

PABLO FETALINO, COMPLAINANT, VS. MUNICIPAL JUDGE CESAR L. MACALISANG, OF SAN AGUSTIN, ROMBLON, RESPONDENT.*A.M. No. 301-MJ. July 25, 1975*

Ponente: ANTONIO, J.

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Complainant Pablo Fetalino, by letter-complaint, addressed to the Secretary of Justice and dated December 13, 1967, charged respondent Municipal Judge Cesar L. Macalisang, of San Agustin, Romblon of malicious delay in the administration of justice consisting in unreasonable failure to dispose of Civil Case No. 197 for forcible entry, filed in respondent's sala on March 7, 1961. On November 14, 1968, the Secretary of Justice referred the complaint to the District Judge of the Court of First Instance of Romblon for investigation, report and recommendation.

Subsequently, on August 26, 1970, complainant further charged respondent of falsification of public document in submitting, from July, 1964 to July, 1970, his daily time record to the Department of Justice and certifying under oath that "there is no case pending decision in his sala for the last 90 days." A third letter-complaint, dated August 28, 1970, was also filed alleging that respondent (a) violated the Notarial Law by notarizing, in his capacity as ex officio notary public of the Municipality of San Agustin, a public document of sale which is now subject of an action for annulment in the Court of First Instance of Romblon, in the absence of the supposed vendor, and (b) is liable for infidelity in the custody of public documents in having lost the records of Civil Case No. 197 (the forcible entry case), as admitted by respondent in his answer to the letter-complaint.

On December 14, 1972, District Judge Job B. Madayag, to whom all of these charges were referred for investigation, submitted his report containing the following findings:

"Re First Charge. The first charge, alleged undue delay in deciding a forcible entry case instituted by complainant in respondent's court, is without merit. The folder (Exh. '1') of Civil Case No. 197 of the Municipal Court of San Agustin, Romblon discloses that the complaint for forcible entry in said case was filed on March 7, 1961 (see pages 74 and 75 of Exh. '1') An answer thereto was filed on May 5, same year (see pages 23-24), after the defendant had filed a supersedeas bond (Order p. 30, and Supersedeas Bond, p. 61 of Exh. '1'). Trial on the merits was held on May 5 and June 22, 1961 (see pages 33 39 of Exh. '1'). Plaintiff in said case (the herein complainant) did not present any documentary evidence; defendant therein presented Exhs. 1 to 5 pages 76 to 81 of Exh. '1'). At the close of the trial the parties were given 15 days to file their respective memoranda. It may be mentioned at this juncture that plaintiff was represented by Atty. Ramon E. Solis, Jr. (now City Fiscal of Ormoc City) while defendant was represented by Atty. Placido C. Ramos (now District Judge of Nueva Ecija). Plaintiff himself personally prepared his memorandum in Spanish (pages 14 to 21, 83 to 86 of Exh. '1') which he filed on July 5, 1961. Atty. Placido C. Ramos' memorandum was received by the respondent court on July 15, 1961 (See pages 5 to 13 of Exh. '1'). On September 25, 1961, within the reglementary period, the respondent rendered his decision in said civil case, marked Exh. '3' during the investigation, and appearing on page 55 of Exh. '1'. Copy of respondent's decision in said case was sent to the office of Atty. Ramon E. Solis, Jr., but said lawyer probably forgot to notify his client about the said decision

as he was then busy campaigning during the elections of said year. This fact is borne out by the answer of Fiscal Ramon E. Solis, Jr. to the written interrogatories addressed to him.

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Moreover, respondent has included said civil case in his monthly report of disposed cases for September, 1961 (see last entry under CIVIL CASES reading: 'Forcible Entry and Detainer, 3/7/61, 9/25/61, DISMISSED', Exh. '4', page 56 of record.)

Re Second Charge. The second charge should likewise be dismissed. The basis of the complainant in contending that respondent falsified his daily time records starting with the month of July 1964 up to July 1970 (or a total of 73 counts) is the allegation that Civil Case No. 197 'has been submitted for decision as early as March, 1964, but up to the present no decision has ever been rendered.' (Letter-Complaint dated August 26, 1970, page 47 of Record.) But the whole trouble is that complainant is proceeding from a wrong premise. Said Civil Case was decided by respondent as early as September 25, 1961. Consequently, the charge is without basis in truth and in fact.

"Re Third Charge. The third charge against respondent actually consists of two parts: (a) violation of the Notarial Law, and (b) infidelity in the custody of public documents (see page 50 of the Record).

"As regards the charge of infidelity in the custody of public documents, complainant concluded that the record of Civil Case No. 197 was lost because respondent himself, in his Answer appearing on pages 31 and 32 of the Record, admitted the loss thereof. It now appears that said record is very much in existence; in fact it was produced and marked as Exhibit '1' during the investigation."

With respect to the charge of violation of the Notarial Law, the Investigating Judge reports that the public document allegedly illegally notarized by respondent is the subject matter of Civil Case No. 537, for annulment, still pending before his (Investigating Judge's) court.

". . . During the hearing of said case, as well as during the investigation, the herein respondent declared that when the vendee Leandro Montiel and a grandson of the vendor (Tecla Madamo) arrived in his office requesting him to prepare a deed of sale of a parcel of land, he inquired where the vendor was, and the two persons answered that Tecla Madamo could not come to town because she was afraid to ride on a truck or on a banca from her residence in Barrio Bachawan to the poblacion of San Agustin; that the two persons then suggested that respondent should go with them to Bachawan, but inasmuch as the latter was very busy with his official duties, he suggested that if it is really true that Tecla Madamo is selling her land, he would prepare the necessary documents after which the two would bring the same to the old woman for her signature after its contents were read and translated in the presence of disinterested witnesses; that with this suggestion the two persons left with a prepared document; that several days later they returned and showed to respondent the document already signed by Tecla Madamo; that however, before signing the document the respondent inquired from the two persons above-mentioned whether the contents of the document have been read and translated in the local dialect to the old woman, and they replied in the affirmative; and that having been assured that everything was done according to his suggestion, respondent signed the document." (Report of Investigation, pp. 8-9.)

The Investigating Judge opined that respondent "acted in good faith and in the sincere belief that what he did under the circumstances was right and proper" and accordingly recommended that respondent be absolved of this charge as well.

The recommendation that the charges against respondent be dismissed is well taken in so far as the charges of (1) malicious delay in the administration of justice, (2) falsification of public document, and (3) infidelity in the custody of public documents are concerned. In the face of the facts obtaining with respect to these three (3)

charges, it is apparent that their dismissal is called for. However, in so far as the charge of violation of the Notarial Law is concerned, respondent appears to have been remiss in his duties as ex officio notary public in having notarized a document of sale in the absence of the supposed vendor. This practice, notwithstanding the good faith and the precautions taken by the notary public, is fraught with pernicious consequences. Courts have always given full faith and credit to public instruments executed with all the usual formal requisites and nothing but the most convincing evidence will do to overcome their probative value. It becomes, therefore, the corresponding duty and obligation of notaries public in the execution of such public instruments to act with a high degree of care, fidelity and prudence to the end that such instruments faithfully represent what they purport to be.

WHEREFORE, respondent Municipal Judge Cesar L. Macalisang, of San Agustin, Romblon, is hereby severely reprimanded for his lack of diligence in the observance of the requirements of the Notarial Law and is admonished, in future, to strictly comply with the provisions thereof. The rest of the charges against respondent are hereby dismissed.

Fernando, (Chairman), Barredo, Aquino, and Concepcion, Jr., JJ., concur.

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