

ARTEMIO T. REALINO, COMPLAINANT, VS. ATTY. FRANCISCO M. VILLAMOR, RESPONDENT.*A.C. No. 1924. December 29, 1978*

Ponente: FERNANDEZ, J.

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In a letter-complaint dated May 15, 1978 addressed to the Chief Justice of this Court, Artemio T. Realino charged Francisco M. Villamor, a practicing lawyer in the Municipality of Abuyog, Province of Leyte, with malpractice as a notary public and grave misconduct and dishonesty in the practice of his profession. It is alleged that on January 21, 1978, the respondent drafted a deed of sale whereby the complainant purportedly sold his residential house in favor of one Romeo Closa and the said respondent signed the acknowledgment of the document in question without the signature of the complainant and the witnesses. Complainant attached to the letter-complaint a copy of said deed of sale, marked as Annex "A".[1]

In compliance with the resolution of this Court dated July 24, 1978, the respondent, Atty. Francisco M. Villamor, submitted his answer which he denominated as "Counter Affidavit." [2] The respondent avers that on the afternoon of January 21, 1978, while about to leave his office, the complainant, Artemio T. Realino, and one Romeo Closa came and prevailed upon the said respondent to prepare an instrument conveying and selling a residential house belonging to the complainant, as vendor, in favor of Romeo Closa, as vendee; that the deed of sale was then typed by respondent's office helper; that the vendor did not have at the time his residence certificate "A" with him and he was not prepared to sign the instrument because there was a balance in the agreed purchase price in the amount of P600.00 which the vendee had not yet paid; that the vendor said that he would sign the deed of sale only upon receipt of said amount; that, however, since the vendee had signed a promissory note to pay the said balance of P600.00 on the coming Monday and that since the vendor would not be able to come on said day, the vendee, being also a close friend, had prevailed upon the respondent to affix his signature on the acknowledgment part of the still unsigned document; that the complainant had promised that he would return to the respondent the required notarial file copies; that the document, although still unsigned, reflected the intention of the contracting parties therein so that it was delivered to the herein complainant; that for several days there had been no news about the transaction and the promised file copies were not sent to the respondent; that it was only after the lapse of many days that the respondent finally came upon Romeo Closa who informed the former that the transaction did not go through because he was unable to pay the balance of P600.00; that the subject of the unsigned document, the residential house, was sold to another; and that since the respondent thought that there would be no prejudice or damage to anyone by reason of the unsigned deed of sale already notarized by him, it having been rendered useless by another deed of sale executed by the owner, complainant herein, he did not insist in retrieving said notarized unsigned deed of sale.

The respondent alleges that the complainant was his close friend and this was one of the factors that made him agree to sign the acknowledgment of the unsigned document. As explanation why the complaint was filed against him by one he considered as a close friend, the respondent states that Nestor R. Realino, a son of the complainant,

is accused before the Municipal Court of Abuyog, Leyte, of the crime of murder, the case being docketed as Criminal Case No. 12226 and entitled "People of the Philippines vs. Nestor Realino" and the private prosecutor in said case is the herein respondent; that the complainant made several attempts to settle the case by offering money to the parents of the victim; that the offer to settle the case was turned down; that the complainant must have thought that the lawyer of these parents, the herein respondent, was the obstacle to their proposal to settle the murder charge amicably with the aggrieved parties; and that hence the herein complainant filed the present administrative complaint against Atty. Francisco M. Villamor.

The allegations of the respondent regarding the criminal case involving the son of the herein complainant; and the offer of money and the rejection of such offer are corroborated by Mrs. Salvacion Robin, mother of the victim in the murder case, in her sworn statement called "Counter-Affidavit." [3]

The complainant, in his reply to the "Counter-Affidavit" of respondent, pursuant to the resolution of this Court dated September 4, 1978, denied all the allegations of respondent. [4]

The resolution of this administrative case hinges on the credibility of the complainant and respondent.

The version of the respondent is more credible than that of the complainant, considering that respondent's allegations have in some aspects been corroborated by Mrs. Salvacion Robin. It appears that good faith characterized the act of the respondent in affixing his signature and his notarial seal on the unsigned document in question. The complainant has obviously taken advantage of the oversight of the respondent and the trust that the latter had reposed on one he thought to be his friend in order to settle the charge of murder against his son.

This Court has held, time and again, that it is the duty of a notarial officer to demand that a document be signed in his presence. "A notarial document is by law entitled to full faith and credit upon its face, and for this reason notaries public must observe the utmost care to comply with the elementary formalities in the performance of their duties." [5]

In similar cases of omissions of notaries public who had acted in good faith, [6] the respondent in each case was merely reprimanded and warned to be more careful in exercising his duties as a notary public. There is no reason to impose a heavier penalty on the herein respondent.

WHEREFORE, the respondent Francisco M. Villamor is hereby reprimanded and admonished to be more careful hereafter. A repetition of a similar act will be dealt with more severely.

SO ORDERED.

Teehankee, Makasiar, Santos, and Guerrero, JJ., concur.

[1] Record of Administrative Case No. 1924, p. 3.

[2] Ibid., p. 10.

[3] Annex "3", Respondent's Counter-Affidavit, Folder, p. 16.

[4] Folder, p. 23.

[5] Adm. Case No. 500, Ramirez vs. Ner, September 27, 1967, 21 SCRA 207.

[6] Ramirez vs. Ner, supra; Lopez vs. Casclang, Adm. Case No. 549, Aug. 26, 1968, 24 SCRA 731; Samonte vs. Rodrigo, Jr., Adm. Case No. 930, Dec. 17, 1970, 36 SCRA 283.

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