

**MANUEL ENRIQUE L. ZALAMEA, AND MANUEL JOSE L. ZALAMEA,
PETITIONERS, VS. ATTY. RODOLFO P. DE GUZMAN, JR. AND PERLAS
DE GUZMAN, ANTONIO, VENTURANZA, QUIZON-VENTURANZA, AND
HERROSA...**

A.C. No. 7387. November 07, 2016

Ponente: PERALTA,** J.

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PERALTA, J.:**

This is a Petition for Disbarment which petitioners Manuel Enrique L. Zalamea and Manuel Jose L. Zalamea filed against their lawyer, Atty. Rodolfo P. de Guzman, Jr., for acquiring their property by virtue of their lawyer-client relationship, in violation of the Lawyer's Oath and the Code of Professional Responsibility.

The following are the factual antecedents of the case:

In 2000, petitioners Manuel Enrique Zalamea and Manuel Jose Zalamea (the Zalamea brothers) sought respondent Atty. Rodolfo P. de Guzman, Jr.'s advice on the properties of their ailing mother, Merlinda L. Zalamea, who had a property situated at Scout Limbaga, Quezon City under her name. When Merlinda passed away, De Guzman then prepared a letter for a possible tax-free transfer of the Scout Limbaga property to the Merlinda Holding Corporation which was sought to be incorporated to handle Merlinda's estate, and notarized the incorporation papers of said corporation.

In September 2001, the Zalameas put up EMZEE FOODS INC., (EMZEE) a corporation engaged in lechon business, with De Guzman providing the capital and operational funds. Sometime in 2002, Manuel Enrique informed De Guzman about the property located at Speaker Perez St. (Speaker Perez property) which was then under the name of Elarfoods, Inc. (Elarfoods), a corporation owned and run by the Zalamea brothers' aunts and uncles. Since said property had been mortgaged to Banco de Oro (BDO), the bank foreclosed it when Elarfoods failed to pay the loan. Elarfoods likewise failed to redeem the property, resulting in the consolidation of the ownership over the property in BDO's name.

Later, Manuel Enrique approached De Guzman and convinced him to help in the reacquisition of the Speaker Perez property from BDO. De Guzman thus negotiated with BDO and was able to secure a deal over the property for P20 Million. The bank required 10% downpayment of the total price or P2 Million, to be paid in thirty-six (36) monthly installments, without interest. Due to lack of funds on Manuel Enrique's part, De Guzman's wife, Angel, agreed to shoulder the P2 Million downpayment in order not to lose the good opportunity, but under the condition that the Speaker Perez property would later be transferred in the name of a new corporation they had agreed to form, the EMZALDEK Venture Corporation, a combination of the names EMZEE Foods, Zalamea, and Dek de Guzman. By this time, EMZEE had also relocated to Speaker Perez.

Subsequently, Angel was forced to pay the monthly installments and the additional 20% required for EMZEE to be able to transfer its office to the Speaker Perez property, since Manuel Enrique still could not produce sufficient

funds and EMZEE continued to incur losses. All in all, Angel paid P13,082,500.00.

Not long after, the relationship, between the Zalamea brothers and the Spouses De Guzman turned sour. The Spouses De Guzman wanted reimbursement of the amounts which they had advanced for the corporation, while the Zalamea brothers claimed sole ownership over the Speaker Perez property. Hence, the brothers filed a disbarment case against De Guzman for allegedly buying a client's property which was subject of litigation.

After a careful review and evaluation of the case, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) recommended the dismissal of the complaint against De Guzman for lack of merit on October 12, 2011.[1] On December 29, 2012, the IBP Board of Governors passed a Resolution[2] adopting and approving the recommended dismissal of the complaint, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A," and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that the complaint is without merit, the same is hereby DISMISSED.

The Court's Ruling

The Court finds no cogent reason to depart from the findings and recommendations of the IBP.

