

PABLO V. JULIAN AND IRENE BASILIO-JULIAN, COMPLAINANTS, VS. ATTYS. AMEURFINA RESPICIO-SALENDA AND BELEN E. TUY, RESPONDENTS.

A.C. No. 1947. August 12, 1987

Ponente: FELICIANO, J.

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FELICIANO, J.:

On 12 July 1978, the spouses Pablo V. Julian and Irene Basilio-Julian filed a letter-complaint asking that administrative action be taken against respondents Attorney Ameurfina Respicio-Salenda and Attorney Belen E. Tuy.

In a Joint Affidavit executed on 19 August 1978, the Julian spouses allege that early in the evening of 19 December 1976, at their residence in Laoag City, Ilocos Norte, Attorney Tuy was at their (i.e., the spouses') typewriter drafting a document under which Mr. Julian agreed to transfer his rights of ownership over his share, comprising 6,780 square meters, in Lot No. 8410 of the Laoag Cadastre in favor of Alpha Motor Sales & Services, Inc., a company represented by Attorney Tuy and Wellington Reyes. After the Deed of Absolute Sale had been completed, the same was presented for signature to the Julian spouses who however refused to sign the document, which was conspicuously silent as to the purchase price of the subject property, until after they had consulted with their lawyer, Attorney Respicio-Salenda. This prompted a visit to the latter shortly after by the Julian spouses together with Attorney Tuy and Wellington Reyes.

The Julian spouses then allege:

"5. That Atty. Respicio-Salenda assured us that everything was all right despite the absence of a consideration on the document, so we were prevailed upon to sign said document;

6. That the persons present when Atty. Respicio-Salenda affixed her signature were ourselves, Wellington Reyes and Atty. Belen E. Tuy; the other alleged witness as shown on the document, Julieta Respicio, was not present;

7. That after Atty. Respicio-Salenda signed this document, in which no amount was yet written, Atty. Belen E. Tuy took all the copies, not leaving even a copy to the notary public, nor to us; at this time the document was not yet docketed;

8. That it was only the following morning in the office of Atty. Respicio-Salenda that the document was docketed by her secretary, Julieta A. Respicio, who then affixed her signature despite the fact that she was not present during the signing;

9. That it was only on December 22, 1976 when we came to know that the consideration post-inserted on the blank space was "Eighteen Thousand Pesos (P18,000.00)" instead of Thirty- Six Thousand Pesos (P36,000.00) as was our actual agreement; the typewritten words and numerals "Eighteen Thousand Pesos (P18,000.00)" was not typed on our typewriter, as can be proven if the document would be duly examined by the National Bureau of Investigation;

10. That the Original Certificate of Title subject of the document was surreptitiously taken from us on December 22, 1976, without our knowledge and consent x x x"

Aside from typing the wrong amount in the space left blank for the consideration for the Julian property, Attorney Tuy offered in payment a Time Certificate of Deposit with the Philippine Banking Corporation in the amount of P18,000.00, allegedly contrary to the agreement that initial payment should be made in cash. And although the Julian spouses were paid P3,600.00 in cash (supposedly the first of five yearly installments in payment of the P18,000.00 balance of the purchase price), Attorney Tuy had allegedly altered the agreement once more by declaring that, thenceforth, payment of all succeeding installments would be taken from the yearly interest of P3,600.00 earned by the P18,000.00 placement in the time deposit account.

After several attempts to withdraw the money deposited with the Philippine Banking Corporation had failed, and after several requests for payment from Attorney Tuy and Wellington Reyes had been refused, the Julian spouses, represented by Attorney Respicio-Salenda, instituted an action (docketed as Civil Case No. 6444-VI) in Branch VI of the then Court of First Instance of Ilocos Norte at Laoag seeking the reformation of the Deed of Absolute Sale.

On 24 May 1978, the trial court dismissed the complaint of the Julian spouses. The motion for reconsideration met with a similar fate.

