

AGUIDO LACSON, JR., ET AL., PETITIONERS, VS. COURT OF APPEALS, HON. JOSE R. HERNANDEZ, ET AL., RESPONDENTS-.

G.R. No. 113591. February 06, 1995

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In the resolution of 13 July 1994, this Court (a) denied with finality the motion to reconsider the resolution of 11 May 1994 which denied the instant petition for the failure of the petitioners to sufficiently show that the respondent court committed any reversible error in rendering the challenged decision, and (b) directed the counsel for the petitioners, Atty. Mario G. Fortes, to show cause why he should not be held in contempt of court and declared liable for misconduct for his "apparently malicious and unfounded accusation that this Court did not read the petition and for craftily suppressing from the body of the petition the final decision in CA-G.R. CR No. 11465."

In his compliance dated 6 August 1994, Atty. Fortes admitted the charge but tried to explain that:

"2 —

This is the first time that counsel filed a petition of this kind and nature. The latest resolution has greatly enlightened counsel and broaden its [sic] outlook on the kind and nature of a petition that counsel might file in the future...."

and justified his outbursts and offered his apology thus:

"6 —

In view of the foregoing facts and circumstances, considering counsel was only motivated with his enthusiasm to protect the interests of his clients, verily those statements were made without malice. Counsel was grateful to the Highest Tribunal for its enlightening Resolution. It is with deep regret that this thing happened. Counsel sincerely offers his apologies for the wrong done to the Supreme Court. Counsel assures this Honorable Court that this incident will not be repeated. Counsel also promises to be more discreet in his statements in his pleadings."

In the resolution of 12 September 1994, the Court required Atty. Fortes to manifest whether he was willing to submit the matter on the basis of the pleadings already filed. He asserted in the affirmative in a manifestation dated 15 October 1994.

The contempt aspect of this case arose from the motion for reconsideration of 6 June 1994 which Atty. Fortes filed. He sought therein the reconsideration of the resolution of 11 May 1994 which denied the instant petition. He contends that "the petition was denied wholly on the basis of technicality"; that the "denial did not consider the fraud sought to be stopped"; and that in peremptorily denying the petition, this Court disregarded the purpose of judicial proceedings, i.e., "to seek the truth," even as it is "unusual that the Resolution failed on this aspect," and upheld "the fake and falsified OCT No. 730 of the Tuazons." He further stated therein that:

"[i]t pained the Petitioners and their counsel to surmise that nobody cared to read the Petition. If they did they refused to understand the arguments in order not to blur the preconceived resolution of this case."

In the aforementioned resolution of 13 July 1994, this Court said:

"While the motion could be easily treated as a mere scrap of paper for lack of proof of proper service thereof on the adverse parties, in view of the aforesaid charges, however, this Court chose to take action thereon.

The petition was not dismissed on the basis of technicality and it is completely untrue that it was not read by the Court. The petition, including its annexes, was carefully read, and this Court took pains to consider the allegations, issues, and arguments adduced therein. It reached the conclusion that the petitioners have failed to sufficiently show that the respondent Court had committed any reversible error in rendering the challenged decision. The petitioners' counsel should know, or ought to know, the nature, character, and scope of a petition for review under Rule 45 of the Rules of Court. He should have, moreover, been candid enough in the petition for review to disclose in its body the fact that CA-G.R. SP No. 30319, which is the subject of the instant petition, is actually a petition to annul the same decision of Branch 158 of the Regional Trial Court of Pasig, Metro Manila, in Criminal Case No. 81736 which petitioner Aguido Lacson, Jr. appealed to the Court of Appeals in CA-G.R. CR No. 11465 and which the latter (Thirteenth Division) affirmed in toto in its decision of 11 November 1992. This decision became final on 27 November 1992. Entry of judgment was then made on 11 January 1993 [Rollo, 23]. In Criminal Case No. 81736, petitioner Aguido Lacson, Jr. was found guilty of the violation of Section 1 of P.D. No. 772 (Anti-Squatting Law) and was sentenced to pay a fine of P5,000.00; however, his wife, Loreta Quitalig, now his co-petitioner, and two other accused were acquitted. We gathered these facts only from Annex "A" of the instant petition, which is the challenged decision of the Court of Appeals (Fourteenth Division) in CA-G.R. SP No. 30319, wherein the Court of Appeals stated:

'One last point. It bears reiterating that the decision in Criminal Case No. 81736, which petitioners sought to annul, is the very same decision which was affirmed in toto by this Court, through its Thirteenth Division, on November 11, 1992 in CA-G.R. CR No. 11465. Therefore, this Division, the Fourteenth Division, to which the instant petition was raffled, is in no position to nullify a final judgment issued by a co-equal and coordinate Division, the former Thirteenth Division. On this ground alone, the petition must fail.' (Rollo, 28).

The suppression of these antecedents must have been deliberate since counsel for the petitioners must have known that a voluntary disclosure thereof in the body of the instant petition would be fatal to the petitioners' cause.

