

PORAC TRUCKING, INC., PETITIONER, VS. HONORABLE COURT OF APPEALS (FIFTEENTH DIVISION), AND EMERENCIANA GUEVARRA, RESPONDENTS.

G.R. No. 81093. October 15, 1991

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PER CURIAM:

The Court *motu proprio* initiated the administrative investigation of Atty. Rodolfo Macalino for the "unsolicited appearance" in Civil Case No. 84-0039-M, RTC, Br. 55, San Fernando, Pampanga which reached this Court, docketed and entitled as Porac Trucking, Inc., Petitioner, vs. The Honorable Court of Appeals, et al., Respondents, G.R. No. 81093, Second Division. In its decision promulgated on March 6, 1990, the Court made the following disquisition:

[In any case], the unsolicited appearance of Atty. Rodolfo Macalino, in the absence of a client-lawyer relationship with the petitioner corporation, is unbecoming of a member of the bar, to say the least. x x x The presiding judge of the court *quo* is hereby ordered to undertake this investigation and report to the Court his findings and recommendation within thirty days from receipt hereof.

The Report and Recommendation dated June 11, 1991 of the Presiding Judge, RTC, Br. 55, San Fernando, Pampanga, Hon. Reynaldo V. Roura, was received by the Court on July 4, 1991. The pertinent portions are hereunder quoted:

Maria Adelaida C. Dizon, Vice-President of defendant Porac Trucking, Inc., testified on December 28, 1990 that Porac Trucking Inc. never retained the services of Atty. Rodolfo Macalino to represent it in Civil Case No. 84-0039-M. Despite the absence of evidence showing malice on the part of Atty. Macalino, the resulting injury to the interest of the parties in this case, not to mention the adverse effect in the administration of justice caused by the false representation of Atty. Rodolfo Macalino in said Civil Case can not be ignored. He should be held responsible for the consequences of his acts. When Atty. Macalino stated in his Motion for Reconsideration dated November 19, 1984 that the defendant did not bother anymore to appear during the pre-trial conference in as much as they have already executed their respective Special Powers of Attorney in favor of their counsel authorizing him to represent them in the said pre-trial conference when in fact they did not, he tried to mislead the Court and committed falsehood in violation of his oath in the pursuit of his falsely representing the defendants as his clients which clearly constitutes wilful appearance as an attorney for the defendants in the case without proper authority. Indeed, such actuation of Atty. Macalino as the Hon. Supreme Court states in its decision, is "unbecoming of a member of the bar," and considered grounds for his removal or suspension by the Honorable Supreme Court as provided in Section 27, Rule 138 of the Revised Rules of Court.

The investigating judge submitted the following recommendation:

IN VIEW OF ALL THE FOREGOING, there is no doubt that Atty. Rodolfo Macalino is guilty of falsehood in violation of his oath, and of wilfully appearing as an attorney for a party to a case without authority so to do, and accordingly, it is respectfully recommended that he be suspended for the practice of law for a period of one (1) year.

Res ipsa loquitur. Atty. Rodolfo Macalino is not only guilty of falsehood but had misled the trial court as well when he represented himself as "counsel" of Porac Trucking, Inc. when in fact there was no such client-lawyer relationship in the first place. And he transgressed his oath as an attorney. For Canon 10.01 of the Code of Professional Responsibility is clear.

CANON 10 —

A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 —

A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

ACCORDINGLY, Atty. Rodolfo Macalino is suspended from the practice of law for a period of six months. Let a copy of this Resolution be spread in his personal file and distributed to the all courts of the land. This Resolution is immediately executory.

SO ORDERED.

Paras, Padilla, and Regalado, JJ., concur.
Melencio-Herrera, J., (Chairman), on leave.

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