

FELICIDAD DE GUZMAN-SARMIENTO, COMPLAINANT, VS. ATTY. GODOFREDO A. VILLALON, RESPONDENT.

Adm. Case No. 1263. January 30, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Felicidad de Guzman-Sarmiento in a verified complaint dated November 23, 1973, asked for the disbarment of Atty. Godofredo A. Villalon. It was alleged that Villalon prepared and notarized a deed of sale wherein it was made to appear that the complainant personally appeared and signed the deed before him when in fact she did not do so.

The respondent was asked to comment on the complaint and the complainant to reply to the comment. Finding probable cause, We referred the case to the Solicitor General for preliminary investigation, report and recommendation.

In a complaint dated November 3, 1980, Assistant Solicitor General, now Court of Appeals Associate Justice Vicente V. Mendoza, et al., alleged, inter alia, that the respondent prepared at his residence an absolute deed of sale over the 1/2 portion of a parcel of land covered by TCT No. 149799 of the Registry of Deeds of Quezon City in the name of the spouses Severino Sarmiento and Felicidad de Guzman-Sarmiento, in favor of the spouses Andres Zeta and Felicidad Catada; that Constancia Reyes, sister of Severino Sarmiento, brought the said deed of sale to the latter in his sick bed and urged him to sign the same; that the same deed was likewise brought to Aida S. Bernardo, daughter of the Sarmientos, who was also urged to sign on behalf of her mother; that Aida S. Bernardo actually signed the name of her mother over the latter's name; that Constancia Reyes then brought back the deed of sale to the respondent together with the residence certificates of Severino Sarmiento and Aida S. Bernardo; that the respondent then wrote the corresponding number, date and place of issue of the residence certificate of Severino Sarmiento; that as to Felicidad de Guzman-Sarmiento, Aida S. Bernardo's residence certificate was used; that the respondent then notarized the deed of sale; that on January 21, 1970, when the deed was notarized, the complainant was out of the country; that in view of the respondent's notarization of the deed of absolute sale in favor of the spouses Andres Zeta and Felicidad Catada, the complainant's proprietary interest was prejudiced; and that the respondent's "uncalled for act" detracted from "the faith and credit vested by law in notaries public and notarized documents."

The complaint prays that the respondent be suspended both from the practice of the law and as a notary public for one (1) year.

In his answer, the respondent alleges that in the morning of January 21, 1970, Severino Sarmiento, his wife Felicidad de Guzman, Andres Zeta and wife, Felicidad Catada, went to his residence and requested him to prepare a deed of sale over a lot in Quezon City; that the Sarmiento spouses signed as vendors, the Zeta spouses signed as vendees, while Constancia S. Reyes and Tomas Garcia signed as witnesses; that before January 21, 1970, he did not know any of the parties personally except witness Constancia S. Reyes who told him the day before that her

brother, Severino Sarmiento, was coming for him to prepare a deed of sale; that he started typing the instrument at the balcony of his house before the parties, after asking the names of the vendors, vendees, their addresses, consideration, copy of the title, and residence certificates of the vendors; that it was Severino Sarmiento who did the talking; that not one of the parties or witnesses ever told him that the woman companion of Severino Sarmiento was not his wife but his married daughter; that the vendor and the witnesses signed the instrument; that he notarized the document in good faith; and that the parties left after he was paid, with the instrument complete in all its form. The respondent denied that the deed was brought to Severino Sarmiento in his sick bed and to Aida Sarmiento Bernardo for their signatures and then brought back to him, with their residence certificates.

It is further alleged that the complainant filed a criminal complaint for falsification before the City Fiscal of Manila under I.S. No. 72-7902 against him, the Zeta spouses (the "vendees"), as well as the witnesses Constancia S. Reyes and Tomas Garcia; that it was during the preliminary investigation that he came to know that the woman who was with Severino Sarmiento and who signed as Felicidad de Guzman was their married daughter, Aida S. Bernardo, the mother being abroad; that Severino Sarmiento and the Zeta spouses are compadres who had their houses built side by side on the subject lot of which they were "silent partners"; that witness Tomas Garcia is a first cousin of Severino Sarmiento who knew the transaction between them; that the Manila City Fiscal dropped the respondent from the information and he became a witness in the hearing in court.

