LEILANI OCAMPO-INGCOCO AND BALTAZAR D. OCAMPO, COMPLAINANTS, VS. ATTY. ALEJANDRO G. YRREVERRE, JR., RESPONDENT.

A.C. No. 5480. September 29, 2003

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

In a verified Complaint dated July 11, 2001,[1] Leilani Ocampo-Ingcoco and Baltazar D. Ocampo filed an administrative complaint before the Court charging respondent Atty. Alejandro G. Yrreverre, Jr. for "unethical and unprofessional conduct in violation of his duty as a lawyer,"[2] praying that on the basis of the facts alleged therein, the said respondent be disbarred and/or administratively sanctioned.

The complainants alleged that on April 17, 2000, the respondent notarized a falsified Deed of Absolute Sale[3] involving a parcel of land then registered under the name of their parents, Pacita and Hermilindo Ocampo under Transfer Certificate of Title (TCT) No. T-31064.[4] The alleged vendee, Rosita S. Billones, falsified their father's signature and caused the notarization of the deed before the respondent. The complainants alleged that on the date the Deed of Absolute Sale was purportedly notarized, their mother was in Isabela with her children. As such, it was impossible for her to appear before the respondent on the said date. Furthermore, their father, Hermilindo, had been dead for more than a year and could not have appeared before the respondent to attest to the truth of the matters contained in the deed.

The respondent's illegal act of notarizing the said deed without the parties thereto appearing before him was compounded by the fact that he even placed a Community Tax Certificate (CTC) Number, which was not issued to Pacita, but to a certain Edelia M. Balingan on March 6, 2000.[5] As a consequence of the respondent's acts, Rosita Billones and her husband were able to transfer the subject property in their names despite the non-payment of the purchase price. TCT No. T-31064 was thus cancelled, and a new TCT was issued in the name of the Billones Spouses, TCT No. T-75256.[6]

The complainants later learned that the respondent apparently had a personal interest in the subject property, as it was later mortgaged to JCY Loans and Mortgage, Inc., a company owned by the respondent, and for whom the latter also acted as legal counsel. Rosita Billones secured a loan from JCY Loan and Mortgage, Inc. and used the subject property as collateral.[7]

On November 15, 2000, Pacita filed a civil case for nullification of the deed of sale and reconveyance of title to real property before the Regional Trial Court of Las Piñas City, Branch 275, docketed as Civil Case No. LP-00-230.[8] In an apparent attempt to protect his interests, the respondent entered his appearance as counsel for the Billones Spouses.[9] The complainants also filed a criminal case for estafa through falsification against the Billones Spouses.[10]

The complainants further alleged that the respondent, although acting as counsel for the Billones Spouses in the said civil case, also acted as counsel for JCY Loans and Mortgage, Inc., which had earlier filed a civil case against

the same spouses.[11] The respondent also entered his appearance as counsel for JCY Loans and Mortgage, Inc., which moved to intervene in Civil Case No. LP-00-0230.[12] According to the complainants, such act of the respondent was unprofessional and unethical, as he counseled for parties with conflicting interests. Furthermore, based on the respondent's actuations and those of the Billones Spouses, it was most likely that they connived with one another in defrauding the Ocampo family.[13]

On May 24, 2001, the respondent wrote a letter to the Ocampo family, denying the charges against him, thus:

> - Before the execution of the Deed of Sale, you together with Debbi Abendano and Mrs. Billones personally came to the office of our client at Makati City on or before April 2000, and requested to accommodate the loan application of Mrs. Billones using your house and lot as collateral so that the loan proceeds thereof, part of which, will be paid to you as additional of her down payment of PHP=1,000,000.
>
> - As a matter of fact, you personally submitted to our client through the undersigned lawyer the following documents: (a) Your receipt of the down payment of PHP=1,000,000 from Sps. Billones, (b) Contract to Sell between Sps. Billones and yourself; (c) Philamlife and (d) Price Smart ID's and (e) your Cedula, copies of which are hereto attached as Annexes "A", "B", "C", "D" and "E";
>
> - Further, you were the one who personally delivered to the undersigned the original copy of TCT No. 31064 together with other related documents such as tax declarations, vicinity map. In addition, you even signed in the presence of the undersigned a Special Power of Attorney (copy of which is hereto appended as Annex "F") empowering Mrs. Billones to use your real property as collateral with our client;
>
> - Finally, you executed the subject Deed of Sale in front of ATTY. ALEJANDRO G. YRREVERRE, JR. together with the witnesses in favor of SPS. Billones for the sum of PHP=1,000,000. When asked by the notary public about the signing of your husband, you requested that he will sign it in your house because your husband is so sick and old and that he could not come to office for that purpose. Banking on your representation, the notary public agreed and later the said Deed of Sale was returned back to the latter.[14]

