



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**JESSIE T. CAMPUGAN and
ROBERT C. TORRES,**
Complainants,

A.C. No. 8261

-versus-

**ATTY. FEDERICO S.
TOLENTINO, JR.,
ATTY. RENATO G. CUNANAN,
ATTY. DANIEL F. VICTORIO, JR.,
and ATTY. ELBERT T. QUILALA,**
Respondents.

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**JESSIE T. CAMPUGAN and
ROBERT C. TORRES,**
Complainants,

A.C. No. 8725

Present:

-versus-

SERENO, C.J., Chairperson,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

**ATTY. CONSTANTE P. CALUYA,
JR. and ATTY. ELBERT T.
QUILALA,**
Respondents.

Promulgated:

MAR 11 2015

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D E C I S I O N

BERSAMIN, J.:

In this consolidated administrative case, complainants Jessie T. Campugan and Robert C. Torres seek the disbarment of respondents Atty. Federico S. Tolentino, Jr., Atty. Daniel F. Victorio, Jr., Atty. Renato G. Cunanan, Atty. Elbert T. Quilala and Atty. Constante P. Caluya, Jr. for allegedly falsifying a court order that became the basis for the cancellation

of their annotation of the notice of adverse claim and the notice of *lis pendens* in the Registry of Deeds in Quezon City.

Antecedents

Atty. Victorio, Jr. had replaced Atty. Edgardo Abad as counsel of the complainants in a civil action they brought to seek the annulment of Transfer Certificate of Title (TCT) No. N-290546 of the Registry of Deeds of Quezon City in the first week of January 2007 in the Regional Trial Court (RTC) in Quezon City (Civil Case No. Q-07-59598). They impleaded as defendants Ramon and Josefina Ricafort, Juliet Vargas and the Register of Deeds of Quezon City. They caused to be annotated on TCT No. N-290546 their affidavit of adverse claim, as well as the notice of *lis pendens*.¹ Atty. Tolentino, Jr. was the counsel of defendant Ramon and Josefina Ricafort.

In their sworn complaint for disbarment dated April 23, 2009 (later docketed as A.C. No. 8261),² the complainants narrated that as the surviving children of the late Spouses Antonio and Nemesia Torres, they inherited upon the deaths of their parents a residential lot located at No. 251 Boni Serrano Street, Murphy, Cubao, Quezon City registered under Transfer Certificate of Title (TCT) No. RT-64333(35652) of the Register of Deeds of Quezon City;³ that on August 24, 2006, they discovered that TCT No. RT-64333(35652) had been unlawfully cancelled and replaced by TCT No. N-290546 of the Register of Deeds of Quezon City under the names of Ramon and Josefina Ricafort;⁴ and that, accordingly, they immediately caused the annotation of their affidavit of adverse claim on TCT No. N-290546.

It appears that the parties entered into an amicable settlement during the pendency of Civil Case No. Q-07-59598 in order to end their dispute,⁵ whereby the complainants agreed to sell the property and the proceeds thereof would be equally divided between the parties, and the complaint and counterclaim would be withdrawn respectively by the complainants (as the plaintiffs) and the defendants. Pursuant to the terms of the amicable settlement, Atty. Victorio, Jr. filed a Motion to Withdraw Complaint dated February 26, 2008,⁶ which the RTC granted in its order dated May 16, 2008 upon noting the defendants' lack of objection thereto and the defendants' willingness to similarly withdraw their counterclaim.⁷

¹ Rollo, A.C. No. 8261, p. 7.

² Id. at 1-4.

³ Id. at 5.

⁴ Id. at 6.

⁵ Id. at 24-25.

⁶ Id. at 8-9.

⁷ Id. at 10.

The complainants alleged that from the time of the issuance by the RTC of the order dated May 16, 2008, they could no longer locate or contact Atty. Victorio, Jr. despite making several phone calls and visits to his office; that they found out upon verification at the Register of Deeds of Quezon City that new annotations were made on TCT No. N-290546, specifically: (1) the annotation of the letter-request appearing to be filed by Atty. Tolentino, Jr.⁸ seeking the cancellation of the affidavit of adverse claim and the notice of *lis pendens* annotated on TCT No. N-290546; and (2) the annotation of the decision dated May 16, 2008 rendered in Civil Case No. Q-07-59598 by the RTC, Branch 95, in Quezon City, granting the complainants' Motion to Withdraw Complaint;⁹ and that a copy of the letter-request dated June 30, 2008 addressed to Atty. Quilala, Registrar of Deeds of Quezon City, disclosed that it was defendant Ramon Ricafort who had signed the letter.

