

LYDIA JAMERO GESUDEN, COMPLAINANT, VS. ATTY. EDWIN Z. FERRER, RESPONDENT.

Adm. Case No. 1806. March 23, 1984

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

LYDIA JAMERO GESUDEN, in her verified complaint, accuses Atty. EDWIN Z. FERRER of dishonesty and conduct unbecoming of a member of the bar. She states that her mother, Lucia Jamero Gesuden and her mother's co-heirs engaged the services of Atty. Ferrer who prepared an Extra-Judicial partition of Property left by their deceased parents; that her mother was to receive 7,154 sq. m. of the land which was partitioned but she actually received only 4,359 sq. m. because Atty. Ferrer acquired the difference by means of deceit.

Required to answer the complaint, Atty. Ferrer denied the imputation. The case was then referred to the Solicitor General for investigation, report and recommendation.

The Solicitor General has reported that:

"An examination of the evidence presented by the complainant does not support her allegation that respondent Atty. Edwin Z. Ferrer had acquired, by deceit, a portion of the real estate subject of the extra-judicial partition. That particular portion of real estate referred to by the complainant was, in fact, sold to Edwin Z. Ferrer by complainant's mother as evidenced by a Deed of Absolute Sale (Exhibit "G" for complainant; Exhibit "1" for respondent). This was confirmed by complainant herself when she testified x x x." (Rollo, p. 72.)

However, the Solicitor General asserts that Atty. Ferrer violated Section 20 (e) of Rule 138 of the Rules of Court which requires attorneys "To maintain inviolate the confidence, and at every peril to himself, to preserve the secrets of his client x x x" in that "after initially having been retained by the heirs of Doroteo Jamero to prepare the documents for the extra-judicial partition of the property left by the decedent, later became the counsel of one of the heirs (complainant's mother, Lucia Gesuden) in a case designated as 'Recovery of Hereditary Shares with Damages' (Exhibit "C")." (Rollo, p. 74.) Exhibit C is the complaint in Civil Case No. 2676 of the Court of First Instance of Camarines Norte for "Recovery of Hereditary Shares with Damages" filed by Lucia Jamero Gesuden against Agapito Jamero, et al. According to the Solicitor General:

"When respondent was hired to prepare the documents for the partition of the property, he became, for all intents and purposes, the lawyer of all the heirs. In this situation, he was in a position to know the relevant and irrelevant, secret and well-known facts. In the complexity of what is said in the course of the preparation of the documents, an attorney acquires data and/ or information that might prejudice one or all of the heirs.

"In later becoming a counsel for one of the heirs in a case filed against the other heirs, and in disputing the division or partition which he himself devised in the extra-judicial partition, respondent. Edwin Z. Ferrer failed to adhere to proper professional standard and to comply with the duties imposed upon him as a lawyer. Thus, even without impugning respondent's good faith, his taking up the cause of one of the heirs in a case filed against the other heirs, should not be sanctioned. It had the tendency to bring the profession, of which he is a distinguished member, 'into public disrepute and suspicion and undermine the integrity of justice.'" (Rollo, p.

75.)

In the light of the foregoing, the Solicitor General filed a complaint against Atty. Ferrer for violation of Rule 138, Section 20(e) of the Rules of Court. In his answer, the respondent could only say that he had advised against the filing of the complaint and that he "withdrew from said case even before it had been tried on the merits."

Assuming for the sake of argument that the respondent did advise against the filing of the complaint, the proper thing for him to do was not to involve himself in it. As to his withdrawal therefrom, the order of the court allowing him to do so shows that he withdrew after he had presented the principal evidence for the plaintiff.

We hold that the respondent violated his duty as a lawyer when he appeared as counsel for one of the heirs in her suit against the other heirs over a matter which the respondent had handled for all of them.

WHEREFORE, the respondent is severely reprimanded and warned that a repetition of the same or similar offense shall be visited with more drastic punishment. Let a copy of this decision be inserted in his records on file in this Court.

SO ORDERED.

Makasiar, Acting C.J., (Chairman), Aquino, Concepcion, Jr., Guerrero, De Castro and Escolin, JJ., concur.

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