

MARCOS MEDINA, COMPLAINANT, VS. LORETO U. BAUTISTA, RESPONDENT.*Adm. Case No. 190. September 20, 1964*

Ponente: BAUTISTA ANGELO, J.

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In a complaint filed on September 15, 1954, Marcos Medina charged respondent Atty. Loreto U. Bautista with the commission of certain acts constituting malpractice and conduct unbecoming a member of the bar. To this complaint respondent filed an answer on October 19, 1954. The case was referred to the Solicitor General for investigation, report and recommendation. This official in turn referred the case to the provincial fiscal of Cagayan for investigation and report. Later, after the reception of the corresponding evidence, the Solicitor General submitted his report to this Court finding respondent guilty of the acts of malpractice complained of and recommending his disbarment. Together with this report he submitted a complaint formally charging respondent with acts constituting the alleged malpractice as found in his investigation with the prayer that the name of respondent be stricken out from the roll of attorneys.

A copy of this formal complaint was served on respondent so that he may answer it if he so desires in accordance with the rules. Thereupon, he answered the complaint denying the material allegations thereof and praying that it be dismissed. He, however, also prayed that he be allowed to introduce additional evidence. This was allowed and the case was set for hearing. The first hearing was set on May 4, 1964, which, by agreement of the parties was postponed to June 22, 1964. On this last date, however, no hearing was held, and so it was again postponed to July 22, 1964. And having neither respondent nor his counsel appeared on the last date set, complainant and his counsel submitted additional evidence consisting of several decisions of the Court of Appeals showing that respondent was found guilty of estafa. Thereafter, the case was submitted for decision.

It appears that sometime in 1953, Maria Ragsac Cabel filed a complaint for reconveyance of a parcel of land before the Court of First Instance of Cagayan against complainant Marcos Medina. In the early part of January, 1954, complainant Medina approached the plaintiff seeking a compromise of the case. Plaintiff told him to see her lawyer Loreto Bautista, respondent herein, whereupon he went to see the latter in his office at Aparri, Cagayan. Respondent demanded P500.00 as a consideration for the amicable settlement, and as complainant had no ready cash then, he asked to be allowed to pay the same in small installments paying on that occasion the sum of P35.00. Respondent agreed and thereupon prepared a motion for an extension of time to file his answer in the case. Complainant returned to his hometown.

One month later, complainant received an order declaring him in default and so he went to respondent to ask him why in spite of their agreement he was declared in default. Respondent assured him that he had nothing to worry about and on that occasion respondent again asked for P50.00 which then and there, complainant gave. Before complainant left respondent told him to look for more money.

It turned out that respondent opposed his own motion for an extension of time to file an answer for, in lieu

thereof, he filed a motion to declare complainant in default. Consequently, a decision was rendered detrimental to complainant since the court allowed plaintiff to repurchase the property in litigation for the sum of P1,200.00.

On March 2, 1954, complainant again went to the office of respondent in Luna, Mt. Province apparently with the purpose of having the papers for the amicable settlement of the case prepared, but on this occasion respondent prepared two documents, Exhibits G and D, wherein, on one hand, it was made to appear that Maria Ragsac Cabel sold the property to complainant in consideration of the sum of P8,000.00 and, on the other, the latter reconveyed the same property to the former for the sum of P1,200.00. Both documents were witnessed by respondent. Both documents were also found to be fictitious in the sense that the consideration mentioned therein were never received. Maria Ragsac Cabel was asked by respondent to sign Exhibit C without knowing its contents upon the assurance that it was necessary in order that she could recover the land.

Sometime later, complainant received a letter from Atty. Bienvenido Jimenez, co-counsel of respondent in the civil case, requesting him to bring the title of the property pursuant to the decision of the court, and complying with this request complainant went to see Atty. Jimenez but instead of bringing the title he showed him the document which he was made to sign purporting to be a deed of sale by Maria Ragsac Cabel in his favor of the property for the consideration of P8,000.00. Atty. Jimenez asked Mrs. Cabel if she received the amount mentioned therein, which she denied. Instead Mrs. Cabel told Atty. Jimenez that she had given P800.00 to respondent to be deposited in court with the understanding that said respondent would raise the additional P400.00 to complete the sum of P1,200.00 which was fixed by the court as the consideration of the reconveyance of the property. After inquiry, Atty. Jimenez found that there was no such amount deposited in court, and in order to correct the wrong generated by the two fictitious documents, Atty. Jimenez prepared another document embodying the terms of the amicable settlement which they agreed would be submitted in the civil case. This settlement having been carried out, it put an end to the controversy. According to complainant, he paid all in all to respondent the sum of P500.00.

From the foregoing narration, the following facts are deemed to have been established: (1) respondent after agreeing with complainant to settle the case amicably prepared a motion for extension of time to file an answer, but instead he filed a motion to declare the latter in default; (2) being fully aware of the decision rendered in the civil case, respondent prepared two fictitious deeds of sale in the sense that the consideration in either was never in fact received; (3) pretending to arrange an amicable settlement of the case, respondent received on different occasions from complainant several sums totalling P500.00; (4) respondent, taking advantage of the ignorance of his client Maria Ragsac Cabel, asked her to sign a document wherein it was made to appear that she received P8,000.00 when in truth and in fact she did not receive said amount; and (5) respondent received from his client Mrs. Cabel the amount of P800.00 with the understanding that the amount was to be deposited in court for the repurchase of the property, but instead of depositing it he misappropriated the money. These facts constitute malpractice and conduct unbecoming a member of the bar.

In addition, the record shows that in CA-R. R. No. 18560-R, respondent was convicted of estafa and sentenced to an indeterminate penalty ranging from 4 months of arresto mayor to 1 year and 1 day of prision correccional, with the accessories of the law, and to indemnify the offended party in the sum of P800.00, with subsidiary imprisonment in case of insolvency. And in CA-G. R. No. 21796-R, the Court of Appeals made the following derogatory comment against respondents:

"A lengthy discourse on the relationship of attorney and client need not be indulged in. Suffice it to Bay that a lawyer should be scrupulously careful in handling money entrusted to him in his professional capacity. A high degree of fidelity and good faith on his part is exacted. (*Alindogan vs. Gerona*, Adm. Case No. 221, May 21, 1958.) Here, appellee (herein respondent Bautista) violated the trust. He was bound to deposit the P800.00 in court. But he did not; he converted it to his own use and benefit to the damage of appellant. Indeed, he was

convicted of estafa. Not only that. The confidence reposed in him by appellant was once again infringed when he lent his signature to Exhibits 2 and 3 which he knew to be spurious. Upon these documents, appellant—for nothing—lost the land already won in court. She had to compromise with the defeated suitor. But, she got the very short end of the bargain. And yet appellee had the temerity to come to court for attorney's fees. Good morals and sound public policy bar the portals of justice to him. Guilty of fraud on one count and bad faith on another, he has forfeited all legal claims for services in procuring the judgment in Case No. 634-A of the Cagayan Court (6 C.J. 725; 7 C.J.S. 1025; 5 Am. Jur. 363; Martin Legal and Judicial Ethics, 2nd Ed. [1961], p. 99)."

There is no question that the crime of estafa is one which involves moral turpitude within the purview of Section 27, Rule 138, of the Rules of Court.

WHEREFORE, respondent Loreto U. Bautista is hereby disbarred and, as a consequence, his name is ordered stricken off from the roll of attorneys.

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

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