

NELIA A. ZIGA, COMPLAINANT, VS. JUDGE RAMON A. AREJOLA, MTC-DAET, CAMARINES NORTE, RESPONDENT.

A.M. No. MTJ-00-1318 (Formerly A.C. No. 4755). November 23, 2004

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TINGA, J.:

This is an administrative complaint filed on 30 May 1997 by complainant Nelia A. Ziga against respondent Judge (then Atty.) Ramon A. Arejola for “disregard of the lawyer’s duty to represent and protect the interest of his client.”

Complainant alleges in her Complaint[1] that respondent, her cousin and co-heir, acted as counsel for all the heirs of Fabiana Arejola who were the applicants in Land Registration Case No. RTC’95-142 (LRC No. 95-142) before the Regional Trial Court (RTC) of Naga City, Branch 23. After the trial court rendered a Decision[2] confirming the title to the property of the applicants and ordering its registration in their names, respondent failed to ask for the correction of complainant’s name which was misspelled as “LILIA.” Respondent used the erroneous name in the Deed of Absolute Sale which he prepared to finalize the sale of the land to the City of Naga, complainant adds.

Complainant submits that respondent’s failure to have the spelling amended despite having read the Decision[3] and having been requested in a letter[4] by the City Attorney of Naga City to correct the mistake constitutes utter disregard of a lawyer’s duty to protect his client.[5]

Due to respondent’s imputed omission, complainant was constrained to file in her own behalf an Urgent Ex-Parte Motion for Correction[6] which the trial court granted in an Order[7] dated 12 March 1997.[8]

In his Comment[9] dated 28 August 1997, respondent Judge Ramon A. Arejola denies the existence of an attorney-client relationship between him and the complainant. He insists that he never represented the complainant in LRC No. 95-142 because he filed the case on his own behalf as applicant heir and on behalf of his co-heirs, not as complainant’s counsel.[10]

Respondent also reasons out that the spelling of complainant’s name was of no importance. The mention of her name as representative of the heirs of Expectacion A. Ziga, he claims, was only for purposes of expediency so that the trial court could have a specific name and address to send to in case notices have to be sent to the heirs. What was important was that the heirs of Expectacion A. Ziga were officially included in the Decision as among the heirs of Fabiana Arejola in whose name the property was being registered.[11]

In her Clarifications on Respondent’s Comment,[12] complainant belies respondent’s allegation that there was no attorney-client relationship between her and the respondent as the latter himself alleged the contrary in his Notice of Attorney’s Lien.[13]

Complainant also brands as bereft of truth respondent’s statement that he filed the Petition[14] on his own behalf and without participation from his co-heirs, the truth being that when the heirs executed the Deed of Conditional Sale[15] with the City of Naga, they provided for the amount of FIVE HUNDRED THOUSAND PESOS

(P500,000.00) as advance payment for the expenses that will be incurred in the filing of the Petition. This sum of money is clearly a common fund evidencing assistance and participation from his co-heirs.[16]

She maintains that respondent's comment about her being unconcerned about the titling of the land is not correct because even before respondent filed the Petition on 25 January 1995, she had already made an initial contribution in September 1994, together with all the heirs, for titling expenses and taxes.[17]

In a resolution,[18] this Court required the complainant to file a Reply to respondent's Comment and noted the Clarifications on Respondent's Comment. Complainant filed her Reply[19] on 24 February 1998, substantially reiterating her allegations in her Clarifications on Respondent's Comment.

On 14 January 1998, this Court noted complainant's Manifestation[20] that respondent had been appointed as Municipal Trial Court Judge of Daet, Camarines Norte on 9 June 1997 and that the latter's Comment was filed when he had already taken his oath of office on 1 August 1997.[21] For this reason, the Court ordered the case to be redocketed as an administrative matter and referred it to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.[22]

In its Report[23] dated 24 January 2001, the OCA recommended that the respondent be "cleared of any administrative liability in so far as the Office of the Court Administrator is concerned" and that the case be referred back to the Office of the Bar Confidant on the ground that the acts complained of were allegedly committed before respondent's appointment to the judiciary.