In a Resolution dated April 3, 2002, the Court referred the case to the Integrated Bar of the Philippines (IBP), for investigation, report and recommendation/decision.[15]

Commissioner Dennis B. Funa of the IBP Commission on Bar Discipline thereafter submitted a Report and Recommendation dated July 4, 2002, with the following findings and recommendations:

> 1. On the Charge of Conflict of Interest.
>
> We adopt in toto the arguments of respondent in quoting Canon 6, Canon[s] of Professional Ethics, which provides for an exception to the rule on conflict of interest, to wit:
> "except by express consent of all the parties concerned given after a full disclosure of facts."

2. On the charge of Notarizing Deed of Sale Without the Affiants.

Respondent herein had all but admitted this particular charge and, in fact, is willing to face the appropriate sanction. Respondent furthermore pleads for leniency and consideration.

Accordingly, Respondent is found NOT GUILTY with respect to the charge of Conflict of Interest. However, Respondent is found GUILTY of notarizing a document supposedly executed by Mr. Hermilindo P. Ocampo, who was actually deceased at the time of the notarization. Respondent is also found GUILTY and responsible for the use of a Community Tax Certificate (CTC) that did not belong to affiant Mrs. Pacita Ocampo, but instead belonged to another person.

PREMISES CONSIDERED, it is submitted that respondent is GUILTY of the offenses charged, discussed above,

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and should be given the penalty of ONE (1) MONTH SUSPENSION with a STERN WARNING that repetition of said acts will warrant a more severe penalty.[16]

On the issue of
representing clients with
conflicting interests

The respondent cannot be held liable for representing conflicting interests in acting as defense counsel for the Billiones Spouses in Civil Case No. LP-00-0230 while acting as counsel for defendant-intervenor JCY Loans and Mortgage, Inc. in the same case. The evidence presented by the respondent shows that when the Billones Spouses secured his services as counsel, they were made fully aware of the pertinent facts and circumstances. Their consent and written conformity was obtained after full disclosure of the facts of the case.[17] They even submitted a verified written manifestation of conformity to show proof that the respondent was hired with their approval.[18]

One of the recognized exceptions to the rule against a lawyer's representation of clients with conflicting interests is where the clients knowingly consent to the dual representation after the prospective counsel makes full disclosure of the facts to the parties.[19]

On the issue of notarizing a
deed without requiring the
parties to be present to attest to
the truth of the matters
contained therein

The respondent maintains that Mrs. Pacita Ocampo was present when he notarized the deed of sale, but admitted that Mr. Hermilindo Ocampo did not appear before him. The respondent claims that he acted in good faith, and had no knowledge that Mr. Ocampo, the other party to the document, was already deceased. It was Mrs. Ocampo who led him to believe that her husband was merely ill -

> ... In yielding to Mrs. Ocampo's plea, I just acted out of passion, generosity and kindness to her to facilitate the processing of the loan as she also intimated to me during the meeting that she was also in dire need of money to be used for her husband's recovery. ...[20]

The respondent further explained that he took precautionary measures to safeguard the public interest by making specific instructions to Rosita S. Billones and Deborah Hernandez Abendano to be present when Mr. Ocampo affixed his signature, and not to use the subject deed unless and until he got hold of Mr. Ocampo's CTC. No damage was caused to any party, since what facilitated the transfer of the property was a subsequent Deed of Transfer entered into by and between the same parties. As such, the subject deed was without any legal effect and a "mere scrap of paper."[21]

The respondent's arguments are without merit. Section 1 of Public Act No. 2103[22] provides:

> (a) The acknowledgment shall be made before a notary public or an officer duly authorized by law of the country to take acknowledgments of instruments or documents in the place where the act is done. The notary public or the officer taking the instrument or document is known to him and that he is the same person who executed it, and acknowledged that the same is his free act and deed. The certificate shall be made under his official seal, if he is by law required to keep a seal, and if not, his certificate shall so state.

