

**SULTAN PANDAGARANAO A. ILUPA, COMPLAINANT, VS.
MACALINOG S. ABDULLAH, CLERK OF COURT II, SHARI'A CIRCUIT
COURT, MARAWI CITY, RESPONDENT.**

A.M. No. SCC-11-16-P (formerly A.M. OCA I.P.I No. 10-33-SCC [P]). June 01, 2011

Ponente: BRION, J.

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BRION, J.:

The present administrative matter stemmed from the November 29, 2009 letter-complaint [1] of Sultan Pandagaranao A. Ilupa (complainant) charging Clerk of Court II Macalinog S. Abdullah (respondent) of the Shari'a Circuit Court (SCC) in Marawi City with abuse of authority in relation with the issuance of a certificate of divorce.

The Facts

The facts are summarized from the report of the Office of the Court Administrator (OCA) dated July 9, 2010. [2]

The charge

The complainant alleges in support of the charge that the respondent exhibited ignorance of his duties as clerk of court when he issued a certificate of divorce, (OCRG Form No. 102) relying mainly on an illegal "Kapasadan" or Agreement. He claims that the agreement was executed under duress and intimidation; the certificate of divorce itself is defective and unreliable as there were erroneous entries in the document and unfilled blanks. He claims that the respondent took away his beautiful wife by force or had a personal interest in her.

The complainant believes that the respondent should not have issued the divorce certificate because divorce is not recognized in the country and the "Kapasadan" or separation agreement had already been revoked by Philippine civil law. In a supplemental letter, [3] the complainant alleges that he signed the "Kapasadan" because the Principal of the Mindanao State University, a certain Mackno, and Police Officer Hadji Amin threatened to kill him. For this reason, he wrote a letter to the SCC judge of Marawi City, assailing the agreement; he even personally handed a copy of the letter to the respondent who took no action on the matter.

To save his marriage with Nella Rocaya Mikunug — originally solemnized on May 19, 1959, based on the Maranao culture, and later renewed through a civil wedding before a Marawi City judge — the complainant filed a petition for restitution of marital rights [4] with the SCC, Marawi City. To his dismay, the judge dismissed the petition without any notice or summons to him. He suspects that the dismissal was due to the respondent's "hukos-pukos" or manipulation.

The respondent's comment

In his comment dated March 19, 2010, [5] the respondent prays that the complaint be denied for lack of merit. He mainly argues that his issuance of a certificate of divorce is not illegal, capricious or whimsical as he acted within the bounds of his authority. He explains that as court registrar, it is his ministerial duty to accept and register

marriage contracts, conversions to Islam and divorce certificates. When he performs this duty, he assumes no responsibility with respect to the entries made by the applicants or owners of the documents to be registered.

The respondent argues that contrary to the complainant's claim, there was a divorce agreement, in the Maranao dialect, attached to the divorce certificate. The complainant even signed both pages of the agreement. Although the agreement was not labeled as such, its essence indicates that the couple agreed to have a divorce and it was so understood also by their children and the witnesses who signed the agreement.

The respondent denies that he took the complainant's wife by force or that he was interested in her; he claims that no evidence was ever adduced to prove these allegations. With the divorce agreement, Mrs. Ilupa applied for a certificate of divorce which he issued under Divorce Registry No. 2009-027 on November 5, 2009. He points out that in issuing the certificate of divorce, he observed the same procedure applied to all applicants or registrants.

On the complainant's claim that there is no divorce in the Philippines, the respondent points out that this is true only as far as the civil law is concerned, but not under the Muslim Law which recognizes divorce. The civil marriage they subsequently entered into was just an affirmation of their marriage vows under the Muslim Law. Also, the court's dismissal of the complainant's petition for restitution of marital rights [6] affirmed the divorce between the Ilupa couple.

