

CALIXTO SANTIAGO, PLAINTIFF AND APPELLANT, VS. RECAREDO M.A CALVO, DEFENDANT AND APPELLEE.*G. R. No 24649. March 17, 1926*

Ponente: MALCOLM, J.

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This case is the sequel, or more properly speaking, the complement of disbarment proceedings heretofore initiated by the plaintiff against the defendant. The principal question is whether a complaint presented in the Supreme Court against a lawyer is or is not privileged, and whether by reason of such complaint if found to be ungrounded, the lawyer has a right to damages.

It was on March 13, 1923, that Calixto Santiago filed charges in this court against Attorney Recaredo M.a Calvo, and supported the same by an affidavit. At the conclusion of a thorough investigation of the charges, the court, speaking through the writer of this decision and with the concurrence of all the other members of the court, completely vindicated Attorney Calvo, and ordered "that the charges presented by complainant Calixto Santiago against Attorney Recaredo M.a Calvo be dismissed without prejudice to the legal rights of either party." But with this decision, the curtain was not to be drawn down on the drama acted by the parties.

Even before the decision in the case for unprofessional conduct was promulgated, Santiago had begun action in the Court of First Instance of Manila to recover from Calvo the value of a promissory note, a complaint which was later amended to cover two promissory notes calling for P2,000, and interest. To this complaint, the defendant interposed an answer with a special defense, and also a counterclaim in which damages in the amount of P15,500 were asked. On these issues, the judgment was that the plaintiff recover from the defendant on his cause of action the sum of P1,774.34, with interest at the rate of 12 per cent per annum on SN574.34 from March 20, 1923, and at the rate of 6 per cent per annum on P1,000 from January 11, 1924, and that the defendant recover from the plaintiff the sum of P9,500, said amounts to be compensated one against the other to the extent possible, without special pronouncement in regard to the costs. It is from this judgment that the plaintiff has appealed, and here has specified seven errors which raise two general issues.

In further explanation of the decision of the trial judge, it should be said that the plaintiff was permitted to recover P1,000 on one promissory note since this note was not directly contested, and on the second promissory note, was permitted to recover P774.34, representing a liquidation, including a deduction in the amount of 5P300 for professional services rendered Santiago by Attorney Calvo. The first assignment of error challenges the correctness of this finding with reference to professional fees. The plaintiff contends that out of friendship Attorney Calvo performed legal services for him gratuitously, while Attorney Calvo contends that even P300 are incommensurate with the work done. Suffice it to say that on this question of fact we rely on the judgment of the trial court.

The six remaining assignments of error concern the allowance of P9,500 to the defendant on his counterclaim.

They raise the question stated at the outset of this decision, viz. whether a complaint presented in the Supreme

Court against a lawyer is or is not privileged, and whether by reason of such complaint if found to be ungrounded, the lawyer has a right to damages.

The charges laid against Attorney Calvo in this court by the complainant Santiago were couched in moderate language except as to the concluding portion. The complainant Santiago undoubtedly overstepped the bounds of exactitude when he said "That I am firm in my belief that these acts of the said attorney, committed with the utmost cold blood, are for the deliberate purpose of evading payment, for any reason, of the said promissory note upon its maturity, on account of its erasures and changes or on any other ground and taking advantage of his knowledge of judicial procedure, being a practising lawyer, to involve me in litigation which, though justice might be on my side, as I am sure it is, would foil the object of the promissory note, thus causing me great damage in that I cannot dispose of my little savings when I need them." On this and other allegations, Attorney Calvo plants his claim for damages, made up of P1,500 to pay for counsel in the disbarment proceedings and P8,000 to recompense him for his mental sufferings and financial losses.

There are two ways to look at the legal aspects of the case. The first is to apply the rule of qualified privilege in the law of libel. In this respect, the rule sanctioned in this jurisdiction is this: A communication made in good faith upon any subject matter in which the party making the communication has an interest or concerning which he has a duty is privileged if made to a person having a corresponding interest or duty, although it contains incriminatory or derogatory matter which without the privilege would be libelous and actionable. (U. S. vs. Bustos [1918], 37 Phil., 731; U. S. vs. Canete [1918], 38 Phil, 253.) The rule is moderated in one direction by the observation that even when the statements are found to be false, if there is probable cause for belief in their truthfulness and the charge is made in good faith, the mantle of privilege may still cover the mistake of the individual.

