Supreme Court E-Library

It is thus crystal clear that the appeal in the present case does not lie. The accepted doctrine on double jeopardy, compelling us to respect a judgment of acquittal by virtue of such a guarantee, constitutes an insurmountable barrier.

WHEREFORE, the appeal is dismissed, without pronouncement as to costs.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano and *Teehankee, JJ.*, concur.

Barredo, J., did not take part.

Appeal dismissed.

[Adm. Case No. 724. January 31, 1969]

FLORENTINO B. DEL ROSARIO, complainant, *vs.* EUGENIO MILLADO, respondent.

SYLLABUS

LEGAL ETHICS; ATTORNEYS-AT-LAW; DISBARMENT; MALPRACTICE; NO CONFLICT OF INTEREST BETWEEN ATTORNEY AND CLIENT IN INSTANT CASE.— Where in the disbarment proceedings against respondent for violation of Article 1491 of the Civil Code of the Philippines and Canon No. 10 of the Legal Ethics, by acquiring an interest in the land involved in the litigation in which he had participated by reason of his profession, the records show that respondent's alleged interest in said lots was acquired before he intervened as counsel in the said litigations and that said interest is not necessarily inconsistent with that of his client, the complaint should be dismissed. The absence of conflict of interest between him and his client in said property is made more manifest by the circumstance that the charges under consideration have been preferred, not by his client, but by her opponent in one of the cases involved.

APPEARANCES OF COUNSEL

Benjamin B. del Rosario for complainant.

Eugenio M. Millado for his own behalf.

Supreme Court E-Library

RESOLUTION

CONCEPCION, *C.J.*:

Complainant, Florentino B. del Rosario seeks the disbarment of respondent, Attorney Eugenio Millado, upon the ground that the latter had committed malpractice, in violation of Article 1491 of the Civil Code of the Philippines and Canon No. 10 of the Canons of Legal Ethics, by acquiring an interest in the land involved in a litigation in which he had taken part by reason of his profession; that said interest was adverse to that of his client in the aforementioned litigation; and that he filed therein pleadings containing allegations which were inconsistent with those made in another pleading subsequently filed by him in the same proceedings, as well as false.

In his answer to these charges, respondent alleged that his interest in said land had been acquired before he intervened in said proceedings, as counsel for one of the parties therein; that his client therein was aware of his aforementioned interest; that there is no conflict between the same and that of his client; and that there is neither a false allegation of facts in the pleadings alluded to in the complaint herein nor any inconsistency between said pleadings. By way of "counterclaim," respondent alleged, also, that the present charges had been preferred as a means to offset an action for damages and some criminal charges filed by him against complainant herein.

After due investigation conducted by the office of the Solicitor General, to whom said charges were referred therefor, the aforementioned officer submitted his report exonerating, in effect, respondent herein.

Indeed, the provisions of the Civil Code and of the Canons of Legal Ethics, prohibit the purchase by lawyers of any interest in the subject matter of the litigation in which they participated by reason of their profession, and complainant herein has not established a violation of such injunction. In this connection, respondent introduced evidence, which is uncontradicted, to the

Supreme Court E-Library

effect that one Eladio Tiburcio, now deceased, claimed title to a tract of land of about 430 hectares, in Diliman, Quezon City; that parts of said land were the object of two (2) ejectment cases of the City Court of Quezon City, against La Paz Mesina Vda. de Pascual, one of the heirs of said deceased, one filed by herein complainant, Florentino B. del Rosario, and the other by Leonor Sta. Clara; that prior to the institution of said cases, one Conrado Baluyot, who claims to be another heir of Eladio Tiburcio, offered to allow respondent to construct a house on part of said land of about 430 hectares, in consideration of his professional services in defense of the claim thereto of the Tiburcios; that Baluyot's understanding with respondent was that, should he succeed in securing a decision favorable to the Tiburcios, he (respondent) could buy the land on which his house was built, namely, lots 4 and 5 of Block E-102 of Quezon City, by paying the current value thereof; that Mrs. Pascual, who occupied another lot in the same block, knew that respondent was in possession of said lots 4 and 5 and had constructed a house thereon, by agreement with Baluyot, as one of the heirs of the deceased; that Mrs. Pascual, who claimed an interest in the whole Block E-102, asked respondent to be her counsel in said ejectment cases; that, after filing the answer of Mrs. Pascual, as defendant in said two (2) cases, respondent ceased to be her counsel therein; and that, although in her aforementioned answer, he alleged that Mrs. Pascual was the owner and possessor of the lots involved in said cases, there is no real inconsistency between this allegation and his claim over said lots 4 and 5, much less misrepresentation of facts, because the issue in the ejectment cases hinged upon the right of possession, whereas the alleged ownership of Mrs. Pascual merely tended to bolster up her alleged prior possession, and because he could not acquire title to said lots 4 and 5 from the heirs of the late Eladio Tiburcio, unless they—and, hence, Mrs. Pascual, as one of the heirs of the deceased—were the true owners thereof.

Thus, the records show that respondent's alleged interest in said lots was acquired *before* he intervened as counsel for Mrs.

Supreme Court E-Library

Pascual in the ejectment cases against her and that said interest is not necessarily inconsistent with that of his aforementioned client, aside from the fact that he had made no substantial misrepresentation in the pleadings filed by him in said cases. This fact and the absence of said conflict are made more manifest by the circumstance that the charges under consideration have been preferred, not by Mrs. Pascual, but by her opponent in one of the ejectment cases above mentioned.

Finding no merit in the complaint herein, the same is, accordingly, dismissed.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Sanchez, Ruiz Castro, Fernando, Capistrano and *Teehankee, JJ.*, concur.

Barredo, J., did not take part.

Complaint dismissed.

[G.R. No. L-20908. January 31, 1969]

THE PEOPLE OF THE PHILIPPINES, plaintiff-appellee, *vs.* UNUH BAKANG and INDANAN TARANG, defendants-appellants.

SYLLABUS

1. CRIMINAL LAW; MURDER; CIRCUMSTANCES SHOWING TREACHERY.— There was treachery attending the commission of the crime for the victims were hogtied and defenseless when some of the bandits hacked them with bladed weapons on vital parts of their bodies.

2. ID.; ID.; DIFFERENT ACTS PERFORMED BY DIFFERENT PERSONS, DISTINCT CRIMES.— Different acts of hacking the five inmates of the house, two of whom died, performed by different bandits give rise to two distinct murders and three distinct frustrated murders. The defendants are criminally liable for each and every one of them. Art. 48 of the Revised Penal Code on complex crimes do not apply.