

ANATALIO SOLIDUM, COMPLAINANT, VS. CESAR STA. MARIA, RESPONDENT.*Administrative Case No. 1858. December 26, 1984*

Ponente: AQUINO, J.

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Anatalio Solidum asked that disciplinary action be taken against Cesar Sta. Maria for not having explained to him properly the "Sinumpaang Salaysay" (affidavit of desistance) dated October 1973. The affidavit was the basis for the dismissal by the city court of Quezon City of Criminal Case No. V-44593 for homicide and lesiones leves through reckless imprudence against the accused Pedro H. Pellos. That case involved the death of Solidum's daughter, Luzviminda Solidum.

Sta. Maria appeared in that case as private prosecutor in August, 1973. Solidum executed the affidavit of desistance in consideration of P8,000, P4,000 of which was paid in cash and the balance of P4,000 to be paid in installments (Exh. 5). Said affidavit reads:

"SINUMPAANG SALAYSAY

"AKO, si ANATALIO SOLIDUM, may sapat na gulang, Pilipino, kasal kay PRUDENCIANA OSORIO, at naninirahan sa 1-B, Scout Santiago St., Roxas District, Quezon City, matapos sumumpa ng ayon sa batas, ay malaya at kusang loob na nagsasalaysay ng mga sumusunod:

Na ako ang ama ni LUZVIMINDA SOLIDUM na namatay sa Quezon City noong ika-30 ng Nobyembre 1969;

Dahil sa pagkamatay ng aking nasabing anak, si Pedro Pellos y Herrera ng Bo. Tambo, Indang, Cavite ay inihabla ng "Homicide with Physical Injuries Through Reckless Imprudence" sa "City Court of Quezon City, Br. V" sa Criminal Case No. 44593", "People of the Philippines, plaintiff versus Pedro Pellos Y Herrera, accused";

Na matapos kong maliwanagang lahat ng bagay ukol sa nasabing sakuna mula sa panig ni Pedro Pellos at paliwanag ng aking mga abogado na si Attys. Cesar Sta. Maria at Atty. Elizer Manikan, ako ay naniniwala ng ang Pagkamatay ng aking nasabing anak na si LUZVIMINDA SOLIDUM ay isang aksidente lamang at walang kasalanan dito si Pedro Pellos Y Herrera ang napahabla sa nasabing asunto;

Na ako ay naniniwala na siya ay hindi dapat managot sa pagkamatay ng aking nasabing anak at kaya hinihiling ko sa Piskal ng Quezon City na nangangasiwa sa nasabing asunto, na hingin sa Hukuman na pawalan na ng saysay ang nasabing asunto;

Ibinibigay ko ang sinumpaang salaysay na ito bilang ama ng nasabing LUZVIMINDA SOLIDUM ng malaya, at kusang loob at ako ay hindi tinakot o pinilit ninuman.

SA KATUNAYAN NA LAHAT, nilagdaan ko ang salaysay na ito dito sa Lungsod ng Quezon ngayong ika 8 ng Oktubre 1973."

When Pellos failed to pay the installments, Sta. Maria, in behalf of Solidum, sued him in 1975 in the Manila

municipal court. The case was compromised in 1977 (Exh. 5). Pellos paid P1,000 and promised to pay the balance of P3,000 in three installments with the right of Solidum to secure execution in case any installment was not paid. Pellos paid P500 but failed to pay the balance of P2,500.

We find that Sta. Maria committed an error of judgment in allowing the case to be compromised in the amount of P8,000 which was not all paid in cash. He should not have consented to the final dismissal since the sum of P4,000 was to be paid in installments without any security.

His primary duty was to prosecute Pellos. The civil liability may be compromised but not the criminal action (Art. 2034, Civil Code; Art. 23, Revised Penal Code). Thus, the following dictum was enunciated in *Velez vs. Ramas*, 40 Phil. 787, 791:

"By the universal consensus of judicial opinion in all ages it has been considered contrary to public policy to allow parties to make agreements designed to prevent or stifle the prosecution for crime. It is self-evident that the law cannot sanction an engagement which is subversive of the law itself or which tends to weaken the foundation of human society. The machinery for the administration of justice cannot be used to promote the unlawful purpose."

The affidavit of desistance, wherein Solidum was made to admit that Pellos did not commit any crime in connection with the vehicular accident, which resulted in his daughter's death, was really a device for compromising the case for homicide through reckless imprudence. (See *People vs. Caruncho, Jr.*, G.R. No. 57804, January 23, 1984, 127 SCRA 16). It turned out to be prejudicial to Solidum.

The settlement was lopsided because while Pellos was exonerated, Solidum was not paid the P2,500. A more circumspect lawyer would not have placed his client in such a disadvantageous position.

WHEREFORE, respondent Sta. Maria is suspended from the practice of law for three months for his failure to protect the interest of complainant Solidum in the criminal case.

SO ORDERED.

Makasiar (Chairman), Concepcion, Jr., Escolin, and Cuevas, JJ., concur.

Abad Santos, J., I vote for misprision from practice for three (3) months.

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