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# REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

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SECOND DIVISION

[A.C. No. 233. October 28, 1977]

**NATALIO F. BELTRAN,** *petitioner, vs.* **CORNELIO R. MAGSARILI,** *respondent.*

SYLLABUS

1. **LEGAL AND JUDICIAL ETHICS; ATTORNEYS; PETITION FOR DISBARMENT; WILL PROCEED DESPITE WITDRAWAL THEREOF BY THE PETITIONER; CASE AT BAR.**— The inability of the petitioner, Natalio F. Beltran, to submit to this Court a certified copy of said decision of the Court of First Instance in Civil Case No. 1389-P, in compliance with the resolution of this Court dated August 29, 1955 and his subsequent withdrawal of this petition for the disbarment of respondent on August 22, 1977 indicate a lack of interest to press his charges against the respondent, Cornelio R. Magsarili. However, since administrative cases of this nature, are matters that concern public interest, it is only proper that this Court seek out the truth and establish the truth or falsity of the charges.

2. **ID.; ID.; ID.; WILL NOT PROSPER WHEN THE ACTS COMPLAINED OF WERE NOT VIOLATIVE OF LAW.**— Contrary to the charge of petitioner, Atty. Beltran, the sale of the land that was disputed in that case did not deprive the heirs of the late Felipe del Rosario of their legitime, and, therefore, the actuations of respondent, Atty. Magsarili, who acted as the legal counsel of the spouses, Jose del Rosario and Pilar Magsarili, were above board and not violative of law. The

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complaint which was instituted by complainant as counsel in said case was dismissed.

## RESOLUTION

**SANTOS, *J.*:**

This is a petition for disbarment filed by petitioner, Natalio F. Beltran, a member of the Philippine Bar, against respondent, Cornelio Magsarili, also a member of the Philippine Bar, on the ground of gross misconduct unbecoming of a lawyer. Petitioner alleged that respondent ". . . *deliberately and flagrantly violated,* for *PURPOSES OF FRAUD and DECEIT,* his oath of office as attorney and sub-sections (c) and (g), Section 19, Rule 127, Rules of Court (of 1940 added), thereby making himself an *UNWORTHY* Member of the Philippine Bar and, therefore, *SUBJECT TO DISBARMENT* under Section 25, Rule 127, Rules of Court (of 1940 added), by this Honorable Court *for his gross misconduct as attorney, for his willful ignorance and for his deliberate and fraudulent violations* of the rights and interests of the Plaintiffs in the residential lot involved in (said) CIVIL CASE NO. 1389-P and of the pertinent laws mentioned in this PETITION and involved in CIVIL CASE NO. 1389-P . . ."[1]

It appears from the records that the anomalous activities complained of which were allegedly violative of Rule 127, Sec. 19 (c) and (g) of the Rules of Court of 1940 (now Rule 138, Sec. 20 (c) and (g), stemmed from Civil Case No. 1389-P, Court of First Instance of Rizal, Seventh Judicial District, Pasig, Rizal. In the decision of that court dated September 26, 1955, it was established that there was little dispute as to the facts that transpired in the case. It was resolved that the alleged nefarious activities which petitioner herein imputed to have been committed by respondent were in fact legitimate and the sale of the land that had been the subject matter of the above-entitled civil case by the late Felipe del Rosario to spouses, Jose del

[1] *Rollo*, "Petition", pp. 6-7.

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Rosario and Pilar Magsarili, was a valid transaction and supported by jurisprudence that have been recognized in this jurisdiction.[2]

The inability of the petitioner, Natalio F. Beltran, to submit to this Court a certified copy of said decision of the Court of First Instance in Civil Case No. 1389-P, in compliance with the resolution of this Court dated August 29, 1955[3] and his subsequent withdrawal of this petition for the disbarment of respondent on August 22, 1977[4] indicate a lack of interest to press his charges against the respondent, Cornelio R. Magsarili. However, since administrative cases of this nature, are matters that concern public interest, it is only proper that this Court seek out the truth and establish the truth or falsity of the charges.

Conformably, the Clerk of Court of the Court of First Instance of Rizal was required by the Bar Confidant and Deputy Clerk of Court, Attorney Arturo A. de Leon, to furnish this Court with the decision promulgated by Branch II of that Court in Civil Case No. 1389-P, in a letter dated August 4, 1977.[5] An examination of the decision in the case, *Josefa Beltran, et al. vs. Pilar Magsarili, et al.*, an action, *inter alia*, for declaration of nullity of a deed of sale, yielded a clear finding of the validity of the deed of sale executed by vendor, Felipe del Rosario to spouses, Jose del Rosario and Pilar Magsarili. Contrary to the charge of petitioner, Atty. Beltran, the sale of the land that was disputed in that case did not deprive the heirs of the late Felipe del Rosario of their legitime, and, therefore, the actuations of respondent, Atty. Magsarili, who acted as the legal counsel of the spouses, Jose del Rosario and Pilar Magsarili, were above board and not violative of law. The complaint which was instituted by complainant as counsel in said case was dismissed.[6]

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[2] *Rollo*, pp. 23-31.

[3] *Id.*, p. 15.

[4] *Id.*, p. 17.

[5] *Rollo*, p. 20.

[6] *Id.*, p. 32.

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**WHEREFORE,** let Administratrive Case No. 233 be DISMISSED for lack of merit, with costs against the complainant-petitioner, Atty. Natalio F. Beltran. Let copy of this Resolution be entered in the records of respondent, Atty. Cornelio R. Magsarili.

*Fernando (Chairman), Barredo, Antonio, Aquino,* and *Concepcion Jr., JJ.,* concur.

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**SECOND DIVISION**

[A.C. No. 920. October 28, 1977]

**PROSPERO HIPOLITO,** *complainant, vs.* **Atty. ROMEO J. CALLEJO,** *respondent.*

**SYLLABUS**

**LEGAL AND JUDICIAL ETHICS; ATTORNEYS; DISBARMENT; IN THE ABSENCE OF CONVINCING PROOF OF MISCONDUCT, THE PETITION FOR DISBARMENT MUST BE DISMISSED.** — In the absence of convincing proof of misconduct on the part of respondent, as in this case where complainant moved to dismiss the petition for disbarment and failed to substantiate the charges, and considering the satisfactory explanation given by respondent concerning the circumstances surrounding the filing of the complaint in Civil Case No. 12745 before the Court of First Instance of Rizal, We find the recommendation of the Solicitor General to dismiss the petition to be well taken.