The Court, however, did not share the recommendation and resolved to return the case to the OCA. In its Resolution[24] dated 28 February 2001, the Court stated that "(C)harges against judges, even if made for acts committed by them before their appointment to the judiciary are to be investigated by the Office of the Court Administrator pursuant to Rule 139-B, §1, as amended x x x. The reason for this is that such acts may reflect on or affect the judicial function of the respondent. Thus, even if the complaint in this case was filed on May 30, 1997, before respondent's appointment to the judiciary on June 9, 1997, the matter should be investigated by the Office of the Court Administrator."

Upon the OCA's recommendation, the Court referred the case to the Executive Judge of the RTC of Daet, Camarines Norte, to ensure the speedy disposition of the case and for the convenience of the parties.[25]

In support of her petition, complainant testified[26] and brought to the witness stand Mrs. Helen R. Arejola[27] who affirmed her affidavit attesting to the fact that she refused to sign the Deed of Absolute Sale of the property, subject of the land registration case, being routed by respondent's sister Mrs. Milagros Arejola de los Santos, because it bore the erroneous name of complainant which was stated as "LILIA" instead of "NELIA." Also offered in evidence by complainant were the Complaint[28] itself together with its annexes which included an Affidavit[29] of a certain Mrs. Fanny Lourdes B. Alvarez which states that Judge (then Atty.) Ramon Arejola openly declared to her that he (Judge Arejola) purposely did not seek the correction of the name of complainant in land registration case decision so that "the complainant could not collect her check." Affiant Fanny Alvarez was, however, not presented in court to affirm her statement. The complainant's Reply[30] to respondent's Comment was also offered in evidence. However, the Notice of Attorney's Lien[31] supposed to have been filed in court by respondent in connection with the land registration case but which document is in fact attached to the Clarifications on Respondent's Comment was not offered in evidence.

Respondent, on the other hand, offered among other exhibits, viz: (1) the application for registration of Title of Lot 1883 under LRC No. 95-142;[32] (2) the Urgent Ex-Parte Motion for Correction[33] dated 10 March 1997, filed by complainant before Branch 23, RTC of Naga City; (3) the Order[34] dated 12 March 1997 of the RTC in

LRC No. 95-142; and (4) the Complaint[35] filed by the complainant.

In his report[36] dated 14 October 2003, Executive Judge Racoma found that there was an attorney-client relationship between the complainant and the respondent. To arrive at this conclusion, the Executive Judge took judicial notice of the Notice of Attorney's Lien which contradicts respondent's claim that he did not stand as counsel for the complainant.

The Executive Judge, however, reported that respondent's failure to cause the correction of the misspelled name could not be said to be malicious as would amount to culpable negligence and utter remissness in his duty as complainant's counsel. He also noted that the correction of the name was promptly effected so that no damage was caused at all to the complainant. In the alternative, he is of the opinion that the complainant in effect constructively dismissed the respondent when she filed the Urgent Ex-Parte Motion for Correction. Further, he recommended that the Complaint be dismissed.

While we agree with most of his findings and are of the same view that the lack of damage mitigates respondent's offense, we cannot sustain the conclusion of the Executive Judge in his report.

The ethics of the legal profession enjoins lawyers to act with the highest standards of truthfulness, fair play and nobility in the course of their practice of law. A lawyer may be disciplined or suspended for any misconduct, whether in his professional or private capacity, which shows him wanting in moral character, in honesty, in probity and good demeanor.[37]

Canon 17 of the Code of Professional Responsibility provides: "A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him." As held in the case of *Ramos v. Atty. Jacoba*: [38]

Once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care, and devotion. Elsewise stated, he owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense. If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with it the correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession.

The trust and confidence reposed by clients require in a lawyer a high standard and appreciation of his duty to them. 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 legal profession.[39]

As per the report of the Executive Judge, respondent stood as counsel for the Heirs of Fabiana Arejola, complainant Nelia A. Ziga included. Judge Arejola filed the initial and subsequent pleadings in the land registration case and appeared for and in behalf of the heirs of Fabiana Arejola from its inception to its termination. He even represented them with the City Government of Naga in the transaction involving the sale of the subject land.[40] A written contract is not essential to establish the relation. It is sufficient that the advice and assistance of an attorney is sought and received in any manner pertinent to his profession.[41] Besides, the Notice of Attorney's Lien contradicts respondent's denials.

