

LINA P. VILLAROSA AND JOSE P. VILLAROSA, COMPLAINANTS, VS. ATTY. OSMONDO V. POMPERADA, RESPONDENT.

A.C. No. 5310. January 28, 2003

Ponente: VITUG, J.

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VITUG, J.:

On 02 August 2000, complainants Lina Villarosa and her son Jose Villarosa filed before this Court a complaint for disbarment against Atty. Osmondo Pomperada, charging him with deceit and gross misconduct.

In her affidavit-complaint, Mrs. Villarosa alleged that sometime in 1994 her late husband, Isidro Villarosa, executed a Deed of Absolute Sale in favor of their son, Jose Villarosa, over their property in Barangay Dulao, Bago City, covered by TCT No. T-18480, specifically described to be -

“A parcel of land (Lot 1110-N. Psd-064502-023179), being a portion of Lot 1110, Cad. 40, Bago Cadastre), situated in the Barrio of Talotog, City of Bago, Prov. Of Negros Occ., Island of Negros, bounded on the NE. and SE. along lines 1-2-3-4-5-6-7-8-9-10-11-12 by Lot 1112, Cad. 40 Bago Cadastre; on the SE., along line 12-13 by Lot 1110-S; on the NW., along lines 13-14-15 by 1110-0; along lines 15-16-17 by Lot 1110-J; by Lot 1110-M, all of the subd. Survey; along lines 18-1 by Lot 111. x x x; containing an area of ONE HUNDRED FORTY NINE THOUSAND SEVEN HUNDRED TWENTY EIGHT (149,728) SQUARE METERS, more or less.”

According to complainants, the deed was neither dated nor notarized. Subsequently, Jose Villarosa sold the property to Loreto Cauntoy and a deed of agreement, dated 08 April 1997, was executed by the parties.

In August 1999, Jose Villarosa filed Civil Case No. 980, a complaint for rescission of contract and recovery of possession of the real property against Loreto Cauntoy before the Regional Trial Court, Branch 62, of Bago City. At the trial, Loreto Cauntoy presented a notarized Deed of Absolute Sale, dated 19 April 1993, executed by Isidro Villarosa in favor of his son Jose Villarosa. The document was purportedly notarized by Atty. Osmondo V. Pomperada per “Doc. No. 59, Page No. 15, Book No. XVIII, Series of 1993.” Complainants, however, submitted a Certification from the Records Management and Archives Office to the effect that “Doc. No. 59, Page No. 15, Book No. XVIII, Series of 1993, of Notary Public Osmondo V. Pomperada refer(red) to an affidavit executed by Roberto Z. Salutin of Sitio Dahug, Bo. Tabunan, Bago City, Philippines, executed on April 19, 1993,” a clear indication, said the complainants, that Atty. Osmondo Pomperada and Loreto Cauntoy had deceitfully falsified the document.

The Court, in its resolution of 20 September 2000, required respondent lawyer to comment on the complaint.

In his compliance, Atty. Pomperada commented that the filing of the instant administrative complaint was merely an act of harassment. In fact, he asserted, complainants had filed simultaneous criminal complaints against him and Loreto Cauntoy before the Office of the City Prosecutor. He vehemently denied having falsified the Deed of Absolute Sale, insisting that the document was signed by the late Isidro Villarosa, with complainants Lina Villarosa and their daughter Ma. Elena V. Valenciano acting as witnesses, at the Villarosa residence.

The Court, in its resolution of 29 January 2001, indorsed the matter to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

On 05 August 2002, Atty. Victor C. Fernandez, Director for Bar Discipline, submitted to the Court 1) a notice of resolution of the Board of Governors, and 2) the records of the case consisting of two volumes comprising, respectively, of 231 pages and 27 pages. The resolution of the IBP Board of Governors (Resolution No. XV-2002-2324), adopting the recommendation of Commissioner Milagros V. San Juan, was to the following effect; viz:

“RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex `A;’ and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, with modification, and considering that respondent has trifled with the importance or significance of his notarial commission, and had consequently prejudiced the integrity of the instruments/documents presented to him in his capacity as Notary Public which dishonest action amounts to gross misconduct, Respondent is hereby SUSPENDED from the practice of law for five (5) years and Revocation of his Notarial Commission and Perpetual Disqualification from being appointed as Notary Public.”

