Appellate jurisdiction of Court of Appeals.

FACTS: Defendant and 2 others accused of robbery and rape. Subsequently court discovered that the complaint was not served by the offended party or her parents and in a resolution dismissed the case with respect to the crime of rape. After the decision rendered by the court in the crime of robbery, defendant alone appealed to the CA. The Court of Appeals certified case to Supreme Court on the ground that the offense committed by defendant is the indivisible crime of robbery accompanied by four rapes.

HELD: We are of the opinion that, no appeal having been taken or interposed by either party to the resolution of the court which decided the case with respect to the crime of rape and ordered prosecution to limit itself to present evidence with respect to the crime of robbery, as if the charge in the information were for simple robbery and not for robbery with rape, the CA has exclusive appellate jurisdiction. Hence, case is remanded to CA which is the court having appellate jurisdiction to revise the sentence of the trial court. (PEOPLE OF THE PHIL. *vs.* VICENTE PATOLTOL, G. R. No. L-2569-R, March 24, 1952.)

LEGAL AND JUDICIAL ETHICS

Judicial Ethics: Disqualification of judges.

Where the judge is a professor of law in a college owned by a party-litigant, he is not disqualified from hearing a case where only said party is involved. Sec. 1, Rule 126, Rules of Court, applied. (TALISAY-SILAY MILLING CO., INC. *vs.* HON. JOSE TEODORO ET AL., G. R. No. L-4579, March 31, 1952.)

Judicial Ethics: Disqualification of judges.

The canons of judicial ethics do not constitute legal grounds for the disqualification of judges but are addressed to their personal taste with a view towards the formulation of certain standards of judicial decorum. Sec. 1, Rule 126, Rules of Court, applied. (TALISAY-SILAY MILLING CO., INC. *vs.* HON. JOSE TEODORO ET AL., G.R. No. L-4579, March 31, 1952.)

Judicial Ethics: serious misconduct; remedy.

Where a judge wantonly disregards the dictates of good conscience and the rules of fairness to an extent sufficient to constitute serious misconduct or inefficiency, administrative remedies may be resorted to. (TALISAY-SILAY MILLING CO., INC. *vs.* HON. JOSE TEODORO ET AL., G. R. No. L-4579, March 31, 1952.)

Legal Ethics: Authority of attorneys to bind clients; laches.

FACTS: By virtue of a compromise signed by plaintiff's lawyer and the defendant, a forcible entry and detainer case was dismissed. Two years later the present action was brought in the Court of First Instance by the same plaintiff through a different counsel against the same defendant. Defense: the compromise is a bar to the suit. Plaintiff impugned the validity of the agreement.

HELD: This court has held that without special authority by the client an attorney cannot in his or her behalf, in or out of court, execute any act not necessary or incidental to the prosecution of the suit or accomplishment of its purpose, for which he was retained.

In the present case, such authority plaintiff's counsel did not have, the compromise agreement counsel entered into was outside her general powers. Yet laches may validate an agreement invalid in its inception as when the client, aware of the compromise, fails to repudiate promptly. This is presumed ratification, as in the case at bar where plaintiff acted only two years after the agreement. (DOMINGA SALAZAR ET AL. *vs.* FAUSTO GASÁBE, G. R. No. L-4659, July 11, 1952.)

Legal Ethics: Client-attorney relation; prohibition on attorney as to property of client.

FACTS: Defendant further claims that law firm of Araneta & Araneta who handled the preparation of the absolute deed of sale and represented Gregorio Araneta, Inc., were also her attorneys.

HELD: Fact that Attys. Salvador and J. Antonio Araneta drew the "Promesa de Venta y Compra" and the subsequent Deed of Sale, undertook to write the letters to the tenants and the deeds of sale to the latter and charged the defendant the corresponding fees for all this work, did not make them her attorneys. These letters and documents were involved in the contemplated sales in which Gregorio Araneta, Inc. was interested and could have been written by Attys. Araneta & Araneta in furtherance of Gregorio Araneta, Inc.'s interest. In collecting the fees from the defendants they did what any other buyer could have appropriately done since all such expenses are normally to be defrayed by the seller.

And granting that they were attorneys for the defendant, they were not prohibited from buying the property in question, since the latter was not yet the subject of litigation at the time of the purchase. (GREGORIO ARANETA, INC. *vs.* PAZ TUASON DE PATERNO ET AL., G. R. No. L-2886, August 22, 1952.)

