

EMILIA P. FORNILDA-OLILI, COMPLAINANT, VS. ATTYS. SERGIO I. AMONUY, JOSE S. BALAJADIA, JOSE F. TIBURCIO, RESPONDENTS.

Adm. Case No. 3005. October 05, 1988

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Complainant, Emilia P. Fornilda-Olili, in her "Suplong Administratibo (sa) Masamang Gawin" seeks the disbarment of the three respondents, Attys. Sergio I. Amonoy, Jose S. Balajadia, and Jose F. Tiburcio on the ground that they had conspired among themselves in making it appear that one Judge Bonifacio Aquino, who was never appointed as such, rendered the Decision in Civil Case No. 12726 of the Court of First Instance of Pasig, Branch VIII, ordering the foreclosure of six (6) parcels of land inherited by complainant and her co-heirs.

Complainant claims that the aforesaid Decision is null and void because, as proved by the Certification of the Clerk of Court of the Regional Trial Court, Branch 164, Pasig, there has never been a Judge Bonifacio Aquino in the former Court of First Instance, Branch VIII. What the records show is that said position was held by Judge Benjamin Aquino, who is now retired.

Complainant additionally prays that respondents be ordered to pay damages to the Fornilda family and that the lands, litigated in several cases as recited herein below, be ordered returned to said family.

This Complaint is actually an offshoot of G.R. No. 72306 of this Court entitled "David P. Fornilda, et al. vs. Branch 164, Regional Trial Court, Pasig, etc. and Atty. Sergio I. Amonoy" wherein the complainant was also one of the petitioners.

A condensed reiteration of the factual background will be helpful.

The deceased, Julio M. Catolos, formerly owned six (6) parcels of land located in Tanay, Rizal. His estate was being settled in Special Proceedings No. 3103 of the then Court of First Instance of Rizal. Francisca Catolos, Agnes Catolos, Alfonso I. Fornilda and Asuncion M. Pasamba were some of the legal heirs represented in that case by respondent, then Atty. Sergio I. Amonoy, now Judge of the Regional Trial Court of Pasay.

On 12 January 1965, the Intestate Court approved the Project of Partition adjudicating the six (6) parcels to Alfonso I. Fornilda and Asuncion M. Pasamba.

On 20 January 1965, Alfonso I. Fornilda and Asuncion M. Pasamba, executed a deed of mortgage in favor of Respondent Amonoy wherein they mortgaged the six (6) parcels to the latter as security for the payment of his attorney's fees for services rendered in the aforementioned intestate proceedings, in the amount of P27,600.00.

Asuncion M. Pasamba died on 24 February 1969 while Alfonso I. Fornilda passed away on 2 July 1969. Complainant is one of the heirs of Alfonso I. Fornilda.

On 6 August 1969, the intestate proceedings were declared closed and terminated.

For non-payment of the mortgage indebtedness, Respondent Amonoy, on 21 January 1970, instituted foreclosure proceedings before the Court of First Instance of Rizal, at Pasig, Branch VIII, entitled "Sergio I. Amonoy vs. Heirs of Asuncion M. Pasamba and Heirs of Alfonso I. Fornilda", docketed as Civil Case No. 12726 (the Foreclosure Case). Appearing as signatory counsel for Respondent Amonoy was then Atty. Jose S. Balajadia now an Associate Justice of the Sandiganbayan (Respondent Balajadia).

On 28 September 1972, the Trial Court (Branch VIII) rendered judgment in the Foreclosure Case in favor of Respondent Amonoy. The Decision was penned by Judge Benjamin H. Aquino.

On 6 February 1973, the mortgaged parcels were foreclosed and on 23 March 1973, an auction sale was held with Respondent Amonoy as the sole bidder for P23,760.00. Said sale was confirmed by the Trial Court on 2 May 1973, with Judge Reynaldo P. Honrado, presiding.

On 19 December 1973, an action for the Annulment of the judgment in the Foreclosure Case, entitled "Maria Peñano, et al., vs. Sergio Amonoy, et al.," was filed before the then Court of First Instance of Rizal, at Pasig, docketed as Civil Case No. 18731 (the Annulment Case). Complainant was one of the plaintiffs therein. Appearing for them as counsel was Atty. Jose F. Tiburcio, the third respondent in this administrative complaint. Respondent Amonoy, in turn, was defended by Respondent Balajadia.

On 7 November 1977, then Presiding Judge Serafin E. Camilon rendered judgment dismissing the Annulment Case.

On 22 July 1981, the Court of Appeals affirmed the aforesaid judgment in CA-G.R. No. 63214-R (the Appealed Case).[1]

Complainant anchors her complaint on the circumstance that attached to the Complaint in the Annulment Case (Civil Case No. 18731) was a plain typewritten copy of the Decision in the Foreclosure Case (Civil Case No. 12726) wherein Judge Bonifacio Aquino appears as the "ponente." The same typewritten copy, with the same "ponente," was reproduced verbatim on pages 54 to 66 of the printed Record on Appeal in the Annulment Case (Civil Case No. 18731).

It is obvious, however, that the foregoing was a mere clerical error based on the following considerations:

1)

A comparison of said typewritten copy with the certified true xerox copy of the same Decision issued by the Acting Branch Clerk of Court of Branch 164, RTC-Pasig, formerly Branch XXV, CFI-Pasig, conclusively establishes that the "ponente" of the Decision was Judge Benjamin H. Aquino, then the Presiding Judge of Branch VIII (Annex "II", Respondent Balajadia's Comment).

2)

Paragraphs 13 and 14 of the Complaint in the Annulment Case filed by complainant and her co-heirs, to which a plain typewritten copy of the Decision in Civil Case No. 12726 was attached as Annex "G", and which was filed precisely for the purpose of annulling said Decision, admits that Branch VIII to which Civil Case No. 12726 was raffled, was presided, and the Decision therein rendered, by Judge Benjamin H. Aquino.

3)

Annex "J" of the Complaint in the Annulment Case (Civil Case No. 18731), which is a copy of the "Execution

Foreclosing Mortgage" issued in the Foreclosure Case (Civil Case No. 12726), quoting word-for-word the dispositive portion of the Decision in the latter case including the name of the "ponente", shows that said Decision was penned by Judge Benjamin H. Aquino.

The foregoing premises considered, not one of the three respondents may be accused of "faking" the said Decision, nor can it be justifiably contended that the proceedings in the Foreclosure Case were fictitious.

Respondents can neither be taken to task for allegedly not exhibiting to complainant and her co-parties, the originals of the Project of Partition and the Deed of Mortgage. Even assuming it to be as contended, it by no means follows that they were fictitious specially taking account of the fact that they were duly submitted and considered in the Foreclosure Case, in the Annulment Case and in the Appealed Case in the Court of Appeals, in all of which, their authenticity and validity had been upheld.

All told, we see no basis for imposing any disciplinary sanction against the three respondents herein.

WHEREFORE, the instant complaint for disbarment is hereby dismissed for lack of merit.

SO ORDERED.

Paras, Sarmiento, and Regalado, JJ., concur.

Padilla, J., no part in deliberations.

[1] Decision penned by Justice Guillermo P. Villazor and concurred in by Justices Mama D. Busran, Chairman, and Jose A. R. Melo.

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