

**GUADALUPE SAN JOSE, PETITIONER, VS. NAZARIO G. CRUZ,
RESPONDENT.***. February 01, 1933*

Ponente: IMPERIAL, J.

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This is a complaint filed by Guadalupe San Jose against Attorney Nazario G. Cruz, charging him with malpractice.

The case was referred for investigation to the Attorney-General who, in turn, endorsed it to the provincial fiscal of Laguna for the same purpose. The latter official conducted the necessary investigation during which the parties submitted a stipulation of facts and presented other evidence from all of which the following facts may be inferred:

On February 16, 1930, the spouses Raymundo Isaac and Antonina Alay mortgaged to Dr. Manuel B. Calupitan three parcels of land which they owned in the barrio of Patimbao of the municipality of Santa Cruz, Laguna, to guarantee a loan of P1,000 obtained by them, payable on March 16th of the same year, with interest at the rate of 12 per cent per annum. As the debtors were not able to pay off the mortgage, the creditor sold to the herein petitioner all his rights to two of the said three parcels for the sum of P1,000 as evidenced by the deed of sale, Exhibit A, executed to that effect. The mortgage deed was recorded in the registry of deeds of said province in accordance with Act No. 3344, but not the deed of sale.

The Isaacs not having paid their debt to the petitioner herein, the latter engaged the services of the respondent attorney who instituted civil case No. 5480 in the Court of First Instance of Laguna. The respondent did not seek to foreclose the mortgage, for the simple reason that the deed of sale executed in his client's favor was not recorded and in the complaint he limited himself to demand payment of the amount of P1,000 with the stipulated interest and the costs, having thus instituted a personal action.

Judgment was rendered in favor of the petitioner herein, which, upon appeal to the Supreme Court, was affirmed.[1] The respondent, after obtaining a judgment in favor of his client in the Court of First Instance, withdrew as her attorney and did not represent her in the appeal.

After the case was remanded to the trial court, a writ of execution of the judgment was issued, and thereafter the facts, upon which the present complaint is based, arose. After the three parcels of land had been attached by the sheriff, the spouses Tomas Matienzo and Maria Carcalin, relatives of the spouses Raymundo Isaac and Antonina Alay, pretending to be the owners of the real estate in question, filed a third party claim with the sheriff, for which reason the sale was temporarily suspended. They immediately retained the herein respondent as their attorney who instituted in the same court civil case No. 5952 wherein he asked for and obtained against the sheriff and the petitioner herein a writ of preliminary injunction restraining them from proceeding with the attachment and sale at public auction of the aforementioned lands. Due to this case, the judgment obtained by the petitioner is pending execution.

Abiding by the investigator's findings, the Attorney-General submits that the facts as proved and stated above show clearly that the respondent is guilty of unprofessional conduct and recommends that the corresponding disciplinary action be taken against him. We agree with his recommendation.

The record shows that the respondent offered his services to the Matienzo spouses knowing that the petitioner had obtained a favorable judgment in the civil case No. 5480 and that his efforts in the subsequent civil case No. 5952 would frustrate said judgment and render it ineffectual, as has really been the result upon his obtaining the writ of injunction above-mentioned. Obviously his conduct is unbecoming to an attorney and cannot be sanctioned by the courts. An attorney owes loyalty to his client not only in the case in which he has represented him but also after the relation of attorney and client has terminated and it is not a good practice to permit him afterwards to defend in another case other persons against his former client under the pretext that the case is distinct from, and independent of the former case.

"An attorney is not permitted, in serving a new client as against a former one, to do anything which will injuriously affect the former client in any manner in which the attorney formerly represented him, though the relation of attorney and client has terminated, and the new employment is in a different case; nor can the attorney use against his former client any knowledge or information gained through their former connection." (Malcolm on Legal Ethics, p. 143.)

In view of the foregoing considerations, we are of the opinion, and so hold, that the respondent attorney deserves a reprimand for the acts committed by him and we would not have hesitated to impose a more severe penalty were it not for the fact that, apparently, this is his first offense, and, furthermore we are convinced that it is due principally to his inexperience in the profession. So ordered.

Avanceña, C. J., Street, Villamor, Ostrand, Villa-Real, Abad Santos, Hull, Vickers, and Butte, JJ., concur.

[1] G. R. No. 35074. San Jose vs. Ysaac and Alay, 56 Phil., 808.

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