

IN RE VICENTE SOTTO.*G.R. No. 14576. September 06, 1918*

Ponente: STREET, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-14576/>**STREET, J.:**

Complaints having heretofore been laid before this court charging the respondent, Vicente Sotto, an attorney practicing before this bar, with unprofessional conduct, said complaints were by resolution of the court referred to the Attorney-General for investigation. Upon November 30, 1917, the Attorney-General, after inquiring into said charges, reported that the charges were in his opinion wellfounded and recommended the institution of disbarment proceedings under section 24 of the Code of Civil Procedure. The respondent was thereupon notified of said report: and, after he had put in his reply, evidence was taken, pursuant to our resolution of December 14, 1917, before the clerk of this court. The matter is now before us for consideration upon the evidence so taken and the arguments submitted in the form of memorandums by the Attorney-General for the Government, and by Sotto, as respondent.

The charges involved in the report of the Attorney-General were primarily four in number, to which the Attorney-General has added a fifth, based upon matters connected with the present proceeding itself. The four original charges are based upon four distinct transactions; and, in order that their nature may be fully understood, we herewith set forth in detail the facts connected with three of these transactions, namely, the first, third, and fourth. The other two charges will be dealt with more summarily at the end of our detailed statement.

On June 16, 1917, Natalia Enriquez of Paombong, Bulacan, sold to Santiago V. SyJuco of Malabon, Rizal, two parcels of land. The contract of sale was embodied in a document duly acknowledged before a notary public. For some reason or other, the vendor, on or about the first days of August, 1917, instituted an action against the vendee for the purpose of securing the rescission of said contract. The plaintiff's attorney of record in this proceeding was one Jose Galan.

While the action was pending the respondent, Attorney Vicente Sotto, intervened in representation of the plaintiff. On August 10, 1917, he went to the house of SyJuco in Malabon and attempted to procure his consent to the rescission of the contract above-mentioned and endeavored to induce him to sign for that purpose a document already prepared rescinding said contract. As SyJuco was reluctant to rescind the contract, the respondent, Vicente Sotto, intimidated and threatened him, telling him that unless he signed such document the respondent would procure his discharge from the office of notary public which he then hold, would file charges of estafa against him, as a result of which, he would enter Bilibid prison, and further that the respondent would publish in all the newspapers an article to the effect that SyJuco was an impostor.

These threats, especially that relating to the publication in the newspapers that SyJuco was an impostor, had the desired effect; and on August 11, 1917, SyJuco, although aware that the charges imputed to him were false, and in order to prevent the respondent from carrying his threats into execution, acceded to the respondent's demand and executed a document rescinding the contract in question.

Sotto seems not to have been fully satisfied with this; and a short time after the occurrence of the events above narrated, he wrote to SyJuco a letter dated August 13, 1917, in which he asked the latter to pay him the sum of P2,500 as supposed losses and damages to his client Natalia Enriquez, and giving him two days' time within which to settle the claim extra-judicially. To make his demand more effective and probably to impress upon SyJuco's mind the fact that the respondent would surely execute his threats he caused to be published in the issue of August 13, 1917, of the newspapers "El Comercio" and "La Nacion" an article prepared by himself and entitled "Grave Charges Against a Notary." The same article was by him caused to be published in the issue for August 16, 1917, of the newspaper "El Ideal" where it appeared under the heading of "The Mother of Dr. Valencia Victim of an Impostor." The difference in the headline of the article as it appeared in "El Ideal" and as it appeared in the other two papers, and the slight difference which may be found in their context, is the result of changes made by the corresponding editors of said papers for the purpose of evading any responsibility. These articles refer to SyJuco and in substance impute to him acts constituting fraud and deceit in securing the execution of the contract first above mentioned, and further informs the public "an information for estafa will be filed against the impostor (referring to SyJuco) with Attorney Vicente Sotto acting as private prosecutor, unless SyJuco should pay all losses and damages."