Feeling aggrieved by their discovery, the complainants filed an appeal *en consulta* with the Land Registration Authority (LRA), docketed as Consulta No. 4707, assailing the unlawful cancellation of their notice of adverse claim and their notice of *lis pendens* under primary entries PE-2742 and PE-3828-9, respectively. The LRA set Consulta No. 4707 for hearing on March 30, 2009, and directed the parties to submit their respective memoranda and/or supporting documents on or before such scheduled hearing.¹⁰ However, the records do not disclose whether Consulta No. 4707 was already resolved, or remained pending at the LRA.

Unable to receive any response or assistance from Atty. Victorio, Jr. despite their having paid him for his professional services, the complainants felt that said counsel had abandoned their case. They submitted that the cancellation of their notice of adverse claim and their notice of *lis pendens* without a court order specifically allowing such cancellation resulted from the connivance and conspiracy between Atty. Victorio, Jr. and Atty. Tolentino, Jr., and from the taking advantage of their positions as officials in the Registry of Deeds by respondents Atty. Quilala, the Chief Registrar, and Atty. Cunanan, the acting Registrar and signatory of the new annotations. Thus, they claimed to be thereby prejudiced.

On July 6, 2009, the Court required the respondents to comment on the verified complaint.¹¹

Atty. Victorio, Jr. asserted in his Comment dated August 17, 2009¹² that complainant Robert Torres had been actively involved in the

⁸ Id. at 7.

⁹ Id.

¹⁰ Id. at 12.

¹¹ Id. at 13.

¹² Id. at 17-18.

proceedings in Civil Case No. Q-07-59598, which included the mediation process; that the complainants, after having aggressively participated in the drafting of the amicable settlement, could not now claim that they had been deceived into entering the agreement in the same way that they could not feign ignorance of the conditions contained therein; that he did not commit any abandonment as alleged, but had performed in good faith his duties as the counsel for the complainants in Civil Case No. Q-07-59598; that he should not be held responsible for their representation in other proceedings, such as that before the LRA, which required a separate engagement; and that the only payment he had received from the complainants were those for his appearance fees of ₱1,000.00 for every hearing in the RTC.

In his Comment dated August 24, 2009,¹³ Atty. Tolentino, Jr. refuted the charge of conspiracy, stressing that he was not acquainted with the other respondents, except Atty. Victorio, Jr. whom he had met during the hearings in Civil Case No. Q-07-59598; that although he had notarized the letter-request dated June 30, 2008 of Ramon Ricafort to the Register of Deeds, he had no knowledge about how said letter-request had been disposed of by the Register of Deeds; and that the present complaint was the second disbarment case filed by the complainants against him with no other motive except to harass and intimidate him.

Atty. Quilala stated in his Comment dated September 1, 2009¹⁴ that it was Atty. Caluya, Jr., another Deputy Register of Deeds, who was the actual signing authority of the annotations that resulted in the cancellation of the affidavit of adverse claim and the notice of *lis pendens* on TCT No. N-290546; that the cancellation of the annotations was undertaken in the regular course of official duty and in the exercise of the ministerial duty of the Register of Deeds; that no irregularity occurred or was performed in the cancellation of the annotations; and that the Register of Deeds was impleaded in Civil Case No. Q-07-59598 only as a nominal party, thereby discounting any involvement in the proceedings in the case.

Atty. Cunanan did not file any comment.¹⁵

As the result of Atty. Quilala's allegation in his Comment in A.C. No. 8261 that it had been Atty. Caluya, Jr.'s signature that appeared below the cancelled entries, the complainants filed another sworn disbarment complaint dated August 26, 2010 alleging that Atty. Caluya, Jr. had forged the signature of Atty. Cunanan.¹⁶ This disbarment complaint was docketed as A.C. No. 8725, and was later on consolidated with A.C. No. 8261¹⁷

¹³ Id. at 14-15.

¹⁴ Id. at 28-30.

¹⁵ Id. at 52.

¹⁶ *Rollo*, A.C. No. 8725, pp. 1-3.

¹⁷ *Rollo*, A.C. No. 8261, p. 53.

because the complaints involved the same parties and rested on similar allegations against the respondents.

Atty. Quilala filed his Comment in A.C. No. 8725 to belie the allegation of forgery and to reiterate the arguments he had made in A.C. No. 8261.¹⁸ On his part, Atty. Caluya, Jr. manifested that he adopted Atty. Quilala's Comment.¹⁹

Ruling

We dismiss the complaints for disbarment for being bereft of merit.

Well entrenched in this jurisdiction is the rule that a lawyer may be disciplined for misconduct committed either in his professional or private capacity. The test is whether his conduct shows him to be wanting in moral character, honesty, probity, and good demeanor, or whether his conduct renders him unworthy to continue as an officer of the Court.²⁰ Verily, Canon 7 of the *Code of Professional Responsibility* mandates all lawyers to uphold at all times the dignity and integrity of the Legal Profession. Lawyers are similarly required under Rule 1.01, Canon 1 of the same Code not to engage in any unlawful, dishonest and immoral or deceitful conduct. Failure to observe these tenets of the Code of Professional Responsibility exposes the lawyer to disciplinary sanctions as provided in Section 27, Rule 138 of the *Rules of Court*, as amended, viz.:

Section 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, 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 wilful disobedience appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

The complainants' allegations of the respondents' acts and omissions are insufficient to establish any censurable conduct against them.

