

## ETHICS

MAKING IT APPEAR THAT HE IS A MERE AGENT, WHEN THE NATURE OF THE ATTORNEY'S SERVICES, DURING SUSPENSION, IS CERTAINLY THAT OF A LAWYER, IS GROUND FOR DISBARMENT.

FACTS: Under Administrative Case No. 35, the respondent, due to malpractice, was suspended from the exercise of his profession for five years, commencing from November 9, 1949 to November 8, 1954.

On February 28, 1950, the respondent filed a brief in case CA—G. R. No. 4792-R, *Tan Tek Sy vs. Maliwanag*, signing same not as attorney but with the words: "for and in behalf of Tan Tek Sy", and in a motion for execution signed not as counsel in the general practice of law but as agent of Tan Tek Sy. In another case, respondent filed several pleadings within the period of his suspension and received several payments in his capacity as attorney for the plaintiff. And still in another case (No. 7679, CFI, Manila) respondent appeared as counsel on request of one of the parties, and without collecting fees as he knew that he was under suspension.

Prosecuted for violation of the order of suspension, the respondent alleged that as regards the making of the brief, he only did so because there was no more time for the filing of same and he only signed the brief not as attorney but "for and in behalf of the appellee" without designating that he was practising as attorney-at-law. As regards the signing of the several pleadings, he averred that he did so in order to collect fees which he had earned prior to the suspension. And as regards the case where he appeared as counsel, he contended that he did not collect attorney's fees. He further alleged good faith in all his actuations.

HELD: The acts referred to do not justify respondent's filing a brief, memorandum, pleadings, and appearing as counsel without collecting fees, knowing fully well that he was under suspension. He should not have acted even in the capacity of agent. He should have advised his client that he was under suspension and that he could not appear as counsel before any court. As an officer of the Court, he should comply with the order of this Court over

and above any consideration, not even attorney's fees, for without making the pleadings, he could have collected his fees by direct action under Sec. 33, Rule 127.

Exercising the profession of attorney-at-law is doing all the acts pertinent to the position. Preparing and filing motions, asking for the execution of a judgment, demolition of the houses of the defendant and asking that the Sheriff be ordered to deliver to him whatever is collected, are acts that constitute practice of law; filing a brief and memorandum before the Court of Appeals is exercising the profession because a mere agent cannot do so; and collecting the rentals of tenants issuing receipts therefor and signing them as attorney for the plaintiff, is exercising the profession.

The fact that he did not state in his motion asking for the execution of the judgment that he was an attorney but stated only that he was acting as agent and employee of the defendant does not change the nature of his services which were certainly those of a lawyer; and hiding the fact that he acted as attorney for Tan Tek Sy and making it appear that he was a mere agent aggravates his situation. It is for these that the law makes the punishment severe even in the first instance.

Wherefore he is barred from exercising his profession in the Philippines, declaring cancelled his license to do so and ordering its return to the Clerk of Court of the Supreme Court. (*In re David*, Adm. case No. 98, Promulgated July 13, 1953.)