Supreme Court E-Library

provisions of the Internal Revenue Code charged in Criminal Case V-10839 does not come within the limited jurisdiction of the court by him presided and, as a consequence, declared "as without any force and effect its order dated February 1, 1969 dismissing the case and hereby returns the case to the Honorable Executive Judge for raffle." This, in effect, set aside the proceedings complained of—a circumstance that renders the present case moot and academic.

FOR THE REASONS ABOVE STATED, the present case is dismissed, without costs.

Reyes, J.B.L. (Acting, C.J.), Makalintal, Zaldivar, Sanchez, Fernando and *Capistrano, JJ.*, concur.

Teehankee and *Barredo, JJ.*, took no part.

Concepcion, C.J. and *Ruiz Castro, J.*, are on official leave.

[UDK Administrative Case. June 14, 1969]

PRAXEDES LIMALIMA, complainant, *vs.* ALBERTO SANJURJO, respondent.

SYLLABUS

ATTORNEYS; DISBARMENT PROCEEDINGS; INSTANT CASE TREATED AS **DISBARMENT PROCEEDINGS; TECHNI**-CALITIES DISREGARDED IN CASE AT BAR.— Although respondent was able to take his oath as member of the bar prior to the indorsement of the case to the Provincial Fiscal of Cebu for investigation, the instant proceedings which sought to prevent his oath taking as such member on the ground of immorality and breach of promise to marry complainant may be treated as proceedings for his disbarment. There is nothing sacred in procedural forms, and it is our settled jurisprudence that technicalities of the nature of the one invoked by the respondent—namely, that these proceedings should be dismissed without prejudice to complainant instituting disbarment proceedings against him—may be disregarded as long as, in doing so, the party concerned will not suffer any substantial prejudice, and is

Supreme Court E-Library

given his day in court. All these conditions are present in this case. Pursuant to the provisions of Section 5, Rule 139 of the Rules of Court, the Solicitor General is hereby directed to file the corresponding complaint against the respondent with this Court.

RESOLUTION

DIZON, *J.*:

In a verified complaint dated December 12, 1956 filed with this Court, Praxedes Limalima of Medellin, Cebu, sought to prevent Alberto Sanjurjo from taking his oath as member of the Philippine Bar should he pass the 1956 bar examination, on the ground of immorality and breach of promise to marry her.

On March 4, 1957, after the release of the results of said bar examination, the complainant wrote an air-mail letter to this Court requesting the Chairman, 1956 Bar Examination, not to allow the respondent to take his oath of office. However, thru oversight, the respondent, who passed with a rating of 75%, was able to participate in the mass oath-taking on March 7; to sign the roll of attorneys (Roll No. 11062) and to receive his lawyer's certificate.

Upon discovery of the error the then Deputy Clerk of Court and Reporter wrote the respondent on April 1, 1957 requiring him to return his lawyer's diploma, but the latter ignored the request. Thereupon this Court took cognizance of the case and required the respondent to answer the complaint.

In his answer the respondent denied the allegations of the complaint and prayed that said complaint be dismissed on the ground that the cause of action had become moot and academic as he had already taken his oath as member of the bar.

On May 10, 1957—after the respondent had taken his oath—this undocketed administrative case was referred to the Provincial Fiscal of Cebu for investigation and report, together with the complainant's additional petition praying that the respondent be declared in contempt of Court for not surrendering his lawyer's diploma to this Court.

Supreme Court E-Library

Answering the additional petition aforesaid, the respondent averred that the proper proceedings should have been for his disbarment.

Having been summoned by the Provincial Fiscal of Cebu, both parties appeared and presented their respective evidence, and under date of January 20, 1958 said Provincial Fiscal submitted his report finding that the respondent had committed "acts of immorality which is unbecoming of a prospective member of the bar" and recommended "that he be given such punishment as the Honorable Supreme Court may deem proper."

The question to be resolved now is whether, in view of the fact that the respondent, as stated heretofore, was able to take his oath as member of the bar prior to the indorsement of the case to the Provincial Fiscal of Cebu for proper investigation, these proceedings may be treated as proceedings for his disbarment. Our answer is in the affirmative. There is nothing sacred in procedural forms, and it is our settled jurisprudence that technicalities of the nature of the one invoked by the respondent—namely, that these proceedings should be dismissed without prejudice to complainant instituting disbarment proceedings against him—may be disregarded as long as, in doing so, the party concerned will not suffer any substantial prejudice, and is given his day in court. All these conditions are present in this case.

Consequently, pursuant to the provisions of Section 5, Rule 139 of the Rules of Court, the Solicitor General is hereby directed to file the corresponding complaint against the respondent with this Court, a copy of which should be served upon him to be answered within fifteen (15) days from notice.

IT IS SO ORDERED.

Reyes, J.B.L. (Acting C.J.), Makalintal, Zaldivar, Sanchez, Fernando, Capistrano, Teehankee and *Barredo, JJ.*, concur.

Concepcion, C.J. and *Ruiz Castro, J.*, are on official leave.