

PETRA DURUIN SISMAET, COMPLAINANT, VS. ATTY. ASTERIA E. CRUZABRA, RESPONDENT.

A.C. No. 5001. September 07, 2020

Ponente: GAERLAN, J.

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GAERLAN, J.:

For resolution by this Court is a disbarment complaint filed by complainant Petra Durum Sismaet (Sismaet) against respondent Atty. Asteria E. Cruzabra (Atty. Cruzabra) for "gross ignorance of the law; violation of her duty to pay that respect and courtesy due to courts of justice and a violation of the trust and confidence required of her as the Registrar of Deeds of the City of General Santos." [1]

The Facts

Sismaet was among the plaintiffs in Civil Case No. 4749, which is an action for nullification of sale and reconveyance of real property filed with Branch 35 of the Regional Trial Court of General Santos City, involving a parcel of land covered by Transfer Certificate of Title (TCI) No. T-32952. [2]

On January 27, 1993, Sismaet sought the registration of an affidavit of adverse claim on TCT No. T-32952 with the Registry of Deeds of General Santos City. The adverse claim was annotated on the back of the TCT with the signature of Atty. Cruzabra, who was then the Registrar of Deeds of General Santos City. [3]

On May 18, 1993, a mortgage contract between China Banking Corporation and Esteban Co, Jr. (Co), who was one of the defendants in Civil Case No. 4749, was annotated on the back of the TCT. [4] On February 15, 1994, Co sought the registration of an Affidavit of Cancellation for Adverse Claim, directed at the adverse claim earlier filed by Sismaet. [5] This Affidavit was likewise inscribed on the TCT, still with the signature of Atty. Cruzabra, [6] effectively cancelling Sismaet's adverse claim.

Sismaet alleges that by reason of the annotation of the mortgage contract on the TCT, she and her co-plaintiffs were forced to move for the amendment of their complaint to implead China Banking Corporation as additional defendant. She further blames Atty. Cruzabra for allowing the annotation of the mortgage contract and the Affidavit of Cancellation of Adverse Claim knowing full well that the property subject of the TCT is still under litigation.

On September 3, 1998, Sismaet moved to cite Atty. Cruzabra in contempt for allowing the annotation of the mortgage contract and the Affidavit of Cancellation of Adverse Claim. [7] The next day, Sismaet filed [8] the present disbarment complaint with the Office of the Bar Confidant (OBC).

On September 18, 1998, Atty. Cruzabra filed an Answer. She asserted that the annotation of the Affidavit of Cancellation of Adverse Claim was proper. Under Section 70 of the Property Registration Decree, [9] an adverse claim annotated on a TCT is effective only for 30 days from the date of registration. Thus, Sismaet's adverse claim should be deemed to have expired 30 days after January 27, 1993, when it was registered; and Co's affidavit of cancellation was made well after the expiration of Sismaet's adverse claim. [10] Atty. Cruzabra further averred

that her duty to annotate affidavits and instruments on TCTs is ministerial in nature; hence she cannot refuse the annotation of the mortgage contract and the affidavit of cancellation of the adverse claim.[11] In a Comment dated March 24, 1999,[12] Atty. Cruzabra further stated that the complaint should be dismissed for violation of the rule against forum shopping, considering that the propriety of the annotation of the mortgage contract and the affidavit of cancellation of the adverse claim is the very same issue involved in Sismaet's contempt motion against Atty. Cruzabra before the trial court, which was already denied by the trial court. Sismaet filed a Reply[13] dated May 3, 1999, to Atty. Cruzabra's Comment, arguing that contrary to Atty. Cruzabra's assertion, an adverse claim does not expire in 30 days and can only be cancelled through a court order.

After a further exchange of pleadings, this Court ordered the referral of the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[14] After multiple motions for postponement or resetting filed by both parties,[15] including a Manifestation with Motion to Terminate Proceedings[16] dated November 7, 2005 filed by Atty. Cruzabra, the IBP Commission on Bar Discipline (TBP-CBD) finally rendered a Report and Recommendation[17] dated January 17, 2006.

The IBP-CBD recommended that the case be dismissed. It concurred with Atty. Cruzabra's contention that an adverse claim is effective only for 30 days; hence, Atty. Cruzabra was justified in annotating the cancellation of the adverse claim which was filed after the 30-day period. Furthermore, pursuant to the Resolution[18] of this Court dated August 11, 1999, the Land Registration Authority also conducted an investigation into the matter and found that the grounds cited in Sismaet's petition do not constitute valid grounds for holding Atty. Cruzabra administratively liable.[19]

Issue

The sole issue for this Court's resolution is whether or not Atty. Cruzabra should be administratively sanctioned for allowing the annotation of the mortgage contract and affidavit of cancellation of adverse claims on TCT No. T-32952 despite fully knowing of the existence of, and even being impleaded in, Civil Case No. 4749 before Branch 35 of the Regional Trial Court of General Santos City.

