

EMERITA CAILING, COMPLAINANT VS. ATTY. JOSE VID. F. ESPINOSA, RESPONDENT.

Administrative Case No. 238. May 30, 1958

Ponente: REYES, A., J.

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REYES, A., J.:

This is a proceeding for disbarment.

The complaint alleges in substance that on or about June 16, 1955, the respondent, a member of the Bar, presented to the complainant a document purporting to be signed by one Jose Balicao and "ratified" by the respondent as a notary public but "which was found out later to be totally falsified and a fake." While admitting that the document was ratified before him, respondent claimed that he did not know of the forgery, having no reason to believe that the one who ratified the document was not Jose Balicao himself. Respondent would also attribute the whole thing to the machination of politics. The provincial fiscal who investigated the case found the evidence insufficient to charge respondent with knowledge of the forgery or falsification, but recommended reprimand for his laxity in the exercise of his duties, "The Solicitor-General, however, believes respondent guilty and recommends his suspension as a member of the Bar.

The facts appear to be as follows:

Some time in 1950, the complainant, a widow residing in Dasol, Pangasinan, bought of her brother-in-law, Jose Balicao, a piece of land for P100.00, but no deed of sale was executed because the vendor was in a hurry to get his money as he was leaving for Mindanao with his family. He, in fact, soon left for Mindano and there he remained. In 1955, complainant, having need of reselling the land she had bought but having no documentary proof of the sale, went to Francisco Bonilla, then a municipal councilor of Dasol and a cousin of her deceased husband as well as of the vendor Balicao, and asked help in securing the necessary deed of sale in her favor. She mentioned in that connection the name of the respondent, who, on previous occasions, had drawn up documents for her mother-in-law without charging any fee. Bonilla contacted respondent and had him prepare, for Balicao's signature, a letter addressed to complainant and authorizing her to sign Balicao's name on the necessary deed of sale. Bonilla, however, did not send that letter to Balicao. Upon complainant's instructions, he sent, instead, another letter in which he asked for authority to sign Balicao's name on the deed. Balicao wrote back requesting Bonilla to do just that, that is, sign Balicao's name "on the papers", in case complainant should ask him "to accompany her to have a document made regarding the land", adding that he had no more interest in the land, that (as proof of authority) his letter could be shown to the notary public that if there should be any trouble he, Balicao, would be the one to answer. Inclosed in Balicao's letter was his residence certificate, issued at Tumang, Buluan, Cotabato.

As requested by Balicao, Bonilla accompanied complainant to respondent's office to have him prepare the deed. But respondent found Balicao's letter of authorization insufficient for the purpose and so he told them that Balicao had to either execute a regular power of attorney or come and sign the document himself.

Confronted with the difficulty of having to bring Balicao to Pangasinan or secure a power of attorney from him, and with the pressing need of having to sell the land to raise money for the support of her children, complainant had to find a way out, and it would appear that after leaving respondent's office she and Bonilla agreed on a scheme to have someone impersonate Balicao and sign the latter's name on the deed. After they had selected a man for that purpose, they brought him to respondent's office and there complainant introduced him to respondent as her "Manong Osing", that is, Jose Balicao, who, according to her, had just arrived from Mindanao. Respondent prepared the deed of sale and, after translating it into the dialect, handed it to complainant, Bonilla and the person posing as Balicao, for signature. But just then a political leader of respondent called him to the street to talk to him, and during respondent's absence from the room Bonilla learned that the person who was to sign Balicao's name did not know how to write. So what Bonilla did was to sign Balicao's name himself. He also wrote in the acknowledgment clause the date and number of his own residence certificate. This he had to do because he did not then have with him Balicao's residence certificate, having failed to locate it when he left his house that day. Respondent came back from the street without knowing what had transpired during his absence. But noting that what should be the vendor's signature was already written on the deed, he inquired of the impostor, whom he believed to be Balicao himself, if the signature was his, and, upon receiving an affirmative reply, asked for his residence certificate. Bonilla made a move of passing a residence certificate to the impostor, at the same time reading its serial number and date of issue, thus creating the impression that it was the one demanded by the respondent when in reality it was his own. And as the date and number read by Bonilla tallied with those written in the acknowledgment clause, respondent did not bother to look at the residence certificate anymore, and thereafter, with the supposed vendor affirming under oath that he was executing the deed voluntarily and with Bonilla and respondent signing as witnesses, the document was notarized by respondent. The latter charged no fee as complainant was poor, though according to her she was asked to remember him in the election (he being then, so we gather, a candidate for mayor).

With a deed now in her favor complainant went to her uncle, Simeon Calling, who wanted to buy the land from her. Calling told her that he would check on the deed and that if everything was in order he would pay her the purchase price. But some two or three days later, Calling returned the document and told complainant that it was a "fake", he knowing for certain that Jose Balicao was not in Dasol, Pangasinan, and could therefore have signed it.

Unable to sell the land, complainant-so she says-sought help from the mayor of Dasol and the latter (a political rival of respondent's) advised her to file the present complain and even accompanied her to this Court.

It is not disputed that what purports to be Jose Balicao's signature on the deed is a forgery. Complainant testified that she did not know who wrote the signature. Bonilla on his part declared that it was he who wrote it, having been put to the necessity of doing so upon discovering that the man they had brought to respondent's office did not know how to read and write. But whoever it was who wrote the signature, it seems certain that respondent was not aware that the signature was a forgery, believing that it was in fact that of the man who was introduced to him by complainant as Jose Balicao. Of course, there is the circumstance that Balicao was related to respondent by affinity, being a cousin of the latter's wife. But there is also proof that respondent was not familiar with Balicao's face, for he had been away from Dasol for many years and he was only 12 years old when he last saw him. Indeed, were the facts otherwise, we do not think it likely that complainant and Bonilla would have dared bring to respondent's office someone to impersonate Balicao. Moreover, it is also hard to believe that, for nothing more than the possibility of being remembered in the election by one who, like the complainant, does not even appear to be a qualified voter, a lawyer would want to be a party to a falsification, risk prosecution and destroy his career as a member of the Bar. Our conclusion, therefore, is that respondent in notarizing the deed has merely been the victim of an imposition.

However, we think that respondent has been somewhat negligent in not taking pains to ascertain that the person ratifying the deed before him was the vendor himself and not a mere impostor. Luckily for him, no damage has resulted, and most probably the whole matter would have been forgotten had not someone seen in it an opportunity to discredit a rival in politics. In the circumstances, we have to admonish respondent to be more careful in the performance of his duties as lawyer and notary public to the end that he may not, even though unwittingly, make himself an easy tool for illegal purposes.

Paras, C.J., Bengzon, Montemayor, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Endencia, and Felix, JJ., concur.

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