

**ANITA F. ALAG, COMPLAINANT, V. ATTY. JUAN C. SENUPE, JR.,
RESPONDENT.***A.C. No. 12115. October 15, 2018*

Ponente: PERLAS-BERNABE, J.

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This administrative case stemmed from a Petition for Disbarment[1] dated November 4, 2009 (with attached complaint-affidavit[2] dated October 12, 2009) filed by complainant Anita F. Alag (complainant), before the Integrated Bar of the Philippines (IBP), against respondent Atty. Juan C. Senupe, Jr. (respondent) for allegedly committing acts constituting deceit, malpractice, and gross misconduct.

The Facts

Respondent is the legal counsel of Reytaliano N. Alag (Reytaliano), petitioner in Special Proceedings No. 06-8564,[3] entitled "In the Matter of the Intestate Estate of Salvacion Novo Lopez – Petition for Letters of Administration," pending before the Regional Trial Court of Iloilo City, Branch 29 (RTC), where complainant and her children were impleaded as heirs of the deceased Salvacion Novo Lopez (Salvacion), along with her siblings and cousins.[4]

In an Order[5] dated February 5, 2008, the RTC, with the agreement of the parties, appointed Reytaliano as the Administrator of the properties left by Salvacion, with the following obligations: (1) to identify and collate the properties owned by the decedent and submit to the RTC their respective identifying marks and titles; (2) to render an inventory of the said properties and report on their respective status; and (3) to report on whether the taxes of the properties have been duly paid.[6] After being duly sworn in,[7] Reytaliano filed, through respondent, a Motion for the Administrator to Take Over Lot 646-B-2 and for Accounting,[8] where he alleged that the said lot had never been alienated and is still in the name of Salvacion. He further claimed that complainant and her siblings have been cultivating the said lot and appropriating the produce thereof from the time of Salvacion's death in 1992, for which they were ordered to render an accounting from the said year.[9] Thereafter, the said motion was granted in an Order[10] dated May 4, 2009.

Upon execution of the May 4, 2009 Order, the actual tiller of Lot 646- B-2, Arnulfo[11] V. Sobrevega (Arnulfo), refused to surrender possession of the said lot, claiming that complainant had mortgaged the same to him, and that his cultivation thereof was part of the conditions of the mortgage.[12] Thus, Reytaliano filed a motion for the issuance of a writ of possession (WP Motion)[13] to oust Arnulfo from the subject lot.[14] Later, however, Arnulfo himself manifested before the RTC that he was only a paid laborer of complainant.[15] Consequently, respondent charged[16] complainant and Arnulfo with direct contempt for lying in open court and misleading the RTC into believing that Arnulfo is not a lessee nor a mortgagee.[17] Pending resolution thereof, Arnulfo executed an Affidavit[18] attesting that while he was indeed a mortgagee of the subject lot, he had already turned-over the possession of the same to Reytaliano. In the same document, Arnulfo clarified that it was actually complainant who persuaded him to contrarily manifest that he was only a paid laborer – and not a mortgagee – who worked on

the said lot.[19] On the basis of the said Affidavit, respondent moved[20] for the dismissal of the WP Motion on the ground of mootness, and further, the exclusion of Arnulfo from the direct contempt charge.

Complainant then sought the disbarment[21] of respondent in Case No. 09-2552 before the IBP, claiming, inter alia, that: (a) respondent knew about, but suppressed the fact that Lot 646-B-2 is no longer owned by Salvacion, resulting in its inclusion in the proceedings and causing confusion among the oppositors; and (b) respondent, by participating in the execution and notarization of the Affidavit of Arnulfo, dealt with a party having adverse interest to the one he is representing, which act amounts to a misconduct in the highest degree.[22]

In an Order[23] dated November 9, 2009, the IBP directed respondent to submit his answer to the petition. In lieu thereof, respondent filed a Motion for Bill of Particulars,[24] praying that, in order for him to adequately respond to the petition, complainant be ordered to produce documents evidencing the real estate mortgage, which complainant alleged[25] was executed by Salvacion in favor of a certain Teofila Soldevilla (Teofila) over Lot 646-B-2,[26] as well as the transfer of the latter's rights to complainant for a valuable consideration.[27] The said motion was granted in an Order[28] dated December 9, 2010. However, despite receipt of a copy of the said Order, complainant failed to furnish respondent with the required documents, prompting the IBP to issue an Order[29] dated March 30, 2011, directing complainant to explain within seven (7) days from notice, under pain of sanction in case of non-response, why she failed to comply with the December 9, 2010 Order.

