

SECOND DIVISION

[A.M. No. P-02-1644 (Formerly Adm. Matter OCA IPI No. 02-1273-P), November 11, 2004]

ARNEL S. CRUZ, COMPLAINANT, VS. ATTY. LUNINGNING Y. CENTRON, ACTING CLERK OF COURT, RTC-OCC, CALAPAN CITY, RESPONDENT.

RESOLUTION

AUSTRIA-MARTINEZ, J.:

Before us is an administrative matter which stemmed from a letter-complaint dated January 2, 2001, originally filed with the Office of the Ombudsman, by Arnel S. Cruz against Atty. Luningning Y. Centron, Clerk of Court VI, Regional Trial Court, Calapan City, Oriental Mindoro, for acts constitutive of gross misconduct.

In a letter dated January 26, 2001, the Office of the Deputy Ombudsman for Luzon referred the instant matter to the Office of the Court Administrator (OCA) of this Court.^[1]

Complainant alleges: Atty. Centron assisted a certain Gloria Logdat and Conchita de la Cruz in consummating the sale of a parcel of land covered by Original Certificate of Title (OCT) No. 2186, in the name of one Joaquina Jabat. Respondent's assistance consisted in preparing and notarizing the documents of sale. The said sale is illegal because the property covered by the sale is still the subject of "reconstitution and Extra-Judicial Settlement among the heirs." As a result of the illegal sale, Logdat and de la Cruz are charged with *estafa* through falsification of public documents. Respondent took advantage of her being a lawyer to solicit the trust and confidence of the buyers of the subject parcel of land. Respondent is involved in the disappearance of OCT No. 2186, and she refuses to surrender the title which is in the possession of one of her relatives.^[2] Complainant prays that respondent be disbarred and removed from office.

In compliance with an Indorsement dated September 24, 2001 of the OCA, respondent filed her Comment dated October 29, 2001, denying involvement in the preparation of the documents and in the consummation of the sale of the parcel of land covered by OCT No. 2186. Respondent claims that her only participation in the said sale is that she was the one who notarized the deed of sale on account that she was requested by the parties to notarize the same because they cannot afford the notarial fee being charged by the notary public they earlier approached. Respondent also denies any involvement in the alleged loss of the owner's duplicate copy of OCT No. 2186. She claims that Conchita Acyatan de la Cruz and Gloria Acyatan Salamat-Logdat gave the said certificate of title to their lawyer, Atty. Apolonia A. Comia-Soguilon.^[3]

On July 26, 2002, the OCA submitted a report finding the complaint to be without

basis. However, the OCA observed that respondent violated the provisions of Section 242 of the Revised Administrative Code as well as Section G, Chapter VIII of the Manual for Clerks of Court when she notarized a deed of conveyance, a document which is not connected with the exercise of her official functions and duties as Ex-Officio Notary Public. Accordingly, the OCA recommended that respondent be fined in the amount of P2,000.00 and sternly warned that a repetition of the same or similar act(s) in the future will be dealt with more severely.

In a resolution dated February 17, 2003, we resolved to require the parties to manifest within ten days from notice if they are willing to submit the matter for resolution on the basis of the pleadings filed. In compliance therewith, complainant filed a manifestation dated March 28, 2003, indicating his desire to submit the case for resolution on the basis of the pleadings filed. Respondent failed to file the required manifestation within the period allowed by the Court.

In a Resolution dated March 8, 2004, we required respondent to show cause why she should not be disciplinarily dealt with or held in contempt for her failure to file the required manifestation.

In a Compliance dated May 3, 2004, respondent explained that her failure to timely file her manifestation was brought about by her heavy volume of work and enormous responsibility as Clerk of Court of the Regional Trial Court of Calapan City. She manifested her desire to submit the instant case for resolution on the basis of the pleadings filed.

We agree with the findings and recommendation of the OCA.

In administrative cases for disbarment or suspension against lawyers, the quantum of proof required is clearly preponderant evidence and the burden of proof rests upon the complainant.^[4]

In the present case, we find that complainant failed to present clear and preponderant evidence to show that respondent had direct and instrumental participation in the preparation of documents and the subsequent sale of the subject parcel of land covered by OCT No. 2186. Aside from the deed of sale covering the subject parcel of land which was notarized by respondent, no competent evidence was shown that would directly link her to the said sale. While it may be logical to assume that respondent was the one who prepared the deed of sale since she was the one who notarized it, we cannot give evidentiary weight to such a supposition in the absence of any evidence to support it. Moreover, complainant's allegation that respondent influenced the buyers of the subject parcel of land is contradicted by the sworn affidavit of Adelfa Manes, who is one of the buyers of the disputed piece of land. Manes attested to the fact that respondent did not convince nor influence them in buying the subject property. Likewise, we find no competent evidence to prove that respondent is responsible for the alleged loss of the owner's duplicate copy of OCT No. 2186.

Nonetheless, we find that respondent is guilty of violating Section 41 (as amended by Section 2 of R. A. No. 6733)^[5] and Section 242^[6] of the Revised Administrative Code, in relation to Sections G,^[7] M^[8] and N,^[9] Chapter VIII of the Manual for Clerks of Court.