

LUZ VECINO, COMPLAINANT, VS. ATTY. GERVACIO B. ORTIZ, JR., RESPONDENT.

A.C. No. 6909. June 30, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In a Letter-Complaint[1] dated September 15, 2005 filed before the Office of the Bar Confidant, Luz Vecino charged Atty. Gervacio B. Ortiz, Jr. of notarizing a Deed of Sale[2] despite his knowledge that one of the supposed vendors mentioned therein, Manolito C. Espino, had long been dead.

In his Comment[3] dated December 5, 2005, Atty. Ortiz denied any participation in the notarization of the Deed of Sale. He claimed that his purported signature thereon was forged as shown by its disparity from the specimens[4] of his usual and customary signature. He also pointed out that the Deed of Sale does not bear his notarial seal and that its acknowledgment portion failed to state the date of issue of his professional tax receipt. Thus, Atty. Ortiz prayed for the dismissal of the complaint.

In our Resolution[5] dated April 3, 2006, we referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

On the scheduled mandatory conference of the case before the IBP on October 25, 2006, Atty. Rodolfo Mapile manifested that his client, Vecino, is already withdrawing the complaint. Atty. Ortiz expressed his appreciation for the same. Thus, IBP Commissioner Cecilio A.C. Villanueva directed the parties to submit the necessary pleadings in connection with the said withdrawal on the next hearing set on November 9, 2006.

Before the case was called for hearing on November 9, 2006, Atty. Mapile submitted a compromise agreement, signed by Vecino, to the IBP stenographer. Atty. Mapile instructed the stenographer to ask Atty. Ortiz to sign the agreement during the hearing. Allegedly, Atty. Mapile had to leave early for a scheduled medical check up that day.

Atty. Ortiz did not sign the agreement because he had some concerns regarding the same. Hence, a subsequent hearing was scheduled on November 29, 2006.

The parties, however, failed to reach a compromise during the November 29, 2006 hearing. Thus, Commissioner Villanueva directed the parties to submit their respective verified position papers on or before December 11, 2006. Both parties, however, failed to submit their position papers.

In his Report and Recommendation[6] dated June 6, 2007, Commissioner Villanueva recommended (1) the dismissal of the complaint since Vecino failed to prove Atty. Ortiz's participation in the notarization of the Deed of Sale, and (2) the one-month suspension of notarial commission of Atty. Ortiz for his failure to submit: (a) a disclaimer the moment that he learned that his name was used and his signature was forged in the Deed of Sale; and (b) his position paper, which was considered by Commissioner Villanueva to be a blatant disrespect to the proceedings of the Commission on Bar Discipline. Commissioner Villanueva also mentioned that he was fully

convinced that Atty. Ortiz's signature in the Deed of Sale was forged.

The IBP Board of Governors, in its Resolution dated June 19, 2007, adopted the findings and the recommendations of Commissioner Villanueva. We received a copy of the said Resolution[7] on September 27, 2007.

After a careful scrutiny of the records of this case, we find the recommended dismissal of the complaint to be in order, considering the absence of any evidence substantiating the allegation that it was Atty. Ortiz who notarized the Deed of Sale. Regarding the issue on forgery, we shall however, refrain from making a pronouncement thereon, in view of the pending case[8] against Maria Elena Espino (Manolito Espino's widow), for allegedly falsifying the subject Deed of Sale.

We also agree that Atty. Ortiz should be held administratively liable for his failure to submit his position paper since he is duty-bound to comply with all the lawful directives of the IBP, not only because he is a member thereof,[9] but more so because IBP is the Court-designated investigator of this case.

However, we find the recommendation to hold Atty. Ortiz administratively liable for his failure to submit a disclaimer to be unwarranted, considering that there is no law or rule requiring him to file the same.

Taking into account all of the foregoing, we modify the recommended penalty to that of admonition.

WHEREFORE, the instant administrative complaint is DISMISSED. However, Atty. Gervacio B. Ortiz, Jr. is hereby ADMONISHED for failing to comply with a lawful order of the IBP. He is further WARNED that his commission of another or similar offense shall be dealt with more severely.

SO ORDERED.

Carpio Morales, Tinga, Velasco, Jr., and Brion, JJ., concur.

[1] Rollo, pp. 1-3.

[2] Id. at 5-6.

[3] Id. at 13-24.

[4] Id. at 23, 36, 38-39. His signature appearing in his Comment dated December 5, 2005, the specimen signatures which he filed before the RTC Makati in connection with his 2002 petition for a notarial commission, his signatures appearing in the Verification/Certification dated January 9, 2002, and his signature in his Individual Application for Guarantee of Loan dated February 19, 2002.

[5] Id. at 41.

[6] Id. at 54-59.

[7] Id. at 51-53.

[8] Id. at 25 (I.S. No. V-05-1511, Office of the City Prosecutor of Valenzuela City).

[9] See Toledo v. Abalos, A.C. No. 5141, September 29, 1999, 315 SCRA 419, 422; Tomlin II v. Moya II, A.C. No. 6971, February 23, 2006, 483 SCRA 154, 161-162.

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