Four or five days passed. The respondent, meanwhile not having received any answer from SyJuco, wrote him a registered letter, in which he reproduced the contents of the first letter and then concluded with this remark: "No answer having been received from you, you are advised that I will present the complaint with its consequences." In this letter were inclosed two pictures, one of Atanasia Enriquez, and another of Natalia Enriquez, the latter bearing a note in the handwriting of the respondent and saying "To be published on the 25th." This note, together with the demand for the payment of P2,500, was a veiled threat to the effect that unless this sum of money was forthcoming the publication of scandalous charges against SyJuco would continue; and this was probably one of the "fatal consequences" which the respondent had in mind. Such action on the part of the respondent finds its cause in SyJuco's not paying any attention to his first letter, and had the object of impressing all the more upon the mind of his intended victim that he, the respondent, had all the means of exposing him to public ridicule and contempt.

Still no answer was received from SyJuco; and the respondent caused to be published in "The Independent" for August 25, 1917, together with the pictures above described and the affidavits of Natalia and Atanasia Enriquez, detailing the acts alleged to constitute the supposed fraud and deceit, the article he had already caused to be published in the newspapers above mentioned. As it appeared in "The Independent" the article was entitled "An Aged Lady of Seventy Years denounces under oath the Adventures of a notary public of Malabon" (referring to SyJuco); and, to make it appear that he had taken or copied it from "La Nacion," he placed upon said article an epigraph which reads, "What 'La Nacion' says." However, the truth is, as has been said, that it was he who provided "La Nacion" and the other newspapers with said article.

In spite of these publications SyJuco maintained his silence; and the respondent, in pursuance of his threats and of his intention to make SyJuco come to terms, committed the following acts: He asked SyJuco's mother for a picture of her son and for a copy of the judgment rendered by the Court of First Instance of Rizal in a case between SyJuco and his parents, without telling her the purpose for which he wanted them. Then he caused both the picture and the judgment to be published in the issue of "The Independent" for September 1, 1917, under the heading printed in big type of "Son Sued by His Parents. Santiago V. SyJuco is sentenced by Judge McMahon." Just below the picture is printed the name "Santiago V. SyJuco" and above it is the satirical phrase "Men of the day." This publication had an introductory paragraph which states that "SyJuco, the notary public of Malabon, Rizal, who recently, according to the daily papers, attempted to defraud an aged lady of seventy years, making her sign a fraudulent document of sale of a fishery worth fifteen thousand pesos, had just lost the suit pending

between him, and his father the Chinese Vicente SyJuco and his mother Cipriana Viardo. This woman, aged more than fifty years, has appeared at the office of 'The Independent' in order to ask for the publication of the judgment." But the truth, as already stated, was that it was the respondent who published it without the permission or knowledge of the old lady.

The respondent denies having made any threats against SyJuco but we think that the proofs tend to show that such threats were made. The testimony of the witnesses for the Attorney-General to the effect that the respondent stated that information for estafa would be filed against SyJuco, that he would surely enter Bilibid prison, etc., agrees with the respondent's attempt, as shown by Exhibits 4-A and 7-A of the Attorney-General, to make SyJuco believe that he had committed a crime and that he admitted its commission.

Denial is also made of the truth of the charge that the respondent had sent to SyJuco the picture of Natalia Enriquez, which bears the note "To be published on the 25th." There are numerous circumstances, not necessary to be here detailed, which in our opinion conclusively show that the charge is true.

We now pass to a consideration of the third charge, with respect to which the facts are as follows:

On June 29, 1917, Jose Tortajada, a resident of Manila, executed a document by which he appointed the respondent as his attorney for the purpose of settling, judicially or extra-judicially, certain differences which he had with his wife, Amada Mestres. In said document Tortajada promised to pay the said respondent the sum of P2,000 for his services. For the purpose of acquainting the respondent with all the details of the case, Tortajada sent him on June 30, 1917, a letter in which he described in detail the proud, haughty, stingy, and despotic character of his wife and the insults, humiliation, maltreatment, and remorse that he had suffered at her hands—all of which, if published, would surely injure the reputation of both spouses and expose them to public ridicule.