As complainant's counsel, he should be devoted to his client's cause from beginning to end. True, he may be excused for not having complainant's erroneous name amended if in his judgment it was not necessary. But he should have been properly apprised of the need for the amendment when the City Attorney requested the correction to be made to facilitate the sale of the land. The City Attorney's letter addressed to respondent was dated 3 February 1997—more than a good month's time before complainant filed her Urgent Ex-Parte Motion for Correction dated 10 March 1997. Within the elapsed period of time, it is reasonable to suppose that respondent could have easily filed the motion himself.

Further, we cannot countenance respondent's use of the erroneous name in the Deed of Absolute Sale which he prepared. As complainant's cousin and co-heir, it would lead to utter incredulity if he disavows knowledge of her name. He cannot justify such use by reason of inadvertence or mistake. And in our opinion, we do not need to divine his motives to call it a reprehensible act.

In light of the foregoing, we underscore Rule 1.01 of Canon 1[42] which demands that a lawyer "shall not engage in unlawful, dishonest, immoral or deceitful conduct." It requires lawyers to be in the forefront in the observance of honesty in their private dealings. As this Court expressed in *Sipin-Nabor v. Atty. Bateria*,[43] "(t)he bar must maintain a high standard of legal proficiency as well as of honesty and fair dealing." And any departure from the path which a lawyer must follow, as demanded by the virtues of his profession, shall not be tolerated by this Court as the disciplining authority.[44]

Thus, a lawyer's use of an erroneous name, with the knowledge that it is wrong, in an instrument that he prepared constitutes an act of dishonesty and deserves rebuke. This Court has been nothing short of exacting in its demand for integrity and good moral character from members of the Bar.

Likewise, respondent should be taken to task for the false statements he made in his Comment. He denied the existence of attorney-client relationship when in truth he was counsel for the complainant. Respondent should be reminded that by taking the lawyer's oath, he became a guardian of truth and the rule of law, and an indispensable instrument in the fair and impartial administration of justice.[45]

The fact that he had already taken his oath of office as a judge when he filed his Comment has made the act even more grievous as it certainly reflects on or affects his judicial functions. Be it stressed that judges are held to higher standards of integrity and ethical conduct than attorneys or other persons not invested with public trust.[46] No position exacts a greater demand on moral righteousness and uprightness of an individual than a seat in the judiciary.[47] In this regard, Canon 2 of the New Code of Judicial Conduct[48] reads in part:

CANON 2

INTEGRITY

Integrity is essential not only to the proper discharge of the judicial office but also to the personal demeanor of judges.

SECTION 1. Judges shall ensure that not only is their conduct above reproach, but that it is perceived to be so in the view of a reasonable observer.

SEC. 2. The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

x x x

Judges are mandated to possess impeccable moral integrity. The rationale for this has been explained by the Court, thus:

The personal and official actuations of every member of the judiciary must be beyond reproach and above suspicion. The faith and confidence of the people in the administration of justice cannot be maintained if a judge who dispenses it is not equipped with the cardinal judicial virtue of moral integrity and if he obtusely continues to commit affront to public decency. In fact, moral integrity is more than a virtue; it is a necessity in the judiciary.[49]

A judge must comport himself at all times in such a manner that his conduct, official or otherwise, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice.[50]

WHEREFORE, in view of the foregoing, respondent judge is hereby REPRIMANDED with a WARNING that a repetition of the same or similar acts shall be dealt with more severely. Let a copy of this resolution be attached to his personal record.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Dated 15 May 1997; Rollo, pp. 1-22 with annexes.

[2] Dated 25 October 1996, LRC No. 95-142; Rollo, pp. 8-12; Annex “B” of the Complaint.

[3] Judge (then Atty.) Arejola was furnished a copy of the Decision. Note page 5 of the Decision dated 25 October 1996, Rollo, p. 12. Respondent was one of the parties whom the court furnished a copy of the Decision.

[4] Dated 3 February 1997, Rollo, pp. 17-18; Annex “E” of the Complaint. The letter was addressed to Atty. Ramon A. Arejola from Rolando L. Bobis, City Legal Officer/ Actg. City Administrator. Paragraph (c) of the letter states: “(c) As appearing on the Deed of Conditional Sale dated August 25, 1994, the representative of Expectacion A. Ziga is Nelia Ziga and not Lilia Ziga as stated in the Decision, hence correction thereto is definitely necessary.”

