

LORENZO D. BRENNISEN, COMPLAINANT, VS. ATTY. RAMON U. CONTAWI, RESPONDENT.

A.C. No. 7481. April 24, 2012

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PER CURIAM:

Before the Court is an administrative complaint[1] for disbarment filed by complainant Lorenzo D. Brennisen against respondent Atty. Ramon U. Contawi for deceit and gross misconduct in violation of his lawyer's oath.

The Facts

Complainant is the registered owner of a parcel of land located in San Dionisio, Parañaque City covered by Transfer Certificate of Title (TCT) No. 21176[2] of the Register of Deeds for the Province of Rizal. Being a resident of the United States of America (USA), he entrusted the administration of the subject property to respondent, together with the corresponding owner's duplicate title.

Unbeknownst to complainant, however, respondent, through a spurious Special Power of Attorney (SPA)[3] dated February 22, 1989, mortgaged and subsequently sold the subject property to one Roberto Ho ("Ho"), as evidenced by a Deed of Absolute Sale[4] dated November 15, 2001. As a result, TCT No. 21176 was cancelled and replaced by TCT No. 150814[5] issued in favor of Ho.

Thus, on April 16, 2007, complainant filed the instant administrative complaint against respondent for having violated his oath as a lawyer, causing him damage and prejudice.

In his counter-affidavit,[6] respondent denied any formal lawyer-client relationship between him and the complainant, claiming to have merely extended his services for free. He also denied receiving money from the complainant for the purpose of paying the real estate taxes on the property. Further, he averred that it was his former office assistants, a certain Boy Roque ("Roque") and one Danilo Diaz ("Diaz"), who offered the subject property to Ho as collateral for a loan. Nevertheless, respondent admitted to having confirmed the spurious SPA in his favor already annotated at the back of TCT No. 21176 upon the prodding of Roque and Diaz, and because he was also in need of money at that time. Hence, he signed the real estate mortgage and received his proportionate share of P130,000.00 from the proceeds of the loan, which he asserted to have fully settled.

Finally, respondent denied signing the Deed of Absolute Sale in favor of Ho and insisted that it was a forgery. Nonetheless, he sought complainant's forgiveness and promised to repay the value of the subject property.

In the Resolution[7] dated July 16, 2008, the Court resolved to refer the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

The Action and Recommendation of the IBP

During the mandatory conference held on October 21, 2008, the parties stipulated on the following matters:

- That complainant is the owner of a property covered by TCT No. 21176 (45228) of the Register of Deeds of Parañaque;

- Respondent was in possession of the Owner's Duplicate Certificate of the property of the complainant;
- The property of the complainant was mortgaged to a certain Roberto Ho;
- The title to the property of complainant was cancelled in year 2000 and a new one, TCT No. 150814 was issued in favor of Mr. Roberto Ho;
- The Special Power of Attorney dated 24 February 1989 in favor of Atty. Ramon U. Contawi is spurious and was not signed by complainant Lorenzo D. Brennisen;
- That respondent received Php100,000.00 of the mortgage loan secured by the mortgagee on the aforementioned property of complainant;
- That respondent did not inform the complainant about the unauthorized mortgage and sale of his property;
- That respondent has a loan obligation to Mr. Roberto Ho;
- That respondent has not yet filed any case against the person whom he claims to have falsified his signature;
- That respondent did not notify the complainant that the owner's copy of TCT No. 21176 was stolen and was taken out from his office.[8]

In its Report[9] dated July 10, 2009, the IBP Commission on Bar Discipline (IBP-CBD), through Commissioner Eduardo V. De Mesa, found that respondent had undeniably mortgaged and sold the property of his client without the latter's knowledge or consent, facilitated by the use of a falsified SPA. Hence, in addition to his possible criminal liability for falsification, the IBP-CBD deduced that respondent violated various provisions of the Canons of Professional Responsibility and accordingly recommended that he be disbarred and his name stricken from the Roll of Attorneys.

On May 14, 2011, the IBP Board of Governors adopted and approved the report of Commissioner De Mesa through Resolution No. XIX-2011-248[10] as follows:

“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 finding Respondent guilty of falsification; making or using falsified documents; and for benefiting from the proceed[s] of his dishonest acts, Atty. Ramon U. Contawi is hereby DISBARRED.”

The Issue

The sole issue before the Court is whether respondent violated his lawyer's oath when he mortgaged and sold complainant's property, which was entrusted to him, without the latter's consent.