The respondent, in pursuance of the contract of employment, began work on the case and had some interviews with Tortajada's wife. Whether as a result of the respondent's services or not; all differences between Tortajada and his wife were soon afterwards settled extra-judicially; and the respondent, not long after, made a demand for the payment of his fees of P2,000, which Tortajada refused to pay. Later on, Tortajada received in the mail the following documents: (1) a photographic copy of a letter which purported to be signed by Tortajada and addressed to the respondent; (2) a typewritten anonymous letter addressed to Tortajada; and (3) an envelope addressed to the same person bearing the name of the respondent on the upper left hand corner and in all other respects of the same class as that admitted to have been used by him. The photographic copy above mentioned is a copy of a letter which Tortajada had previously written to the respondent and in which the latter was urged to expedite the case. The anonymous letter reads: "Attorney Sotto says that as you are looking for trouble, he had decided this morning to present a complaint against you, in which are reproduced all—absolutely all—of your letters, and, if you compel him, he will cause the complaint together with the photographic facsimiles of all the letters to be published in 'The Independent'* and in all the local papers so that the public may know you and your motives." Believing that these things came from the respondent, Tortajada sent him a letter in which he stated that he was not afraid of the respondent's threats and that the latter could do anything he wanted to do and yet the former would not pay him a cent. To this reply no answer was received from the respondent.

Thereafter, the respondent filed in the Court of First Instance of the city of Manila a complaint against Tortajada for the purpose of recovering the sum of P2,000, the amount of fees agreed upon. In paragraph 6 of this complaint there is an exact copy of the letter of June 30, 1917, which Tortajada sent to the respondent and in which details are given of the domestic troubles of Tortajada.

There can be no doubt that, supposing the anonymous letter had been sent by the respondent, its language considered with the relation of the parties at the time, especially with the persistent refusal of Tortajada to pay the

respondent's fee, would constitute a threat against Tortajada of a type similar to that employed by the respondent against SyJuco. But the respondent denies the authorship of the anonymous letter and that it was he who sent it. The Attorney-General, however, contends that he (the respondent) is the author thereof and that it was he who sent it. This contention is based upon the following grounds: (1) The fact that the anonymous letter was received; (2) the similarity of the envelope in which it was contained to the envelopes used by the respondent; (3) the fact that Tortajada answered it addressing a letter to the respondent, and yet the latter never made any reply denying that he sent it; (4) the fact that only the respondent could have taken the photograph of the letter delivered by Tortajada to Amando Calleja and addressed to the respondent; and (5) the fact that, as was stated in the anonymous letter, all the letters sent by Tortajada were reproduced in the complaint.

This combination of circumstances in our opinion shows beyond a reasonable doubt that the respondent sent the anonymous letter as charged.

The respondent as a second defense to the third charge contends that it was not he but his clerk, Amando Calleja, who prepared the complaint filed against Tortajada and that the respondent signed it without first reading its contents. We are, however, of the opinion that, taking all the circumstances into consideration, it was the respondent himself who prepared the complaint, or at least, if somebody else prepared it, the respondent ordered or approved the insertion of the letter in the complaint.

But the respondent further contends that, even admitting that the letter in question was inserted by him or by his order, he was under no obligation to keep its contents a secret.

In this view we can by no means concur. The letter was written confidentially by a client to the respondent in his capacity as attorney. Hence the respondent was under obligation to keep the contents of the letter inviolate; and as it is wholly immaterial in the cause of action stated in the complaint against Tortajada, its insertion therein constitutes a gross violation of professional conduct and of the oath taken by the respondent that he would always conduct himself with entire fidelity to his clients.

The facts material to the fourth charge are these: Sometime in the month of September, 1917, Natalia Enriquez was looking for someone who would buy certain parcels of land belonging to her. Atanasia Enriquez, a niece of Natalia, was aiding her in this work, probably in the capacity of broker. It appears that the respondent was also acquainted with this fact and was also probably looking for a purchaser for one of two reasons, to wit: (1) Either because prior to that time Natalia Enriquez was indebted to him in the sum of P2,000, which he wanted to be paid out of the proceeds of the sale, or (2) because he wished that the document of conveyance should be executed with his aid so that he could earn his fees. It also appears to be probable that there was an understanding between Natalia, Atanasia, and the respondent, that when a purchaser should appear, the document would be executed with the intervention of the respondent.

