

TERESITA DE CASTRO, COMPLAINANT, VS. HON. JUDGE IGNACIO CAPULONG, RESPONDENT.*A.M. No. 2739-CFI. November 02, 1982*

Ponente: VASQUEZ, J.

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This is an administrative complaint filed against Hon. Ignacio Capulong, Presiding Judge of the Court of First Instance of Pampanga, with station at San Fernando, Pampanga, for **SERIOUS MISCONDUCT AND ILLEGAL PRACTICE OF LAW**. After the necessary pleadings were filed by both complainant and respondent, the case was assigned to Justice Emilio A. Gancayco of the Court of Appeals for investigation, recommendation and report. The said Investigator conducted appropriate proceedings during which both presented documentary and testimonial evidences. Justice Gancayco eventually submitted his Report of such investigation.

The instant administrative complaint is an offshoot of a transaction which involved a certain Basilio de Castro, the father of complainant Teresita de Castro. It appears that the spouses Basilio and Iluminada de Castro owned six (6) parcels of residential land located in San Miguel, Bulacan, with an aggregate area of approximately 12,175 square meters, together with the improvements existing thereon. The said properties were mortgaged by them to secure a loan from the Development Bank of the Philippines (DBP). Having been unable to pay the said loan, the mortgage on the property was foreclosed, and the title to the properties was consolidated in the name of the DBP in view of the inability of the de Castros to redeem the same within the statutory period.

On February 27, 1981, Basilio de Castro made an offer to repurchase the properties in question from the DBP for the sum of P207,922.35, and for said purpose, he made an initial deposit of P10,000.00. The money used for such deposit was furnished by herein complainant.

On March 4, 1981, the DBP approved the said offer and required a down payment of P41,584.47 with the balance to be payable within five (5) years by a quarterly payment of P12,787.41. The down payment was required to be paid on or before October 9, 1981 which, at that time, had already amounted to P36,500.00 (excluding the deposit of P10,000.00) due to interests and other charges.

On October 7, 1981, Basilio de Castro executed a document, entitled "Deed of Waiver of Rights," pursuant to which Basilio de Castro was waiving his rights and interests to redeem or repurchase the property in question from the DBP in favor of the spouses Alejandro Villena and Beatriz Villena, both of San Miguel, Bulacan.

On October 8, 1981, the Villenas went to the DBP and made an additional deposit for P36,500.00 to repurchase the properties in question for which they were issued a receipt in the name of "Basilio de Castro (paid by Beatriz Villena)."

A few days later, complainant de Castro learned of the transaction which her father had entered into. On October 19, 1981, she caused her father to execute a "Revocation of Deed of Waiver of Rights" to nullify the effect of the assignment of rights that Basilio de Castro had executed in favor of the Villenas on October 7, 1981. When the

complainant sought to revoke the assignment of rights executed by her father, her efforts proved to be in vain. Complainant received information that the failure of DBP to process her papers relative to the cancellation of the assignment of rights executed by her father in favor of the Villena spouses was allegedly due to the intervention of the respondent Judge in behalf of the Villenas, which she considered surprising inasmuch as the respondent used to be the lawyer of her father.

On November 20, 1981, at the Acquired Assets Department of the DBP in Makati, Metro Manila, Basilio de Castro and his wife Iluminosa de Castro, executed a document, entitled "Deed of Assignment with Assumption of Obligation" in favor of the Villena spouses. Present on that occasion for the signing of the said document were the de Castro spouses, the Villena spouses, Atty. Ciriaco Lapuz (counsel for the Villenas), employees of the DBP, and the herein respondent. It was in connection with this incident that the charge of SERIOUS MISCONDUCT had been levelled by complainant against the respondent Judge.

The evidence presented during the investigation as to what actually transpired on that occasion is conflicting. The testimonies of the complainant, her father Basilio de Castro, her sister Loida de Castro, Atty. Roberto Mendoza (complainant's counsel in this case) and a representative of the Register of Deeds tended to show that Basilio de Castro signed the Deed of Assignment with Assumption of Obligation on November 20, 1981 without reading and understanding its contents, and that he was only made to do so primarily due to the misrepresentation and undue pressure exerted on the de Castro spouses by the herein respondent who represented to them that the document was merely to prevent the sale of the properties to other interested parties. Basilio de Castro was not in a position to understand the import of said document, he having reached only the third grade of schooling, and did not know or understand English. He relied on the assurance of the respondent Judge, not only because of his position, but primarily due to the fact that he had been his lawyer for the last fifteen (15) years.

