

JUAN MAGLAYA, COMPLAINANT, VS. ATTY. PEDRO Z. CLARAVALL, RESPONDENT.*Adm. Case No. 989. October 19, 1973*

Ponente: MAKASIAR, J.

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In his sworn complaint dated March 20, 1971 and filed on April 2, 1971, Juan Maglaya prays for the disbarment of respondent Atty. Pedro Z. Claravall for neglect of his duties to his client and breach of professional duty. He claims that respondent was his counsel in Civil Case No. 2518 in the Court of First Instance of Ilocos Sur entitled "Mr. & Mrs. Alfredo Quitevis vs. Arnulfo Tenorio & Juan Maglaya"; that he agreed to pay his counsel as attorney's fees the sum of P3,000.00, one-half of which was already paid to respondent; that respondent failed to attend the hearing of said Civil Case on June 6, 1969, the date chosen by respondent, which resulted in the rendition of a decision (Exh. A or 1, pp. 6-13, rec.) against the complainant based solely on the evidence presented by the plaintiffs in said case; that respondent received said decision on July 18, 1969 but did not inform complainant thereof; that complainant came to know of said decision for the first time only on November 28, 1969, when the sheriff of Baguio City served on him a writ of execution, pursuant to which four of his passenger jeepneys valued at P30,000.00 were sold at public auction on January 2, 1970 as a result of said judgment against him; and that complainant informed respondent of his desire to settle said civil case amicably for P3,000.00 but respondent dissuaded him with the assurance that he will take care of said case for P3,000.00 as attorney's fees.

In his answer, respondent claims that there was no agreement between him and complainant that his attorney's fee in said civil case was P3,000.00, much less did he receive one-half of said amount; that in consideration of the help extended to him during the elections (respondent was elected as city councilor and later as city vice-mayor of Baguio) by the Iglesia ni Kristo in Baguio of which complainant is a member, he did not require them to pay for his legal services; that in said Civil Case No. 2518, complainant would sometimes give him small amounts ranging from P50.00 to P70.00 for his transportation, hotel and meal expenses every time he went to Vigan for the hearing of said case; that his failure to appear at the hearing of June 6, 1969 was purely due to sheer inadvertence and not to negligence nor bad faith, which he explained to the Court in said Vigan case in his motion for reconsideration of the order which declared the defendants therein to have waived their right to present their evidence for failure to appear at the hearing of June 6, 1969, which motion was denied; that he elevated the order denying his motion for reconsideration to the Court of Appeals which dismissed his petition for certiorari; that the decision rendered by the Vigan Court in said civil case was based, not only on the evidence presented by the plaintiffs therein, but also on the judgment convicting Arnulfo Tenorio, complainant's driver and co-defendant in said civil case, for homicide thru reckless imprudence, as can be gleaned from the decision in said civil case (Exh. A or 1, pp. 6-13, rec.); that when he was about to elevate the civil case to the Supreme Court even at his own expense, complainant took all the pertinent papers from him, stating that he would consult the lawyer of the Iglesia ni Kristo in Manila; that the decision in the civil case in the meantime became final and executory; that when he asked complainant subsequently about his plan to elevate the civil case to the Supreme Court, the complainant replied that he would rather file an action for damages against respondent, which he actually did and

which case was docketed as Civil Case No. 2144, Court of First Instance, Branch II, City of Baguio, entitled "Juan Maglaya vs. Pedro Z. Claravall," which was dismissed in a decision dated September 14, 1971 (Exh. 8); that because Arnulfo Tenorio, complainant's driver and co-defendant in said Civil Case No. 2518, was insolvent, the writ of execution was issued against complainant who was declared subsidiarily liable in the decision in Civil Case No. 2518; that the complainant desired to settle said Civil Case No. 2518 only after the writ of execution was issued against him by offering one of his jeepneys to the plaintiffs in full settlement of the case but the plaintiffs in said civil case rejected the offer; that complainant's driver, Arnulfo Tenorio, was convicted of homicide thru reckless imprudence by the city court of Baguio, which conviction was affirmed by the Court of Appeals which modified only the period of imprisonment; and that said conviction was partly the basis for the adverse decision of the Vigan Court in Civil Case No. 2518 against complainant as aforesated.