Section 10 of Presidential Decree No. 1529 (*Property Registration Decree*) enumerates the general duties of the Register of Deeds, as follows:

¹⁸ *Rollo*, A.C. No. 8725, pp. 14-18.

¹⁹ *Id.* at 49-50.

²⁰ *Tan, Jr. v. Gumba*, A.C. No. 9000, October 5, 2011, 658 SCRA 527, 532; *Roa v. Moreno*, A.C. No. 8382, April 21, 2010, 618 SCRA 693, 699.

Section 10. *General functions of Registers of Deeds.* – x x x

It shall be the duty of the Register of Deeds to **immediately register** an instrument presented for registration dealing with real or personal property which complies with all the requisites for registration. He shall see to it that said instrument bears the proper documentary science stamps and that the same are properly canceled. If the instrument is not registrable, he shall forthwith deny registration thereof and inform the presenter of such denial in writing, stating the ground or reason therefor, and advising him of his right to appeal by *consulta* in accordance with Section 117 of this Decree. (Emphasis supplied)

The aforementioned duty of the Register of Deeds is ministerial in nature.²¹ A purely ministerial act or duty is one that an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of a legal authority, without regard to or the exercise of his own judgment upon the propriety or impropriety of the act done. If the law imposes a duty upon a public officer and gives him the right to decide how or when the duty shall be performed, such duty is discretionary, not ministerial. The duty is ministerial only when its discharge requires neither the exercise of official discretion nor the exercise of judgment.²²

In *Gabriel v. Register of Deeds of Rizal*,²³ the Court underscores that registration is a merely ministerial act of the Register of Deeds, explaining:

x x x [W]hether the document is invalid, frivolous or intended to harass, is not the duty of a Register of Deeds to decide, but a court of competent jurisdiction, and that it is his concern to see whether the documents sought to be registered conform with the formal and legal requirements for such documents.

In view of the foregoing, we find no abuse of authority or irregularity committed by Atty. Quilala, Atty. Cunanan, and Atty. Caluya, Jr. with respect to the cancellation of the notice of adverse claim and the notice of *lis pendens* annotated on TCT No. N-290546. Whether or not the RTC order dated May 16, 2008 or the letter-request dated June 30, 2008 had been falsified, fraudulent or invalid was not for them to determine inasmuch as their duty to examine documents presented for registration was limited only to what appears on the face of the documents. If, upon their evaluation of the letter-request and the RTC order, they found the same to be sufficient in law and to be in conformity with existing requirements, it became obligatory for them to perform their ministerial duty without unnecessary delay.²⁴

²¹ See *Register of Deeds, Pasig, Rizal v. Heirs of Hi Caiji*, 99 Phil 25, 30 (1956); *Ledesma v. Villaseñor*, G.R. No. L-18725, March 31, 1965, 13 SCRA 494, 496.

²² *Mallari v. Government Service Insurance System, et al.*, G.R. No. 157659, January 25, 2010, 611 SCRA 32, 49-50; *Espiridion v. Court of Appeals*, G.R. No. 146933, June 8, 2006, 490 SCRA 273, 277.

²³ G.R. No. L-17956, September 30, 1963, 9 SCRA 136, 141.

²⁴ Noblejas, *Registration of Land Titles and Deeds*, 1992 Revised Edition, p.387.

Should they be aggrieved by said respondents' performance of duty, the complainants were not bereft of any remedy because they could challenge the performance of duty by bringing the matter by way of *consulta* with the LRA, as provided by Section 117²⁵ of Presidential Decree No. 1529. But, as enunciated in *Gabriel v. Register of Deeds of Rizal*,²⁶ it was ultimately within the province of a court of competent jurisdiction to resolve issues concerning the validity or invalidity of a document registered by the Register of Deeds.

The complainants charge Atty. Victorio, Jr. and Atty. Tolentino, Jr. with having conspired with each other to guarantee that the parties in Civil Case No. Q-59598 would enter into the amicable settlement, and then to cause the cancellation of the affidavit of adverse claim and notice of *lis pendens* annotated on TCT No. N-290546. The complainants further fault Atty. Victorio, Jr. with having abandoned their cause since the issuance of the RTC of its order dated May 16, 2008.

The complainants' charges are devoid of substance.

