

THIRD DIVISION

[A.C. No. 5001, September 07, 2020]

PETRA DURUIN SISMAET, COMPLAINANT, VS. ATTY. ASTERIA E. CRUZABRA, RESPONDENT.

DECISION

GAERLAN, J.:

For resolution by this Court is a disbarment complaint filed by complainant Petra Durum Sismaet (Sismaet) against respondent Atty. Asteria E. Cruzabra (Atty. Cruzabra) for "*gross ignorance of the law; violation of her duty to pay that respect and courtesy due to courts of justice and a violation of the trust and confidence required of her as the Registrar of Deeds of the City of General Santos.*"^[1]

The Facts

Sismaet was among the plaintiffs in Civil Case No. 4749, which is an action for nullification of sale and reconveyance of real property filed with Branch 35 of the Regional Trial Court of General Santos City, involving a parcel of land covered by Transfer Certificate of Title (TCI) No. T-32952.^[2]

On January 27, 1993, Sismaet sought the registration of an affidavit of adverse claim on TCT No. T-32952 with the Registry of Deeds of General Santos City. The adverse claim was annotated on the back of the TCT with the signature of Atty. Cruzabra, who was then the Registrar of Deeds of General Santos City.^[3]

On May 18, 1993, a mortgage contract between China Banking Corporation and Esteban Co, Jr. (Co), who was one of the defendants in Civil Case No. 4749, was annotated on the back of the TCT.^[4] On February 15, 1994, Co sought the registration of an Affidavit of Cancellation for Adverse Claim, directed at the adverse claim earlier filed by Sismaet.^[5] This Affidavit was likewise inscribed on the TCT, still with the signature of Atty. Cruzabra,^[6] effectively cancelling Sismaet's adverse claim.

Sismaet alleges that by reason of the annotation of the mortgage contract on the TCT, she and her co-plaintiffs were forced to move for the amendment of their complaint to implead China Banking Corporation as additional defendant. She further blames Atty. Cruzabra for allowing the annotation of the mortgage contract and the Affidavit of Cancellation of Adverse Claim knowing full well that the property subject of the TCT is still under litigation.

On September 3, 1998, Sismaet moved to cite Atty. Cruzabra in contempt for allowing the annotation of the mortgage contract and the Affidavit of Cancellation of Adverse Claim.^[7] The next day, Sismaet filed^[8] the present disbarment complaint

with the Office of the Bar Confidant (OBC).

On September 18, 1998, Atty. Cruzabra filed an Answer. She asserted that the annotation of the Affidavit of Cancellation of Adverse Claim was proper. Under Section 70 of the Property Registration Decree,^[9] an adverse claim annotated on a TCT is effective only for 30 days from the date of registration. Thus, Sismaet's adverse claim should be deemed to have expired 30 days after January 27, 1993, when it was registered; and Co's affidavit of cancellation was made well after the expiration of Sismaet's adverse claim.^[10] Atty. Cruzabra further averred that her duty to annotate affidavits and instruments on TCTs is ministerial in nature; hence she cannot refuse the annotation of the mortgage contract and the affidavit of cancellation of the adverse claim.^[11] In a Comment dated March 24, 1999,^[12] Atty. Cruzabra further stated that the complaint should be dismissed for violation of the rule against forum shopping, considering that the propriety of the annotation of the mortgage contract and the affidavit of cancellation of the adverse claim is the very same issue involved in Sismaet's contempt motion against Atty. Cruzabra before the trial court, which was already denied by the trial court. Sismaet filed a Reply^[13] dated May 3, 1999, to Atty. Cruzabra's Comment, arguing that contrary to Atty. Cruzabra's assertion, an adverse claim does not expire in 30 days and can only be cancelled through a court order.

After a further exchange of pleadings, this Court ordered the referral of the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.^[14] After multiple motions for postponement or resetting filed by both parties,^[15] including a Manifestation with Motion to Terminate Proceedings^[16] dated November 7, 2005 filed by Atty. Cruzabra, the IBP Commission on Bar Discipline (TBP-CBD) finally rendered a Report and Recommendation^[17] dated January 17, 2006.

The IBP-CBD recommended that the case be dismissed. It concurred with Atty. Cruzabra's contention that an adverse claim is effective only for 30 days; hence, Atty. Cruzabra was justified in annotating the cancellation of the adverse claim which was filed after the 30-day period. Furthermore, pursuant to the Resolution^[18] of this Court dated August 11, 1999, the Land Registration Authority also conducted an investigation into the matter and found that the grounds cited in Sismaet's petition do not constitute valid grounds for holding Atty. Cruzabra administratively liable.^[19]

Issue

The sole issue for this Court's resolution is whether or not Atty. Cruzabra should be administratively sanctioned for allowing the annotation of the mortgage contract and affidavit of cancellation of adverse claims on TCT No. T-32952 despite fully knowing of the existence of, and even being impleaded in, Civil Case No. 4749 before Branch 35 of the Regional Trial Court of General Santos City.

