

**MARIA CRISTINA MANALOTO, PETITIONER, VS. SIXTO L. REYES, RESPONDENT.***Adm. Case No. 503. October 29, 1965*

Ponente: BENGZON, J.P., J.

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Sixto L. Reyes, a member of the Philippine Bar, was counsel for the Manaloto family in the following during the period from October 1960 to July 1961: Criminal Case No. 376, People v. Eliseo Rigor, in the Justice of the Peace Court of Victoria, Tarlac; Civil Case No. 3672, Belina Rigor, et al. vs. Virginis P. Jimenez, in the Court of First Instance of Tarlac; Criminal Case No. 2508, People v. Virginis P. Jimenez, also in the Court of First Instance of Tarlac; and Civil Case No. 43248, Republic Savings Bank v. Belina Rigor, et al., in the Court of First Instance of Manila. He also undertook to help said family to secure a loan from the Development Bank of the Philippines. For his services, the Manaloto family allegedly paid him not less than P1,000.00 of travelling expenses. He, however, admits received only a total of P590.00 and two sacks of rice as his fees in the above cases.

The Manaloto family consists of Belina Rigor, a widow, and her children, named Rosario, Adoracion, Jose and Maria Cristina, all surnamed Manaloto.

On October 13, 1961, Maria Cristina Manaloto instituted disbarment proceedings against Sixto L. Reyes for abandonment of the abovementioned cases and conversion of sums of money entrusted to him by the petitioner and her sister, Rosario. This case was referred to the Solicitor General for investigation. After hearing the parties, disciplinary action was recommended by him against respondent. We now proceed to consider the charges.

**"ABANDONMENT"**

Criminal Case No. 376, People v. Eliseo Rigor, and Criminal Case No. 2508, People v. Virginis P. Jimenez, were set for hearing on July 18, 1961 before the Justice of the Peace of Victoria, Tarlac and the Provincial Fiscal of Tarlac, respectively. In the evening of July 17, 1961 respondent Sixto L. Reyes informed petitioner herein that inasmuch as he was pre-occupied with the election campaign of congressional candidate Rellosa in the province of Laguna, he would entrust to Atty. Jacinto de los Reyes the hearing of the said cases. This proposal of respondent did not meet with petitioner's approval. Forthwith, petitioner requested, by telegram and telephone, for the postponement of the scheduled hearing.

Subsequently, petitioner verbally advised respondent that she intended to replace him with another lawyer. This she did by retaining the services of Atty. Vicente Fernando as counsel in the aforesaid cases. Immediately thereafter, respondent delivered the papers pertaining to the cases to Atty. Fernando who requested for the same since then he no longer attended to the said cases. However, he omitted to withdraw his appearance.

Petitioner charges respondent of abandonment for failure to observe the provision of Section 24, Rule 127 of the Rules of Court[\*] in that he retired from the aforesaid cases without the prior written consent of his client filed in court.

This charge preferred by petitioner cannot prosper. First of all, respondent did not retire from the cases. Petitioner dismissed respondent and substituted him with Atty. Vicente Fernando. Secondly, the act of respondent in proposing to petitioner that Atty. Jacinto de los Reyes conduct the hearing of the cases scheduled for July 18, 1961, did not amount to abandonment by respondent of said cases. On the contrary, it tended to show his interest in said cases, otherwise, he would not have proposed that another lawyer attend to the hearing of the two cases in his absence. True, Atty. de los Reyes did not actually proceed to Victoria and Tarlac but it was because petitioner herself foot steps to have the hearing postponed. Hence, there was actually no hearing to take care of.

### "CONVERSION"

In Civil Case No. 43248, Republic Savings Bank v. Belina Rigor, et al., Belina Rigor's counsel was Atty. Manuel Domingo but when the former's property was about to be sold at public auction, her said counsel was Tuguegarao, Cagayan. So, Belina Rigor sought the of respondent for the purpose of stopping the sheriff" from selling the property. In the morning of January 31, 1961 respondent asked and received from the Manaloto family the sum of P500.00 allegedly to be used in filing the proper action in court to stay the auction sale scheduled at ten o'clock in the same morning. Acting upon respondent's advice and assurance that the sale would be stopped, petitioner stayed at home on that day and did not anymore bother to check with the sheriff's office.

Later, petitioner was informed that, the assurances of respondent notwithstanding, the auction sale went on as scheduled and her mother's property was sold to the highest bidder. Upon inquiry with the clerk of court she further learned that respondent filed no motion with, and paid no money to, the court in order to stop or postpone the auction sale. The sum of P500.00 was never returned to her.

On another occasion, petitioner solicited respondent's help in applying for an industrial loan with the Development Bank of the Philippines. Later, she found out that respondent did not file the application for loan. Not only that, he did not pay to the bank the amount of P30.00 which she gave him for filing fee. Said amount was likewise never returned to her by respondent.

Respondent denies having received both sums of P500.00 and P30.00. Against this denial is the positive testimony of petitioner and her sister, Rosario. Although petitioner could not present any receipt signed by respondent therefor - for there was none - we have found her oral evidence sufficiently convincing. And, considering that respondent never returned to her the amounts involved, the presumption is that he appropriated the same for his own use to the prejudice of, and in violation of the trust reposed in him by his client.

Wherefore, respondent Sixto L. Reyes is found guilty of malpractice and hereby suspended from the practice of law for a period of one year. Respondent is hereby ordered to return to petitioner the sum of P530.00 within 30 days from receipt of this decision. So ordered.

Respondent suspended from the practice of law for one Makalintal and Zaldivar, JJ., concur.

Respondent suspended from the practice of law for one year.

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[\*] Now Sec. 26, Rule 133.

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