

C. NOLI ARAGON, COMPLAINANT, VS. ATTY. FAUSTINO R. CARREON, RESPONDENT.

Adm. Case No. 1011. November 26, 1973

Ponente: RUIZ CASTRO, J.

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RUIZ CASTRO, J.:

In a verified letter-complaint filed with the Court on June 11, 1971, the complainant C. Noli Aragon charges the respondent Faustino R. Carreon with (1) engaging in the private practice of law without the necessary permit and while in the civil service; and (2) committing acts of harassment and malpractice against the complainant.

On the first specification, the respondent Carreon admits that while he was employed in the House of Representatives, Congress, Manila, he acted as counsel in the following three cases, namely: (1) for the complainant Aragon in the Court of Tax Appeals, in its Case 942, entitled "Philippine Flue-Curing & Redrying Corporation vs. Commissioner of Internal Revenue, C. Noli Aragon, Intervenor;" 12) for the heirs of Alfredo Quijano in the Court of First Instance of Manila Branch XVI, in its Civil Case 79951; and (3) for Magdaleno L. Petrasanta with regard to a charge of falsification of public or official document filed with the office of the City Fiscal of Manila, entitled "Magdaleno Petrasanta, complainant vs. C. Noli Aragon and Benjamin Castro, respondents" and docketed as case I. S. 26417.

The respondent Carreon was issued a written permit on January 26, 1959 by the then Speaker of the House of Representatives Daniel Romualdez, to appear as counsel for friends and relatives, at a nominal fee, before any court of justice in the Philippines.[1] The validity of this permit is assailed on the grounds that despite the fact that there had been at least three other Speakers of the House of Representatives since the expiration of the tenure of office of Speaker Romualdez, the permit was never renewed by his successors-in-office, and that the permit had become stale, having been issued way back in 1959, and therefore it could not be relied upon by the respondent as authority for his appearances as counsel between 1963 and 1971.

It is not disputed that the permit bears no expiry date and that it has never been revoked or withdrawn.

I.

Section 12 of Rule XVIII of the Revised Civil Service Rules allows an officer or employee to engage in a profession provided he has written permission from his Department Head; differently stated, the Department Head may allow his subordinate officer or employee to engage in a profession. When the Speaker of the House of Representatives issued a permit, he did so in his capacity as a Department Head or as an administrative functionary. The effectivity of the permit issued by him should be deemed to continue and subsist until revoked or withdrawn, regardless of the change of the person occupying the position of Speaker. The respondent Carreon, therefore, may not be said to have violated the civil service rule against engaging in his profession as a lawyer. Furthermore, the complainant Aragon is hardly the proper party to charge the respondent Carreon, considering that he (the complainant) himself procured the services of the respondent as his counsel in one of the three cases of which he now complains.

II.

On the second specification, the acts of harassment and malpractice allegedly committed by the respondent against the complainant Aragon consist of (a) having been the principal prosecution witness in a complaint for estafa filed by one Lilia V. Perez against the complainant Aragon; (b) having appeared as counsel for the heirs of one Alfredo Quijano in Civil Case 79951 of the Court of First Instance of Manila where the complainant was the defendant; and (c) having solicited his engagement and subsequently appearing as private prosecutor in a criminal case instituted by one Magdaleno Petrasanta against the complainant for falsification of public document.

In 1960 C. Noli Aragon sought the assistance of his friend, Magdaleno Petrasanta, an examiner in the Bureau of Internal Revenue, in the matter of a tax evasion case against the Philippine Tobacco Flue-Curing & Redrying Corporation that he (Aragon) was then researching on. Petrasanta referred Aragon to his friends, Atty. Cleto Leus and the respondent Carreon. Leus and Carreon, in a retainer agreement signed by Aragon, undertook to render legal services for Aragon in the "investigation, research, gathering of datas [sic], preparation of materials and papers on a contingent basis." [2]

According to the complainant, his aforementioned lawyers rendered no legal service for him. This claim is belied by the evidence, as it is clear that they prepared an affidavit of the complainant which was filed with the Secretary of Finance, denoun-cing the Philippine Tobacco Flue-Curing & Redrying Corporation for tax evasion, and another affidavit by the complainant contain-ing all the necessary details and references on the alleged tax evasion activities of the corporation and which was filed with the Department of Finance and the Bureau of Internal Revenue on March 30, 1960. These offices gave due course to the complaint, resulting in an assessment against the corporation in the sum of P2,507,693.17 and the issuance on July 1, 1960 of a warrant of distraint and levy on its properties for the said amount. There-after, the lawyer-client relationship between Aragon and Attorneys Leus and Carreon appears to have terminated, for, when the case was subsequently heard in the Court of Tax Appeals, Aragon was represented by one Atty. De Santos of the Raquiza, Llacar, De Santos, Balgos Law Offices and it was on only one occasion when Aragon asked Leus and Carreon to substitute for De Santos.