[5] Rollo, p. 2.

[6] Dated 10 March 1997; Rollo, p. 20; Annex “G” of the Complaint.

[7] Rollo, p. 22; Annex “H” of the Complaint.

[8] Id. at 1-2.

[9] Id. at 24-27.

[10] Id. at 24-25.

[11] Id. at 26.

[12] Dated 8 October 1997, Rollo, pp. 29-33 with annexes.

[13] Dated 31 March 1997, Rollo, pp. 31-32; Annex “1” of the Clarifications on Respondent’s Comment.

[14] Dated 23 January 1995, Rollo, pp. 3-7; Annex “A” of the Complaint.

[15] Dated 25 August 1994, Rollo, pp. 14-15; Annex “C” of the Complaint.

[16] Rollo, p. 29.

[17] Annex “2” of the Clarifications on Respondent’s Comment, Rollo, p. 33.

- [18] Dated 10 November 1997, Rollo, p. 34.
- [19] Dated 18 February 1998, Id. at 37-38.
- [20] Dated 20 November 1997, Id. at 35.
- [21] Id. at 36.
- [22] Id. at 50.
- [23] Id. at 52-55.
- [24] Id. at 56-57.
- [25] Resolution dated 18 July 2001, Rollo, p. 59.
- [26] Rollo, pp. 144-164; TSN dated 26 August 2002, pp. 10-31.
- [27] Id. at 138-143; TSN dated 26 August 2002, pp. 2-9.
- [28] Exhibits “B,” “B-1,” “B-2.”
- [29] Rollo, p. 19; Annex “F” of the Complaint; Exhibits “A,” “A-1.”
- [30] Dated 18 February 1998, Rollo, pp. 37-38; Exhibits “C,” “C-1,” “C-2.”
- [31] Id. at 31-32; Annex 1 of the Clarifications on Respondent’s Comment.
- [32] Exhibits “2,” “2-A,” “2-B,” “2-C,” “2-D,” “2-E,” “2-F,” “2-G.”
- [33] Exhibits “3,” “3-A,” “3-B,” “3-C.”
- [34] Exhibits “4,” “4-A,” “4-B,” “4-C.”
- [35] Exhibit “B” for the Complainant.
- [36] Rollo, pp. 204-206.
- [37] *Ducat, Jr. v. Villalon, Jr.*, 392 Phil. 394, 402 (2000).
- [38] 418 Phil. 346, 351 (2001) citations omitted; *Aromin v. Atty. Boncavil*, 373 Phil. 612, 618 (1999), citations omitted.
- [39] *Supra*, note 37.
- [40] Rollo, p. 205.
- [41] *Ibid.* Citing *Spouses Rabanal v. Atty. Tugade*, 432 Phil. 1064, 1068 (2002).
- [42] CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.
- Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.
- [43] 412 Phil. 419, 424 (2001), citing *Marcelo v. Javier*, Adm. Case No. 3248, September 18, 1992, 214 SCRA 1 (1992).
- [44] *Spouses Rabanal v. Atty. Tugade*, 432 Phil. 1064, 1068 (2002).
- [45] *Ibid.*

[46] OCA v. Judge Estacion, Jr., 317 Phil. 600, 603 (1995), citing *In re Piper*, 534 P. 2d 159 (Or. 1975); *Hayes v. Alabama Ct. of the Judiciary*, 437 So. 2d 1276, 1278 (Ala. 1983).

[47] Atienza V. Brillantes, Jr., 312 Phil. 939, 944 (1995), citing *Imbing v. Tiongzon*, 229 SCRA 690 (1994).

[48] Promulgated on 27 April 2004; Published in the Manila Bulletin and Philippine Star on 3 May 2004; Effective 1 June 2004.

[49] Exec. Judge Naval v. Judge Panday, 341 Phil. 656, 690 (1997).

[50] *Dia-Añonuevo v. Bercacio*, Adm. Matter No. 177-MJ, 27 November 1975, 68 SCRA 81, 89.

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