For his part, respondent Judge, thru his testimony and those of his witnesses, Beatriz Villena, Jose Sanchez (an Assistant Manager of the DBP's Acquired Assets Department), Mrs. Grace Bocalan (a Sales Analyst of the same Department), and Atty. Ciriaco Lapuz, denied the imputation of deceit, and claimed that Basilio de Castro and his wife signed said document of Assignment with Assumption of Obligation on November 20, 1981 at the DBP office of the Acquired Assets Department at Makati, Metro Manila, with full knowledge of its contents and without any compulsion, undue pressure or undue influence exerted upon the de Castro spouses by herein respondent Judge; that he merely acted as a mediator, not as a lawyer of the Villenas, because the latter had a lawyer, Atty. Ciriaco Lapuz, who represented the Villenas in all their transactions with the de Castros and the DBP regarding the foreclosed properties of the de Castros.

Evaluating the mass of conflicting testimonies of the parties and their witnesses, the Investigator came to the conclusion that the charge of SERIOUS MISCONDUCT constituting in the alleged misrepresentation and deceit and undue influence and pressure exerted by the respondent Judge on complainant's father Basilio de Castro had not been established. This finding is based upon the following considerations:

"1. Basilio de Castro himself and father of complainant herein, Teresita de Castro, and who is the principal party in that questioned deed of assignment, etc. in favor of the Villenas on November 20, 1981, ADMITTED before this Investigator, that he really AGREED to execute as indeed he signed a WAIVER OF RIGHTS, Exhibit 1, (Page 20, SC Rollo), in favor of the Villena spouses on October 7, 1981, duly notarized before Atty. Ciriaco Lapuz, lawyer of the Villenas (TSN., pages 31-32, Session of August 2, 1982);

2. That he likewise admitted that he agreed to Villena proposal that the latter shall assume all their (de Castros') rights to redeem and repurchase their foreclosed properties with the DBP and for them, (Villena spouses) to make the down payment as required on their approved offer to repurchase the properties with the DBP (TSN., p. 31, Sess. of August 2, 1982); Respondent Judge was not yet in the picture then;

3. He likewise ADMITTED, that to settle the matter it was he who set the amount of P30,000.00 as the consideration of his waiver of his rights over the property in favor of his rights over the property in favor of the Villena spouses (TSN., pp. 20-21, 42, Sess. of August 2, 1982); and he requested respondent Judge to mediate.

4. He also admitted that he, (Basilio) was not forced nor compelled by the Villena spouses and their lawyer Ciriaco Lapuz who notarized said Deed of Waiver, Exhibit 1 (TSN., p. 66, Sess. of August 2, 1982) into signing the same on October 7, 1981;

5. He also admitted that actually it was herein complainant Teresita de Castro, who was interested in having said Waiver of Rights in favor of the Villenas repudiated by him (TSN., p. 37, August 2, 1982);

6. Mrs. GRACE BOCALAN, Sales Analyst of the Acquired Assets Department of the DBP categorically declared before this Investigator that she even explained NOT ONCE BUT TWICE, the contents and recitals of the questioned document, Exhibit 3, or 9 - the Deed of Assignment with Assumption of Obligation, at their Offices at Makati, Metro Manila, to herein Basilio de Castro, before the latter signed said document on November 20, 1981 (TSN., pp. 43-46, Sess. of August 4, 1982);

7. Complainant herself admitted before the Investigator that she was even informed by her father Basilio that he (Basilio) together with the Villena spouses went to the DBP offices to inform them that he (Basilio) could no longer continue paying the down payments required by the DBP in an approved offer on their part to repurchase their foreclosed properties, and that their relative, the Villenas intended to step into their shoes and continue paying the required down payments (TSN., pp. 11-15, Sess. of July 27, 1982);

8. That this questioned document was prepared and typed at the Office of the Acquired Assets Department of the DBP on November 20, 1981 on the date it was signed by the DBP, (TSN., pp. 53-54, Aug. 4, 1982) and affirmed by her chief - Jose Sanchez (TSN., pp. 14-15, August 4, 1982);