On one of the last days of September, 1917, a person named Bernardo Dagala, or rather his wife, Enrica de Guzman, was found who was willing "to purchase the property. When the sale had already been verbally agreed upon., Atanasia Enriquez accompanied by Dagala went to the office of the respondent to notify him that a purchaser had been found and probably with a view to the execution of the proper document. But in order that they could easily withdraw and find another notary who would draw the document for a less sum, in case the respondent should charge them too high, they withheld the name of the purchaser and Dagala was presented merely as a person who aided in looking for a purchaser. But the respondent, more resourceful than they were and with the intention of securing information from them as to who the purchaser was, met them with the statement that he too had found a purchaser who would pay more and who had ready money in the bank and that the sale to this person should not be delayed. Thereupon, Dagala, anxious that the sale should be made to him only, declared

that he himself was the purchaser. Thus seeing that Dagala was so intent to purchase the property and believing that he would be willing to pay any sum for the drafting of the document, the respondent told him that the other purchaser was willing to pay him P500 for that work, and that Dagala had to pay this sum if he wanted to purchase the property. After some more discussion as to the proper fees for drafting the document they parted with the understanding that they would again meet the next day at the respondent's office. However, believing that the fee demanded by the respondent was too high, Natalia Enriquez, her son Juan Valencia, Dagala, and his wife De Guzman went the next day, September 30, 1917, to another notary public in Manila, Miguel de Leon, who drafted the document of conveyance for a sum much less than the exorbitant fee which the respondent proposed to charge.

The next day the respondent was informed that the document had been prepared at the office of Miguel de Leon and on the afternoon of that day the former went to the latter's office and representing that he was the attorney of Natalia Enriquez demanded that the document be shown to him alleging that his client had told him that she signed it without knowing its contents. Miguel de Leon showed him the document and explained to him in detail the circumstances under which it was executed, and which leave no room for doubt that there was nothing illegal about it, nothing that could invalidate it. The object of the respondent in going to the office of Miguel de Leon was of course to verify the information which he had received and which he found out was true. Irritated at the fact that he had thus lost the sum of P500 which he expected to get as a fee for drafting the document of sale, the respondent, on October 2, 1917, sent two letters to Bernardo Dagala and two other letters to Natalia Enriquez.

In his first letter to Dagala, he states that, according to his clients, Dagala had made them sign a document which they did not understand, that Dagala's conduct was improper, and requested that the latter should see him at once. In his second letter he reproduces in effect the substance of the first letter and adds: "Come immediately to my office if you want to avoid the fatal consequences of what you have just done." In his first letter to Natalia Enriquez, he ordered her to come to his office in order to talk about the document she had signed. In the second letter he advised her that the fault was hers and again asked her to see him.

On October 3, 1917, Dagala went to the office of the respondent, afraid of the "fatal consequences" which the latter covertly threatened in his letter. Here the respondent told Dagala that he had acted improperly in not coming to the former's office on the day agreed upon, that the former had lost the sum of P500 which the other purchaser promised to pay for drafting the document, that he needed money, and that he would cause trouble unless Dagala should pay him the P500 he had lost, and guarantee with the property acquired by his wife the debt of P2,000 which Natalia Enriquez owed the respondent. Somehow or other, instead of a mere guaranty, Dagala on October 3 was caused by the respondent to sign a document by which, besides guaranteeing Natalia's debt of P2,000 with the property sold to his wife, he assumed the payment of the same. This done, the respondent, who knew beforehand that the property purchased by Dagala's wife was subject to a lease and right of option in favor of one Marcelo Estrella, then requested that Dagala should convince his wife to appoint him as their attorney to secure the delivery of the property from Estrella. Dagala promised to come back with his wife the following day, October 4, 1917, which they did, to inform the respondent of their answer.

On this occasion Dagala paid the respondent P500 upon the account of Natalia's debt for which a receipt was given. The Dagala spouses then executed a document by which they appointed the respondent their attorney to secure from Marcelo Estrella the delivery of the property, and by which they promised to pay him the sum of P500 as attorney's fees. Acting under this appointment and in representation of the Dagala spouses the respondent had an interview with Estrella at his own office. Estrella manifested his willingness to deliver the property provided that he be indemnified for damages and improvements he had made upon it.