Atty. Pomperada filed a motion for reconsideration contending that he was utterly deprived of his fundamental right of due process when Commissioner Milagros San Juan submitted her report, recommending the penalty of suspension from the practice of law and perpetual disqualification from being appointed Notary Public, without any formal investigation having first been conducted.

A perusal of the records would indeed show that no formal investigation was undertaken by the IBP. In *Cottam vs. Atty. Laysa*,^[1] the Court underscored the necessity for such an investigation before any disciplinary sanction can be imposed. The Court elucidated:

“Complaints against lawyers for misconduct are normally addressed to the Court. If, at the outset, the Court finds a complaint to be clearly wanting in merit, it outrightly dismisses the case. If, however, the Court deems it necessary that further inquiry should be made, such as when the matter could not be resolved by merely evaluating the pleadings submitted, a referral is made to the IBP for a formal investigation of the case during which the parties are accorded an opportunity to be heard. An *ex parte* investigation may only be conducted when respondent fails to appear despite reasonable notice. Hereunder are some of the pertinent provisions of Rule 139-B of the Rules of Court on this matter; viz.:

“`SEC. 3. Duties of the National Grievance Investigator. – The National Grievance Investigators shall investigate all complaints against members of the Integrated Bar referred to them by the IBP Board of Governors.

`x x x x x x x x

`SEC. 5. Service or dismissal. – If the complaint appears to be meritorious, the Investigator shall direct that a copy thereof be served upon the respondent, requiring him to answer the same within fifteen (15) days from the date of service. If the complaint does not merit action, or if the answer shows to the satisfaction of the Investigator that the complaint is not meritorious, the same may be dismissed by the Board of Governors upon his recommendation. A copy of the resolution of dismissal shall be furnished to the complainant and the Supreme Court which may review the case *motu proprio* or upon timely appeal of the complainant filed within 15 days from notice of the dismissal of the complaint.

`No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges, or failure of the complainant to prosecute the same.

`x x x x x x x x

`SEC. 8. Investigation. – Upon joinder of issues or upon failure of the respondent to answer, the Investigator shall, with deliberate speed, proceed with the investigation of the case. He shall have the power to issue subpoenas and administer oaths. The respondent shall be given full opportunity to defend himself, to present witnesses on his behalf and be heard by himself and counsel. However, if upon reasonable notice, the respondent fails to appear, the investigation shall proceed ex parte.

`The Investigator shall terminate the investigation within three (3) months from the date of its commencement, unless extended for good cause by the Board of Governors upon prior application.

`Willful failure to refusal to obey a subpoena or any other lawful order issued by the Investigator shall be dealt with as for indirect contempt of Court. The corresponding charge shall be filed by the Investigator before the IBP Board of Governors which shall require the alleged contemnor to show cause within ten (10) days from notice. The IBP Board of Governors may thereafter conduct hearings, if necessary, in accordance with the procedure set forth in this Rule for hearings before the Investigator. Such hearing shall as far as practicable be terminated within fifteen (15) days from its commencement. Thereafter, the IBP Board of Governors shall within a like period of fifteen (15) days issue a resolution setting forth its findings and recommendations, which shall forthwith be transmitted to the Supreme Court for final action and if warranted, the imposition of penalty.’

“The procedures outlined by the Rules are meant to ensure that the innocents are spared from wrongful condemnation and that only the guilty are meted their just due. Obviously, these requirements cannot be taken lightly.”

Considering the gravity of the offense charged and the sanction recommended by IBP, a formal investigation that would allow respondent lawyer a full right to be heard is unavoidable.

WHEREFORE, the instant administrative case is REMANDED to the Integrated Bar of the Philippines for further proceedings heretofore adverted to and for it to act thereon with dispatch.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] 326 SCRA 614.

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