

EMILIANA M. EUSTAQUIO, PIORILLO GUTIERREZ RUBIS AND ALICIA MONTERO RUBIS, COMPLAINANTS, VS. ATTY. REX C. RIMORIN, RESPONDENT.

A.C. No. 5081. March 24, 2003

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In a verified complaint[1] filed before this Court on June 17, 1999, complainants Emiliana M. Eustaquio, Piorillo G. Rubis, and Alicia M. Rubis charged Atty. Rex C. Rimorin with grave misconduct for allegedly falsifying certain documents which enabled him to sell complainants' land without their knowledge and consent.

It appears from the records that on July 30, 1979, the spouses Piorillo Gutierrez Rubis and Alicia Montero Rubis were given title to a parcel of land located at Dizon Subdivision, Baguio City and covered by TCT No. T-30444 of the Baguio City Registry of Deeds.

On June 22, 1991, while complainants Piorillo and Alicia Rubis were both in the United States, respondent Atty. Rex C. Rimorin executed a Special Power of Attorney[2] purportedly notarized, with the Rubis spouses present and appearing on June 22, 1991, before Notary Public E.M. Fallarme of Baguio City.[3] Using this spurious special power of attorney, respondent Rimorin subsequently executed on July 3, 1991, a Deed of Absolute Sale[4] over the same property in favor of Mr. and Mrs. So Hu, of Baguio City. The execution of this deed of sale resulted in the issuance on July 5, 1991, of TCT No. 40835[5] over the land in favor of the So Hu spouses.

In November 1997, complainant Alicia Rubis came to the Philippines for a brief visit. While she was still unaware of the forgeries already perpetrated by respondent Atty. Rimorin, she was inveigled into signing a memorandum of agreement[6] between complainants Rubis and So Hu spouses dated November 29, 1997, containing the following provisions:

That the FIRST PARTY (Plaintiff Alicia Montero Rubis) is the registered owner of a parcel of land situated at Dizon Subdivision, Baguio City, more particularly covered and described under TCT No. 30444 containing an area of FIVE HUNDRED SEVEN (SIC) ONE (571) SQUARE METERS more or less....

That the FIRST PARTY who is now a resident of Virginia, USA, intends to sell the above described property to any interested buyer and by these presents has offered the said property for sale to the SECOND PARTY who agrees to purchase the same subject to the following terms and conditions....

On February 26, 1998 the title of the So Hu spouses was cancelled and in its place TCT No. 69071[7] was issued in the name of spouses Danilo T. de Vera and Estrellita S. Mercado, both of Baguio City.

On July 21, 1999, this Court issued a resolution[8] directing respondent Atty. Rimorin to file his comment on the instant complaint within ten (10) days from notice of the resolution. On December 28, 1999, complainants filed a manifestation with motion[9] alleging that copies of pleadings sent to respondent's known address have been returned with a notation that respondent was "abroad." [10] They also made reference to other processes and

pleadings, in a civil and a criminal case, likewise filed by complainants against respondent, which were unsuccessfully served because respondent was in the United States as shown by attached return cards. Hence, complainants prayed respondent be deemed to have waived his right to comment and that, accordingly, investigation of the case be conducted even without respondent's comment.[11]

In a resolution[12] dated February 2, 2000, this Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. Subsequently, Commissioner Milagros V. San Juan of the Commission on Bar Discipline of the IBP issued an order[13] requiring respondent Atty. Rimorin to submit his duly verified answer within 15 days from receipt of the order. In another order[14] dated October 24, 2000, Commissioner San Juan reiterated her previous order.

Because of respondent's failure to file his answer, the Commission resolved to declare respondent to have waived his right to file an answer and the case was deemed submitted for resolution. Hearings were conducted and on November 13, 2001, the Investigating Commissioner found respondent Atty. Rimorin guilty of grave misconduct and recommended his disbarment. Thus:

The execution of the memorandum of agreement dated November 29, 1997 was made apparently to remedy the fraud committed in the execution of the Special Power of Attorney to give it semblance of legality. However, the dates of the documents is a clear give away that fraud has been committed. The Memorandum of Agreement is dated November 29, 1999 yet the Deed of Sale in favor of Spouses So Hu was executed July 3, 1991; the Special Power of Attorney was executed on June 22, 1991; the executed fraudulent Special Power of Attorney resulted to the subsequent sales, all manipulated by the respondent. These facts remain uncontroverted by the respondent.

In view of all the foregoing, it is respectfully recommended that the respondent Atty. Rex C. Rimorin be DISBARRED from practice of law.[15]

On June 29, 2002, the Board of Governors of the Integrated Bar of the Philippines passed a resolution[16] in Administrative Case No. 5081 resolving and adopting the report and recommendation[17] of the Investigating Commissioner with modification that respondent be suspended instead of disbarred. Said resolution reads as follows:

RESOLUTION NO. XV-2002-227
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RESOLVED to ADOPT and APPROVE, as it hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, with modification, and in view of respondent's execution of the Memorandum of Agreement was made apparently to remedy the fraud committed in the execution of the Special Power of Attorney to give it semblance of legality, Respondent is hereby SUSPENDED from the practice of law for five (5) years and Revocation of his Notarial Commission and Perpetual Disqualification from being appointed as Notary Public.[18]

Said resolution is now before us for confirmation.