With respect to these events, the Julian spouses allege:

"11. That a civil case was brought to court mainly on the ground of the falsity of the typewritten words and numerals "Eighteen Thousand Pesos (P18,000.00)";

12. That Atty. Ameurfina Respicio-Salenda was our counsel in this case (Civil Case No. 6444-VI, CFI, Branch VI, Laoag City) but because of her failure to testify in our behalf the decision went against us -- in fact this was exactly the argument in the decision as can be found on page 7 of the said decision;

13. That Atty. Respicio-Salenda should not have been our counsel if she was not aware that the amount of "Eighteen Thousand Pesos (P18,000.00)" was post-inserted; that the post-insertion was actually her main issue in her Memorandum for Plaintiffs and in her Motion for Reconsideration found in the records of the case;

14. That despite the fact that Atty. Respicio-Salenda, in the said case, was our lawyer, she did not sign any pleading except the two pleadings above-named;

15. That during every hearing of the case, Atty. Respicio-Salenda asked for some amount from us which, she said was to be given to the judge;

16. That when the decision in the said case went against us, Atty. Respicio-Salenda told us to prepare the amount of P2,000.00 allegedly to be given again to the judge should her motion for reconsideration prevail -- but this time we did not give any amount;

17. That these facts constitute deceit, malpractice and gross misconduct in office on the part of Atty. Respicio-Salenda; likewise, there is clearly deceit and gross misconduct on the part of Atty. Belen E. Tuy;

18. That based on the foregoing, ATTY. AMEURFINA RESPICIO-SALENDA and ATTY. BELEN E. TUY deserve to be as they should be disbarred;

19. That we are not the only victims of Atty. Belen E. Tuy and Wellington Reyes in Laoag City x x x"

In compliance with the resolution issued by this Court on 20 September 1978 directing the respondents to file their answer to the complaint, Attorney Respicio-Salenda filed her Answer on 9 November 1978.² Attorney Tuy has so far failed to submit a separate answer despite having been granted four extensions of time, totalling 95

days, to file one. We will return to Attorney Tuy's case below; meantime we will deal only with matters which concern or affect Attorney Respicio-Salenda alone.

We find no justifiable reason to mete out the sanction prayed for in the complaint against respondent Attorney Ameurfina Respicio-Salenda.

The record shows that on the evening of 19 December 1976, the professional advice of Attorney Respicio-Salenda regarding the Deed of Absolute Sale was purposely sought by the Julian spouses who, apparently, could make neither heads nor tails of the stipulations in the said document. Attorney Respicio-Salenda accordingly scrutinized the Deed of Absolute Sale and, in fact, took the time to read and explain the contents thereof to the Julian spouses. This was admitted by Mrs. Julian on cross-examination at the 11 October 1977 hearing conducted in connection with the proceedings in Civil Case No. 6444-VI.3 Furthermore, the fact that the space allotted for the purchase price had been left blank was immediately brought to the attention of the Julian spouses by Attorney Respicio-Salenda, who then proceeded to ascertain, among other things, the exact amount of the consideration that her clients had settled on with Attorney Tuy. As testified to by Mrs. Julian:

"q So, you did not want this agreement that the total of P36,000.00, P18,000.00 or one-half of it be paid in cash and the other half will be paid in yearly installment of P3,600.00?

a Yes, I agreed regarding the P18,000.00 cash and the P3,600.00 yearly for a period of five years.

q All right, this document marked Exhibit "B", only states here that you will be paid P18,000.00 and not P36,000.00, did you not complain with this term of the document before signing?

a I questioned it, Your Honor, because the amount does not appear, it is blank.

q So, where did you sign this document?

a At the house of Attorney Ameurfina Respicio.

q When you went to the house of Atty. Ameurfina Respicio, the amount of consideration is not yet there?

a Yes, Your Honor.

q And your purpose in going to the house of Attorney Respicio was to consult her about this document, Exhibit "B", is it not?

a Yes, Your Honor.

X X X

q And did she not notice that the amount of the consideration in the document did not appear in the document?

a She noticed that's why she asked us how much was the consideration we agreed upon.

q And what did you tell her?

a Our agreement in the amount of P36,000.00 that is the consideration of our land.

q And is that all that she asked you after she read the document?

a No, Your Honor.

q What else did she ask you?

a She asked me also regarding the area which was included in the document because I told them not to include and that was my problem."