9. That on October 8, 1982, a day after signing of the Deed of Waiver of Rights, in favor of the Villenas, on October 7, 1981 by Basilio de Castro, the Villena spouses thru Beatriz, paid an additional deposit of P36,500.00, (the first deposit of P10,000.00 was made by Basilio) for the account of Basilio, as shown by a re-ceipt (Exhibits 2, 2-A, found on pp. 22, SC rollo), hence it is but natural and logical to assume that the next and complementary document to be executed will be the now questioned Deed of Assignment with Assumption of Obligation (Exhibits 3 or 9) where for the consideration of P30,000.00 the complainant's father, Basilio de Castro and his wife, waived and assigned all their rights and interests in re-purchasing their foreclosed properties with the DBP in favor of the Villenas;

10. Complainant herself admitted before the undersigned that she knew that her father Basilio de Castro did in fact receive the P30,000.00 when he signed the questioned document on November 20, 1981, (TSN., p. 24, 1982) and her reasoning that the said document was one to prevent the projected sale of their properties to other interested persons, is simply ridiculous and absurd, for admittedly P30,000.00 is no peanuts and no person in his right mind would know or part with that much for nothing in return;

11. Lastly, if it were true that the consent of the father, Basilio, on said document had been unlawfully obtained by the respondent thru deceit, why it was that up to the presents, NO-ACTION for annulment of said Deed of Waiver, Exhibit 1, and more importantly the questioned document Deed of Assignment with Assumption of Obligation, Exhibits 3 or 9 was filed by herein complainant and by her father Basilio de Castro, the principal party to said questioned documents in any courts of justice?"

With respect to the second charge that the respondent Judge engaged himself in the private practice of law, the Investigator similarly exculpates the respondent for the principal reason that the respondent Judge did not act as counsel for any of the parties in the transaction in question. It is a fact that the Villena spouses had a lawyer in the person of Atty. Ciriaco Lapuz, who acted in their behalf throughout the entire transaction between the Villenas and complainant's father, Basilio de Castro, and in the DBP. Atty. Lapuz was the one who prepared and

notarized the Deed of Waiver of Rights dated October 8, 1981. The principal document, the signing of which on November 20, 1981 was the basis of the charge of SERIOUS MISCONDUCT against the respondent Judge, to wit, the Deed of Assignment with Assumption of Obligation, was not prepared by the respondent Judge but by the employees of the DBP at its offices in Makati, Metro Manila, with the respondent Judge acting merely as a witness to the signing of the said document. No evidence was presented nor was it even intimated that the respondent Judge received any material consideration from his participation in the transaction in question. It is also an admitted fact that the Villena spouses are townmates and friends of the respondent Judge as well as of the De Castros, they being all from San Miguel, Bula-can; and that before joining the judiciary, the respondent Judge was a lawyer of the de Castros and not of the Villena spouses.

We agree with the Investigator that the proven actuations of the respondent Judge in connection with the transaction in question do not warrant a categorical or definite finding that he has committed serious misconduct or engaged in the private practice of law. His intervention in the subject transaction had nothing to do with his official position as a Judge of the Court of First Instance. The controversy between the de Castros and the Villena spouses is not the subject of any court action or proceeding in the court of the respondent Judge, nor in any other court for that matter. The alleged misrepresentation and undue pressure that he exerted on complainant's father have not been substantiated and, on the contrary, have been belied by preponderant evidence presented before the Investigator. The initial reluctance of Basilio de Castro to cede in favor of the Villena spouses his right to redeem his foreclosed properties from the DBP, induced no doubt by his natural desire to regain ownership of the properties which he had acquired through the years, was dissipated by an apparent realization that he did not have the financial capacity to effectuate the repurchase and by his decision to receive a substantial amount from the Villena spouses in consideration of the cessation of his rights to redeem. It was in the process of advising Basilio de Castro of the consequences and implications of the suggested arrangement with the Villena spouses as regards the reacquisition of the foreclosed properties that the respondent Judge came into prominent exposure. His intervention therein may not be considered as constituting private practice of law, he not having acted as counsel for any of the parties involved therein; nor did he receive any material benefit in consideration thereof; nor was it shown that he engaged himself in the exercise of the law profession in any other transaction or litigation after he had joined the judiciary.

By and large, We agree with the findings and recommendation of the Investigator and see no compelling reason to deviate from the same.

WHEREFORE, the complaint against respondent Judge Ignacio Capulong should be, as it is hereby, DISMISSED.

SO ORDERED.

Makasiar, Acting C.J., Aquino, Concepcion, Jr., Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

De Castro, J., on leave.

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