

RITA C. RAFAEL, COMPLAINANT VS. ATTORNEY ZOSIMO V. ESCANO, RESPONDENT.*Adm. Case No. 1348. January 17, 1975*

Ponente: FERNANDO, J.

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The drastic penalty of disbarment was sought to be imposed on respondent Zosimo V. Escano, a member of the Philippine Bar, by complainant Rita C. Rafael alleging that a grave misconduct was committed by the former. In brief, the offense for which respondent was to be held responsible was that he notarized an application for real estate loan with the Government Service Insurance System where it was made to appear that she and her husband signed the same when in fact their signatures were forged. Instead of commenting, as required in a resolution of this Court of August 2, 1974, respondent filed a motion to dismiss on the ground that he had been informed of the withdrawal of the complaint against him. It turned out that such indeed were the case, for on August 19, 1974, there was a motion to that effect. It reads thus: "1. That on July 19, 1974, the undersigned filed the said case against respondent Atty. [Zosimo V. Escano] believing then that he had participated in the nefarious activities of Mrs. Lorenza Ferreras; 2. That the undersigned has come to realize that the said respondent was not at fault and what he did was only done in the ordinary course of his profession as a notary public." [1] This Court then set the case for hearing on October 7, 1974. Both parties appeared, and complainant again manifested that upon further investigation, respondent was not a party to what she considered to be the nefarious activities of one Lorenza Ferreras, identified by her as the party responsible for the alleged forgery. Under the circumstances, realizing the good faith of respondent, she felt she had no choice except to withdraw the complaint, amounting as it did to an unjust accusation against him. Respondent stressed in his statement before the Court that all the while he was under the impression that the document was in order, admitting that he ought to have been more careful. Thereafter, he submitted a memorandum to this effect: "1. That, granting arguendo the allegations of complainant [Rita C. Rafael] on the alleged anomalous activities of Mrs. [Lorenza Ferreras] to be true, I wish to state and manifest, as I hereby state and manifest, that I had nothing to do with such transactions, either prior, during or after the perpetration of the same; 2. That my only part therein, if one may call it active participation, was in the role of a notary public who, for a measly sum of P2.00 or P3.00 notarial fee, had to be enmeshed in the above-entitled case; 3. That with candor and humility, however, I beg the kind indulgence of this Honorable Court to forgive me for not taking the necessary precautions to ascertain the authenticity of the signatures in the document involved as I did so only on my honest belief that there could not have been any anomaly in a simple document as a GSIS application for a real estate loan considering my inexperience as a new lawyer." [2]

The withdrawal of the complaint does not of itself absolve respondent Zosimo B. Escano from all responsibility. A notary public would not be true to the trust reposed in him if he fails to take due care to see to it that the document presented to him for notarization is free from any taint of illegality or infirmity. Here, clearly, there was an admission of his failure to take "the necessary precautions to ascertain the authenticity of the signatures in the document involved . . ." [3] He has not therefore lived up to what is expected of a notary public. If no severe penalty is imposed on him, it is only because of the admission by complainant that he was acting in good faith.

Moreover, his admission of his negligence on the matter, in the light of his "inexperience as a new lawyer" coupled with his promise that thereafter he would be much more scrupulous in the discharge of whatever duty may come his way as a member of the Bar, argue in respondent's favor. There is justification therefore for leniency.

WHEREFORE, respondent Zosimo V. Escano is reprimanded for his negligence in notarizing a document in an irregular manner. Let a copy of this resolution be spread on his record.

Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Motion for Withdrawal of Complaint, 1.

[2] Memorandum of Respondent Escano, 1.

[3] Ibid.

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