

SECOND DIVISION

[A. M. No. MTJ-98-1146, February 05, 2004]

ATTY. VIRGILIA C. CARMAN, SPS. ELENITA LUSAYA AND DENNIS JARANGUE, AND PAZ ALMACEN, COMPLAINANTS, VS. JUDGE ALEXIS A. ZERRUDO, MUNICIPAL TRIAL COURT IN CITIES (MTCC) ZARRAGA-LEGANES-NEW LUCENA, BRANCH 3, ILOILO CITY, AND MA. THERESA G. ZERRUDO, ASSISTANT CLERK OF COURT, MTCC ILOILO CITY, RESPONDENTS.

D E C I S I O N

PUNO, J.:

The administrative case at bar stems from the complaint filed by Atty. Virgilia C. Carman for herself and on behalf of her clients, spouses Dennis and Elenita Jarangue, and Paz Almacen against respondents Judge Alexis A. Zerrudo, Municipal Trial Court in Cities (MTCC), Iloilo City, Branch 3, and his wife Ma. Theresa G. Zerrudo, Assistant Clerk of Court of MTCC Iloilo City. Complainants charged respondent judge with falsification of a private document (a deed of sale), falsification through false and untruthful statements in the narration of facts and grave abuse of authority/judicial discretion and of judicial function. They were likewise charged with conduct unbecoming and unworthy of a judge and court employee, and estafa/malversation of funds.

I

Charge of falsification of private document and conduct unbecoming and unworthy of a judge

Complainants allege that in **1977**, Maria and Mauro Santalisis sold half of their 444 square-meter residential lot (no. 3706-A) in Iloilo City to complainant-spouses Dennis and Elenita Jarangue. Despite the sale, respondent judge prepared and notarized a Deed of Sale in January **1984** purportedly between his friend Oscar Santalisis and the latter's foster mother Maria Santalisis covering the same residential lot. Complainants charge that the signature of Maria on said deed was forged. They also assert that respondent made it appear on the deed that Oscar was a widower although his marriage to one Erlinda Torre was still subsisting. They claim that respondent judge prepared the 1984 deed of sale although he personally knew that half of the lot sold already belonged to complainant-spouses Jarangue. They allege that sometime in 1978-1980, respondent judge assisted the Jaranges in ejecting a man from their half of the land. Oscar Santalisis was likewise aware of the prior sale to the Jarangue spouses as he was one of the witnesses to the 1977 deed of sale.

On November 5, 1984, Maria died. Three (3) days later, Oscar filed with the Iloilo

Registry of Deeds a Notice of Adverse Claim over the residential lot which was notarized by respondent judge on November 2, 1984. Complainants point out that although the Deed of Sale was earlier notarized by respondent judge in January 1984, it had a higher page number in his notarial record than Oscar's November 1984 Notice of Adverse Claim. Complainants conclude that these entries prove that the Deed of Sale was antedated to make it appear that the subject lot was sold to Oscar before Maria's death.

As a result of the alleged bogus Deed of Sale, the entire lot was transferred and registered in the name of Oscar. In October 1985, Oscar sold the lot to respondent-spouses Zerrudo. Title to said land was transferred to their names and they took possession of the half portion of the lot which legally belonged to complainant-spouses Jarangue. Complainants allege that respondent Ma. Theresa G. Zerrudo personally followed up the titling of the lot with the Register of Deeds, taking advantage of her husband's position as a judge and her position as MTCC Assistant Clerk of Court.

Consequently, two (2) counts of falsification of private documents and a civil case for annulment of sale were filed by complainants in court against respondents and Oscar Santalis.