It is thus clear from the foregoing that a notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before the said notary public to

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attest to the contents and truth of what are stated therein.[23]

Notarization is not an empty, meaningless, routinary act. On the contrary, it is invested with substantial public interest, such that only those who are qualified or authorized may act as notaries public. Notarization of a private document converts the document into a public one making it admissible in court without further proof of its authenticity. A notarial document by law is entitled to full faith and credit upon its face and, for this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties. Otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.[24]

When the respondent notarized the Deed of Absolute Sale without ascertaining that the vendors-signatories thereto were the very same persons who executed it and personally appeared before him to attest to the truth of what were stated therein, he undermined the confidence of the public on notarial documents and thereby breached Canon I of the Code of Professional Responsibility which requires lawyers to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes, and Rule 1.01 thereof which proscribes lawyers from engaging in unlawful, dishonest, immoral or deceitful conduct.[25] In acknowledging that the parties personally came and appeared before him, the respondent also made an untruthful statement, thus violating Rule 10.01 of the Code of Professional Responsibility and his oath as a lawyer that he shall do no falsehood.[26] Moreover, he opens himself to prosecution for falsification of a public document under Article 171 of the Revised Penal Code.

In Maligsa v. Cabanting,[27] we had the occasion to state:

> As a lawyer commissioned as notary public, respondent is mandated to subscribe to the sacred duties appertaining to his office, such duties being dictated by public policy and impressed with public interest. Faithful observance and utmost respect of the legal solemnity of an oath in an acknowledgment or jurat is sancrosanct. Simply put, such responsibility is incumbent upon respondent and failing therein, he must now accept the commensurate consequences of his professional indiscretion. ...[28]

We take note of the respondent's remorseful attitude and his willingness to forego his notarial work or accept severe censure, reprimand and admonition from the Court.[29] We agree that the penalty of disbarment is too excessive and is not commensurate to the faux pas committed by the respondent.

IN LIGHT OF ALL THE FOREGOING, for breach of the notarial law, the commission of respondent Atty. Alejandro G. Yrreverre, Jr. as Notary Public, if still existing, is REVOKED. He is disqualified from being commissioned as such for a period of two (2) years.

Respondent Atty. Alejandro G. Yrreverre, Jr. is also SUSPENDED from the practice of law for a period of Six (6) Months effective immediately for violation of Rule 10.01 of the Code of Professional Responsibility. He is DIRECTED to report the date of his receipt of this Decision to the Court to enable us to determine when the revocation of his notarial commission and his disqualification from being commissioned as Notary Public as well as when his suspension from the practice of law shall have taken effect.

Let copies of this Decision be furnished the Office of the Bar Confidant and the Integrated Bar of the Philippines.

SO ORDERED.

Bellosillo, (Chairman), Quisumbing, Austria-Martinez and Tinga, JJ., concur.

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[1] Rollo, pp.1-5.

[2] Id. at 4.

[3] Annex "C," Id. at 8.

[4] Annex "B," Id. at 7.

[5] Annex "D," Id. at 10.

[6] Annex "E," Id. at 11.

[7] Annex "F," Id. at 13.

[8] Id. at 21. Entitled Pacita Dumandan Ocampo v. Spouses Rosita S. Billones and Danilo R. Billones and the Register of Deeds of Las Piñas.

[9] Annex "H," Id. at 19.

[10] Id. at 3. Now pending before the RTC of Las Piñas, Branch 255 and docketed as Criminal Case No. 01-201.

[11] Id. at 29. Entitled JCY Loans and Mortgages, Inc. v. Sps. Danilo and Rosita Billones, docketed as Civil Case No. 00-1338 now pending before the RTC of Makati City.

[12] Annex "L," Rollo, p. 33.

[13] Id. at 4.

[14] Id.. at 16-17 (Annex "G.")

[15] Id. at 202.

[16] Report and Recommendation, pp. 3-4.

[17] Rollo, p. 106.

[18] Id. at 107-108.

[19] Rule 15.03 of the Code of Professional Responsibility provides:

> A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

[20] Rollo, p. 49.

[21] Id. at 62.

[22] An Act Providing for the Acknowledgment and Authentication of Instruments and Documents Without the Philippine Islands, enacted January 26, 1912.

[23] Villarin v. Sabate, Jr., 325 SCRA 123 (2000).

[24] Coronado v. Felongco, 344 SCRA 565 (2000); Arrieta v. Llosa,, 282 SCRA 248 (1997).

[25] Aquino v. Manese, A.C. No. 4958, April 3, 2003.

[26] Fulgencio v. Martin, A.C. No. 3223, May 29, 2003.

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[27] 272 SCRA 408 (1997).

[28] Id. at 414.

[29] Rollo, p. 63.

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