Ruling of the Court

It must be emphasized at the outset that Sismaet seeks to hold Atty. Cruzabra liable for acts committed in the latter's capacity as Registrar of Deeds. The general rule in this jurisdiction is that "a lawyer who holds a government office may not be disciplined as a member of the bar for misconduct in the discharge of his duties as a government official." [20] However, if the government official's misconduct "is of such a character as to affect his qualification as a lawyer or to show moral delinquency, he may be disciplined as a member of the bar on such ground." [21]

However, another line of cases holds that the IBP has no jurisdiction over government lawyers charged with administrative offenses involving their official duties.[22] This is because government lawyers who are acting in their official capacities are within the jurisdiction of the disciplinary authorities of the government, including the Ombudsman and the Sandiganbayan. In *Sps. Buffe v. Gonzalez, et al.*, [23] this Court, speaking through Justice Antonio T. Carpio, explained that:

Indeed, the IBP has no jurisdiction over government lawyers who are charged with administrative offenses involving their official duties. For such acts, government lawyers fall under the disciplinary authority of either their superior or the Ombudsman. Moreover, an anomalous situation will arise if the IBP asserts jurisdiction and decides against a government lawyer, while the disciplinary authority finds in favor of the government lawyer. [24]

The jurisdiction of the IBP to investigate members of the Bar in the government service is based not only on the applicability of the Lawyer's Oath to all lawyers, whether in the government or in the private sector; but also on Canon 6 of the Code of Professional Responsibility. Thus, in *Abella v. Barrios, Jr.*,^[25] this Court clarified that:

[Rules 1.01, 1.03, and 6.02 of the Code of Professional Responsibility], which are contained under Chapter 1 of the Code, delineate the lawyer's responsibility to society: Rule 1.01 engraves the overriding prohibition against lawyers from engaging in any unlawful, dishonest, immoral and deceitful conduct; Rule 1.03 proscribes lawyers from encouraging any suit or proceeding or delaying any man's cause for any corrupt motive or interest; meanwhile, Rule 6.02 is particularly directed to lawyers in government service, enjoining them from using one's public position to: (1) promote private interests; (2) advance private interests; or (3) allow private interests to interfere with public duties. It is well to note that a lawyer who holds a government office may be disciplined as a member of the Bar only when his misconduct also constitutes a violation of his oath as a lawyer.^[26] (Citations omitted, emphasis and underscoring supplied)

In *Collantes v. Atty. Renomeron*,^[27] where this Court disbarred the Register of Deeds of Tacloban City for refusing the registration of 163 deeds of assignment after applicant's counsel refused to buy him a plane ticket, this Court held:

The issue in this disbarment proceeding is whether the respondent register of deeds, as a lawyer, may also be disciplined by this Court for his malfeasances as a public official. The answer is yes, for his misconduct as a public official also constituted a violation of his oath as a lawyer.

The lawyer's oath (Rule 138, Section 17, Rules of Court; *People vs. De Luna*, 102 Phil. 968), imposes upon every lawyer the duty to delay no man for money or malice. The lawyer's oath is a source of his obligations and its violation is a ground for his suspension, disbarment or other disciplinary action.

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The Code of Professional Responsibility applies to lawyers in government service in the discharge of their official tasks. Just as the Code of Conduct and Ethical Standards for Public Officials requires public officials and employees to process documents and papers expeditiously and prohibits them from directly or indirectly having a financial or material interest in any transaction requiring the approval of their office, and likewise bars them from soliciting gifts or anything of monetary value in the course of any transaction which may be affected by the functions of their office, the Code of Professional Responsibility forbids a lawyer to engage in unlawful, dishonest, immoral or deceitful conduct, or delay any man's cause "for any corrupt motive or interest."^[28] (Citations omitted, emphasis and underscoring supplied)

The foregoing jurisprudence clearly shows that the inquisitorial power of the EBP over government lawyers is limited to cases of misconduct amounting to violation of either the Lawyers' Oath or the Code of Professional Responsibility. Nevertheless, the Supreme Court, as the primary authority over the Philippine bar, retains disciplinary jurisdiction over government lawyers.