Although it is not necessary to prove a formal agreement in order to establish conspiracy because conspiracy may be inferred from the circumstances attending the commission of an act, it is nonetheless essential that conspiracy be established by clear and convincing evidence.²⁷ The complainants failed in this regard. Outside of their bare assertions that Atty. Victorio, Jr. and Atty. Tolentino, Jr. had conspired with each other in order to cause the dismissal of the complaint and then discharge of the annotations, they presented no evidence to support their allegation of conspiracy. On the contrary, the records indicated their own active participation in arriving at the amicable settlement with the defendants in Civil Case No. Q-07-59598. Hence, they could not now turn their backs on the amicable settlement that they had themselves entered into.

Even assuming that Atty. Victorio, Jr. and Atty. Tolentino, Jr. initiated and participated in the settlement of the case, there was nothing wrong in

²⁵ Section 117. *Procedure.* – When the Register of Deeds is in doubt with regard to the proper step to be taken or memorandum to be made in pursuance of any deed, mortgage or other instrument presented to him for registration, **or where any party in interest does not agree with the action taken by the Register of Deeds with reference to any such instrument, the question shall be submitted to the Commissioner of Land Registration by the Register of Deeds, or by the party in interest thru the Register of Deeds.**

x x x x

The Commissioner of Land Registration, considering the *consulta* and the records certified to him after notice to the parties and hearing, shall enter an order prescribing the step to be taken or memorandum to be made. His resolution or ruling in *consultas* shall be conclusive and binding upon all Registers of Deeds, provided, that **the party in interest who disagrees with the final resolution, ruling or order of the Commissioner relative to *consultas* may appeal to the Court of Appeals** within the period and in manner provided in Republic Act No. 5434. (Bold emphasis supplied)

²⁶ *Supra* note 23.

²⁷ *People v. Dagani*, G.R. No. 153875, August 16, 2006, 499 SCRA 64, 79.

their doing so. It was actually their obligation as lawyers to do so, pursuant to Rule 1.04, Canon 1 of the *Code of Professional Responsibility*, viz.:

RULE 1.04 – A lawyer shall encourage his clients to avoid, end or settle a controversy if it will admit of a fair settlement.

In fine, the presumption of the validity of the amicable settlement of the complainants and the defendants in Civil Case No. Q-07-59598 subsisted.²⁸

Anent the complainants' charge of abandonment against Atty. Victorio, Jr., Rule 18.03 and Rule 18.04, Canon 18 of the *Code of Professional Responsibility* are applicable, to wit:

CANON 18 – A lawyer shall serve his client with competence and diligence.

Rule 18.03 – A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Rule 18.04 – A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

There is no issue that the complainants engaged the services of Atty. Victorio, Jr. as their counsel in Civil Case No. Q-07-59598. Atty. Victorio, Jr. served as such counsel. With Atty. Victorio, Jr. assistance, the complainants obtained a fair settlement consisting in receiving half of the proceeds of the sale of the property *in litis*, without any portion of the proceeds accruing to counsel as his legal fees. The complainants did not competently and persuasively show any unfaithfulness on the part of Atty. Victorio, Jr. as far as their interest in the litigation was concerned. Hence, Atty. Victorio, Jr. was not liable for abandonment.

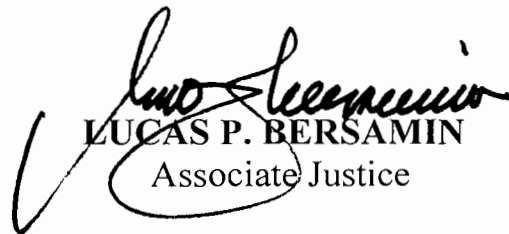
Atty. Victorio, Jr. could not be faulted for the perceived inattention to any other matters subsequent to the termination of Civil Case No. Q-07-59598. Unless otherwise expressly stipulated between them at any time during the engagement, the complainants had no right to assume that Atty. Victorio, Jr.'s legal representation was indefinite as to extend to his representation of them in the LRA. The Law Profession did not burden its members with the responsibility of indefinite service to the clients; hence, the rendition of professional services depends on the agreement between the attorney and the client. Atty. Victorio, Jr.'s alleged failure to respond to the complainants' calls or visits, or to provide them with his whereabouts to enable them to have access to him despite the termination of his engagement

²⁸ *Bautista v. Seraph Management Group, Inc.*, G.R. No. 174039, June 29, 2010, 622 SCRA 141, 145.


in Civil Case No. Q-07-59598 did not equate to abandonment without the credible showing that he continued to come under the professional obligation towards them after the termination of Civil Case No. Q-07-59598.


WHEREFORE, the Court **DISMISSES** the baseless disbarment complaints against Atty. Federico S. Tolentino, Jr., Atty. Renato G. Cunanan, Atty. Daniel F. Victorio, Jr., Atty. Elbert T. Quilala and Atty. Constanter P. Caluya, Jr.

SO ORDERED.



LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice