

JOAQUIN G. GARRIDO, CARLOS UY, JR., AND FRANCISCO R. ACHACOSO, PETITIONERS, VS. NORBERTO QUISUMBING, RESPONDENT.*Adm. Case No. 840. June 30, 1969*

Ponente: CONCEPCION, C.J.

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Petitioners Joaquin G. Garrido, Carlos Uy, Jr. and Francisco R. Achacoso seek either the disbarment or the suspension of respondent Attorney Norberto Quisumbing, upon the ground that he filed Civil Case No. 73668 of the Court of First Instance of Manila, as counsel for the plaintiffs therein, including among them one L. Garcia Pastor, who had not, in fact, authorized respondent to institute said action on his (Garcia Pastor's) behalf. Copy of an alleged affidavit of Garcia Pastor to this effect was annexed to the complaint of petitioners herein, which was filed on September 30, 1968.

In his answer thereto, respondent alleged that he filed the complaint in said case No. 73668 at the request of one of the plaintiffs therein, namely, Julio Muñoz, who claimed to have authority to act on behalf of L. Garcia Pastor in connection therewith. In support of this allegation, respondent submitted a photostatic copy of an affidavit of said Muñoz, dated July 12, 1968, which had allegedly been submitted in Civil Case No. 73091 of the Court of First Instance of Manila. Subsequently, or on December 4, 1968, respondent filed a "manifestation" annexing thereto another affidavit of Muñoz, made in Barcelona, Spain, on November 11, 1968, in further support of said allegation. Thereafter, petitioners filed their reply, which was the object of a rejoinder on the part of respondent. The aforementioned pleadings and the annexes thereto sufficiently establish the facts necessary for the determination of this administrative case.

It is the contention of Muñoz, a Spanish citizen, residing in Barcelona, Spain, that he is the controlling shareholder or the representative of the controlling shareholder of Carmun Trading (N.Y.) Inc., Carmun Trading (Philippines), Inc., Safintex, S.A., and Sociedad Europea de Financiacion, S.A. - hereafter referred to, respectively, as Carmun (N.Y.), Carmun (Phil.), Safintex and SEF; that Carmun (N.Y.) gave Antonio V. Rocha, a businessman in the Philippines, the sum of \$400,000, with which, in 1949, he constituted and funded the Capital Insurance and Surety Co., Inc., hereafter referred to as Capital; that in 1958, Rocha, who successfully managed the Capital, as its president, and held the shares therein in trust for Carmun (N.Y.), transferred said shares to Carmun (Phil.); that thereafter Rocha was replaced, as president of Capital, by petitioner Garrido, who had only 16 out of the 10,000 shares of Capital; that L. Garcia Pastor and Jaime Amat, both Spanish citizens and residents, the former of Madrid, Spain, and the latter of Pasay City, Philippines, hold 10 shares each of Capital, which Muñoz caused to be assigned to them to qualify them as members of the Board of Directors of Capital, of which he (Muñoz) is the Chairman; that Carmun (Phil.) transferred its shares in Capital to Safintex, which, in turn, transferred the shares to SEF; that between 1964 and 1966, there had been an impairment in the financial condition of Capital, owing to alleged mismanagement by petitioner Garrido, involving the juggling of accounts, the falsification of records and other irregularities, committed in connivance or with the cooperation of herein

petitioners Achacoso and Uy, Vice-President and Accountant General, respectively, of Capital; that, as a consequence, substantial assets of Capital were fraudulently transferred by the petitioners to the Property and Liability Insurance Corporation, which was organized and is owned by petitioners Garrido and Achacoso; and that, accordingly, he (Muñoz) asked respondent herein to file, on his behalf and that of Capital, SEF, Garcia Pastor and Amat, said Civil Case No. 73668 against petitioners herein, to oust them as president, vice-president and accountant, respectively, of Capital, and to recover damages.

Although Garcia Pastor had not personally authorized respondent herein to file said case on his (Garcia Pastor's) behalf, as one of the plaintiffs therein, respondent had no reason to doubt the veracity of the information furnished by Muñoz regarding his power to grant such authority, in representation of Garcia Pastor. Indeed, the latter seemingly claims to have returned his shares in Capital to Muñoz, thus impliedly admitting that he (Garcia Pastor) held the shares on behalf of Muñoz. At any rate, Muñoz knew nothing about said alleged return, he being in Japan, at the time of the filing of Case No. 73668, whereas Garcia Pastor was then in Barcelona. Moreover, the records of Capital were in the possession of petitioners herein, and respondent felt that the complaint in Case No. 73668 should be filed without delay, owing to the urgency of the relief therein prayed for.

In other words, when respondent's services were engaged in connection with said case, Muñoz informed him that he (Muñoz) was the controlling stockholder of Capital and that Garcia Pastor was his alter ego in its board of directors. Accordingly, Muñoz authorized respondent to file the action, not only in his (Muñoz) name, but, also, in that of Garcia Pastor. Under the circumstances, it is clear that respondent has not committed any act of malpractice. In fact, Garcia Pastor has not complained against respondent for having acted as he did. The present administrative proceeding has been instituted, not by Garcia Pastor, but by the defendants in the aforementioned civil case.

WHEREFORE, the complaint herein is hereby dismissed.

IT IS SO ORDERED.

Reyes, J.B.L., Makalintal, Zaldivar, Sanchez, Ruiz Castro, Capistrano, Teehankee, and Barredo, JJ., concur.
Dizon and Fernando, JJ., did not take part.

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