Several days later, that is, on or about October 16, 1917, the respondent appeared at the office of the prosecuting

attorney of the city of Manila and acting as attorney for Natalia Enriquez asked that an information for estafa be filed against the Dagala spouses upon the ground that these persons had defrauded Natalia Enriquez in the sale of the property heretofore referred to. It will be noted that at this time the respondent was attorney for the Dagala spouses with respect to the same property and knew all the details of the transaction which led to the sale thereof. An investigation was held with the result that the prosecuting attorney, seeing no good ground for filing the information for estafa, refused to do so. But the respondent insisted and stated that he desired criminal proceedings to be instituted against Dagala and his wife because he was sure that as soon as they or at least Dagala should be arrested, they would immediately consent to a settlement in order to avoid the scandal which the respondent intended to create with the filing of the information and which he would publish in his weekly, "The Independent." In spite of this insistence, however, no information was filed; and the respondent on October 25, 1917, wrote a letter to the Attorney-General in which, after relating the refusal of the prosecuting attorney to file the information, he says, "for this reason my client comes to you in demand of justice."

Thereafter in the month of November a civil action against Dagala and his wife was brought in the Court of First Instance of Manila in which the plaintiff Natalia Enriquez sought to secure the annulment of the contract of sale, upon the ground that it was executed through fraud, deceit, and duress. The complaint was signed by Attorney Jose Poblete, who at that time was a salaried assistant in the law office of the respondent.

Upon the facts above stated it is evident that the respondent in violation of his professional duty, improperly represented conflicting interests, inasmuch as, while obligated to act for the Dagala spouses in securing the delivery of the property, he opposed their interest, by attempting to have the sale set aside.

The reply of the respondent is: (1) That it was not he who asked for the investigation held by the prosecuting attorney but Natalia Enriquez and that he was with her during the investigation not as her attorney but merely as her companion; (2) that it was not he but Jose Poblete who was the attorney for Natalia Enriquez in the civil action brought by her against Dagala and his wife; (3) that he had from the beginning acted in good faith. These assertions are not established. The evidence shows that it was he who personally asked for an investigation, chose the prosecuting attorney who conducted it, and delivered the papers upon which the fiscal acted; and that he took an active part in directing the investigation, asking now and then questions of the witnesses? It is also clear that in the course of the investigation he acted as attorney for Natalia Enriquez. When the prosecuting attorney, finding no good ground for it, refused to file an information charging estafa, the respondent wrote to the Attorney-General a letter in which he admits that Natalia Enriquez was his client. He there says: "For this reason my client comes to you in demand of justice." The evidence shows that Jose Poblete was previous to and at the time of the filing of the complaint an assistant in the law office of the respondent receiving a salary from the latter but with the privilege of handling his own cases. Prior to the investigation of the professional conduct of the respondent this person was called to the office of the Attorney-General and there he declared under oath, after reading the complaint signed by him in the case between Natalia Enriquez and Bernardo Dagala and his wife, that the case was a case of the respondent, who gave it to him in his capacity of assistant in the respondent's law office, because the respondent desired to appear as a witness but had the mistaken opinion that if he should sign as attorney for Natalia Enriquez he could not appear as a witness. The said Jose Poblete was presented as a witness in the subsequent investigation but there he turned out to be a hostile witness, and testified, contrary to his statement at the Attorney-General's office, that he was surprised when he made those declarations, that he was nervous at the time, and that he was referring not to the case of Natalia Enriquez against Dagala but to the case of Sotto against Alcala and Sotto against Desierto. The testimony of this witness is important in determining (1) the capacity in which he signed the complaint against Dagala and his wife, and (2) the propriety of the respondent's professional conduct. Special care therefore has been taken in perusing his testimony at the investigation, as a result of which we come to the conclusion that his conduct during the investigation is censurable, that his testimony thereat can

not be safely relied upon and that what he had declared at the office of the Attorney-General was the truth.

As to the third defense, the evidence conclusively shows that from the beginning the respondent was acting in bad faith. In writing the two letters to Dagala in which he made the latter understand that he had committed something wrong and that fatal consequences would follow unless he should come to the respondent's office, the respondent was not authorized by Natalia Enriquez. This lady had not had any conversation or correspondence with him about the document of sale which she had signed; and this is apparent from his letter in which he asked her to come so that they could talk about that document.