The privilege is not defeated by the mere fact that the communication is made in intemperate terms. A privileged communication should not be subjected to microscopic examination to discover grounds of malice or falsity (U. S. vs. Bustos, supra). And the rule is expanded in another direction by the observation that the right must be exercised in good faith, and may not with impunity be made the occasion for the venting of private spite. It is subject to the limitation and restriction that such complaints must be made in good faith and that they must not be actuated by malice (U. S. vs. Canete, supra).

It is perhaps preferable, however, to consider proceedings for the disbarment of attorneys as judicial proceedings. The rule then is well settled in the United States that parties, counsel, and witnesses are exempted from liability in libel or slander for words otherwise defamatory published in the course of judicial proceedings, provided the statements are pertinent or relevant to the case. (17 R. C. L., pp. 333 et seq.; Street, Foundations of Legal Liability, vol. I, chap XXI; Newel, Slander and Libel, pp. 513 et seq.)

The crux of the case is not if the charges of Santiago were true, but is if they were made in good faith, and if the statements were pertinent or relevant to the case.

The success of a lawyer in his profession depends almost entirely on his reputation. Anything which will harm his good name is to be deplored. Private persons, and particularly disgruntled clients, may not, therefore, be permitted to use the courts as vehicles through which to vent their spleen on attorneys. Yet, as the United States Supreme Court once properly observed, while the doctrine of privileged communications is "liable to be abused, and its abuse may lead to great hardships," yet to "give legal sanction to such suits as the present would, we think, give rise to far greater hardships." (Abbott vs. National Bank of Commerce [1899], 175 U. S., 409.)

On the facts, sheltered as they are under the doctrine of privilege, we cannot say that the complainant was not acting in good faith and did not state facts pertinent and relevant to the issue, although later found not to be true, when he filed his charges in this court. Some latitude of remark and observation must be allowed parties who are

bold enough to hold attorneys as officers of the court to their oaths.

Something is made of the fact that the attack on Attorney Calvo was made public through the agency of The Philippines Herald. It is not shown, however, that Santiago had anything to do with the imprudent publication of this matter. It is precisely to protect attorneys in their profession that the Supreme Court has adopted a rule making charges preferred against them confidential in nature until the final determination of the case. The rule is likewise protective of the press for even a verbatim copy of the complaint against an attorney in a newspaper might be actionable.

The ultimate outcome of the related cases between Santiago and Calvo is then this: Attorney Calvo receives a full vindication of his good name from the court and recovers of Santiago the fair value of the professional services rendered him. Santiago on the other hand recovers from Calvo the amount of the unpaid promissory notes, less a reduction on an accounting, and is not mulched in damages because of having pressed charges for unprofessional conduct against Calvo. These two old friends are consequently right back where they were on that afternoon of November, 1922, when in the office of Mr. Calvo they agreed to disagree.

In conformity with the foregoing pronouncements, the judgment appealed from is affirmed, with the elimination of so much thereof as relates to the recovery by the defendant from the plaintiff on his counterclaim, without any finding as to costs in this instance.

Avanceña, C. J., Street, Ostrand, Romualdez, and Villa-Real, JJ., concur.

Johns, J., with whom concurs

Villamor, J., dissenting in part:

I agree with everything said in the majority opinion, except as to the legal force and effect of the language quoted from plaintiff's affidavit.

It must be admitted that the charge which the plaintiff filed against Calvo is not a love letter in either form or substance. In legal effect, after reciting what the facts were, plaintiff says that the acts were committed "with the, utmost cold blood," "for the deliberate purpose of evading payment" of a promissory note, "on account of its erasures and changes," "to involve me in litigation," and "foil the object of the promissory note." That is strong language, and breathes hatred, malice and revenge, and charges Calvo with a preconceived, willful, and deliberate attempt in cold blood by unlawful acts to rob and defraud the plaintiff.

This court, after a full investigation, found that the plaintiff's charges against Calvo were not sustained, and fully exonerated him. Of course, the judgment of the lower court as to the amount of his damages cannot be sustained. Be that as it may, in the very nature of things, Calvo was damaged by reason of the charges made against him by the plaintiff, and was forced to defend himself, for which, in my judgment, he should have at least P1,500.

Upon that point and to that extent, I dissent.

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