Faced with complainant's continued non-compliance thereof, respondent filed a Motion to Dismiss,[30] arguing that the allegations in the petition show no cause of action, and that the same is nothing more than a harassment suit.[31] Despite recognizing that the said motion is a prohibited pleading, the IBP nevertheless directed complainant in an Order[32] dated June 29, 2011 to comment thereon within fifteen (15) days from notice, but still to no avail. Consequently, the IBP issued an Order[33] dated March 8, 2012, allowing respondent's Motion to Dismiss to remain on record but to be treated as his answer, and in the interest of fast tracking the case, requiring both parties to file their respective position papers within thirty (30) days from notice, without which, the matter shall thereafter be deemed submitted for report and recommendation. However, nothing was filed by either party.[34]

The IBP's Report and Recommendation

In a Report and Recommendation[35] dated March 5, 2014, the IBP Investigating Commissioner dismissed the complaint for failure of complainant to clearly establish the alleged violation of the Code of Professional Responsibility (CPR), ratiocinating that respondent's act of allegedly misleading the RTC anent the inclusion of Lot 646-B-2, as well as his preparation of Arnulfo 's Affidavit in the intestate proceedings. are "matters that are really addressed and within the competence and jurisdiction of the probate court to resolve." [36]

Nonetheless, respondent was faulted for not complying with the direct order to file his answer to the petition, and for filing a Motion to Dismiss, which was a prohibited pleading - a fact which he should have known as a lawyer. He was, thus, strongly warned that a similar nonchalant attitude from him shall be dealt with more seriously. He was further admonished to be more circumspect in his dealings with authorities designated to exact obedience to the CPR.[37]

In a Resolution[38] dated February 22, 2015, the IBP-Board of Governors (IBP-BOG) adopted and approved with modification the Investigating Commissioner's Report and Recommendation, meting upon respondent the penalty of suspension from the practice of law for a period of three (3) months.

Aggrieved, respondent filed a Motion for Reconsideration,[39] denying his refusal to file the required answer, and insisting that, when the IBP treated his Motion to Dismiss as his answer, there was no more need for him to file

another one.[40] Among others, respondent argued that the tenor of the March 8, 2012 Order directing the filing of a position paper was merely permissive, and not mandatory, in that the parties may file their respective position papers only "if they wish to do so." [41]

In an Order[42] dated November 4, 2015, the IBP-BOG directed complainant to submit her comment thereon.

Subsequently, in a Resolution[43] dated January 27, 2017, the IBP-BOG reversed its earlier resolution suspending respondent from the practice of law for a period of three (3) months, and dismissed the administrative complaint against him for lack of merit. In the Extended Resolution,[44] the dismissal was found to be proper, in view of complainant's failure to adduce any evidence of deceit, malpractice, and gross misconduct on the part of respondent. Since complainant failed to discharge the burden of proving her claims against respondent, the latter is presumed to have performed his duties in accordance with his oath.[45]

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable.

The Court's Ruling

Jurisprudence dictates that "in administrative proceedings, complainants bear the burden of proving the allegations in their complaints by substantial evidence." [46] Accordingly, complainant must show in a satisfactory manner the facts upon which their claims are based; otherwise, respondent is not obliged to prove his exception or defense. This is because an attorney enjoys the legal presumption that he is innocent of the charges proffered against him until the contrary is proved, and that, as an officer of the Court, he has performed his duties in accordance with his oath.[47]

In this case, complainant's claims of deceit, malpractice, and gross misconduct on the part of respondent revolve around the alleged inclusion of Lot 646-B-2 in the list of properties of Salvacion's estate, and Reytaliano's takeover of the said lot through the "wits and eloquence" of respondent who purportedly knew that the lot no longer belonged to Salvacion.[48] Complainant specifically alleged that Lot 646-B-2 was mortgaged by Salvacion to a certain Teofila, who, in turn, executed a document for the transfer of her rights to complainant for a valuable consideration.[49]

Unfortunately, however, complainant failed to attach the supporting documents to prove her claims. In fact, complainant was given several opportunities to make such submissions, and yet repeatedly failed to produce the supporting documents evidencing the alleged mortgage and transfer of rights involving Lot 646-B-2.[50] Thus, being mere allegations that are unsupported by substantial evidence, complainant's imputations against respondent anent the inclusion of Lot 646-B-2 must fail.

The same goes for complainant's imputation that respondent committed a "misconduct in the highest degree" [51] when he notarized the Affidavit of Arnulfo (stating, inter alia, that Arnulfo had already surrendered the possession of Lot 646-B-2 to Reytaliano, respondent's client) and thus, dealt "with a party having [an] adverse interest to the one he is representing." [52]

Essentially, "[t]he rule concerning conflict of interest prohibits a lawyer from representing a client if that representation will be directly adverse to any of his present or former clients." [53] In this case, there is no proof showing that respondent, by merely notarizing the said document, represented Arnulfo in the intestate proceedings. In fact, respondent did such act to the benefit of Reytaliano, who sought possession of Lot 646-B-2 as the appointed Administrator of Salvacion's estate; hence, respondent was faithfully acting in pursuit of his client's legitimate interests. And given that there is no evidence to prove that Arnulfo's Affidavit was merely

wrangled from him in exchange for the dropping of his name in the direct contempt charge, the Court is hard-pressed to find any ethical violation on the part of respondent.