As the Attorney-General well says, there was no ground for Sotto to believe that Dagala and his wife had committed any crime. If he acted in good faith and believed that the sale to Dagala and his wife was illegal and fastened upon them grave criminal responsibilities, it would be impossible to explain why he made them sign a document guaranteeing Natalia's debt to him with the property acquired by the Dagala spouses as a result of the sale. Certainly, this conduct of the respondent is tantamount to an acknowledgment of the validity of the sale. The terms of the contract and the circumstances under which the document was executed were fully known to him as they had been explained by Miguel de Leon. In fact, in his letter to Natalia Enriquez he even told her that she was to blame for what had happened, from which statement it may safely be inferred that Dagala and his wife were not censurable. The respondent's purpose in trying to secure the filing of an information against Dagala and his wife for the crime of estafa was, as by him stated, merely to make them settle the matter with him extra-judicially, in the hope that he could get more money out of them.

The simple narrative of the facts connected with charges 1, 3, and 4, given above, suffices to show that the respondent has been decidedly lacking in fidelity to his clients and from motives of private gain has grossly abused the honorable profession of which he is a member. In each of these transactions his conduct was reprehensible and unprofessional in a high degree and evinces a moral obtuseness incompatible with the office of attorney. For purposes of extortion and blackmail he availed himself of his de facto power as the responsible director of a newspaper to blacken the reputation of his refractory clients or others who refused to submit to his demands. In this he proved himself not only unworthy of membership in the legal profession but unfit even for the responsible position of editor of a newspaper.

Charge No. 2, in the Attorney-General's report relates to certain malicious and unjustifiable insinuations against the judicial integrity of the Honorable M. V. del Rosario, a judge of the Court of First instance of the City of Manila, which appeared in articles published under the heading "Sin Malicia" in the issues of "The Independent" dated respectively October 13, 20, and 27, 1917. The occasion which called forth these libelous effusions from Sotto's pen was that Judge Del Rosario had lately imposed upon him a fine of P500 in a prosecution for criminal libel. The publication of this matter was a manifest violation of the oath which the respondent had taken to conduct himself with fidelity to the courts.

Thornton, in his work on Attorneys-at-Law, speaking of offenses of this character, says:

"Par. 788. An attorney who is guilty of writing and publishing libelous charge against the court or any member thereof, in respect to his official conduct, or who procures the writing or publication of such a charge, may and should be, disbarred from further practice. * * *.

"Par. 789. Nor can an attorney-at-law shield himself as against a charge of having libeled the court or a judge thereof, by pleading that he is also the editor of the newspaper wherein the charges were published. His position at the bar enables him, in such case, to inflict the greater wound, and he may be deprived of the privileges and character which it gives him, by suspension or expulsion, without infringing on the freedom of press."

Charge No. 5 in the final report of the Attorney-General sets forth that in the course of the present proceedings the respondent deliberately deviated from the truth by testifying falsely in regard to certain important details of the matters under investigation, namely, in denying, under oath, (1) having enclosed the photographs of Natalia and Atanasia Enriquez in the letter that he sent to SyJuco, and having written the note found on one of them, saying: "To be published on the 25th;" (2) having sent to Tortajada the photograph of one of the latter's letters addressed to Sotto with the anonymous typewritten note; and (3) having acted as attorney for Natalia Enriquez in the proceedings for the institution of criminal charges against Dagala.

We agree with the Attorney-General that these denials are shown to be false beyond reasonable doubt; and the fact that the respondent made them shows not only the weakness of his defense but furnishes additional proof of his unworthiness to remain a member of the legal profession.

In deciding the several charges made against the herein respondent, we examined each and every one of them separately upon its own merits, independently from the others. However, it must be observed that the acts alleged in said charges taken together show a systematic tendency on the part of the respondent, and reveals the existence of a deliberate plan to foster his own interests, by means of an illicit use of his two-fold capacity as attorney-at-law and newspaperman. The existence of the good faith on the part of the respondent has thus been belied by the aforementioned acts.

One of the qualifications required of a candidate for admission to the bar is the possession of good moral character, and, when one who has already been admitted to the bar clearly shows, by a series of acts, that he does not follow such moral principles as should govern the conduct of an upright person, and that, in his dealings with his clients and with the courts, he disregards the rules of professional ethics required to be observed by every attorney, it is the duty of the court, as guardian of the interests of society, as well as of the preservation of the ideal standard of professional conduct, to make use of its powers to deprive him of his professional attributes which he so unworthily abused.

