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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

SECOND DIVISION

[Adm. Case No. 1597. January 6, 1986]

ELY CHAN SA VELASCO, *complainant, vs.* **CORAZON R. PAULINO,** *respondents.*

SYLLABUS

LEGAL ETHICS; DISBARMENT; ALLEGED GROSS MISCONDUCT IN THE NOTARIZATION MUST BE CONCLUSIVELY PROVED.— We find that the alleged gross misconduct of Paulino in the notarization of the deed of sale has not been conclusively proven by Martin's testimony. Judge Paño did not give any credence to it, Martin had become a pawn of the parties. He first sided with Florence, then with Mrs. Velasco. Viewed in proper perspective, it has become obvious that the instant disbarment case is merely an incident in the protracted and embittered fight between Ely and her sister-in-law Florence just as the falsification case was a means employed by Ely to force Florence to come to terms with her. Notary Paulino was caught in the crossfire.

APPEARANCES OF COUNSEL

Melquiades Paredes for complainant.
Ricardo S. Inton for respondent.

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DECISION

AQUINO, *C.J.*:

This is a disbarment case for improper notarizathon of a deed of sale. The spouses Ely Chan Sa Velasco and Lorenzo T. Velasco, married in 1939, were estranged since 1964. Ely separated from Lorenzo and lived with Antonio Co, the brother-in-law of Lorenzo and the husband of his sister Florence Velasco-Co. For that reason, Florence charged with adultery her husband and her sister-in-law Ely.

On January 25, 1975 lawyer Corazon R. Paulino notarized in Manila a deed of sale purportedly thumbmarked by Lorenzo and signed by his sister Florence. In that deed, Lorenzo sold for P48,000 to Florence his business under the tradename Central Engineering located at 3035-07 Jose Abad Santos Street, Manila including its equipment and machinery. The four witnesses in that deed were Apolinar Martin, Lorenzo's godson and employee; Grace Velasco, his adopted daughter; Lydia Alolon and Rolando Rebadomia (Exh. A-1).

At the time of the execution of the deed, Lorenzo had a brain tumor, caused by prostatic cancer, and had speech disturbance, a condition known as aphasia. His left thumbmark was affixed to the deed although the deed stated that it was his right thumbmark.

A supplemental deed of sale was executed by Lorenzo on February 21, 1975 to convey to his sister the bank account of Central Engineering. The deed was thumbmarked by Lorenzo and witnessed by Martin and Florence (Exh. 10-A).

Lorenzo died on February 28, 1975 or 34 days after he executed the disputed deed of sale. The cause of death was pneumonia and uremia with prostatic cancer, which had metastasized, as contributory factor.

The next day, March 1, Ely filed an intestate proceeding for the settlement of her estranged husband's estate. She was appointed as special administratrix. It should be noted that in

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their 1964 compromise agreement in the legal separation case she received ₱4,000 as her share of the conjugal assets and Lorenzo returned to her her personal effects and pieces of jewelry (Exh. 3).

Ely's objective was to wrest control of Central Engineering from Florence, her sister-in-law. The sheriff placed Ely in possession of that business as special administratrix.

Florence countered by filing against Ely an action to recover possession of said business. Judge Tutaan appointed Carlos Velasco, Lorenzo's brother who had managed the business, as receiver thereof. The Court of Appeals, through Justices Escolin, Andres Reyes and Ramos, upheld the receivership and set aside the order of Judge Valencia dispossessing Florence of the machine shop (Exh. 9).

In the meantime, or on March 17, 1976, Ely filed the instant disbarment proceeding against notary Paulino. She alleged that the deed of sale was signed in Lorenzo's residence at St. Paul Street, Quezon City and not in the residence of Florence at 3371-C Bataan Street, Sta. Mesa, Manila where Lorenzo was allegedly brought in the afternoon of January 25, 1975. Because he was unconscious, he supposedly did not understand what he was doing. Ely contends that her husband had no capacity to give consent.

At Mrs. Velasco's instance, the fiscal of Quezon City on January 21, 1976, filed an information for falsification against notary Paulino, Mrs. Co, Grace Velasco and Lydia Alolon. After trial, Judge Ernani Cruz Paño in a decision dated January 5, 1981 *absolved the accused on the ground of reasonable doubt* (Exh. 10).

The instant disbarment case was referred in 1976 to the Solicitor General for investigation, report and recommendation. In his report dated June 27, 1985 he recommended the dismissal of the complaint because of Judge Paño's exoneration of notary Paulino and the other accused in the falsification case.

We find that the alleged gross misconduct of Paulino in the notarization of the deed of sale has not been conclusively proven

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by Martin's testimony. Judge Paño did not give any credence to it. Martin had become a pawn of the parties. He first sided with Florence, then with Mrs. Velasco.

The testimony of Doctor Raul B. V. Idea, a distinguished neurologist, that it was improbable that Lorenzo knew that he executed the deed of sale, is conjectural because he attended to Lorenzo three days after the execution of the deed. (See U.S. *vs.* Enriquez, 1 Phil. 241.)

Viewed in proper perspective, it has become obvious that the instant disbarment case is merely an incident in the protracted and embittered fight between Ely and her sister-in-law Florence just as the falsification case was a means employed by Ely to force Florence to come to terms with her. Notary Paulino was caught in the crossfire.

Therefore, the complaint for disbarment is hereby dismissed. This case is considered closed.

SO ORDERED.

Concepcion, Jr., (Chairman), Abad Santos, Cuevas and *Alampay, JJ.*, concur.

Escolin, J., took no part

SECOND DIVISION

[G.R. Nos. L-47071-72. January 6, 1986]

GABRIEL LOPEZ and AURORA V. LOPEZ, *petitioners, vs.* **MACARIO BERMEJO, MAGDALENA BERMEJO, PROVINCIAL SHERIFF OF CAPIZ and COURT OF APPEALS,** *respondents.*