above, appeared. On motion of counsel for respondent Vilorio, the hearing proceeded ex-parte. Vilorio testified on his own behalf justifying his actuations in the premises. He also submitted several documentary evidence in support of his oral testimony, after which his counsel rested the case.

On July 6, 1982, Solicitor General Estelito Mendoza[11] submitted his Report and Recommendation. It set forth the following: "Respondents Artemio V. Panganiban and Jaime S. Linsangan of the law firm bearing their names had nothing to do with the act complained of. Complainants' case was assigned to respondent Romeo V. Vilorio, then an associate of the said law office, and the preparation and filing of the disputed motion was his sole act and responsibility. . . . With respect to respondent Vilorio, the record discloses that, while complainants knew that their failure to secure a certification from the Bureau of Forestry that the land applied for is alienable and disposable public land was fatal to their application, they did not give their consent to the withdrawal thereof. Such omission on the part of respondent Vilorio to secure their prior assent to the withdrawal is improper, the same being an extraordinary course of action. However, the withdrawal did not affect complainants' substantial rights in the case because the land was not disposable land of the public domain, and, therefore, the dismissal of the application was inevitable. There was nothing respondent Vilorio could have done for his clients' cause but to withdraw their application provisionally, which he did. Under the circumstances, his actuation does not constitute malpractice, absent any showing that he acted in bad faith." [12]

The recommendation was for the dismissal of the charges against the three respondents.

The Court approves the recommendation, subject to a slight modification as to Attorney Romeo Vilorio. It is justified by the facts as found. To warrant disciplinary action, the standard required is that set forth by Justice Malcolm in the leading case of *In re Tionko*. [13] To be specific, there is need for "clear preponderance of evidence" [14] to sustain the charge. As a matter of fact, against Attorneys Artemio Panganiban and Jaime Linsangan, there was no evidence whatsoever. As for Attorney Romeo Vilorio, he must be held to some degree of accountability. He did not exercise due care in handling the case for his clients. He ought to have inquired carefully as to whether the action taken had sufficient basis in law. When he found out that it was futile to expect a favorable decision, a legal requisite not having been complied with, he ought to have informed his clients as to the fact of the withdrawal thereof. In thus being less than fully cognizant of the implication of a lawyer-client relationship, he ought to be admonished.

WHEREFORE, the administrative charges against Attorneys Artemio V. Panganiban, Jr. and Jaime S. Linsangan are dismissed for lack of merit. Attorney Romeo V. Vilorio is admonished to exercise greater care in the performance of his duties as a member of the bar. Let a copy of this resolution be spread on their records.

Makasiar, Concepcion Jr., Guerrero, Abad Santos, De Castro and Escolin, JJ., concur.
Aquino, J., is on leave.

[1] The complainants are Petra, Ramon, Dominga, and Cristeta, all surnamed Santos.

[2] The lawyers are Artemio V. Panganiban, Jr., Jaime S. Linsangan and Romeo V. Vilorio.

[3] Complaint, Annex A, 4-5.

[4] Ibid, Annex C, 7-13.

[5] Answer of Panganiban and Linsangan, 21-28.

[6] Answer with Affirmative and Special Defenses of Vilorio, pars. 8, 46.

[7] Ibid, pars. 3, 43-44.

[8] Ibid, pars. 9-26, 46-52.

[9] Resolution dated May 7, 1973.

[10] Exhibit 10 for respondent.

[11] He was assisted by Assistant Solicitor General Reynato S. Puno and Solicitor Jesus V. Diaz.

[12] Report and Recommendation, 9-10.

[13] 43 Phil. 191 (1922).

[14] Ibid, 194. The exact language of Justice Malcolm follows: "The serious consequences of disbarment or suspension should follow only when there is a clear preponderance of evidence against the respondent. The presumption is that the attorney is innocent of the charges preferred and has performed his duty as officer of the court in accordance with his oath." Such a doctrine was cited with approval, according to *Atienza v. Evangelista*, Adm. Case No. 1517, November 29, 1977, 80 SCRA 338, in nine subsequent cases starting from *Javier v. Cornejo*, 63 Phil. 293 (1936), and ending with *Santiago v. Bustamante*, Adm. Case No. 827, April 29, 1977, 76 SCRA 527; *Go v. Candoy*, a 1967 decision, L-27516, October 19, 1967, 21 SCRA 438; *Adorne v. Aldava*, a 1978 decision, Adm. Case No. 801, June 27, 1978, 83 SCRA 734; *Rivera v. Latonero*, Adm. Case No. 1675, Nov. 19, 1982; and *Adrias v. De Guzman, Jr.*, Adm. Case No. 1409, Dec. 30, 1982, may likewise be cited to show the continued adherence to such a principle.

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