

## THIRD DIVISION

[ A.C. No. 4958, April 03, 2003 ]

**FIDEL D. AQUINO, COMPLAINANT, VS. ATTY. OSCAR MANESE,  
RESPONDENT.**

### DECISION

**CARPIO MORALES, J.:**

In a sworn letter-complaint<sup>[1]</sup> (in Tagalog) dated September 7, 1998 addressed to the Office of the President which forwarded it to the Office of the Court Administrator, Fidel D. Aquino (complainant) of Pinasling, Gerona, Tarlac charged Atty. Oscar Manese (respondent) with falsification of public document for preparing and notarizing a Deed of Absolute Sale<sup>[2]</sup> dated September 15, 1994 which could not have been executed and sworn to by Lilia D. Cardona, one of the therein three vendors-signatories, she having died on November 25, 1990<sup>[3]</sup> or four (4) years earlier.

Complainant alleges that, *inter alia*, he has since 1960 been tilling the land subject of the Deed of Absolute Sale as tenant of the now deceased owner thereof, Luis M. Cardona; in 1975, the spouses Antonio and Fe Perez unlawfully took possession of the land, thus spawning the filing of a case that reached the Court of Appeals which recognized him to be the lawful tenant;<sup>[4]</sup> and on September 15, 1994, without his knowledge, the Deed of Absolute Sale was purportedly executed on even date by the three heirs of Luis Cardona, including the already deceased Lilia Cardona, in favor of Ma. Cita C. Perez, daughter of the spouses Perez, and was notarized by respondent.

Attached to the letter-complaint are the following documents:

(1) Investigation Report of the Department of Agrarian Reform dated August 20, 1996; (2) Memorandum of Regional Director Eugenio Bernardo to the DAR Secretary dated 4 June 1996; (3) May 20, 1996 letter of OIC-PARO Teofilo Inocencio to Atty. Epifanio Devero, Chief Regional Legal Division, DAR (4) Questioned Documents Report No. 517-696 of the National Bureau of Investigation; (5) Death Certificate of Lilia Cardona; (6) Deed of Absolute Sale; (7) Decision of the Court of Appeals dated August 30, 1988 in CA-G.R. SP No. 12847-CAR; (8) Special Power of Attorney dated 27 December 1989 executed by Jose D. Cardona in favor of Fidel D. Aquino; (9) General Power of Attorney executed by Luis Cardona in favor of Fidel D. Aquino; and (10) Certification dated October 27, 1977 of the Department of Agrarian Reform.

By his Comment of January 4, 1999,<sup>[5]</sup> respondent asserted that complainant has no personality to complain as he has neither a legal right or claim over the land nor any personality to challenge the sale; even assuming that Lilia Cardona was already

dead at the time of the execution of the Deed of Absolute Sale, no interested party had complained about it; as a Notary Public, he is not expected to personally know every person who goes to him for notarization of documents; and when he notarized the Deed of Absolute Sale on September 15, 1994, he was only performing his duty as a notary public.

By Resolution of February 24, 1999,<sup>[6]</sup> this Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. Despite notice, respondent failed to appear at any of the hearings scheduled by the IBP, he pleading ill health and/or unavailability of counsel.

On June 29, 2002, the IBP Board of Governors issued Resolution No. XV-2002-220<sup>[7]</sup> adopting the Investigating Commissioner's Report that "respondent was gravely remiss in his obligation as notary public." The IBP Board of Governors, however, modified the recommendation of the Investigating Commissioner that "respondent's commission as Notary Public be revoked and that [he] be suspended from the practice of law for a period of two (2) years" by recommending that "[r]espondent's commission as Notary Public be SUSPENDED with disqualification for appointment as Notary Public for a period of two (2) years."

The IBP Board of Governor's Resolution, which is before this Court for final action pursuant to Sec. 12 par. (b), Rule 139-B of the Rules of Court, is well-taken.

Respondent's assertion that complainant lacks the personality to institute the present complaint does not lie. Complainant being a tenant at the land subject of the sale, his rights as such have been disturbed by the transfer of ownership of the land.

In any event, proceedings for disbarment, suspension or discipline of attorneys may, under Section 1 of Rule 139-B of the Rules of Court, *motu proprio* be taken by this Court or the IBP upon the verified complaint of any person.

On the merits of the complaint.

The death on November 25, 1990 of Lilia Cardona is documented.<sup>[8]</sup> Her Death Certificate shows so. The National Bureau of Investigation, which made a comparative examination of her specimen signatures and that appearing in the Deed of Absolute Sale, found that the signature on the latter and the specimen signatures were not written by one and the same person.<sup>[9]</sup>

In the Acknowledgment in the deed, respondent affirmed that before him "personally appeared said vendors [including the late Lilia Cardona] whos (sic) personal circumstances are shown above below their names and signatures, all known to [him] and to [him] known to be the same individual (sic) who executed th[e] instrument and acknowledged to [him] that the same is their free act and voluntary deed."

The said acknowledgment notwithstanding, respondent asseverated in his Comment to the letter-complaint that he is not expected to personally know every person who goes to him for notarization of documents. Such jaunty indifference betrays his deplorable failure to heed the importance of the notarial act and observe with