The foregoing facts are narrated as a background to the complainant's charge that the respondent, allegedly bent on harassing him, thereafter unethically appeared as counsel or witness in favor of parties adverse to the complainant.

- First charge. In 1963 the complainant Aragon, needing financial assistance to enable him to pursue the tax evasion case against the Philippine Tobacco Flue-Curing & Redry-ing Corporation, sought help from Lilia V. Perez. To document her financial assistance amounting to P25,000, Aragon entered into a written contract with Perez, [3] in her house and in the presence of the respondent and Atty. Leus. On May 27, 1970 Perez filed a criminal complaint for estafa against the complainant Aragon. Carreon was the principal witness for Perez. The sig-nificant exculpatory facts here are that (1) although the respondent acted as a witness against the complainant in 1970, his relationship with him as his lawyer had terminated a decade ago before then, that is, in 1960, as hereinbefore indicated; and (2) the complainant does not deny having executed the contract with Perez.

- Second charge. In Civil Case 79951 the complainant was sued on the matter of an unpaid loan by Alfredo Quijano, thru Atty. Guillermo Magadia, Jr. In the said case, the defendant Aragon admitted all the allegations of the complaint but set up a so-called "special defense" to the effect that the reason for his non-payment of the loan was his inability to collect his reward money from the Bureau of Internal Revenue. Magadia moved for judgment on the pleadings; the court granted the motion on June 8, 1970. Then, Alfredo Quijano died. Thereafter, his widow could not locate Magadia; she therefore retained the services of the respondent and one Atty. Natalio Panganiban, a son-in-law of Petrasanta who is a friend of the widow Quijano. The respondent

and Panganiban moved for substitution of parties, for execution of judgment (which was partially satisfied), and then for examination of judgment debtor. Upon these facts, the Solicitor-General does not view the participation of the respondent in the case as an act of harassment against the complainant, considering that the latter had practically confessed judgment. We agree.

- Third charge. It was Petrasanta who prepared his own complaint for falsification of public document against Aragon and one Ben Castro; the complaint gave the latter's residence as 558 Remedios St., Ermita, Manila. The case was set for hearing on December 11, 1970. Petrasanta asked the respondent Carreon to represent him. Carreon acceded. The hearing was however postponed for failure of Petrasanta and Ben Castro to appear, the latter not having been served with subpoena at the address stated in the complaint. Two other subpoenas to Ben Castro at the said address were returned unserved. Then, on March 29, 1971, Petrasanta informed Carreon that Castro was operating a canteen at the WHO Building in Manila. Carreon relayed the information to the fiscal who accordingly caused the issuance of yet another subpoena with the address of Castro as "c/o WHO canteen." It was only then that Carreon came to know where Castro could be located.

There is no evidence that the respondent Carreon solicited the case against the complainant. As the circumstances disclose, the respondent did not even know where to locate Castro, contrary to the assertion of the complainant that before the case was filed, the respondent had approached Castro at his residence at 1260 Peñafrancia St., and because of Castro's refusal to cooperate, the latter was included in the falsification charge.

The three cases wherein the respondent appeared as counsel or as a witness adverse to Aragon are too few in number to warrant the finding that the respondent was motivated by a scheme to harass the complainant. Neither may the imputation be made that the respondent has violated the canon of legal ethics against representing conflicting interests, because when the respondent entered his appearance or acted as a witness in the three cases, his relationship to the complainant as the latter's counsel had long ceased. It may be additionally stated that there is no intimation that in the said appearances the respondent had divulged secrets or confidential information acquired in his capacity as the complainant's counsel.

ACCORDINGLY, the complaint against the respondent Faustino R. Carreon is hereby dismissed.

Makalintal, C.J., Teehankee, Makasiar, Esguerra, and Muñoz Palma, JJ., concur.

[1] Exhibit "17."

[2] Exhibit "1."

[3] Exhibit "16."

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