II

Charge of falsification through false and untruthful statements in the narration of facts

Complainants assert that in a petition for reconstitution of owner's duplicate copy of TCT No. T-39863 (covering residential lot no. 3706-A) in the name of Maria and Mauro Santalis filed before the Iloilo City RTC, Branch 35, respondent judge falsely alleged under oath that: (1) the owner's duplicate copy of title was lost or destroyed and could no longer be located among the things the Santalis spouses left after their death, and (2) that said title has not been encumbered or mortgaged and if at all it has been encumbered, the same has already been released and discharged. Complainants claim that respondent judge knowingly made these false statements although he knew that title to said property was in the possession of the Rural Bank of Zarraga as it was mortgaged by Maria for five thousand pesos (P5,000.00). Complainants charge that through this misrepresentation, respondent judge was able to acquire a new owner's duplicate copy of title covering said lot in his name and that of his wife.

III

Charge of grave abuse of authority/judicial discretion and judicial functions, and estafa /malversation of funds

On December 31, 1993, one Eduardo Almacen (husband of complainant Paz Almacen) was shot by Antonio and Armando Andrada, allegedly on orders of Oscar Santalis. Consequently, Oscar and the Andradas were detained. Respondent judge^[1] allegedly asked P/Chief Inspector Salvador Thornton to release Oscar to his custody but his request was denied. **Respondent judge then personally wrote a**

petition for bail.^[2] On January 1, 1994, without furnishing the Office of the City Prosecutor a copy of the petition for bail, respondent judge himself hastily granted the petition. He fixed the bail himself in the amount of two thousand pesos (P2,000.00), without taking into consideration the gravity of the offense. Respondent judge immediately issued an Order directing the release of Oscar from detention although Oscar has not yet posted bail. It was only on January 3, 1994 that the P2,000.00 bail was personally paid for and deposited with the Clerk of Court of MTCC Iloilo City by respondent Ma. Theresa Zerrudo, assistant clerk of court in said office and wife of respondent judge.^[3]

Almacen, the shooting victim, died on January 5, 1994 and a murder case was filed against Oscar and the Andradas before the Office of the City Prosecutor. No bail was recommended. Respondent judge allegedly secured the services of Atty. Rey Padilla to represent Oscar. Upon the instruction of respondent judge, Atty. Padilla filed a petition for bail in the amount of thirty thousand pesos (P30,000.00) for the release of Oscar. Allegedly due to the influence of respondent judge, Judge Jose D. Azarraga, RTC Iloilo City, Branch 37, granted the petition for bail without conducting any hearing. The complaint charged that after the trial of said case, only the Andradas were convicted. Oscar was acquitted because respondent judge allegedly acted as his *padrino*.

The complaint also alleges that Oscar's P2,000.00 cash bond was subsequently withdrawn by respondent Ma. Theresa Zerrudo who used the amount for her personal needs by applying it to pay her loan with the Monte de Piedad Savings Bank. The disbursement voucher supporting the withdrawal of the cash bond was allegedly kept by respondent assistant clerk of court Zerrudo without giving the Clerk of Court a copy of the same.^[4]

IV

COMMENT OF RESPONDENTS

As to the charge of **falsification of a 1984 deed of sale**, respondent judge explained in his **Comment:^[5]** that he prepared and notarized the deed as a lawyer, not as MTCC judge, as he was appointed judge only in 1986; that the deed was not falsified and Maria's signature thereon as vendor is genuine, as attested to by Maria's sisters Salvacion and Remedios, her only surviving heirs; that the discrepancies and errors in the page numbers of the deed of sale and the notice of adverse claim in his notarial records were purely clerical errors, attributable to the clerk in the law office who typed the entries, and could not disprove that Maria really signed the deed; that he stated in the deed that Oscar's status was single as that was the representation made to him by Maria; that the subsequent sale to him of the lot by Oscar, nine (9) months after he was appointed judge, was made for valuable consideration as Maria's sisters, her intestate compulsory heirs, attested to the sale; that Maria sold the entire lot to Oscar despite her previous sale of the half portion of the lot to complainant-spouses Jarangue because the latter did not fully pay for said lot; as Maria did not recognize her first sale of the lot to the Jarangues and considering herself to be still the owner thereof, she mortgaged the lot in 1980; that it was only in 1989 that the Jarangues finally vacated their house on said lot and turned over its possession to respondent judge as the new owner; and, that