

**DAVID P. FORNILDA, JUAN P. FORNILDA, EMILIA P. FORNILDA OLILI,
LEOCADIA P. FORNILDA LABAYEN AND ANGELA P. FORNILDA
GUTIERREZ, PETITIONERS, VS. THE BRANCH 164, REGIONAL TRIAL
COURT...**

A.C. No. 3277. January 24, 1989

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

The Decision of this Court promulgated on 5 October 1988 in an inter-related case, G. R. No. 72306, entitled "David P. Fornilda, et al vs. The Branch 164, Regional Trial Court IVth Judicial Region, et al.," included, inter alia, the following dispositive portion:

"xxx xxx xxx

"With respect to petitioners' prayer for disbarment by reason of malpractice of Respondent Amonoy embodied in their pleading entitled "Mahigpit na Musiyun para Papanagutin Kaugnay ng Paglalapastangan" and "Masasamang Gawain (Mal-Practices)" and "Paninindigan (Memorandum)" both filed on 16 June 1988, Respondent Sergio I. Amonoy is hereby required, within fifteen (15) days from notice hereof, to submit an Answer thereto. After receipt of the same, a new docket number will be assigned to the case.

"xxx xxx xxx". (pp. 12-13, Decision)

Respondent Amonoy has submitted an Answer and an Amended Answer in compliance with the foregoing directive. A new docket number A.C. No. 3277 has also been assigned.

Essentially, the issues raised by the pleadings are:

- 1) Whether or not respondent had used the Tanay Rural Bank, the Eastern Rizal Bank and the Tanay Police Station to harass petitioner Leocadia Fornilda;
- 2) Whether or not Atty. Amonoy connived with a certain Atty. Jose Tiburcio (counsel for petitioners) to "bungle" the case of the petitioners;
- 3) Whether or not, as counsel for the heirs of Julio Catolos, in Special Proceedings No. 3103, respondent kept said heirs in the dark as to the true status of the case; and more importantly,
- 4) Whether or not respondent could be held liable for violation of Article 1491 (5) of the Civil Code.

In so far as the first three issues are concerned, respondent has successfully rebutted petitioners' contentions and we find no basis for holding him accountable for any of them.

In respect of the fourth issue respondent maintains that even assuming that there was, indeed, a violation of Article 1491(5) of the Civil Code when he acquired the subject properties, he had acted in good faith at the time of its acquisition.

In denying in a Resolution of even date, reconsideration of our Decision in the aforementioned inter-related case, G. R. No. 72306, we upheld our ruling that respondent Amonoy had, in fact, transgressed Article 1491(5) of the Civil Code.

Notwithstanding, we refrain from imposing any administrative sanction on respondent considering that even the Court of Appeals, in the appealed Annulment Case, (CA-G.R. No. 63214-R) resolved it from the procedural angle of absence of extrinsic fraud and did not squarely rule on the legal question of whether or not respondent had acquired the Controverted Parcels in violation of Article 1491(5) of the Civil Code, which Decision was, unfortunately, not elevated to this Court for review.

ACCORDINGLY, complainants' prayer for respondent's disbarment is DENIED but with the observation that respondent could have been more circumspect in dealing with the properties in litigation of his clients instead of one-sidedly concentrating on and ensuring the collection of his attorney's fees.

Let a copy of this Resolution be spread on respondent's personal record.

SO ORDERED.

Paras, Sarmiento, and Regalado, JJ., concur. Padilla, J., no part in deliberations.

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