

MARCELINA C. MANIKAD, COMPLAINANT, VS. ATTY. NARCISO V. CRUZ, JR., RESPONDENT.

Adm. Case No. 1216. May 10, 1983

Ponente: AQUINO, J.

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AQUINO, J.:

The issue in this disbarment case is whether lawyer Narciso V. Cruz, Jr. corruptly and wilfully appeared as counsel for Marcelina C. Manikad without her consent.

Marcelina and Domingo Panis were business partners in the business of promoting the local and international tourist trade under the firm name Asian Pacific Tours with offices at 972 P. Paredes, Sampaloc, Manila. Marcelina C. Manikad was the president while Panis was the vice-president and managing partner to whom the use of the partnership's signature was entrusted and who has been empowered in the articles of partnership to draw drafts and bills of exchange and to accept the same for and in behalf of the partnership (p. 27, Record). The partnership was subsequently dissolved on February 15, 1973.

It appears that on January 22, 1970 Panis and Marcelina C. Manikad executed a promissory note in favor of Tropical Commercial Co., Inc. for P32,351.88 payable in twelve monthly installments in payment for one tractor which they purchased for Asian Pacific Tours. The agreement provided for an acceleration clause. After paying only P1,926, they defaulted in payment.

In April, 1971, Tropical Commercial Co., Inc. sued Manikad and Panis with the Court of First Instance Manila, for collection of P30,425.80 representing the balance of the purchase price of the tractor (Civil Case No. 82988).

Cruz filed an answer for the defendants. Panis, in his own behalf and that of Marcelina C. Manikad, executed the verification. On March 20, 1972 the lower court approved the compromise agreement wherein the defendants agreed to pay their indebtedness in monthly installments of P500. The compromise agreement was signed by Antonio J. Fineza for Tropical Commercial Co., Inc., assisted by counsel, and by Domingo Panis for the defendants, assisted by Cruz as counsel.

According to Marcelina, she was never served with summons and was totally unaware of the case which she came to know about only when her deposit with the Manufacturers Bank and Trust Co. was garnished. Henceforth, she filed a motion to declare the proceedings in Civil Case No. 82988 void but the same was denied on the ground that by filing an answer she voluntarily submitted to the jurisdiction of the court.

Being left without any recourse, she filed against Panis a criminal charge for forgery for allegedly having forged her signature in the promissory note for P32,351.88 paid to Tropical Commercial Co., Inc.

Cruz in answer to the complaint explained that he entered his appearance for Panis and Marcelina Manikad in Civil Case No. 82988 after Panis assured him that he (Panis) had the authority to represent the partnership and that the promissory note was a genuine obligation of the partnership. As to Cruz' appearance for Panis in the forgery case, Panis averred in his affidavit that Cruz merely filed a motion for postponement and that upon

learning that Marcelina C. Manikad was the complainant, Cruz discontinued his appearance (p. 39, Record). Panis secured the services of another lawyer.

This case was referred to the Solicitor General for investigation, report and recommendation. On February 24, 1975 Marcelina C. Manikad presented her evidence ex parte. Cruz was not able to present his defense allegedly because despite diligent efforts, he could not locate Panis, his principal witness.

In 1975 before Marcelina C. Manikad left for abroad she executed a power of attorney dated October 3, 1975 in favor of her lawyer Jesus Fortez to represent her in all litigations and settle or compromise all her cases as he may deem fit. Using that authority, Fortez moved to withdraw Marcelina C. Manikad's complaint. He was convinced that there was no case against Cruz for disbarment.

The Solicitor General finds that respondent Cruz had acted in good faith in appearing for both Marcelina C. Manikad and Panis in Civil Case No. 82988. We sustain that finding.

WHEREFORE, this case is dismissed and considered closed.

SO ORDERED.

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

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