

ROMAN R. VILLALON, JR., ROMAN R. C. III, ROMAN F. C. IV, ROMAN A. C. V, JOSE CLARO C. AND ARSENIO ROY C., ALL SURNAMED VILLALON, PETITIONERS, VS. HON. INTERMEDIATE APPELLATE COU...

G.R. No. 73751. September 24, 1986

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

On May 16, 1979, Civil Case No. 2799 for "Annulment of Deed of Absolute Sale, Recovery of Possession and Damages" was filed by private respondent Catalina NEVAL Vda. de Ebuiza, mother of the other private respondents all surnamed Ebuiza, against petitioner Atty. Roman R. Villalon, Jr. (briefly, petitioner Villalon) and his sons, before the then Court of First Instance of La Union (the Trial Court), for the recovery of a parcel of land located at Urbiztondo, San Juan, La Union.

The property involved was also the subject of a Disbarment Case (Adm. Case No. 1488) previously filed on July 22, 1975 with this Court by private respondent Francisco EBUIZA, charging petitioner Villalon with falsification of a deed of absolute sale of that property in his and his sons' favor, but which petitioner Villalon claimed to have been his contingent fee for the professional services he had rendered to EBUIZA's parents for successfully handling Civil Case No. 1418 entitled "Paulino Ebuiza, et al. vs. Patrocinio Ebuiza, et al." before the then Court of First Instance of La Union, Branch II. The Disbarment Case was referred by this Court to the Office of the Solicitor General for investigation, report and recommendation where testimonial evidence was received. The case still pends thereat.

In the course of the trial of the Civil Case, petitioners introduced in evidence the testimonies of some of the private respondents, namely, NEVAL, EBUIZA, and Justina Ebuiza San Juan (NEVAL, et als.), in the Disbarment Case for the purpose of impeaching their testimonies in the Civil Case.

Private respondents filed a Motion to Strike from the records of the Civil Case all matters relating to the proceedings in the Disbarment Case. Over petitioners' opposition, on September 20, 1985, the Trial Court issued its questioned Order granting the Motion to Strike. The dispositive portion of said Order reads:

"WHEREFORE, finding the motion to be well-taken, and as prayed for in the motion, all direct references to the proceedings in the disbarment case against Atty. Villalon, Jr. are hereby ordered striking (sic) out from the records and henceforth, further references to such matters are barred."

The Trial Court opined that the admission of the contested evidence would violate Section 10, Rule 139 of the Rules of Court providing that "proceedings against attorneys shall be private and confidential". It maintained that petitioner Villalon "is not at liberty to waive the privilege of confidentiality" of the proceedings in the Disbarment Case considering the public interest involved "even if it would serve his interest," and that Section 10, Rule 139 provides no exception.

Their Motion for Reconsideration having been denied on October 17, 1985, petitioners, resorted to a Petition for Certiorari, Prohibition, and Mandamus before the respondent Appellate Court to nullify the Order of September 20, 1985 and to require the Trial Court to allow the impeaching evidence to remain in the records of the Civil Case.

On February 3, 1986, respondent Appellate Court denied due course and dismissed the Petition holding that "rulings of the trial court on procedural questions and admissibility of evidence during the course of the trial are interlocutory in nature and may not be the subject of separate appeal or review on certiorari." Moreover, it reasoned out that, assuming the Trial Court erred in rejecting petitioners' proffered evidence, their recourse is to make a formal offer of the evidence under Rule 132, Section 35 of the Rules. The reconsideration of said ruling sought by petitioners was denied for lack of merit on February 19, 1986.

Petitioners now avail of this Petition for Review on Certiorari praying among others, for the annulment of respondent Appellate Court's Decision, which sustained the Trial Court Orders of September 20, 1985 and October 17, 1985, for having been issued with grave abuse of discretion.

We find merit in the Petition.

