

NICANOR MAKONILLA-SEVA, PETITIONER, VS. LORENZO B. ANDRADA, FERDINAND MARCOS AND MANUEL CONCORDIA, RESPONDENTS.

G. R. No. L-4670. May 30, 1951

Ponente: FERIA, J.

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FERIA, J.:

This is a petition for certiorari filed by the petitioner as trial judge advocate against the respondents on the ground that the respondent Major Andrada, as member of the general court-martial which is trying three army lieutenants for offenses committed in relation to their office, acted in excess of his jurisdiction in allowing the other respondents to appear as counsel for said accused, over the objection of the petitioner based on the ground that section 17, Article VI, of the Constitution prohibits the latter from appearing as such counsel.

The respondent Major Lorenzo B. Andrada objects to this present action on the ground of defect of parties or that it must have been filed against all the members of the general court-martial, and not against him alone. The objection is well taken, but in order to save time, we must consider the other members included as respondents in order to decide now the case on its merits.

In the cases of Ferdinand Marcos and Manuel Concordia vs. Chief of Staff and General Court-Martial Armed Forces of the Philippines G. R. Nos. L-4663, L-4671, we have already held that the petitioners in said cases, Congressmen Ferdinand Marcos and Manuel Concordia, were disqualified or prohibited from acting as counsels for the accused before a court-martial, which is a tribunal or court, of crimes committed by them in relation to their office, and therefore they cannot appear as counsel for the accused in said cases. Applying said ruling to the present case, it follows that the respondent court-martial acted in excess of its jurisdiction or without any authority in allowing them to appear as counsel for the accused in the present case.

Wherefore, the petition for certiorari is granted and the act complained of is set aside, without pronouncement as to costs. So ordered.

Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo and Bautista Angelo, JJ., concur.

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