The respondent also states that as of January 26, 1981, the date the answer was filed, he was over 77 years old and "going very near to life beyond and thinking of retiring forever"; and that he was admitted to the bar in 1937 and was never involved in any anomalous transaction. Accordingly, the respondent prayed that the complaint for suspension be dismissed.

The only issue is whether or not the respondent notarized the absolute deed of sale in the presence of the Sarmiento spouses. If not, the respondent committed a falsehood in violation of his oath as lawyer in view of the statement in the acknowledgment that they appeared and signed the instrument before him.

There is clear and convincing evidence that Mrs. Sarmiento was out of the country on January 21, 1970, so the respondent could not have notarized the document in her presence. Respondent denies such knowledge, though, stating that he was deceived into believing that Aida G. Sarmiento who appeared before him and who signed the document with Severino Sarmiento, was Mrs. Felicidad de Guzman-Sarmiento herself. Respondent claims that it was only at the Fiscal's Office later when he learned that the person was Aida G. Sarmiento.

The evidence for the complainant that the deed of sale was notarized in the absence of Mr. and Mrs. Severino Sarmiento directly collides with the respondent's assertions that said couple signed the document before him. However, the following facts support the veracity of the complainant's assertions, or at least show that the respondent was remiss in his principal duty to ascertain the identity of the complainant:

- Respondent admits that the residence certificates of Mr. and Mrs. Sarmiento were presented to him;
- Residence Certificate No. A-116202, issued in Manila on January 6, 1969 and which respondent placed in the document as that of complainant's, is in the name of "Miss Aida G. Sarmiento" who was born on September 22, 1945;
- A mere cursory examination of the said residence certificate could have readily revealed that—
- Aida G. Sarmiento owned the same, not complainant;
- Aida G. Sarmiento was single; and
- She is much younger, having been born on September 22, 1945, compared to her father's birthday of November

8, 1907;

- Severino Sarmiento's residence certificate was issued in Manila, not in Quezon City, as copied by respondent; and

- The same residence certificate shows it was issued on September 29, 1969, not just September, 1969.

Additional facts also lend support to the view that the respondent notarized the document in the absence of Mr. and Mrs. Sarmiento;

- Constanca S. Reyes, sister of Severino Sarmiento, is the balae of the respondent, the former's daughter being married to the latter's son; and

- Severino Sarmiento also knows the respondent as his balae.

The more credible version under the circumstances is that which is alleged in the Solicitor General's complaint: Severino Sarmiento and his daughter, Aida, signed a prepared document upon the urgings of Constanca S. Reyes, and the signed document was brought to the respondent for notarization by him, together with the residence certificates of Severino Sarmiento and his daughter, Aida.

The respondent's false statements in the Acknowledgment, i.e., that the Sarmiento spouses appeared before him; that they exhibited their residence certificates to him; that they are exempt from the payment of Residence Certificate B (disputed by the complainant); that he knew the Sarmiento spouses to be the one who executed the absolute deed of sale; and that both acknowledged to him that the instrument was their free and voluntary act and deed, undermine public confidence in the integrity of notarized instruments.

WHEREFORE, the respondent is hereby found guilty of misconduct both as a member of the bar and as a notary public. The Solicitor General's Office asks for suspension for one (1) year but in view of his advanced years, he is suspended both from the practice of law and as a notary public for three (3) months only, with a warning that further misbehavior on his part will merit a more drastic punishment.

SO ORDERED.

Barredo, (Chairman), Aquino, Concepcion, Jr., De Castro, Ericta, and Escolin, JJ., concur.

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