Petitioners introduced the testimonies of private respondents' witnesses in the Disbarment Case for purposes of impeaching their credibility in the Civil Case.[1] Petitioners claim that private respondents' witnesses "have given conflicting testimonies on important factual matters in the disbarment case, which are inconsistent with their present testimony and which would accordingly cast a doubt on their credibility".[2] That is a defense tool sanctioned by Sections 15 and 16 of Rule 132 providing:

"Sec. 15. Impeachment of adverse party's witness. - A witness may be impeached by the party against whom he was called, by contradictory evidence, by evidence that his general reputation for truth, honesty, or integrity is bad, or by evidence that he has made at other times statements inconsistent with his present testimony, but not by evidence of particular wrongful acts, except that it may be shown by the examination of the witnesses, or the record of the judgment, that he has been convicted of an offense.

"Sec. 16. How witness impeached by evidence of inconsistent statements. - Before a witness can be impeached by evidence that he has made at other times statements inconsistent with his present testimony, the statements must be related to him, with the circumstances of the times and places and the persons present, and he must be asked whether he made such statements, and if so; allowed to explain them. If the statements be in writing they must be shown to the witness before any question is put to him concerning them."

By issuing its Order to strike, the Trial Court deprived petitioners of their right to impeach the credibility of their adverse parties' witnesses by proving that on former occasions they had made statements inconsistent with the statements made during the trial, despite the fact that such statements are material to the issues in the Civil Case. The subject matter involved in the disbarment proceedings i.e., the alleged falsification of the deed of absolute sale in petitioners' favor, is the same issue raised in the Civil Case wherein the annulment of the said deed of absolute sale is sought.

Admittedly, said Order is interlocutory in character. However, since it was issued in patent abuse of discretion, Certiorari lies. Certiorari may be availed of to contest an interlocutory order to correct a patent abuse of discretion by the lower Court in issuing the same.[3] It may also be applied for when the broader interests of justice so require or when ordinary appeal is not an adequate remedy [4], as in this case. The offer of evidence, suggested by respondent Appellate Court as a remedy open to petitioners, while procedurally correct, would be inadequate and ineffective for purposes of impeachment. The broader interests of justice would then require that petitioners be given sufficient latitude to present and prove their impeaching evidence for judicial appreciation.

While proceedings against attorneys should, indeed, be private and confidential except for the final order which shall be made public^[5], that confidentiality is a privilege/right which may be waived by the very lawyer in whom and for the protection of whose personal and professional reputation it is vested, pursuant to the general principle that rights may be waived unless the waiver is contrary to public policy, among others.^[6] In fact, the Court also notes that even private respondents' counsel touched on some matters testified to by NEVAL in the disbarment proceedings and which were the subject of cross examination.

ACCORDINGLY, the Court hereby SETS ASIDE respondent Appellate Court's Decision dated February 3, 1986, and Resolution dated February 19, 1986, and directs the Regional Trial Court of La Union, at San Fernando, to allow the testimonies of private respondents (plaintiffs below), more specifically those of Catalina Neval Vda. de Ebuiza, Francisco Ebuiza and Justina Ebuiza San Juan, given in Administrative Case No. 1488 and all other references thereto to remain in the records of Civil Case No. 2799 entitled "Catalina Neval Vda. de Ebuiza, Plaintiff, versus Roman R. Villalon, Jr., et al., Defendants; Children of Patrocinio Ebuiza: Justina, et al., all surnamed Ebuiza, Intervenors."

The Temporary Restraining Order heretofore issued is hereby lifted.

SO ORDERED.

Yap, (Chairman), Narvasa, Paras, and Feliciano, JJ., concur.
Cruz, J., on leave.

[1] Rollo, p. 733.

[2] *ibid.*, pp. 746-747.

[3] *Sanchez vs. Zosa*, 68 SCRA 171 (1975).

[4] *Sanchez, Jr. vs. Court of Appeals*, 69 SCRA 327 (1976).

[5] Section 10, Rule 139.

[6] Article 6, Civil Code.

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