An attorney may be disbarred or suspended for any violation of his oath or of his duties as an attorney and counselor, which include statutory grounds enumerated in Section 27,[3] Rule 138 of the Rules of Court.[4]

Under Article 1491 of the Civil Code, lawyers are prohibited to acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another, their client's property and rights in litigation, hence:

ART. 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another:

x x x x

5. Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

6. Any others specially disqualified by law.

Indeed, the purchase by a lawyer of his client's property or interest in litigation is a breach of professional ethics and constitutes malpractice. The persons mentioned in Article 1491 are prohibited from purchasing said property because of an existing trust relationship. A lawyer is disqualified from acquiring by purchase the property and rights in litigation because of his fiduciary relationship with such property and rights, as well as with the client. The very first Canon of the Code of Professional Responsibility[5] provides that "a lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal process." Canon 17 states that a lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him, while Canon 16 provides that "a lawyer shall hold in trust all moneys and properties of his client that may come into his possession." Further, Section 3, Rule 138 of the Revised Rules of Court requires every lawyer to take an oath to obey the laws as well as the legal orders of the duly constituted authorities. And for any violation of this oath, a lawyer may be suspended or disbarred by the Court. All of these underscore the role of the lawyer as the vanguard of our legal system. The transgression of any provision of law by a lawyer is a repulsive and reprehensible act which the Court will never countenance.[6]

Here, the accusation against De Guzman stemmed from his wife's purchase of the Speaker Perez property from BDO when Manuel Enrique did not have the means to buy it. The Zalameas claim that De Guzman, as their counsel, could not acquire the property, either personally or through his wife, without violating his ethical duties. De Guzman therefore has breached the same when his wife purchased the subject property.

However, the prohibition which the Zalameas invoke does not apply where the property purchased was not involved in litigation. De Guzman clearly never acquired any of his client's properties or interests involved in litigation in which he may take part by virtue of his profession. There exists not even an iota of proof indicating that said property has ever been involved in any litigation in which De Guzman took part by virtue of his profession. True, they had previously sought legal advice from De Guzman but only on how to handle their mother's estate, which likewise did not involve the contested property. Neither was it shown that De Guzman's law firm had taken part in any litigation involving the Speaker Perez property.

The prohibition which rests on considerations of public policy and interests is intended to curtail any undue influence of the lawyer upon his client on account of his fiduciary and confidential relationship with him. De Guzman could not have possibly exerted such undue influence, as a lawyer, upon the Zalameas, as his clients. In fact, it was Manuel Enrique who approached the Spouses De Guzman and asked them if they would be willing to become business partners in a lechon business. It was also Manuel Enrique who turned to De Guzman for help in order to reacquire the already foreclosed Speaker Perez property. They had agreed that De Guzman would simply pay the required downpayment to BDO and EMZEE would pay the remaining balance in installment. And when EMZEE continued suffering losses, Angel took care of the monthly amortizations so as not to lose the property.

Clearly, the relationship between the Spouses De Guzman and the Zalamea brothers is actually one of business partners rather than that of a lawyer and client. Atty. De Guzman's acquisition of the Speaker Perez property was a valid consequence of a business deal, not by reason of a lawyer-client relationship, for which he could not be penalized by the Court. De Guzman and his wife are very well allowed by law to enter into such a transaction and their conduct in this regard was not borne out to have been attended by any undue influence, deceit, or misrepresentation.

WHEREFORE, PREMISES CONSIDERED, the Court DISMISSES the Petition for Disbarment against Atty. Rodolfo P. de Guzman, Jr. for utter lack of merit.

SO ORDERED.

Perez, Reyes, and Jardeleza, JJ., concur.
Velasco, Jr., (Chairperson), J., on official leave.

November 17, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on November 7, 2016 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on November 17, 2016 at 8:55 a.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[**] Acting Chairperson per Special Order No. 2395 dated October 19, 2016.

[1] Report and Recommendation submitted by Commissioner Oliver A. Cachapero, dated October 12, 2011; rollo, Vol. III, pp. 3-6.

[2] Rollo, Vol. III, pp. 1-2.

[3] Section 27. Attorneys removed or suspended by Supreme Court on what grounds. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a wilfull disobedience of any lawful order of a superior court, or for corruptly or wilfull appearing as an attorney for a party to a case without authority to do so. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. x x x

[4] Atty. Alcantara, et al. v. Atty. De Vera, 650 Phil. 214, 221 (2010).

[5] Promulgated by the Supreme Court on June 21, 1988.

[6] Bautista v. Atty. Gonzales, 261 Phil. 266, 277 (1990).

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