

THIRD DIVISION

[A.C. No. 5510, December 20, 2007]

SAJID D. AGAGON, COMPLAINANT, VS. ATTY. ARTEMIO F. BUSTAMANTE, RESPONDENT.

DECISION

YNARES-SATIAGO, J.:

Complainant Sajid D. Agagon filed the instant administrative case against respondent Atty. Artemio Bustamante charging the latter with malpractice and violation of the lawyer's oath. Complainant alleged that respondent acted as Notary Public to the "Deed of Sale" allegedly executed by and between Dominador Panglao and Alessandro Panglao. However, upon verification with the Office of the Clerk of Court of the Regional Trial Court of Baguio City, it was discovered that the alleged Deed of Sale was not included in the notarial report. Instead, Doc. No. 375 appearing on Page 76 of Book XXXIII, Series of 2000 of respondent Atty. Bustamante referred to an Affidavit executed by a certain Teofilo M. Malapit. Moreover, the Community Tax Certificates used by the parties in the Deed of Sale were fictitious, as certified to by the City Treasurer's Office.

In his Comment, respondent admitted that he was the one who prepared the Deed of Sale. However, he claimed that the parties merely dictated to him their Community Tax Certificate Numbers; that he inadvertently failed to include the Deed of Sale in the report submitted to the Office of the Clerk of Court; that it was pure inadvertence that the document that was reported and included in the report to the Office of the Clerk of Court and which bore the document number assigned to the Deed of Sale was an Affidavit executed by Teofilo Malapit.

The case was referred to the Integrated Bar of the Philippines for investigation, report and recommendation.

In the Report and Recommendation of Investigating Commissioner Dennis A.B. Funa, the following findings were made:

On May 11, 2001, Jofie S. Agagon, wife of herein Complainant, won in a labor case docketed as NLRC Case No. RAB-CAR-12-0672 against Dominador Panglao. Dominador Panglao owned and operated a meatshop. The decision in said case became final and executory. A writ of execution was issued on July 13, 2001. In the meantime, the meatshop business owned by Dominador Panglao was sold and transferred to Alessandro Panglao. The meatshop was now called Sandro's Meatshop. Upon service of the writ, Alessandro Panglao, owner of Sandro's Meatshop, verbally requested from the sheriff to temporarily withhold the service of the writ with the promise that "they will satisfy the judgment in cash". Subsequently, Alessandro Panglao offered P10,000 as "settlement" which was promptly rejected by Jofie Agagon for

being "way below the amount duly awarded by the NLRC". Hence, on August 20, 2001, a levy was made on certain properties upon the issuance of an alias writ of execution.

Sometime in the last week of August, Alessandro Panglao, through his lawyer, herein Respondent, filed before the NLRC in NLRC Case No. RAB-CAR-12-0672 an "*Affidavit of Title/Right of Possession of Third Party Claimant*" claiming that the levied properties were sold to him by Dominador Panglao and that the same are exempt from levy. Alessandro Panglao desired to establish himself as a third party to the case since the respondent in the labor case was Dominador Panglao, as owner of his own meatshop before it was sold. **Attached to this Affidavit is a supposed Deed of Sale dated October 6, 2000 executed by Dominador Panglao and Alessandro Panglao and notarized by herein Respondent.** The Deed of Sale has the notarial series of: Doc. No. 375, Page No. 76, Book No. XXXIII, Series of 2000.

In a bid to verify the authenticity of the Deed of Sale, Complainant verified with the Office of the Clerk of Court, RTC, Baguio City on September 4, 2001 that said Deed of Sale does not appear in Respondent's Notarial Reports and, in fact, **a different document** corresponds with the aforesaid notarial entries. Complainant submits a Certificate to this effect.

Moreover, on September 13, 2001, a check with the Baguio City Treasurer's Office showed that the supposed Community Tax Certificate (CTC) numbers of the two affiants in the Deed of Sale were, in fact, never issued to either of the two affiants. CTC No. 00856509 was not at all issued by Baguio City although it is what is stated in the Deed of Sale; while CTC No. 01276192 was issued to a certain Edilberto Bautista not to Alessandro Panglao.

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Based on the foregoing, the Investigating Commissioner recommended that:

Respondent will have to be held accountable for GROSS NEGLIGENCE as a Notary Public. While there is no basis to say that falsification was committed, Respondent's negligence constitutes in the a) notarization of a document where the affiants have no valid and existing CTCs; and b) failure to include the Deed of Sale in his Notarial Reports.

That such facts did occur are beyond dispute. The only question that remains is whether Respondent's excuses can be accepted as satisfactory that would thus classify his acts as "excusable negligence." There is nothing on record that can excuse Respondent or that can justify his lapses. That the Respondent did not ask to see the CTC of the affiants and that the affiants simply dictated to him their CTC numbers out of memory is an unacceptable excuse and explanation. This is gross negligence. In fact, it is funny. How many people in this country can recite their CTC numbers from memory? Besides, how many people would spend their time memorizing their CTC number? And yet,