

ATTY. ONOFRE P. TEJADA, COMPLAINANT, VS. JUDGE HAROLD M. HERNANDO, RESPONDENT.*A.C. No. 2427. May 08, 1992*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-2427/>**PER CURIAM:**

In a verified Complaint, dated 19 February 1992, Complainant charged Respondent with gross dishonesty and malpractice. Respondent was then Judge of the Court of First Instance of Abra, Branch I, at Bangued.

In its Resolution of 22 July 1982, the Court resolved to docket said Complaint as an administrative case for disbarment considering that the acts complained of were apparently committed by Respondent when he was still a practicing lawyer, prior to his appointment to the Bench on 25 October 1975. Pursuant to the same Resolution, the case was referred to the Solicitor General for investigation, report and recommendation.

Respondent ceased to become a member of the Judiciary when he was not re-appointed after the reorganization effected by Batas Pambansa Blg. 129.

The Complaint charges that on 29 October 1973, Respondent prepared and notarized a Deed of Sale (Annex A, Rollo, 8) which bore the forged signature of the vendor, Vitaliano Quetulio, who died some eighteen (18) years before or on 15 August 1955 as shown in his Certificate of Death (Annex B; Rollo, 10). This fact could not but have been known by Respondent who was the counsel of the widow of Vitaliano Quetulio, Felipa vda. de Quetulio, plaintiff in Civil Case No. 4743-II, as she testified to her husband's death when Respondent himself called her to the witness stand in the said civil case (Rollo, 18-19). He is thus charged with being the author of the forgery or, at the very least, having authorized the same as he had notarized the document himself.

It appears that the said forged Deed of Sale was discovered only when the Decision in said Civil Case No. 4743-II was reversed by the Court of Appeals and the disputed parcels of land were ordered placed in the possession of the defendants therein. As it turned out, however, said properties were already in the possession of one Fermin Edra to whom they had been sold pending appeal by virtue of that same Deed of Sale supposedly signed by Vitaliano Quetulio on 29 October 1973 and notarized by Respondent.

Complainant further alleges that, subsequently, Respondent signed as a witness (Rollo, 29) in a Deed of Revocation and Acknowledgement of Ownership (Annex D, Rollo, 25) executed by the vendee, Fermin Edra, and members of his family on 2 July 1977, which purportedly revoked the forged Deed of Sale. The Deed of Revocation was alleged to have been likewise forged since Fermin Edra, the vendee, had died a month before or on 30 May 1977 as shown by his Certificate of Death (Annex E, Rollo, 26). The alleged forgery is once more being imputed to the respondent, who had signed as a witness in the Deed.

To refute the accusations, Respondent, in his Comment and Answer dated 15 March 1982 (Rollo, 30) and letter dated 20 March 1982 (Rollo, 29), denied all the charges filed against him, contending that the alleged forged Deed of Sale, the basis of the Complaint, "was totally revoked, cancelled and considered destroyed and of no effects" by the Deed of Revocation and Acknowledgment. The revocation has, therefore, "forever waived and renounced any and all (their) claims, interest, causes of actions of whatever nature which may arise from said

document."

Respondent further claims that he had nothing to do with the questioned signature of Fermin Edra in the Deed of Revocation and Acknowledgment of Ownership which was notarized, by Notary Public Eligio J. Rios. Thus, any complaint regarding the forged signature should be directed against said Notary Public, he says.

On 9 November 1982, Complainant filed a Motion to Dismiss or Withdraw Complaint on the ground that "he came to realize that his perception of facts was a mistake done in good faith," and that he was fully convinced that he could not substantiate the charges he had made.

In an unverified Manifestation dated 10 January 1982 (should have been 1983), Respondent, in a complete turn-about, alleged that sometime in 1973, Vitaliano Quetulio who was supposed to have died on 15 August 1955, personally appeared before him, together with his supposed widow to acknowledge the due execution of the assailed Deed of Sale. Respondent explained that Vitaliano Quetulio actually emigrated to the United States in 1936 and was unheard of until 1955. Consequently, Vitaliano's daughter presumed her father to have already died and registered him as already dead on 16 August 1955, and even had a tomb constructed for him at the municipal cemetery of Sarrat, Ilocos Norte. Thus, when Vitaliano reappeared sometime in 1973, already under a new identity to enable him to re-marry and have his own family while in the United States, the entire province of Ilocos Norte was surprised.

On 16 March 1989, the Court en banc forwarded the records of the case to the Integrated Bar of the Philippines (IBP) pursuant to the new Rule 139-B of the Revised Rules of Court.