This Court further observed that petitioner Loreta Quitalig, having been acquitted by the trial court and having not joined, for obvious reason, the appeal therefrom by her husband, was not a party in CA--G.R. CR No. 11465. Clearly then, she could not join her husband to challenge the said decision in this case.

Finally, the instant petition concentrates its fire on the alleged fake OCT No. 730. Unfortunately, CA-G.R. SP No. 30319 is hardly the proper remedy to nullify it. Counsel for petitioners should know, or ought to know, what the proper remedy is."

Indisputably then, Atty. Fortes' assertions in the motion for reconsideration that the petition was denied wholly on technicality; that the Court's peremptory denial disregarded the purpose of judicial proceedings, which is to seek the truth; that the Court upheld the fake and falsified OCT No. 730 of the Tuazons; and, worse, that the Members of the Court did not read the petition or that if they did, they simply refused to understand the arguments "in order not to blur [their] preconceived resolution of this case," are patently unfounded and malicious. His sole purpose was to show and prove to his clients that he was all the time correct and this Court dismally wrong not only for veering away from the true purpose of judicial proceedings and for suppressing the truth and upholding an illegal title, but, worse, for not even reading the petition or if it did, for not understanding it in order to hide its

prejudgment of the case. In so doing upon a matrix of false and unfounded premises, Atty. Fortes did an immeasurable disservice to this Court by putting it into dishonor, disrespect, and public contempt, diminishing public confidence or promoting distrust in the Court, and assailing the integrity of its Members and even charging them with violating their duty to render justice.

Thus, Atty. Fortes deliberately disregarded or ignored his solemn oath to conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity to the courts and his duties to observe and maintain the respect due to the courts of justice and judicial officers (Section 20, Rule 138, Rules of Court; Canon 11, Code of Professional Responsibility), observe candor, fairness and good faith to the courts (Canon 10, Code of Professional Responsibility), and to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance (Canon 1, Canons of Professional Ethics).

In *Salcedo vs. Hernandez* (61 Phil. 724, 728-729 [1935]), this Court had already the occasion to state:

"As a member of the bar and an officer of this court, Attorney Vicente J. Francisco, as any attorney, is in duty bound to uphold its dignity and authority and to defend its integrity, not only because it has conferred upon him the high privilege, not a right (Malcolm, *Legal Ethics*, 158 and 160), of being what he now is: a priest of justice (In re *Thatcher*, 80 Ohio St. Rep., 492, 669), but also because in so doing, he neither creates nor promotes distrust in the administration of justice, and prevents anybody from harboring and encouraging discontent which, in many cases, is the source of disorder, thus undermining the foundation upon which rests that bulwark called judicial power to which those who are aggrieved turn for protection and relief.

It is right and plausible that an attorney, in defending the cause and rights of his client, should do so with all the fervor and energy of which he is capable, but it is not, and never will be so for him to exercise said right by resorting to intimidation or proceeding without the propriety and respect which the dignity of the courts require. The reason for this is that respect of the courts guarantees the stability of their institution. Without such guaranty, said institution would be resting on a very shaky foundation."

and in *Surigao Mineral Reservation Board vs. Cloribel* (31 SCRA 1, 16-17 [1970]), this Court said:

"A lawyer is an officer of the courts; he is, 'like the court itself, an instrument or agency to advance the ends of justice.' His duty is to uphold the dignity and authority of the courts to which he owes fidelity, 'not to promote distrust in the administration of justice.' Faith in the courts a lawyer should seek to preserve. For, to undermine the judicial edifice 'is disastrous to the continuity of government and to the attainment of the liberties of the people.' Thus has it been said of a lawyer that [a]s an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice." (citations omitted)

His explanation that this is the first petition he has filed with this Court and his justification that he was only motivated by his enthusiasm to protect the interests of his clients are unacceptable. On the contrary, if this was indeed the first petition he has filed with this Court, he should have striven for the best and demonstrated utmost candor to and respect for the Court. Instead, he tried to hide the futility of his clients' cause by suppressing vital facts in the petition. As to his enthusiasm to protect his clients' interests, he should be reminded of what this Court had said in *Surigao Mineral Reservation Board*:

"A client's cause does not permit an attorney to cross the line between liberty and license. Lawyers must always keep in perspective the thought that '[s]ince lawyers are administrators of justice, oath-bound servants of society, their first duty is not to their clients as many suppose, but to the administration of justice; to this, their client's success is wholly subordinate; and their conduct ought to and must be scrupulously observant of law and ethics' [5 Martin, *Rules of Court in the Philippines*, 1966 ed., p. 69, citing In re *Kelly*, 243 F. 696,

706]."

WHEREFORE, for his violations of his oath of office, Section 20, Rule 138 of the Rules of Court, the Code of Professional Responsibility, and the Canons of Professional Ethics, ATTY. MARIO G. FORTES is hereby ORDERED to pay a FINE of Two Thousand Pesos (P2,000.00) and WARNED that the commission of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this resolution be attached to the records of Atty. Mario G. Fortes in this Court.

SO ORDERED.

Padilla, (Chairman), Bellosillo, Quiason, and Kapunan, JJ., concur.

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