The administrative investigation

In compliance with the Court's Resolution dated August 25, 2010, [7] Executive Judge Gamor B. Disalo of the RTC, 12th Judicial Region, Marawi City, investigated the complaint, and submitted a Report and Recommendation dated January 19, 2010. [8]

It appears from the report that Judge Disalo heard the complaint three times, i.e., on December 15, 22 and 29, 2010. The respondent appeared at the hearing on December 15, 2010 and reiterated the arguments he earlier raised in his comment. He failed to appear at the subsequent hearings.

The complainant's non-cooperation prompted Judge Disalo to close the investigation and to conclude, based on the facts gathered by the OCA and on the cited applicable laws, that sufficient grounds existed to dismiss the complaint.

The Court's Ruling

We agree with the OCA and Judge Disalo that the complaint is devoid of merit. The issuance of a certificate of divorce is within the respondent's duties, as defined by law. Articles 81 and 83 of the Muslim Code of the Philippines provide:

Article 81. District Registrar. - The Clerk of Court of the Shari'a District Court shall, in addition to his regular functions, act as District Registrar of Muslim Marriages, Divorces, Revocations of Divorces, and Conversions within the territorial jurisdiction of said court. The Clerk of Court of the Shari'a Circuit Court shall act as Circuit Registrar of Muslim Marriages, Divorces, Revocations of Divorces, and Conversations within his jurisdiction.

Article 83. Duties of Circuit Registrar. - Every Circuit Registrar shall:

- a) File every certificate of marriage (which shall specify the nature and amount of the dower agreed upon), divorce or revocation of divorce and conversion and such other documents presented to him for registration;
- b) Compile said certificates monthly, prepare and send any information required of him by the District Registrar;

c) Register conversions involving Islam;

d) Issue certified transcripts or copies of any certificate or document registered upon payment of the required fees[.]

We quote with approval the following excerpt from the OCA's Report:

Evidently, respondent Clerk of Court merely performed his ministerial duty in accordance with the foregoing provisions. The alleged erroneous entries on the Certificate of Divorce cannot be attributed to respondent Clerk of Court considering that it is only his duty to receive, file and register the certificate of divorce presented to him for registration. Further, even if there were indeed erroneous entries on the certificate of divorce, such errors cannot be corrected nor cancelled through [his] administrative complaint.

Anent the legality of the divorce of the complainant and Dr. Nella Rocaya Mikunug-Ilupa, this Office is bereft of any authority to rule on the matter. The issue is judicial in nature which cannot be assailed through this administrative proceeding.

Finally, on the allegation that the respondent Clerk of Court manipulated the dismissal of his petition for restitution of marital rights, we find the same unsubstantiated. Aside from complainant's bare allegation, there was no substantial evidence presented to prove the charge. It is a settled rule in administrative proceedings that the complainant has the burden of proving the allegations in his or her complaint with substantial evidence. In the absence of evidence to the contrary, the presumption that the respondent has regularly performed his duties will prevail (*Rafael Rondina, et al. v. Associate Justice Eloy Bello, Jr.*, A.M. No. CA-5-43, 8 July 2005).

RECOMMENDATION: Respectfully submitted, for the consideration of the Honorable Court, is the recommendation that the administrative case against Macalinog S. Abdullah, Clerk of Court II, Shari'a Circuit Court, Marawi City, be DISMISSED for lack of merit.[9]

We find this evaluation and recommendation fully in order, and accordingly approve the Report. Thus, the complaint should be dismissed for lack of merit.

WHEREFORE, premises considered, the administrative matter against Macalinog S. Abdullah, Clerk of Court II, Shari'a Circuit Court, Marawi City, for abuse of authority is DISMISSED for lack of merit.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, pp. 28-29.

[2] Id. at 90-93.

[3] Id. at 44-45.

[4] Id. at 30-34.

[5] Id. at 1-4.

[6] Supra note 4.

[7] Id. at 94-95.

[8] Should be dated January 19, 2011.

[9] Rollo, pp. 92-93.

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