On 29 November 1990, after hearing, and notwithstanding the complainant's Motion to Dismiss or Withdraw Complaint and the Respondent's Manifestation, the IBP, through its Board of Governors, passed a Resolution recommending the suspension of the Respondent from the practice of law for a period of six (6) months. At said hearing, Complainant did not appear although notified. Only Respondent showed up and submitted the case for resolution without further investigation.

On 13 January 1992, Respondent filed a Memorandum reiterating the facts and circumstances he had previously presented and contending that the aforementioned IBP Resolution "is also a concrete evidence of 'corruption and abuse of discretion and authority'," similar to what majority of the members of the Board of Governors were facing in Bar Matter No. 565.[1]

The Court rejects Respondent's submissions.

It has been sufficiently established that Vitaliano Quetulio died on 15 August 1955 as evidenced by the Certificate of Death (Annex B, Complaint). He was then said to have been 71 years old. Respondent's tale that Vitaliano had migrated to the United States in 1936 and was unheard from until 1955 by his daughter is a tall one, indeed. For one, Respondent's Manifestation was unverified and unsubstantiated. For another, if at all true, his widow would have been a more authoritative source of information.

It is evident then that Vitaliano could not have affixed his signature on the Deed of Sale dated 29 October 1973. Other falsities are evident from that Deed. It recites that Vitaliano was single whereas in Civil Case No. 4743-II, his widow, Felipa, on examination by Respondent himself, testified that Vitaliano was her husband who died some fifteen (15) years before. Further, the Deed recited that title to the property was "absolute" when in truth and in fact it was under litigation, which fact Respondent himself could not but have known as he was counsel in the civil case involved.

The records also bear out that Fermin Edra, who is supposed to have executed the Deed of Revocation and

Acknowledgment, died on 30 May 1977. He could not, therefore, have affixed his signature on said Deed on 2 July 1977.

And while there is no direct proof of forgery by Respondent, the IBP has aptly observed:

"While there is not (sic) sufficient evidence to prove that respondent was the one who actually forged the signatures of Vitaliano Quetulio in the Deed of Sale and of Fermin Edra in the Deed of Revocation and Acknowledgment of Ownership, the evidence does prove that he notarized the former document fully cognizant of the falsities therein, thereby making possible the transfer of the property to Fermin Edra. And the execution of the Deed of Revocation and Acknowledgment of Ownership, rather than rectifying the effect of the said Deed of Sale, only compounded respondent's misdeeds in view of his awareness that Fermin Edra was already dead when he (respondent) signed as witness to the same."

Complainant's Motion to Dismiss or Withdraw Complaint hardly deserves consideration as proceedings of this nature can not be "interrupted or terminated by reason of desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same" (Section 5, Rule 139-B, Rules of Court).

We recall this Court's Resolution in *Vda. de Guerrero v. Hernando* (Adm. Case. No. 704, November 24, 1975, 68 SCRA 76), where we had previously found the Respondent guilty "as a notary in making it appear in the jurat of a tenancy contract that affiant Tranquilino Bernardo exhibited to him a residence certificate when in fact he did not do so." He was then

"severely censured for the falsehood which he had committed and at the same time x x x barred or disqualified from acting as a notary public for a period of one year counted from notice of the entry of judgment in this case. He is warned that a more drastic punishment would be imposed on (sic) a repetition of the same anomaly."

The imposition of that severer penalty on respondent is now in order for the commission of a more blatant anomaly. He has miserably failed to live up to the standards expected of a member of the Bar (*Bautista v. Gonzales* (Adm. Matter No. 1625, February 12, 1990, 182 SCRA 151, citing *Artiaga v. Villanueva*, Adm. Matter No. 1892, July 29, 1988, 163 SCRA 638). His actuations amount to gross misconduct and dishonesty, in violation of his lawyer's oath and the fundamental ethics of the profession (*Merritt v. Cacanindin*, Adm. Case No. 1422, October 27, 1983, 125 SCRA 286).

WHEREFORE, respondent, Harold M. Hernando, is found guilty of grave professional misconduct and is hereby SUSPENDED from the practice of law UNTIL FURTHER ORDERS.

SO ORDERED.

Narvasa, C.J., Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Padilla, Bidin, Grino-Aquino, Medialdea, Regalado, Davide, Jr., Romero, and Nocon, JJ., concur.
Bellosillo, J., on leave.

[1] Re: Integrated Bar of the Philippines.

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