

MARCELINO MACOCO, COMPLAINANT, VS. ESTEBAN B. DIAZ, RESPONDENT.

Adm. Case No. 853. June 22, 1940

Ponente: MORAN, J.

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MORAN, J.:

A complaint for malpractice filed by one Marcelino Macoco against Esteban B. Diaz, attorney-at-law, with license to practice in Philippine courts.

In order to redeem a property belonging to his wife's father, which had been levied upon and sold at public auction, complainant Marcelino Macoco deposited with the provincial sheriff of Ilocos Norte the sum of P380. As no redemption could be done, the money was returned by the sheriff to one Alberto Saguitan, then counsel for Marcelino Macoco. Saguitan used the money according to himself and failed to turn it over to Macoco; whereupon, the latter entrusted its collection to respondent herein, Esteban B. Diaz. It appears that Diaz succeeded in collecting P300 from Saguitan, but he also misappropriated this amount.

Respondent admitted the misappropriation. He averred, however, that he had an agreement with Macoco for the payment of the money by him misappropriated; that when this agreement failed, he again entered into a similar arrangement with Hermei^egildo Galapia, Lope Ragragola and Pedro Ragragola, wfyo, as he attempted to prove, were the persons to whom th sum of P300 was really due, Macoco being merely a trustee thereof; and that in pursuance of this arrangement whereby he would pay the sum of P300, deducting therefrom 20 per cent for his attorney's fees, he had already made Partial payments to said persons. Macoco, however, and Lope Ragragola denied this agreement.

Whatever might have been the agreement and with whomsoever respondent might have entered it into, the undeniable fact remains that he misappropriated the money in breach of trust. This makes him unfit for the office of an attorney-at-law. And his being a deputy fiscal and not law practitioner at the time of the misappropriation, far from mitigating his guilt, aggravates it. Want of moral integrity is to be more severely condemned in a lawyer who holds a responsible public office.

Wherefore, respondent Eteban B. Diaz is hereby disbarred from the practice of law, and is hereby ordered to surrender his certificate to the clerk of court within five days from notice. This Solicitor General is hereby ordered to investigate the conduct of Attorney Alberto Suguitan and file later the corresponding report.

Avancena, C.J., Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

Respondent disbarred from practice of law.

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