In this case, the alleged violations of Atty. Cruzabra were committed in her capacity as Registrar of Deeds of General Santos City. She was accused of "gross ignorance of the law, violation of her duty to pay that respect and courtesy due to courts of justice, and a violation of the trust and confidence required of her as the Registrar of Deeds of the City of General Santos"^[29] for her act of annotating an affidavit of cancellation on Sismaet's adverse claim. Gross ignorance of the law

has been defined as "the disregard of basic rules and settled jurisprudence"^[30] or the commission of a "gross or patent, deliberate or malicious" error.^[31] Gross ignorance of the law "connotes a blatant disregard of clear and unambiguous provisions of law because of bad faith, fraud, dishonesty, or corruption"^[32] In *Tadlip v. Atty. Borres, Jr.*,^[33] this Court applied the same definition to sanction a DARAB provincial adjudicator, viz.:

Respondent is not only a lawyer practicing his profession, but also a provincial adjudicator, a public officer tasked with the duty of deciding conflicting claims of the parties. He is part of the quasi-judicial system of our government. Thus, by analogy, the present dispute may be likened to administrative cases of judges whose manner of deciding cases was similarly subject of respective administrative cases.

To hold the judge liable, this Court has time and again ruled that the error must be "so gross and patent as to produce an inference of ignorance or bad faith or that the judge knowingly rendered an unjust decision." It must be "so grave and on so fundamental a point as to warrant condemnation of the judge as patently ignorant or negligent." Otherwise, to hold a judge administratively accountable for every erroneous ruling or decision he renders, assuming that the judge erred, would be nothing short of harassment and that would be intolerable.[34]

After a thorough consideration of the facts, the applicable law, and respondent's previous disciplinary record, this Court finds that Atty. Cruzabra was remiss in the discharge of her duties, not only as Register of Deeds, but also as an attorney and officer of the court. While the registration of instruments and affidavits is indeed a ministerial duty of the Register of Deeds, it has also been held that the Register of Deeds may refuse registration of an instrument or affidavit when the ownership of the real property covered by such instrument or affidavit is under litigation.[35] In the case at bar, not only was Atty. Cruzabra fully aware of the pendency of Civil Case No. 4749 wherein Co was a defendant, she herself was likewise impleaded therein. Consequently, the more prudent course of action was for Atty. Cruzabra to refuse the registration of Co's affidavit of cancellation, considering that Sismaet's adverse claim was still being litigated at the time Co filed his affidavit. The law allows the annotation of an adverse claim on a certificate of title in order to protect a party's interest in a real property and to notify third persons that there is a controversy over the ownership of a particular real property.[36] Thus, by the annotation of Co's affidavit of cancellation, Sismaet lost the protection afforded by the adverse claim. Furthermore, the cancellation of the adverse claim amounts to a notice to third parties that the controversy over the disputed property has abated, even if it continues to persist in fact. It is settled law that the Register of Deeds cannot unilaterally cancel an adverse claim.[37] As early as 1958,[38] this Court has already ruled that an adverse claim can only be cancelled by a court after a hearing conducted for that purpose.[39] Thus, Atty. Cruzabra's reliance on her own interpretation of the provisions of the Property Registration Decree is unjustified. As Register of Deeds, Atty. Cruzabra is obliged to be fully aware and cognizant of the laws and jurisprudence on land registration. By annotating Co's affidavit of cancellation of Sismaet's adverse claim and Co's mortgage contract with China Bank, Atty. Cruzabra not only demonstrated unjustifiable ignorance of land registration laws but also pre-empted the trial court's exclusive power to cancel Sismaet's adverse claim, in violation of the Lawyer's Oath, Rule 138, Section 20(b) of the Rules of Court,[40] and Canon 11 of the Code of Professional Responsibility.[41]

However, there is no showing from the records that Atty. Cruzabra's annotation of the affidavit of cancellation of Sismaet's adverse claim was motivated by any corrupt, malicious, or deliberate intent to harm, defraud or disadvantage Sismaet. Furthermore, the disciplinary authority with jurisdiction over Atty. Cruzabra, i.e., the Land Registration Authority, has found that the acts complained of do not constitute valid grounds for holding her administratively liable.

In determining the appropriate penalty, We also consider Atty. Cruzabra's previous disciplinary record. In *Office of the Ombudsman (Mindanao) v. Cruzabra*,[42] We affirmed the Ombudsman's ruling suspending her for one month without pay for simple neglect of duty, after a land registration examiner in her office made an illegal intercalation in a certificate of title. Likewise, in *Abella v. Atty. Cruzabra*[43] We reprimanded Atty. Cruzabra for engaging in notarial practice in relation to her position as then-Deputy Registrar of Deeds without written authority from the Secretary of Justice. Given the severity of her infraction, the absence of bad faith attendant thereto, and the previous sanctions meted against Atty. Cruzabra, this Court finds that a six-month suspension

from the practice of law is most appropriate.