The testimony of Mrs. Julian continues:

"q What was the area not to be included?

a 780 square meters.

q So, it was your agreement to sell only 6,000 square meters?

a Yes, Your Honor.

q After you made this objection to Attorney Respicio, what did she advise you?

a Belen Tuy told me that it will not be my problem, together with Wellington Reyes, they told me not to worry regarding the correction of the instrument because she is a lawyer herself and that she will be responsible in the correction of the document.

q Now, you said that the amount of the consideration was not included in this document when it was prepared and when it was read to you by Attorney Respicio, and now in this Exhibit "B" there is a written words of the figure P18,000.00, where was this typed, if you know?

a Yes, Your Honor, in our house.

q When was this figure or words P18,000.00 typed in this document?

a In our house, Your Honor.

q I am asking you when was these words and figure P18,000.00 typed?

a When they came to deliver the check, that was December 22, 1976 as well as the cash P3,600.00.

q All right, did you not say that you signed this deed of sale marked Exhibit "B" in the house of your lawyer, Atty. Ameurfina Respicio?

a Yes, Your Honor.

q And you signed inspite of the fact that the amount of consideration was not placed in the document?

a I should have not signed that document because I have a problem that time but they promised me to pay me in cash P18,000.00 and give me P3,600.00 yearly for five years. x x x"4

Mrs. Julian also revealed:

"q Madam witness, you stated during the cross-examination that after this document Exhibit "B" was prepared you were not given copy by the defendants before going to the house of your lawyer, is that right?

a No, I was not given a copy.

q But you stated when you were asked by the court that when this document was prepared you stated that the amount of P18,000.00 was not there, is that not right?

a No, Your Honor, it was the P36,000.00.

q When for the first time you have known that the amount of P18,00.00 was not there or that the amount of consideration in that paper was blank?

a Before I signed and at the time Attorney Respicio read and she asked me there is no amount indicated.

q And notwithstanding the blank space in the document you signed the document?

a Yes, Ma'am, I signed because they promised me to pay me the amount of P36.000.00 and even in the

presence of Attorney Respicio. x x x"⁵

Evidently, the Julian spouses would not have known of the blank space in the Deed of Absolute Sale had Attorney Respicio-Salenda not alerted them to this fact. In the main, what induced and ultimately convinced the Julian spouses into signing the document, despite its flaws, were the assurances of Attorney Tuy and Wellington Reyes that the blank would later be filled up in a manner consistent with the terms and conditions previously agreed upon by and between them -- i.e., the Julian spouses would eventually receive P36,000.00 for their property, half of which to be paid in cash upon execution and the other half to be paid in equal installments of P3,600.00 at the end of each year for the next five years. The Julian spouses, therefore, cannot place the blame for their misfortune on Attorney Respicio-Salenda but rather on their misplaced trust in the promises of Attorney Tuy and Wellington Reyes.

Furthermore, the alleged erroneous insertion was typed by Attorney Tuy on to the Deed of Absolute Sale on 22 December 1976 in the Julian residence. In all likelihood, the same typewriter must have been used on this occasion as had been used three days earlier in the preparation of the document. In both instances, it is similarly likely that the drafting and insertion performed by Attorney Tuy was done in the presence of either, or both, of the Julian spouses. There is also this statement of Mrs. Julian:

"q Now, it says here in Exhibit "B" that the consideration is P18,000.00 Philippine Currency, and you stated according to you that the purchase is P36,000.00?

a The total amount of P36,000.00 is no longer alleged in the deed of sale because our agreement is that the first P18,000 be given to us in cash upon execution of the document, and what was only placed in the document is the balance of P18,000 which was agreed upon by us that they have to pay us annually on every December of the year in the amount of P3,600.00. x x x"⁶

From this statement of Mrs. Julian, it might be inferred that no error was committed by Attorney Tuy in the insertion made in the Deed of Absolute Sale. It might even be inferred that said document, in fact, accurately embodied the true intentions of the contracting parties, except that Attorney Tuy and Wellington Reyes had failed to faithfully comply with their obligations to the Julian spouses under their agreement. These matters are not, however, appropriately discussed herein as such pertain more to the intrinsic merits of Civil Case No. 6444-VI.

