

ROSITA C. NADAYAG, COMPLAINANT, VS. ATTY. JOSE A. GRAGEDA, RESPONDENT.

A.C. No. 3232. September 27, 1994

Ponente: MELO, J.

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MELO, J.:

In a letter-complaint dated April 15, 1988, Rosita C. Nadayag charged respondent Atty. Jose A. Grageda, a practicing attorney and notary public in Iligan City, with conduct unbecoming of a lawyer in connection with a 'Pacto de Retro' transaction wherein complainant was the vendee. Complainant's affidavit, which accompanied her letter-complaint, alleged that respondent:

... prepared and notarized a PACTO DE RETRO sale with me as the Vendee-a-Retro last January 21, 1987 in this City using Original Certificate of Land Title stolen from the Office of the Register of Deeds herein in Iligan as a result of which I was swindled in One hundred eight thousand pesos (P108,000.00) because the said land sold to me by Pacto de Retro was already sold ahead of time to another party, using the owner's duplicate copy of the title. That during our pacto de retro sale, as I was suspicious already of the appearance of the Original Certificate of Title, having many annotations and old patches thereof, when I brought the matter to the attention of Atty. Jose A. Grageda, notarizing the same, he simply answered me that the title was all right and that he told me further not to worry as he is an attorney and besides he knew very well the Vendor-a--Retro whose business transactions especially notarial matter has been and in fact always handled by him (Attorney Jose A. Grageda).

That said stolen Original Certificate of Land Title was confiscated by Iligan City Register of Deeds, Attorney Reynaldo Baguio on the occasion when I applied for registration of my Pacto de Retro. Findings showed that many other cases of stolen original certificates of land titles have taken place in the said office but the said Attorney as the Register of Deeds did not prosecute the thieves thereof.

I filed Estafa case against the Vendor-a-Retro together with her accomplices to include said Attorney Jose A. Grageda, coursing it through the local Barangay Captain last May 1987 yet, then forwarded to the City Fiscal through the Police Station Commander in June 1987 but that and until the time of this Report was not tried in Court yet but that the Information did not include said Atty. Jose A. Grageda, hence this report.

(p. 2, Vol. I, Record.)

Respondent filed his counter-affidavit dated March 29, 1989, pertinently alleging:

6. That they showed me a copy of the title which I examined and found out the title was clear and there was no annotation or entry so I told them that as far as the title was concern there was no encumbrances or annotation and can be the subject of the Pacto de Retro;

7. That they insisted that I notarized the document so I proceeded to translate the document in Cebu, Visayan dialect to make sure that the parties understood the deed and they replied that they understood this and I asked then further if they have any more to add or delete; they answered that there was no more and they will sign the same;

8. That I told them to sign the document above their typewritten name which they did and witnessed by the other person with them who were present, so after their signature in good faith based upon their documents I notarized the same.

(p. 10, Vol. II, Record.)

Pursuant to Rule 139-B of the Rules of Court and the resolution of the Court En Banc of April 12, 1988, the case was referred to the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

The IBP Commission on Bar Discipline scheduled hearings for reception of evidence but complainant manifested that she cannot proceed to Manila and attend to her case due to financial constraints. Upon the other hand, respondent could no longer be located, having moved without leaving any forwarding address.

Nonetheless, said Commission, on the basis of the complaint and the supporting affidavit, as well as the counter-affidavit of respondent, found that "there is reason for disciplining the respondent" premised upon the following observations:

Respondent first admits that he was consulted by the vendor-a-retro and the complainant (vendee-a--retro) on the matter of the title when he was asked to notarize the Deed of Sale a Retro. He admits that he rendered an opinion based on the title that was presented to him. It turns out that the title presented to him is the Original Certificate of Title which only the Register of Deeds has custody of and he should have sensed foul-play or irregularity. As a lawyer and officer of the court, he should have been alerted and should have reported the irregularity of an Original Certificate of Title, which should be in the exclusive safekeeping of the Register of Deeds, in the possession of unauthorized persons. Even if it were the photostat copy of said Original Certificate of Title that was presented to him, the same did not bear any certification by the Register of Deeds which could have alerted him of the irregularity. The testimony that the Original was shown to him has not been controverted. The Vendee was in fact in possession of the Original because it was testified that when the Register of Deeds found that respondent was in possession, the original certificate was confiscated by the Register of Deeds.

The Commission takes special note of a notary public acting more than a notary public and goes beyond mere certification of the presence of the signatories, their having signed, and having contracted. By transcending these bounds, such notary public has entered the realm of giving "legal advice" - thus "acting also as counsel aside from notary public" to the parties to the contract.

Treated as counsels for the vendee, he had the legal duty to advise him properly of the irregularities and the dangers of holding the Original Certificate which should have been in the custody of the Register of Deeds. Respondent had acted recklessly at the least, in his advise of the vendee. He rendered an opinion that was irresponsible that his client relied upon - which recklessness is censurable.

(pp. 3-4, Commissioner's Report; ff. p. 22, Vol. Record.)

A lawyer shall at all times uphold the integrity and dignity of the legal profession. The trust and confidence necessarily reposed by clients require in the attorney a high standard and appreciation of his duty to his clients, his profession, the courts and the public. The bar should maintain a high standard of legal proficiency as well as of honesty and fair dealing. Generally speaking, a lawyer can do honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts, and to his clients. To this end, nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty, and integrity of the profession. (Marcelo vs. Javier, Sr., 214 SCRA 1[1992]).

Generally, a lawyer may be disbarred or suspended for any misconduct, whether in his professional or private

capacity, which shows him to be wanting in moral character, in honesty, probity, and good demeanor or unworthy to continue as an officer of the court. (Marcelo vs. Javier, Sr., supra).

In the case at bar, respondent should have been conscientious in seeing to it that justice permeated every aspect of a transaction for which his services had been engaged, in conformity with the avowed duties of a worthy member of the Bar. He should have fully explained the legal intricacies and consequences of the subject transaction as would aid the parties in making an informed decision. Such responsibility was plainly incumbent upon him, and failing therein, he must now face the commensurate consequences of his professional indiscretion. After all, notarization is not an empty routine. Notarization of a private document converts such document into a public one and renders it admissible in court without further proof of its authenticity.

ACCORDINGLY, and as recommended by the IBP Board of Governors, the Court Resolved to SUSPEND respondent Atty. Jose A. Grageda from the practice of law for a period of three (3) months commencing from receipt of this Resolution, with the warning that a repetition of the same or any other misconduct will be dealt with more severely. Let a copy of this Resolution be spread on the records of said respondent, with copies thereof furnished to the Integrated Bar of the Philippines and duly circularized to all courts.

SO ORDERED.

Feliciano, (Chairman), Romero, and Vitug, JJ., concur.

Bidin, J., on leave.

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