WHEREFORE, this Court SUSPENDS respondent Atty. Asteria E. Cruzabra from the practice of law for six (6) months effective upon receipt of this Decision, with a STERN WARNING that a repetition of the same or similar acts will be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant; the Integrated Bar of the Philippines; and the Office of the Court Administrator for dissemination to all courts throughout the country.

SO ORDERED.

Leonen, (Chairperson), Gesmundo, Carandang, and Zalameda, JJ., concur.

[1] Rollo, p. 11.

[2] Id. at 6-8.

[3] Id. at 7.

[4] Id. at 9.

[5] Id. at 34.

[6] Id. at 8.

[7] Id. at 10-11.

[8] Id. at 13.

[9] PRESIDENTIAL DECREE No. 1529.

[10] Rollo, p. 34.

[11] Id. at 36-37.

[12] Id. at 124-129.

[13] Id. at 159-165.

[14] Id. at 196.

[15] Id. at 241-254.

[16] Id. at 284-291.

[17] Id. at 307-311; signed by Commissioner Milagros V. San Juan. Rollo, pp. 307-311.

[18] Id. at 238.

[19] Id. at 292-295.

[20] *Fuji v. Atty. Dela Cruz*, 807 Phil. 1 (2017); *Facturan v. Prosecutor Barcelona*, 786 Phil. 493, 499 (2016); *Berenguer-Landers v. Atty. Florin, et al.*, 709 Phil. 562, 572 (2013); *Olazo v. Justice Tinga (Ret.)*, 651 Phil. 290, 298 (2010); *Huyssen v. Atty. Gutierrez*, 520 Phil. 117 (2006); *Atty. Vitriolo v. Atty. Dasig*, 448 Phil. 199 (2003); *Dinsay v. Atty. Cioco*, 332 Phil. 740 (1996); *Dy v. Miranda, et al.*, 274 Phil. 837, 844 (1991); *Gonzales-Austria v. Judge Abaya*, 257 Phil. 645, 659-660 (1989); *Garcia, et al. v. Milla*, 121 Phil. 849 (1965).

- [21] Olazo v. Justice Tinga (Ret.); Atty. Vitriolo v. Atty. Dasig; Dy v. Miranda, et al., id.
- [22] Segura v. Garachico-Fabila, A.C. No. 9837, September 2, 2019; Trovela v. Robles, A.C. No. 11550, June 4, 2018, 864 SCRA 1, 8; Alicias v. Atty. Macatangay, 803 Phil. 85, 90-92 (2017); Sps. Buffe v. Gonzalez, et al., 797 Phil. 143 (2016).
- [23] Sps. Buffe v. Gonzales, et al., id.
- [24] Id. at 151-152.
- [25] 711 Phil. 363 (2013).
- [26] Id. at 370.
- [27] 277 Phil. 668 (1991).
- [28] Id. at 672-673.
- [29] Rollo, p. 11.
- [30] Chief State Prosecutor Zuño v. Judge Cabredo, 450 Phil. 89, 97 (2003).
- [31] Alfelor v. Judge Diaz, 813 Phil. 544, 552-553 (2017).
- [32] In re Villamin, IPI No. 17-256-CA-J, February 18, 2020; In re Enalbes, A.M. No. 18-11-09-SC, January 22, 2019.
- [33] 511 Phil. 56 (2005).
- [34] Id. at 64-65.
- [35] See Balbin, et al. v. Register of Deeds of Ilocos Sur, 138 Phil. 12, 16-17 (1969).
- [36] Valderama v. Arguelles, G.R. No. 223660, April 2, 2018, citing Martinez v. Garcia, et al., 625 Phil. 377, 383-384 (2010) and Arrazola v. Bernas, 175 Phil. 452, 456-457 (1978).
- [37] Diaz-Duarte v. Spouses Ong, 358 Phil. 876, 884 (1998).
- [38] Ty Sin Tei v. Lee Dy Piao, 103 Phil. 858 (1958).
- [39] Torbela v. Spouses Rosario, 678 Phil. 1 (2011).
- [40] SECTION 20. Duties of attorneys. - It is the duty of an attorney: x x x (b) To observe and maintain the respect due to the courts of justice and judicial officers.
- [41] CANON 11 - A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.
- [42] 627 Phil. 363 (2010).
- [43] 606 Phil. 200 (2009).

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