Attorney Respicio-Salenda did what she could for her clients. She not only took pains to explain the contents of the Deed of Absolute Sale to the Julian spouses. She likewise took the trouble of ascertaining from them their true intentions and expectations regarding the intended transaction, especially after she discovered that no purchase price for the Julian property had been indicated in the disputed document. We are inclined to give credence to her assertion that she did try to dissuade the Julian spouses from signing the Deed of Absolute Sale, except that the couple had simply been overwhelmed and overtaken by the solicitations of Attorney Tuy and Wellington Reyes.

Instead of being faulted for handling Civil Case No. 6444-VI for the Julian spouses, Attorney Respicio-Salenda should perhaps be commended for agreeing to take on the same, considering that her clients were partly to blame for their predicament after they had imprudently disregarded her advice not to sign the Deed of Absolute Sale. Her decision not to take the witness stand at the trial of Civil Case No. 6444-VI on the ground that she felt that her testimony would merely be cumulative of what Mrs. Julian had already testified to earlier is well within her discretionary authority, as counsel for the Julian spouses. The Julian spouses could easily have insisted that Attorney Respicio-Salenda testify in open court; just as easily, they could have replaced her as their counsel at anytime during the proceedings. They did neither. Hence, absent any evidence to the contrary, it may safely be presumed that whatever was done, or not done, by Attorney Respicio-Salenda in the prosecution of Civil Case No. 6444-VI was with the consent and conformity of her clients. Furthermore, the fact that only two pleadings were

prepared and filed by Attorney Respicio-Salenda in relation to Civil Case No. 6444-VI is in no way an indication that she had neglected her professional duties to the Julian spouses. The degree and extent of service rendered by an attorney for a client is best measured in terms other than mere number of sheets of paper.

We subscribe to Attorney Respicio-Salenda's assertion that the money received by her from the Julian spouses was used merely to pay for her professional fees and to defray the costs of litigation. The insinuations made by the Julian spouses that the amounts solicited from them were used and intended to be used for illegal purposes (i.e., bribery of the judge) are totally unfounded and do not deserve serious consideration, at least as far as the records of this case will show.

On the whole, the charges levelled against Attorney Respicio-Salenda, apart from being uncorroborated and unsubstantiated by competent evidence of record, we believe, have been sufficiently refuted by the latter in her Answer.

We take note, however, of Attorney Respicio-Salenda's admission that she too signed, as notary, the Deed of Absolute Sale despite the incompleteness thereof. Admittedly, she did take the precautions of explaining the contents of the Deed of Absolute Sale to the Julian spouses and ascertaining from them the exact terms of their agreement with Attorney Tuy and Wellington Reyes before notarizing the same. She should, however, have awaited the insertion of the purchase price of the subject property before proceeding to the notarization of the instrument.

WHEREFORE, respondent Attorney Ameurфина Respicio-Salenda is reprimanded for negligence in the performance of her duties as notary public with the warning that similar conduct in the future will be dealt with more severely. The complaint for disbarment is DISMISSED with respect to respondent Attorney Respicio-Salenda.

Turning once more to Attorney Belen E. Tuy, who never filed an answer to the complaint for disbarment and who in effect ignored the Resolution of this Court dated 20 September 1978 requiring her to file an answer, we find such conduct or omission to be inexcusable. Accordingly, she is hereby suspended from the practice of law until further orders from this Court. Let a copy of this Resolution be furnished each to the Integrated Bar of the Philippines and to the Bar Confidant, Supreme Court of the Philippines. The latter shall circulate the fact of this suspension to the various courts in the Metro Manila area.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Bidin, and Cortes, JJ., concur.

1 Rollo, pp. 6-8.

2 Id., pp. 15-24.

3 TSN of 11 October 1977, p. 19, Annex "2" of Answer.

4 Id., pp. 35-40; underscoring supplied.

5 Id., pp. 54-55; underscoring supplied.

6 TSN of 14 July 1977, pp. 15-16, Annex "1" of Answer; underscoring supplied.

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