

NATIONAL BUREAU OF INVESTIGATION, COMPLAINANT, VS. MINERVA L. MORADA, RESPONDENT.

Adm. Case No. 321. July 31, 1961

Ponente: DIZON, J.

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DIZON, J.:

On January 13, 1958, Acting Director Jose G. Lukban of the National Bureau of Investigation filed a verified complaint against respondent Minerva L. Morada, on two counts: the first alleged that on August 2, 1957, in the City of Manila, she authenticated an affidavit of Pedro V. Agana although the latter had not personally appeared before her, he being in Bacolod City on that day; and the second was to the effect that she likewise filled up the blanks in said affidavit asking for the release of an allocation of 15,300 bags of cement for use in the construction of the Pototan-Dingle Road designated as Government Project No. H-159-142, although she knew at the time that the affiant making the request for release had previously received 5,000 bags of cement deductible from the said allocation of 15,300 bags.

In her answer respondent admitted that she authenticated the affidavit mentioned in the complaint in the absence of the affiant, but claimed that she knew—because of a previous understanding between them—that affiant had actually signed said affidavit.

Upon the issues thus joined the matter was referred to the Office of the Solicitor General for investigation. From the evidence presented in said Office and the findings made by the investigators, Assistant Solicitor General Antonio A. Torres and Solicitor Jorge R. Coquia, it appears that on October 3, 1956 P. V. Agana & Associates entered into a contract with the Bureau of Public Highways for the construction of a portion of the Pototan-Dingle Road, under the terms of which said Bureau was to furnish Agana & Associates 15,300 bags of cement, free of charge. As of August 2, 1957 6,660 bags had been delivered on several occasions to the contractor.

In the meantime the Bureau of Public Highways conducted an investigation related to the reports that cement supplied to contractors free of charge was being diverted to the black market. To prevent this practice from going on, the Secretary of Public Works and Communications issued a memorandum providing that before any cement is released to contractors, the latter should file an affidavit stating, among other things, that the cement would be used exclusively in complying with the contract entered into with the Bureau of Public Highways. In the course of the investigation of this reported anomaly the affidavit in question was found and gave rise to the filing of the complaint against respondent.

The evidence shows that respondent passed the Bar examinations in 1956 and later secured a commission as notary public for the City of Manila. Thereafter she was employed as a clerk in the office of the P. V. Agana & Associates, a Road Construction Company managed by P. V. Agana, her duties being, among others, to prepare and acknowledge documents and file them with the Bureau of Public Highways. About the end of June, 1957, before P. V. Agana left Manila for Bacolod, he informed respondent that if the Bureau of Public Highways required the submission of an affidavit for the further release of cement to be used in the construction of the

Pototan-Dingle Road Project while he was in Bacolod, he would send her by mail the required affidavit duly signed by him for her to ratify the same and submit it to the Bureau. While Agana was in Bacolod he sent respondent and the latter received two affidavits signed by him, one asking for the release of 8,640 bags of cement and another in blank, together with the accompanying letter of Agana directing respondent to file the first with the Bureau of Public Highways. Upon receipt thereof respondent ratified the affidavit requesting for the release of 8,640 bags of cement and presented the same to Benjamin Lizardo who was then in charge of the release of cement on behalf of the aforesaid Bureau. Lizardo, however, suggested that respondent submit another affidavit for the release of the entire quota of 15,300 bags allotted to P. V. Agana & Associates, so as to cover not only the bags of cement released theretofore but future releases that may be authorized. In view of this suggestion respondent returned to her office, filled up the blanks in the second affidavit sent by Agana from Bacolod, ratified the same and submitted it to the office of Lizardo. However, before the latter could act thereon, agents of the National Bureau of Investigation discovered the document and took possession thereof.

P. V. Agana admitted, when investigated by NBI agents Nos. 52 and 97, that he had really sent to respondent from Bacolod City the two affidavits mentioned heretofore duly signed by him. On the other hand, Lizardo testified corroborating respondent's testimony to the effect that it was he who suggested the submission of another affidavit for the release of the entire quota of 15,300 bags of cement to cover not only previous but future deliveries, and further testified that before taking action on the said affidavit after its submission to him, he had requested respondent to make a notation thereon showing that it superseded or included previous releases, but before the notation could be made the document was seized by agents of the NBI.

Upon the facts established by the evidence the investigators reached the following conclusion and made the corresponding recommendation:

"It may be concluded from the evidence that the respondent acted without malice in submitting the affidavit (Exh. A) to the Bureau of Public Highways. Respondent's only misdeed, is the fact that she ratified said affidavit in the absence of the affiant. This act, however, is not so serious as to constitute a gross misconduct that would warrant her disbarment under Sec. 25, Rule 127 of the Rules of Court. Nevertheless, the practice of administering the oath in an affidavit in the absence of the affiant is censurable in a notary public. It must further be taken with account that respondent is a practicing attorney. Following a similar case decided by this Honorable Court (*Viuda de Veloso vs. Casimiro Madarang*, 61 Phil. 773) we respectfully recommend that the respondent be admonished to be henceforth more careful in the performance of her sworn duties as a notary public and as a member of the bar."

We agree with the above conclusion and recommendation. Consequently, respondent is hereby admonished to be henceforth more careful in the performance of her duties as notary public and as a member of the Bar, with the warning that a repetition of similar acts will be dealt with more drastically.

Bengzon, C. J., Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, De Leon, and Natividad, JJ., concur.

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