

THIRD DIVISION

[A.C. No. 5235, March 22, 2000]

**FERNANDO C. CRUZ AND AMELIA CRUZ, COMPLAINANTS, VS.
ATTY. ERNESTO C. JACINTO, RESPONDENTS.**

R E S O L U T I O N

MELO, J.:

In their sworn complaint, spouses Fernando C. Cruz and Amelia Manimbo Cruz seek the disbarment of Atty. Ernesto C. Jacinto. The Integrated Bar of the Philippines, through Commissioner Jesulito A. Manalo of the Commissioner on Bar discipline, conducted an investigation. Thereafter, he submitted his Findings and Recommendation, thusly:

This is a disbarment case filed by the spouses Fernando and Amelia Cruz against Atty. Ernesto C. Jacinto. This case was filed with the Commission on Bar Discipline last 30 January 1991.

The evidence of the complainants show that sometime in June 1990, Atty. Ernesto Jacinto, lawyer of the couple in an unrelated case, requested the Cruz spouses for a loan in behalf of a certain Concepcion G. Padilla, who he claimed to be an old friend as she was allegedly in need of money. The loan requested was for PhP 285,000.00 payable after 100 days for PhP 360,000 to be secured by a real estate mortgage on a parcel of land located at Quezon City.

The spouses, believing and trusting the representations of their lawyer that Padilla was a good risk, authorized him to start preparing all the necessary documents relative to the registration of the Real Estate Mortgage to secure the payment of the loan in favor of the Cruz spouses.

On 4 July 1990, the complainants agreed to the request of Atty. Jacinto and were presented by the latter with a Real Estate Mortgage Contract and a Transfer Certificate of Title No. 127275 in the name of Concepcion G. Padilla. The amount of PhP 285,000.00 was given by the spouses to the respondent in cash (PhP 270,000.00) and a PBCom check no. 713929 for PhP 15,000.00.

Upon maturity of the loan on 15 October 1990, the spouses demanded payment from Concepcion G. Padilla by going to the address given by the respondent but there proved to be no person by that name living therein. When the complainants verified the genuineness of TCT No. 127275 with Register of Deeds of Quezon City, it was certified by the said office to be a fake and spurious title. Further efforts to locate the debtor-mortgagor likewise proved futile.

In their sworn affidavits given before the National Bureau of Investigation (NBI), the spouses claim that they relied much on the reassurances made by Atty. Jacinto as to Concepcion G. Padilla's credit, considering that he was their lawyer. It was also their trust and confidence in Atty. Jacinto that made them decide to forego meeting the debtor-mortgagor.

The complainants' evidence also included the sworn statements of Estrella Ermino-Palipada, the secretary of the respondent at the Neri Law Office, and Avegail Payos, a housemaid of Atty. Jacinto. Ms. Palipada stated that:

1. she was the one who prepared the Real Estate Mortgage Contract and the Receipt of the loan upon the instruction of the respondents;
2. she was a witness to the transaction and never once saw the person of Concepcion G. Padilla, the alleged mortgagor; and that
3. **she was instructed by Atty. Jacinto to notarize the said contract by signing the name of one Atty. Ricardo Neri.**

Avegail Payos, the housemaid of the respondent, in turn stated that she was the one who simulated the signature of one Emmanuel Gimarino, the Deputy Register of Deeds of Quezon City upon the instruction of Atty. Jacinto. This was done to make it appear that the real estate mortgage was registered and the annotation to appear at the back of the TCT as an encumbrance.

On 14 November 1997, a case for Estafa thru Falsification of Public documents under Art. 315 was filed against Atty. Jacinto. He was arrested and detained by the NBI.

The defense of the respondent, on the other hand, was embodied in his Answer with Motion to Dismiss filed with the Commission on Bar Discipline. Therein, he alleged that the criminal information for estafa thru falsification filed against him had already been dismissed because of the voluntary desistance of the complainants.

In his version of the facts, Atty. Jacinto averred that while he indeed facilitated the loan agreement between the Cruz spouses and Concepcion G. Padilla, he had no idea that the latter would give a falsified Certificate of Title and use it to obtain a loan. He claimed that he himself was a victim under the circumstances.

Respondent further alleged that he had not been remiss nor negligent in collecting the proceeds of the loan; that in fact, he had even advanced the full payment of the loan due to the complainants from his own savings, even if Concepcion G. Padilla had not yet paid, much less found.

RECOMMENDATIONS