

**LOURDES CORPUS, COMPLAINANT, VS. MUNICIPAL JUDGE
CIPRIANO P. CABALUNA, JR., ALIMODIAN, ILOILO, RESPONDENT.***A.M. No. 53-MJ. January 31, 1974*

Ponente: MUÑOZ PALMA, J.

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Sometime on August 26, 1953, Lourdes Corpus and several others filed with the Court of First Instance of Iloilo a complaint against Tiburcia Brabanco and Felix Amijana docketed as civil case No. 2843 concerning the ownership of two parcels of land located in barrio Bugang, municipality of Alimodian, province of Iloilo. In a decision dated September 5, 1955, the Court of First Instance of Iloilo rendered judgment declaring the plaintiffs true owners of the parcels of land described in the complaint and ordering the defendants to vacate the same. The case was appealed to the Court of Appeals by the defendants and on February 26, 1963, a judgment was rendered which affirmed the decision of the trial court.[1]

In the meantime, the Municipal Judge of Alimodian, Iloilo, Mr. Cipriano P. Cabaluna, Jr., acting as Cadastral Judge, heard several cadastral cases, one of which was Cadastral Case No. N-11, L.R.C. Cadastral Record No. N--387 of the Alimodian Cadastre, which involved a parcel of land described as cadastral lot 1762, with Adriano Camarista as claimant. In the course of the hearing of the case, Adriano Camarista executed a deed of sale in favor of Procopio Cabalfin and the document was ratified by Judge Cabaluna, Jr. After the hearing, cadastral lot 1762 was adjudicated to spouses Procopio and Cleofe Cabalfin on July 30, 1963.[2]

On March 4, 1964, Lourdes Corpus and her co-plaintiffs in civil case 2843 filed in the cadastral case a petition to set aside the decision rendered therein and to order another hearing on the ground that cadastral lot 1762 is the same parcel of land litigated in civil case 2843 which was awarded to them by final judgment of the Court of Appeals. Upon receipt of this petition, Judge Cabaluna, Jr. inhibited himself and forwarded the records to the Court of First Instance of Iloilo for a hearing on the merits.[3]

Lourdes Corpus likewise filed on April 26, 1966, a complaint with the Court of First Instance of Iloilo against spouses Procopio and Cleofe Cabalfin for annulment of the aforementioned decision rendered in the cadastral case[4] and there the trial court found that cadastral lot 1762 and the land litigated in civil case 2843 were indeed one and the same.[5]

Not contented with having filed civil case 6998, Lourdes Corpus charged Judge Cabaluna, Jr. before the Secretary of Justice with having committed "gross fraud" in that knowing of the pendency of the above-mentioned civil case before the Court of Appeals, said Judge nonetheless ratified a deed of sale of cadastral lot 1762 in favor of Procopio Cabalfin and awarded said lot to the latter.[6] The Secretary of Justice required respondent Judge to answer the complaint after which the record was forwarded to Judge Sancho Y. Inserto of the Court of First Instance of Iloilo for investigation, report and recommendation. On May 24, 1972, Judge Inserto submitted his report and recommended the exoneration of respondent for lack of evidence to substantiate the charge.[7] The office of the Secretary of Justice concurs with the recommendation.[8]

For the charge of "gross fraud" to prosper there is need of clear and convincing evidence that respondent knew that one of the parcels involved in civil case 2843 and adjudicated to complainant was the same property which he awarded to spouses Cabalfin in the cadastral proceeding; such evidence is, however, wanting in the record of this case.

The only possible basis for complainant's accusation was her testimony that sometime in 1961 she met respondent who inquired about the status or "development" of the civil case and she informed him that the case was still pending before the Court of Appeals.[9] Assuming that the conversation occurred, complainant failed, however, to bring out that respondent was cognizant of the relation of the property involved in the civil case to the land applied for in the cadastral proceeding. The complaint in the civil case did not identify any of the two parcels described therein as cadastral lot 1762[10] which was the identification used in the cadastral proceeding. As a matter of fact, complainant herself was unaware in 1961 that cadastral lot 1762 claimed by Adriano Camarista in the cadastral proceeding was the same land adjudicated to her and her co-plaintiffs in the civil case, and for that reason she did not oppose the claim of Camarista not until she filed her answer in the cadastral proceeding on February 6, 1964, by which time, however, the land had already been awarded to spouses Procopio Cabalfin and Cleofe C. Cabalfin as vendees of the applicant.[11]

The acts of respondent in ratifying the deed of sale of lot 1762 executed by Adriano Camarista in favor of spouses Cabalfin and adjudicating said lot to the latter as vendees thereof are not in themselves "fraudulent", to use the word of complainant, in the absence of any showing that respondent connived with the claimant Adriano Camarista and/or spouses Cabalfin in causing the approval of the latter's claim over the land in question to the prejudice of the rights of complainant.

Fraud is a serious charge which cannot be lightly inferred from allegations or circumstances surrounding a particular situation, but must be supported by clear and convincing proof.[12]

WHEREFORE, We exonerate respondent and dismiss the charge against him.

Makalintal, C.J., Ruiz Castro, Teehankee, Makasiar, and Esguerra, JJ., concur.

[1] CA-G.R. No. 17053-R, pp. 45-66, Rollo.

[2] Pp. 92-115, Rollo.

[3] Pp. 69-72, Rollo.

[4] Civil Case No. 6998, p. 73, Rollo.

[5] Pp. 78-84, Rollo.

[6] Pp. 3-6, Rollo.

[7] Pp. 272-279, Rollo.

[8] See pp. A & B, Rollo.

[9] Tsn. pp. 6-7, March 6, 1972, pp. 159-160, rollo.

[10] See Complaint, pp. 45-47, rollo.

[11] P. 115, rollo.

[12] Republic vs. Ker & Co., 18 SCRA 207; Gutierrez vs. Villegas, et al., 8 SCRA 527, 537.

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