

OSCAR R. MANAHAN, COMPLAINANT, VS. GREGORIO F. ORTEGA AND JOAQUIN L. MISA, RESPONDENTS.

Adm. Case No. 1700. July 25, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

This is a disbarment case against Gregorio F. Ortega and Joaquin L. Misa for malpractice, deceit and gross misconduct.

Oscar R. Manahan of the Citizens Legal Assistance Office was the counsel in a case for consignment of rentals of Angelita A. Magkasi, a secretary in the law firm of Salcedo, Del Rosario, Bito, Misa & Lozada.

Following Manahan's advice, Angelita, in July and August, 1976 gave P400 to Milagros Yenke, a receptionist-clerk in the said law office, to be turned over to Manahan for consignment in court. That amount represented two months' rental for the house which Angelita was then leasing from Caridad Mallari.

On September 8, 1976 Angelita was informed by her landlady that the rentals for July and August were not deposited in court. Upon verification with the clerk of court of Quezon City, Angelita discovered that Manahan had not consigned the amount in court in time to prevent her eviction. Because of his omission, she lost her legal right to remain in the premises.

On September 17, 1976, Manahan sent his secretary to Angelita to return the P400 and to formally ask her for her conformity to his withdrawal as counsel. Angelita refused. Instead, on September 22 she filed with the Secretary of Justice an administrative complaint against Manahan for dishonesty, lack of integrity and conduct unbecoming an officer of the court (Adm. Case No. 7).

The case was later dismissed for insufficient proof of conversion on the part of Manahan. But he was reprimanded because his act of accepting the P400 from Angelita was in violation of an office circular prohibiting CLAO lawyers from receiving cash or valuables from clients.

Manahan, as a countermove, filed a libel suit against Angelita with the City Fiscal's office of Manila.

On December 9, 1976 Manahan filed with this Court the present petition for disbarment against Ortega and Misa, alleging that Angelita's complaint before the Secretary of Justice was "upon the instigation and undue encouragement for a corrupt motive or interest by respondents . . . using undue pressure and influence upon her considering that she is a mere employee in the law firm where respondents are connected, in violation of the duties of their office as attorneys or members of the Bar" He attached a copy of an affidavit he secured from Milagros Yenke in support of his allegations.

Ortega and Misa filed their verified answer with a countercharge for the disbarment of Manahan, after which the case was referred to the Solicitor General for investigation, report and recommendation.

The main evidence presented by Manahan in support of his charges against Misa and Ortega was the affidavit of

Milagros Yenko dated December 8, 1976. In that affidavit she stated that sometime in September 17, 1976 she was summoned to the room of Misa and in the presence of Angelita and Ortega she was asked about the P400 which Angelita had entrusted to her.

Milagros suggested that Misa should ask Manahan. That apparently irked Misa, prompting Milagros to leave the room and go back to her desk. While Milagros was there, she overheard Misa and Ortega convincing Angelita to file charges against Manahan, assuring her that the office would back her up and that she would lose nothing. Milagros Yenko did not hear the reply of Angelita.

Upon the objection of Misa and Ortega, the affidavit of Milagros was rejected as evidence for being hearsay and for being a privileged communication under section 21(b), Rule 130, Rules of Court.

The inadmissibility of the affidavit executed by Yenko and the apparent disinterest of Manahan in continuing with this case as shown by his nonappearance at the hearings set for April 14 and 15, 1982 in spite of due notice, have materially weakened his case. The Solicitor General recommends the dismissal of the complaint for disbarment.

We approve that recommendation. This case is dismissed and considered closed.

SO ORDERED.

Makasiar (Chairman), Concepcion Jr., Guerrero, Abad Santos and Escolin, JJ., concur.
De Castro, J., on leave.

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