Legal Ethics: Conviction for smuggling constitutes moral turpitude.

FACTS: Complaint was filed by the Solicitor-General for disbarment against Atty. Tranquilino Rovero, on two grounds: (1) Rovero was found by final decision rendered by the Insular Collector of Customs to have violated the customs law by fraudulently concealing a dutiable importation; (2) Rovero was convicted of smuggling by final decision of the Court of Appeals.

Respondent admits existence of the decision and conviction but sets up the defense that they are not sufficient to disqualify him from the practice of law because he committed said acts as an individual and not in pursuance or in the exercise of his legal profession.

HELD: Under section 25, Rule 127, of the Rules of Court, a member of the bar may be removed or suspended from his office as attorney for a conviction of a crime involving moral turpitude, and this ground is apart from any deceit, malpractice or other gross misconduct in office as lawyer. Respondent's conviction of smuggling by final decision of the Court of Appeals certainly involves an act done contrary at least to honesty or good morals, which is included in moral turpitude. The ground invoked by the Solicitor General is aggravated by the fact that the respondent sought to defraud, not merely a private person, but the Government. Rovero is hereby disbarred from the practice of law.

(In re: Atty. TRANQUILINO ROVERO, *Administrative Case No.* 126, October 24, 1952.)

Legal Ethics: Acts forbidden of attorney after serving relationship with former client; Violation of oath as lawyer.

FACTS: The Solicitor General, upon complaint of S.N., instituted administrative proceedings against the respondent for acts of misconduct in his office as a lawyer, to wit: (1) failure to appear without reason in the hearing of a case; (2) accepting employment in the very case in which his former client is the adverse party, utilizing against the latter papers, knowledge and information obtained in the course of his previous employment; (3) falsely accusing tenants of his former client so they could compromise in his (respondent's) favor.

HELD: Re charge No. 1: respondent's failure was involuntary on his part; he is absolved of the charge.

Re charge 2 and 3: they are all supported by incontrovertible evidence. An attorney is forbidden to do either of two things after serving his relationship with a former client. He may not do anything which will injuriously affect his former client in any matter in which he formerly represented him, nor may be at any time use against his former client knowledge or information acquired by virtue of the previous relationship. (Wutchumna Water Co. *vs.* Bailey, 15 p(2d) 505, 509, 216, Cal 564, 7 C.J.S. 828). Respondent's

conduct was also a clear and direct violation of the following portion of his oath as a lawyer: "x x x. I will do no falsehood, x x x." (Underscoring ours.) As a penalty and as a warning, respondent is ordered suspended from office for a period of two years. (SIMPLICIO NATAN *vs.* SIMEON CAPULE, *Administrative Case No.* 76, July 23, 1952.)

LABOR LAW

THE COURT OF INDUSTRIAL RELATIONS

Jurisdiction. General Jurisdiction of CIR; Art. 302 *of Code of Commerce Applied. Period of Employment; Dismissal without Cause.*

FACTS: MT and 36 others had been employed as carpenters by petitioner who was engaged in construction and repair of vessels. On April 26, 1949, an announcement was made that work would be stopped in said company for two weeks or more from April 30th to make an inventory and that laborers would be notified as to resumption of work. After two weeks, respondents appeared at the premise for work but were not allowed to do so. They returned at the end of May but were again refused. Respondents filed action in CIR for recovery of one month's compensation inasmuch as they were not given one-month's notice as required by Art. 302 of Code of Commerce. Company asked for dismissal of case on ground of lack of jurisdiction, and on ground that Art. 302 did not apply. Pending proceedings 10 of the original 37 petitioners withdrew after settling amicably with the company. Questions at issue:

HELD: (1) Art. 302 provides: "In cases in which the contract does not have a fixed period, any of the parties may terminate it, advising the other thereof one month in advance."

"The factor or shop clerk shall have a right, in this case, to the salary corresponding to said month."

(a) Employees in present case although paid weekly are not engaged for a fixed period. The manner or computation of payment, whether monthly or weekly, does not determine the period of employment. (b) Respondents were dismissed through no fault of theirs, they having offered to work after the termination of inventory; hence they were dismissed without cause. (c) In Philip. Trust v. Smith Navigation Co., court held that contract of repair of vessels was a commercial transaction and as such was governed by Code of Commerce. It may therefore be implied that petitioner