In view of the repeated acts of gross misconduct above specified, on the part of the respondent Vicente Sotto, and by virtue of the provisions of section 21 of the Code of Civil Procedure, the said Vicente Sotto is hereby removed from the office of attorney and incapacitated from hereafter exercising the legal profession. The certificate heretofore issued to him authorizing him to exercise said profession is accordingly annulled, and let the surrender thereof to the clerk of this court be required within five days after this decision becomes effective. The costs will be taxed in accordance with section 24 of the Code of Civil Procedure.

Torres, Johnson, Avanceña, and Fisher, JJ., concur.

CONCURRING OPINION

MALCOLM, J., concurring:

I cannot bring myself to agree with much which is found in the majority decision. In my judgment, charges 1, 2 and 5 against Sotto are either not proved or, if proved, do not constitute sufficient ground for disbarment. Charges 3 and 4 are proved. Charge No. 3, being established, requires judicial enforcement, because "a lawyer must strictly maintain inviolate the confidence and preserve the secrets of his client." (Code of Civil Procedure, sec. 31.) Charge No. 4, being established, requires judicial enforcement, because "it is unprofessional to represent conflicting interests, except by express consent of all concerned given after a full disclosure of the facts." (Code of Ethics, par. 6.)

With reference to charge No. 2, I would not be understood for an instant as agreeing with the statements reflecting on the Honorable Vivencio del Rosario, judge of first instance. What I do mean is, that such criticism of judicial action is not sufficient to withdraw from a lawyer the exercise of his profession. Judges, being only public servants, can take unto themselves no divine rights to be sustained by their own arbitrary powers.

The grave action taken by this court requires a word of explanation. A reading of the prior decisions of this court on the subject of attorneys-at-law would seem to disclose that, in some instances, the attitude that disbarment proceedings are in the nature of punishment has been taken and that in other instances, judicial leniency has been carried to an unwarranted extreme. In reality, suspension or disbarment proceedings are enforced in order to deter others from similar misconduct and as an indication to the public that the courts will maintain the ethical standards of the profession. In well-chosen language, a former justice of this court has said: "The disbarment of an attorney is not intended as a punishment, but is rather intended to protect the administration of justice by requiring that those who exercise this important function shall be competent, honorable, and reliable; men in whom courts and clients may repose confidence. This purpose should be borne in mind in the exercise of disbarment, and the power should be exercised with that caution which the serious consequences of the action involves." (In re MacDougall [1903], 3 Phil., 70.) An admirable statement of the reasons for disbarment is also to be found in In re Shepard ([1917], 170 Pac. Rep., 446), by Works, J., when he says:

"In one or two of the affidavits in the record the statement is made that the petitioner has been punished enough, as if a disbarment were punitive in character. It is not. The removal of an attorney's name from the rolls of the profession is a measure protective in character; in a certain sense protective of the profession, but in a higher sense protective of the public, which finds it necessary to resort to the services of lawyers. No one not a lawyer can fully realize the opportunities for undiscovered speculation, graft, and embezzlement which are afforded the practitioner at the bar. No one not a lawyer can so well understand the degree to which the public is entitled to protection from dishonesty in the profession. When a member of the profession has been found lacking in the requisites which go to make him a helper to his clients, and has been discovered to possess aims, views, and purposes which indicate a moral obliquity in him, and which might make his clients his victims, it is well that he were removed from the possibility of doing them harm. When he has been once disbarred, a mistaken charity should not restore him to his position. That restoration should only come when he has lived long enough after his disbarment in honorable intercourse with his fellow citizens to demonstrate that he is both tried and true."

Comparing the charges against Sotto with the charges which have been made and establish against other attorneys, and comparing the resolution of these other cases with the one before us, it might seem that we are now proceeding to do an injustice to the respondent. This may be true by way of exact comparison. Surely, however, the time has come when the Supreme Court should give the weight of its influence to the betterment of the legal profession. The power to withdraw the right to practise law "should be discreetly but fearlessly exercised."

What has just been said has caused me to suggest that justice might here be tempered, with mercy to the end that Sotto be permitted to continue with the cases he now has in court, particularly, as all know, that confidence has been reposed in his ability as a lawyer to defend an accused under sentence of death which must come to the appellate court for review. As my colleagues failed to see the advisability of this recommendation, I must perforce waive the same and join in the judgment of the court.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.