

EN BANC

[G.R. No. L-65120. July 18, 1975.]

In Re PEDRO A. AMPARO (1974 Bar Candidate)

RESOLUTION

CASTRO, J :

Pedro A. Amparo of Guindulman, Bohol filed a petition to take the 1974 Bar examination. This petition was granted.

In the afternoon of December 1,, 1974 he was at his assigned seat no 17, room 401, fourth floor, Manuel L. Quezon University Building on R. Hidalgo,, Manila. The Bar examination that afternoon was in Criminal Law.

While the examination was in progress, the headwatcher in room 401, Lilian Mendigorin, reported that examinee Amparo was found reading, at approximately 3:15 o'clock, a piece of paper containing notes in Criminal Law. He at first refused to surrender the paper, but later gave it to Mendigorin when she threatened to report the matter to the authorities. A verbal report was relayed to the Bar Chairman who forthwith gave instructions that no investigation be then made in order to forestall any commotion that might disturb the other candidates. Amparo was permitted to continue to answering the questions. Headwatcher Mendigorin thereafter submitted a special report on the incident.

On the following day,, Clerk of Court Romeo Mendoza filed a formal report. Acting thereon, the Court *en banc*, on December 3, 1974, unanimously resolved "to disqualify Pedro Amparo from taking the Bar examinations still to be given, namely, in the subjects of Remedial Law and Labor and Social Legislation, on Sunday, December 8, 1974,, without prejudice to allowing him to take the Bar examinations after this year."

In a letter dated December 5, 1974. Amparo requested that "before final action is or become effective" he "be given a chance to explain" his side. On December 5, 1974 the Court reconsidered its prior resolution and allowed Amparo to take the Bar examinations on the coming Sunday, December 8, 1974, without prejudice to further action by the Court after a formal and more detailed investigation of the incident.

As ordered, the Clerk of Court conducted an investigation on December 9, 1974 at which the respondent Amparo (a) appeared in his own behalf, (b) cross-examined the witnesses against him,, (c) presented himself as his own witness, and (d) presented as his witnesses three Bar candidates who in the afternoon of December 1 were seated near him in the examination room.

At the investigation, headwatcher Mendigorin identified Amparo as the Bar examinee whom she saw reading a piece of paper inside the examination room at the course of the examination in Criminal Law. The piece of paper, later marked as exhibit C, contains handwritten notes, on both sides, on the duration of penalties and a formula of computing them, particularly *reclusion temporal*. Mendigorin testified that she approached Amparo and asked for the piece of paper; that he refused and put the

paper in his pocket; that when she approached him a second time, he fished the paper from his pocket and gave it to her; that when, at the end of the examination period, Amparo submitted his examination notebook, he told her that he really had intended to cheat. On cross-examination, she elaborated that Amparo gave the piece of paper only when she told him that she would bring the matter up to higher authority.

Veron V. Vasquez , a watcher under headwatcher Mendigorin, corroborated the latter's testimony. He declared that from a distance of five meters, He saw Amparo reading a piece of paper on his lap; that he wanted to approach him but his headwatcher was already ahead of him; and that Amparo thereupon placed the paper in his pocket, but when Mendigorin threatened to report the matter, Amparo yielded exhibit C with a smile.

In his testimony,, Amparo admitted having in his position, in the course of the examination, the piece of paper, exhibit C, explaining that because he was perspiring, he took his handkerchief from his pocket, and out also came a piece of paper which fell to the floor; that the notes were not in his handwriting as they were given by a friend, and that it was by accident that he picked up the paper to find out what it was, as he has forgotten about it, but had no intention to use it; that while he was reading it, the headwatcher saw him and demand it from him, but he refused because he thought that he might need it for "future reference," but when the headwatcher insisted as otherwise she would report the matter to her supervisor, Amparo surrendered the paper. On cross-examination, he declared that exhibit C had been in his pocket a long time before December 1; that he had not changed his pants for three weeks; that when the first bell rang for the examination in the Criminal Law, he was required to put "all his things" out of the room; that he forgot about the paper inside his pocket; that when he took out his handkerchief to wipe his perspiration, the paper fell to the floor, and he wondered what it was and then recalled upon reading it that it had been given by a friend; and that as he was reading it, "that diligent headwatcher came and asked for the paper." He further admitted that he knew is contrary to the rules to bring notes and books inside the examination room.

Bar candidates Jovencio Fajilan, Norman M. Balagtas and Apolinario O. Calix,, Sr., who were seated near Amparo in room 401, were presented by respondent as his witnesses, but all of them professed lack of knowledge about the incident as they were engrossed in answering the examination questions.

It is clear that Amparo, in the course of examination in Criminal Law, had possession of the piece of paper containing notes on the durations of penalties and that he knew that it is contrary to the rules to bring notes and books inside the examination room. It thus results that he knowingly violated Section 10, Rule 138 of the Rules of Court, which pertinently provides that "Persons taking the examination shall not bring papers, books or notes into the examination rooms."

Amparo's impression that the notes had no "material use" to him is to correct, in the sense that they bore no reference to any question asked in the examination in Criminal Law; even so he committed an overt act indicative of an attempt to cheats by reading the notes. His refusal to surrender the paper containing the notes when first demanded; his eventual surrender of it only after he was informed that he would be reported and the facts that the notes pertained to Criminal Law — all these override and rebut his explanation that he merely read the notes to find out what they were as he had forgotten about them.

We find the respondent Amparo guilty of (1) bringing notes into the examination

room and (2) attempted cheating.

According to the official report of the Bar Confidant, approved by the Court, Amparo did not pass the 1974 Bar examinations.

ACCORDINGLY, it is the sense of the Court that Pedro A. Amparo should be as he is hereby disqualified from taking the Bar examinations for the year 1975.

Makalintal, C.J., Fernando, Barredo, Makasiar, Antonio, Esguerra, Muñoz Palma, Aquino, Concepcion, Jr. and Martin JJ., concur

Teehankee, J., is on leave.