Time and again, we have stressed the settled principle that the practice of law is not a right but a privilege bestowed by the State on those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege.[19] Membership in the bar is a privilege burdened with conditions. A high sense of morality, honesty, and fair dealing is expected and required of a member of the bar. Rule 1.01 of the

Code of Professional Responsibility provides that, “A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.”[20] The nature of the office of a lawyer requires that he shall be of good moral character. This qualification is not only a condition precedent to the admission to the legal profession, but its continued possession is essential to maintain one’s good standing in the profession.[21] A lawyer can be deprived of his license for misconduct ascertained and declared by judgment of the Court after giving him the opportunity to be heard.[22]

The power of the Court to discipline lawyers should not, however, be exercised in an arbitrary and despotic manner. Neither should it be exercised at the pleasure of the Court or from passion, prejudice or personal hostility. The Court’s power to discipline members of the bar should be tempered by a sound and just judicial discretion, whereby the rights and independence of the bar may be scrupulously guarded and maintained by the Court as the rights and dignity of the Court itself.[23]

In *Montano v. Integrated Bar of the Philippines*,[24] we said that the power to disbar must be exercised with great caution. Only in a clear case of misconduct that seriously affects the standing and character of the lawyer as an officer of the Court and member of the bar will disbarment be imposed as a penalty. It should never be decreed where a lesser penalty, such as temporary suspension, would accomplish the end desired.

In this case, despite having been furnished copies of orders requiring him to file comment or a verified answer, respondent Atty. Rimorin failed to file any comment or an answer. The dates of the documents attached in the complaint and presented during the investigation before the IBP clearly show, as reported, that fraud has been committed by him. The Memorandum of Agreement, where respondent purportedly bought the subject property from complainant Alicia Rubis, was dated November 29, 1997; yet the Deed of Sale in favor of the Spouses So Hu, signed and executed by respondent purportedly as agent of complainants, was executed earlier on July 3, 1991. In fact, at the time the Memorandum of Agreement was executed, a new TCT had already been issued to the Spouses So Hu on July 5, 1991. The Special Power of Attorney in respondent’s favor was allegedly executed on June 22, 1991, when complainant spouses were still in the United States and could not have possibly signed it in Baguio City, much less appear before the notary to acknowledge it. These facts remain uncontroverted by respondent.

It is clear that respondent’s execution of the Memorandum of Agreement was made, as alleged by complainants, to remedy the fraud committed in the execution of the Special Power of Attorney and to give it semblance of legality. In the absence of satisfactory explanation, one found in possession of and who used a forged document, taking advantage thereof and profiting thereby, is presumed the forger or the material author of the falsification.[25] This presumption has not been rebutted by respondent.

Respondent’s deceitful conduct makes him less than worthy of his continued practice of law. A lawyer is expected at all times to uphold the integrity of the legal profession.[26] Commission of grossly immoral conduct and deceit are grounds for suspension or disbarment of lawyers.[27] Whenever it is made to appear to the Supreme Court that an attorney is no longer worthy of the trust and confidence of the public, it becomes not only the right but the duty of the Court which made him one of its officers and gave him the privilege of ministering within its bar to withdraw the privilege.[28]

On the basis of the records before us, we have no hesitation in confirming the resolution passed by the IBP Board of Governors suspending respondent from the practice of law and revoking his notarial commission as well as disqualifying him perpetually from being appointed as notary public.

WHEREFORE, Atty. Rex C. Rimorin is hereby **SUSPENDED** from the practice of law for five (5) years. His commission as Notary Public is revoked, and he is perpetually disqualified from appointment as Notary Public.

Let a copy of this Resolution be FURNISHED to the IBP, the OCA, and the Bar Confidant to be spread on the personal records of respondent and for circulation to all courts in the Philippines.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Puno, Vitug, Mendoza, Panganiban, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr. and Azcuna, JJ., concur.
Ynares-Santiago, J., on leave.

[1] Rollo, pp. 1-5.

[2] Id. at 7.

[3] Id. at 8.

[4] Id. at 9-10.

[5] Id. at 11.

[6] Id. at 3.

[7] Id. at 12.

[8] Id. at 13.

[9] Id. at 22-24.

[10] Id. at 28.

[11] Id. at 23.

[12] Id. at 48-49.

[13] Records, Vol. III, p. 1.

[14] Id. at 2.

[15] Rollo, p. 55.

[16] Id. at 51.

[17] Id. at 52-55.

[18] Supra note 16.

[19] Sebastian v. Calis, A.C. No. 5118, 9 September 1999, 314 SCRA 1, 8; Arrieta v. Llosa, 346 Phil. 932, 939 (1997).

[20] See also Co v. Bernardino, 349 Phil. 16, 23 (1998).

[21] Calub v. Suller, A.C. No. 1474, 28 January 2000, 323 SCRA 556, 560; Tapucar v. Tapucar, 355 Phil. 66, 74 (1998); Rayos-Ombac v. Rayos, 349 Phil. 7, 15 (1998).

[22] Marcelo v. Javier, Sr., A.C. No. 3248, 18 September 1992, 214 SCRA 1, 13.

[23] In re Almacen, No. L-27654, 18 February 1970, 31 SCRA 562, 602.

[24] A.C. No. 4215, 21 May 2001, 358 SCRA 1, 9.

[25] See *Maliwat v. Court of Appeals*, 326 Phil. 732, 750 (1996).

[26] *Tapucar v. Tapucar*, 355 Phil. 66, 74 (1998).

[27] *Vda. de Mijares v. Villaluz*, 340 Phil. 164, 171 (1997).

[28] *In re Almacen*, No. L-27654, 18 February 1970, 31 SCRA 562, 601-602, *In re Paraiso*, 41 Phil. 24 (1920), *In re Sotto*, 38 Phil. 532, 549 (1918).

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