

FILOTEO VILLANUEVA, COMPLAINANT, VS. ATTORNEY FLORANTE C. DE LA CRUZ, RESPONDENT.*A.C. No. 1098. August 21, 1980*

Ponente: FERNANDO, C.J.

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The basis of this administrative action by Filoteo Villanueva against Florante C. de la Cruz, a member of the Philippine Bar, was his alleged refusal to furnish complainant with documents which he had notarized, particularly documents in connection with loans obtained by the former from Rang-ay Rural Bank, Inc. of San Fernando, La Union, of which respondent is the lawyer. Nor was that all. There was, so it was alleged, a failure to comply with his duty to submit copies of said notarized documents to the Court. What increased the resentment of complainant was the imputed impolite conduct of Attorney de la Cruz, who was accused of having shouted at him thus causing him embarrassment. There was a denial on the part of respondent.

The complaint was then referred to the Office of the Solicitor General. Thereafter, its report and recommendation was submitted to the Court. Its summary of the evidence showed that respondent was retained by the Rang-ay Rural Bank of San Fernando, La Union, as its legal counsel. It also found that complainant executed several real estate mortgages in favor of Rang-ay Bank, all of which were notarized by respondent. It then took note of the issuance by complainant of a promissory note in favor of Rang-ay Rural Bank, Inc. whereby he bound himself to pay P2,000.00 for a loan he obtained from said bank; with some entries in said promissory note later discovered to have been falsified, with the result that complainant failed to receive the amount therein mentioned. Nonetheless, he paid the same under protest with the request that copies of the documents notarized by respondent be furnished him. Then came this portion of the report: "The charge that respondent Atty. de la Cruz refused to give copies of notarial documents he notarized upon the request of complainant appears to have been proven, as the following testimony of complainant shows: 'On the last time because I went there several times, when I went to his office he refuses still to give me a copy of the notarized papers and he even shouted at me. Q. What was your purpose in going to the Office of Atty. de la Cruz? A. I did not go there voluntarily but he invited me to go inside his office to get copies of the contracts. When I was inside his office he shouted at me and said "that I have already told you many times that I cannot give you copies."' It was for this reason that complainant had to secure copies from the Register of Deeds. Although, respondent denied ever having refused complainant's request, we cannot believe that complainant will have to resort to the Register of Deeds if he could have easily obtained copies of the same from respondent." [1] Further on that point: "Indeed, complainant would not have gone to the extent of initiating this charge for respondent's refusal, if it were not true, because respondent, a lawyer, could have easily charged complainant for perjury or falsification, but this the evidence failed to disclose. A businessman, as complainant is, would not resort to file charges, much less against a lawyer, if that were false." [2]

After setting forth the applicable provisions of the Notarial Law, the Report continued: "By the very nature of his functions therefore, as notary public, respondent should have furnished complainant the notarized documents he was requesting as he apparently had no valid reason to refuse." [3] There was no clear showing, however, of

respondent having in his possession the promissory note which did "not appear to have been notarized." [4] Moreover, so the Report stated, "there was no serious damage from respondent's refusal, as in fact, complainant was able to secure copies from other sources." [5] Nor was the charge of discourtesy sufficiently demonstrated. It was further stated that the discourteous act imputed to respondent "is not an act of malpractice by a lawyer." [6]

Respondent was absolved of the charge that he failed to submit periodical reports of his actuations as notary. He was also cleared of the accusation of being impolite, the evidence merely proving that both parties did not employ the language of moderation in their confrontation. The recommendation is for the dismissal of the case with the warning that he should not lay himself open to the suspicion that he was negligent in the performance of his duties as a notary. This Court accepts such recommendation.

WHEREFORE, the case against respondent is dismissed but he is admonished to be more careful in the future in his actuations as a notary and to observe faithfully the requirements of the law. Let a copy of this resolution be spread on his record.

Barredo, Aquino, Concepcion, Jr., Guerrero, and De Castro, JJ., concur.
Abad Santos, J., on official leave.

[1] Report and Recommendation, 3-4.

[2] Ibid., 4.

[3] Ibid., 5.

[4] Ibid., 6.

[5] Ibid.

[6] Ibid., 7.

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