The Court's Ruling

After a punctilious examination of the records, the Court concurs with the findings and recommendation of Commissioner De Mesa and the IBP Board of Governors that respondent acted with deceit when, through the use of a falsified document, he effected the unauthorized mortgage and sale of his client's property for his personal benefit.

Indisputably, respondent disposed of complainant's property without his knowledge or consent, and partook of the proceeds of the sale for his own benefit. His contention that he merely accommodated the request of his then financially-incapacitated office assistants to confirm the spurious SPA is flimsy and implausible, as he was fully aware that complainant's signature reflected thereon was forged. As aptly opined by Commissioner De Mesa, the

fraudulent transactions involving the subject property were effected using the owner's duplicate title, which was in respondent's safekeeping and custody during complainant's absence.

Consequently, Commissioner De Mesa and the IBP Board of Governors correctly recommended his disbarment for violations of the pertinent provisions of the Canons of Professional Responsibility, to wit:

Canon 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

Canon 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Canon 16 – A lawyer shall hold in trust all moneys and properties of his client which may come into his possession.

Canon 16.01 – A lawyer shall account for all money or property collected or received for or from client.

Canon 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand.

Canon 17 – A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

In *Sabayle v. Tandayag*,^[11] the Court disbarred one of the respondent lawyers and ordered his name stricken from the Roll of Attorneys on the grounds of serious dishonesty and professional misconduct. The respondent lawyer knowingly participated in a false and simulated transaction not only by notarizing a spurious Deed of Sale, but also – and even worse – sharing in the profits of the specious transaction by acquiring half of the property subject of the Deed of Sale.

In *Flores v. Chua*,^[12] the Court disbarred the respondent lawyer for having deliberately made false representations that the vendor appeared personally before him when he notarized a forged deed of sale. He was found guilty of grave misconduct.

In this case, respondent's established acts exhibited his unfitness and plain inability to discharge the bounden duties of a member of the legal profession. He failed to prove himself worthy of the privilege to practice law and to live up to the exacting standards demanded of the members of the bar. It bears to stress that “[t]he practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality. Any violation of these standards exposes the lawyer to administrative liability.”^[13]

Moreover, respondent's argument that there was no formal lawyer-client relationship between him and complainant will not serve to mitigate his liability. There is no distinction as to whether the transgression is committed in a lawyer's private or professional capacity, for a lawyer may not divide his personality as an attorney at one time and a mere citizen at another.^[14]

With the foregoing disquisitions, the Court thus finds the penalty of disbarment proper in this case, as recommended by Commissioner De Mesa and the IBP Board of Governors. Section 27, Rule 38 of the Rules of Court provides:

“SEC. 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. - A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, xxx or for any violation of the oath which he is required to take before admission to practice xxx” (emphasis supplied)

The Court notes that in administrative proceedings, only substantial evidence, i.e., that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion, is required.^[15] Having

carefully scrutinized the records of this case, the Court therefore finds that the standard of substantial evidence has been more than satisfied.

WHEREFORE, respondent ATTY. RAMON U. CONTAWI, having clearly violated his lawyer's oath and the Canons of Professional Responsibility through his unlawful, dishonest and deceitful conduct, is DISBARRED and his name ordered STRICKEN from the Roll of Attorneys.

Let copies of this Decision be served on the Office of the Bar Confidant, the Integrated Bar of the Philippines and all courts in the country for their information and guidance. Let a copy of this Decision be attached to respondent's personal record as attorney.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr. Leonardo-De Castro. Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr. Perez, Mendoza, Sereno, Reyes, and Perlas-Bernabe, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Id. at p. 3.

[3] Id. at p. 87.

[4] Id. at pp. 85-86.

[5] Id. at p. 6.

[6] Id. at pp. 34-36.

[7] Id. at p. 43.

[8] Id. at pp. 51-52.

[9] Id. at pp. 119-122.

[10] Id. at p. 118.

[11] A.C. No. 140-J, March 8, 1988, 158 SCRA 497, 506.

[12] A.C. No. 4500, April 30, 1999, 306 SCRA 465, 485.

[13] Atty. Bonifacio Barandon, Jr. v. Atty. Edwin Ferrer, Sr., A.C. No. 5768, March 26, 2010, 616 SCRA 529, 535.

[14] Eugenia Mendoza v. Atty. Victor C. Diciembre, A.C. No. 5338, February 23, 2009, 580 SCRA 28, 36.

[15] Babante-Caples v. Caples, A.M. No. HOJ-10-03 (Formerly A.M. OCA IPI No. 09-04-HOJ), November 5, 2010, 634 SCRA 498.

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