After complainant rested his case and when the respondent commenced to present his evidence, complainant filed a motion to dismiss his complaint on the ground that after hearing respondent's explanation, he "is convinced that respondent acted in good faith without the least intention nor desire to prejudice" him and that "he believes that the present case arose from lack of understanding between the parties." And the Solicitor General recommends permanent dismissal. (See pp. 16-17 of Report and Recommendation.)

It should be noted from the decision in Civil Case No. 2518 (Exh. A or 1, pp. 6-13, rec.) that when said case was called for pre-trial on March 7, 1969, defendants and counsel failed to appear despite due notice to them, for which reason, upon motion of plaintiffs' counsel, the defendants were declared in default and the clerk of court was authorized to receive plaintiffs' evidence; that plaintiffs therein presented their evidence on March 10, 1969; that on March 19, 1969, respondent as defendants' counsel, filed an urgent motion for reconsideration of the order dated March 7, 1969 declaring defendants in default, alleging that his failure to appear on said date was because he was confined in his home for acute respiratory infection duly supported by a medical certificate; that the court in its order dated March 25, 1969 set aside the order of default and re-set the trial for April 25, 1969 to allow the defendants to cross-examine the witnesses of the plaintiffs; that after the plaintiffs rested their case on April 25, 1969, respondent, as defendants' counsel, prayed that the presentation of the defendants' evidence be set for June 6, 1969, which was granted by the court; that when the defendants and their counsel failed to appear on June 6, 1969, upon motion of plaintiffs' counsel, the court declared defendants to have waived their right to present their evidence and considered the case as submitted for decision; that in an order dated June 30, 1969, the court denied the motion filed on June 25, 1969 by respondent for the reconsideration of the order dated June 6, 1969, despite his explanation that his failure to appear on June 6, 1969 was due to sheer inadvertence as he might have failed to note down the date of trial in his calendar of cases as he was then attending to about 40 cases in court from April 26 to June 5, 1969, aside from the fact that he was busy with his work as city councilor of Baguio.

The trial court correctly denied respondent's motion for reconsideration as it was pure neglect on his part to note down in his calendar or memo book the date of the hearing of said case or even on his own folder of the case shortly after the court granted his motion that the presentation of defendants' evidence be set for June 6, 1969. This neglect is aggravated by the fact that he was the one who asked for said date.

While it is true that the decision in Civil Case No. 2518 was partly predicated on the criminal conviction of complainant's driver, Arnulfo Tenorio, by the city court of Baguio and by the Court of Appeals, the same did not justify the absence of respondent as counsel for herein complainant at the hearing of June 6, 1969, the very date he asked for his presentation of evidence for the defendants in said civil case. For such neglect, herein respondent should be admonished. The motion to dismiss filed by the complainant himself saved respondent from the imposition of a severe disciplinary measure.

WHEREFORE, THIS DISBARMENT PROCEEDING AGAINST RESPONDENT ATTY. PEDRO Z.

CLARAVALL IS HEREBY DISMISSED, WITH THE ADMONITION THAT SAID RESPONDENT SHOULD EXERCISE THE REQUISITE ATTENTION AND DILIGENCE IN THE DEFENSE OF HIS CLIENT'S CAUSE DEMANDED BY HIS FIDELITY TO HIS LAWYER'S OATH. LET COPY HEREOF BE ENTERED IN HIS PERSONAL RECORD.

Makalintal, Acting C.J., Zaldivar, Ruiz Castro, Fernando, Teehankee, Barredo, Antonio, and Esguerra, JJ., concur.

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