

MANUEL LEAÑO, COMPLAINANT, VS. ATTY. ERNESTO ANDICO, RESPONDENT.

Adm. Case No. 2694. March 08, 1989

Ponente: GRIÑO-AQUINO, J.

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GRIÑO-AQUINO, J.:

Manuel Leño filed a verified letter-complaint charging Attorney Ernesto Andico of Rosario, Cavite, with having notarized a forged Deed of Real Estate Mortgage of his house and lot (covered by TCT No. T-9651) which was later foreclosed and sold at public auction to Emilio Ricafrente resulting in the eventual ejectment of the complainant and his wife from the property by Ricafrente. He alleged that Attorney Andico was remiss and grossly negligent in the performance of his duties as a notary public by failing to ascertain the identity of the persons who executed the supposedly forged Deed of Real Estate Mortgage before he notarized the same.

In his Comment on the complaint, Atty. Andico averred that he personally knows the complainant, a former municipal policeman of Rosario, for he (Andico) was an elective municipal official of that town, first as municipal councilor in 1964, and as vice-mayor in 1972, that he could not possibly have been mistaken about the identity of Leño as the person who executed the Deed of Real Estate Mortgage in 1974 in favor of one Jacinto Ilas (Annex 1); that in 1966, Leño and his wife Asuncion Crisostomo had also mortgaged the same property in favor of the Rural Bank of Salinas which he also notarized as notary public of the bank (Annex 2); that although Ilas; in an affidavit (Annex A of letter-complaint) denied being the mortgagee of the property, Ilas never appeared nor testified in Civil Case No. 4094 which Leño filed against Atty. Andico involving the mortgaged property; that the truth is that Ilas was really the mortgagee in the questioned Deed of Real Estate Mortgage (Annex 1) and it was he who signed the Petition for Extrajudicial Foreclosure of Real Estate Mortgage before Notary Public Juan C. Medina, Jr. (Annex 3 of Comment); that Leño's administrative complaint against him is politically motivated because the complainant is a henchman of Andico's political opponent, Mayor Calixto Enriquez, who administered the oath to Leño's letter-complaint.

The solicitor General to whom Leño's complaint was referred for investigation, report, and recommendation, conducted an investigation and hearing, and submitted a report to this Court containing the following findings:

1. Leño's allegation that he and his wife "have never executed any deed of Real Estate Mortgage involving their land covered by TCT No. 9651" is false because he admitted during the investigation that he and his wife did mortgage that land to the Rural Bank of Salinas on September 30, 1966. Leño admitted his and his wife's signatures on the deed of mortgage (Annex 2 of Comment);
2. Leño's allegation that he discovered the "forged" 1974 deed of real estate mortgage in favor of Jacinto Ilas in 1980 only when his house was about to be demolished, is false. It is belied by his testimony that he came to know about the mortgage in favor of Ilas in 1978 or 1979 when he received a notice from Atty. Julian Medina demanding payment of his account to Ilas, and by his testimony that he received the sheriff's notice of the foreclosure after the auction sale on May 14, 1976;

3. The statements in Ilas' affidavit that he met Leaño for the first time in the office of Atty. Ponciano Espiritu before whom he executed said affidavit on January 31, 1981, and that he met Leaño's wife, Asuncion Crisostomo, for the first time on September 19, 1981 in the office of Atty. Conrado Aquino, were contradicted: (1) by Leaño who testified that he met Ilas for the first time in the house of the barangay captain in 1982 (pp. 4-6, t.s.n., Aug. 19, 1985); and (2) by Atty. Espiritu's testimony that Leaño and his wife brought Ilas to his office to execute the affidavit, proving that Leaño already knew Ilas before they came to his office;

4. The allegation of Atty. Andico that the administrative complaint against him is politically motivated is credible because Leaño admitted that he is a henchman of Mayor Calixto Enriquez, that it was Mayor Enriquez, with the help of Atty. Maguigad, who prepared his letter-complaint, and that he subscribed his complaint before Mayor Enriquez.

The Solicitor general recommended that the administrative complaint be dismissed.

In light of the Solicitor General's finding's, and pursuant to his recommendation, the administrative complaint against Attorney Ernesto Andico is hereby dismissed for being completely devoid of factual basis, frivolous, and intended merely to harass, annoy, and maliciously besmirch the reputation of the respondent.

SO ORDERED.

Narvasa (Chairman), Cruz, Gancayco, and Medialdea, JJ., concur.

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