It deserves pointing out that the Investigating Commissioner merely glossed over the foregoing matter based on his opinion that the same is one which is within the competence and jurisdiction of the probate court to resolve.[54] The Court, however, clarifies that the alleged act, while committed during the intestate proceedings, was questioned by complainant as a form of professional misconduct, which thus conjures an issue which is clearly administrative in nature and therefore, should have been passed upon during the IBP proceedings below. As jurisprudence states:

The Supreme Court exercises exclusive jurisdiction to regulate the practice of law. It exercises such disciplinary functions through the IBP, but it does not relinquish its duty to form its own judgment. Disbarment proceedings are exercised under the sole jurisdiction of the [Court], and the IBP's recommendations imposing the penalty of suspension from the practice of law or disbarment are always subject to this Court's review and approval.[55]

And finally, since the IBP failed to articulate its reasons, the Court elucidates that respondent was correctly cleared from his supposed administrative infraction relative to his failure to file an answer or a position paper during the IBP proceedings. Based on the records, respondent's Motion to Dismiss, albeit a prohibited pleading,[56] was allowed by the IBP to be treated as his answer. Meanwhile, per the IBP's March 8, 2012 Order, the parties were directed to file their respective position papers only "if they wish to do so";[57] hence, respondent should not be faulted for not filing one.

WHEREFORE, the administrative complaint against respondent Atty. Juan C. Senupe, Jr. is hereby DISMISSED for lack of merit.

SO ORDERED.

Carpio (Chairperson), Caguioa, A. Reyes, Jr.,[*] and J. Reyes, Jr., JJ., concur.

[*] Designated Additional Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 2-7.

[2] Id. at 8-11.

[3] See Petition dated July 14, 2006; id. at 12-15.

[4] Id. at 12.

[5] Id. at 35-36. Penned by Judge Gloria G. Madero.

[6] Id. at 35.

[7] See Oath of Office dated April 17, 2008; id. at 37.

[8] Dated February 23, 2009. Id. at 38-40.

[9] See id. at 39.

[10] Id. at 41.

[11] "Arnolfo" in some parts of the rollo.

[12] See rollo, p. 43.

[13] Not attached to the rollo.

[14] See rollo, p. 48.

[15] Id. at 42.

[16] See Motion to Cite Defendants Anita Alag and Arnolfo Sobrevega for Direct Contempt of Court dated June 18, 2009; id. at 42-45.

[17] See id. at 44.

[18] Dated July 20, 2009. Id. at 48-49.

[19] See id. at 46.

[20] See Manifestation and Urgent Motion to Dismiss Motion for Issuance of Writ of Possession and to Exclude Arnulfo Sobrevega as Respondent in the Motion to Cite for Contempt dated July 20, 2009; id. at 46-47.

[21] See id. at 2-7.

[22] See id. at 3-7.

[23] Id. at 50. Signed by Director for Bar Discipline Alicia A. Risos-Vidal.

[24] Dated November 23, 2009. Id. at 51-52.

[25] See id. at 3-4.

[26] See id. at 52.

[27] Id. at 51.

[28] Id. at 58-59. Signed by Commissioner Hector B. Almeyda.

[29] Id. at 60.

[30] Dated June 21, 2011. Id. at 63-66.

[31] Id. at 66.

[32] Id. at 76.

[33] Id. at 82-83.

[34] Id. at 89.

[35] Id. at 87-91. Signed by Commissioner Hector B. Almeyda.

[36] Id. at 90.

[37] See id. at 90-91.

[38] See Notice of Resolution in Resolution No. XXI-2015-220 issued by National Secretary Nasser A. Marohomsalic; id. at 86, including dorsal portion.

[39] Dated October 22, 2015. Id. at 92-100.

[40] See id. at 98.

[41] Id. at 97.

[42] Id. at 102. Signed by IBP Director for Bar Discipline Ramon S. Esguerra.

[43] See Notice of Resolution in Resolution No. XXII-2017-808 issued by Assistant National Secretary Camille Bianca M. Gatmaitan-Santos; id. at 105-106.

[44] Id. at 107-118.

[45] Id. at 117.

[46] See Re: Letter of Lucena Ofendoreyes Alleging Illicit Activities of a Certain Atty. Cajayon Involving Cases in the Court of Appeals, Cagayan de Oro City, A.M. No. 16-12-03-CA and IPI No. 17-248-CA-J, June 6, 2017; emphasis supplied.

[47] See Yagong v. Magno, A.C. No. 10333, November 6, 2017.

[48] See rollo, pp. 3-4.

[49] See id.

[50] See id. at 82-83.

[51] Id. at 6.

[52] Id.

[53] Heirs of Falame v. Baguio, 571 Phil. 428, 441 (2008); italics and underscoring supplied.

[54] Rollo, p. 124.

[55] Ylaya v. Gacott, 702 Phil. 390, 421 (2013).

[56] Section 2, Rule III of the RULES OF PROCEDURE OF THE COMMISSION ON BAR DISCIPLINE (Bar Matter No. 1755, September 25, 2007) provides:

Section 2. Prohibited Pleadings. The following pleadings shall not be allowed, to wit:

- a. Motion to dismiss the complaint or petition
- b. Motion for a bill of particulars
- c. Motion for a new trial
- d. Petition for relief from judgment
- e. Motion for Reconsideration
- f. Supplemental pleadings

[57] Rollo, p. 83.

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