Ruling of the Court

It must be emphasized at the outset that Sismaet seeks to hold Atty. Cruzabra liable for acts committed in the latter's capacity as Registrar of Deeds. The general rule in

this jurisdiction is that "a lawyer who holds a government office may not be disciplined as a member of the bar for misconduct in the discharge of his duties as a government official."^[20] However, if the government official's misconduct "is of such a character as to affect his qualification as a lawyer or to show moral delinquency, he may be disciplined as a member of the bar on such ground."^[21]

However, another line of cases holds that the IBP has no jurisdiction over government lawyers charged with administrative offenses involving their official duties.^[22] This is because government lawyers who are acting in their official capacities are within the jurisdiction of the disciplinary authorities of the government, including the Ombudsman and the Sandiganbayan. In *Sps. Buffe v. Gonzalez, et al.*,^[23] this Court, speaking through Justice Antonio T. Carpio, explained that:

Indeed, the IBP has no jurisdiction over government lawyers who are charged with administrative offenses involving their official duties. For such acts, government lawyers fall under the disciplinary authority of either their superior or the Ombudsman. Moreover, an anomalous situation will arise if the IBP asserts jurisdiction and decides against a government lawyer, while the disciplinary authority finds in favor of the government lawyer.^[24]

The jurisdiction of the IBP to investigate members of the Bar in the government service is based not only on the applicability of the Lawyer's Oath to all lawyers, whether in the government or in the private sector; but also on Canon 6 of the Code of Professional Responsibility. Thus, in *Abella v. Barrios, Jr.*,^[25] this Court clarified that:

[Rules 1.01, 1.03, and 6.02 of the Code of Professional Responsibility], which are contained under Chapter 1 of the Code, delineate the lawyer's responsibility to society: Rule 1.01 engraves the overriding prohibition against lawyers from engaging in any unlawful, dishonest, immoral and deceitful conduct; Rule 1.03 proscribes lawyers from encouraging any suit or proceeding or delaying any man's cause for any corrupt motive or interest; meanwhile, Rule 6.02 is particularly directed to lawyers in government service, enjoining them from using one's public position to: (1) promote private interests; (2) advance private interests; or (3) allow private interests to interfere with public duties. **It is well to note that a lawyer who holds a government office may be disciplined as a member of the Bar only when his misconduct also constitutes a violation of his oath as a lawyer.**^[26] (Citations omitted, emphasis and underscoring supplied)

In *Collantes v. Atty. Renomeron*,^[27] where this Court disbarred the Register of Deeds of Tacloban City for refusing the registration of 163 deeds of assignment after applicant's counsel refused to buy him a plane ticket, this Court held:

The issue in this disbarment proceeding is whether the respondent register of deeds, as a lawyer, may also be disciplined by this Court for his malfeasances as a public official. The answer is yes, for **his misconduct as a public official also constituted a violation of his oath as a lawyer.**

The lawyer's oath (Rule 138, Section 17, Rules of Court; *People vs. De Luna*, 102 Phil. 968), imposes upon every lawyer the duty to delay no man for money or malice. The lawyer's oath is a source of his obligations and its violation is a ground for his suspension, disbarment or other disciplinary action.

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The Code of Professional Responsibility applies to lawyers in government service in the discharge of their official tasks. Just as the Code of Conduct and Ethical Standards for Public Officials requires public officials and employees to process documents and papers expeditiously and prohibits them from directly or indirectly having a financial or material interest in any transaction requiring the approval of their office, and likewise bars them from soliciting gifts or anything of monetary value in the course of any transaction which may be affected by the functions of their office, the Code of Professional Responsibility forbids a lawyer to engage in unlawful, dishonest, immoral or deceitful conduct, or delay any man's cause "for any corrupt motive or interest."^[28] (Citations omitted, emphasis and underscoring supplied)

The foregoing jurisprudence clearly shows that the inquisitorial power of the EBP over government lawyers is limited to cases of misconduct amounting to violation of either the Lawyers' Oath or the Code of Professional Responsibility. Nevertheless, the Supreme Court, as the primary authority over the Philippine bar, retains disciplinary jurisdiction over government lawyers.

In this case, the alleged violations of Atty. Cruzabra were committed in her capacity as Registrar of Deeds of General Santos City. She was accused of "*gross ignorance of the law, violation of her duty to pay that respect and courtesy due to courts of justice, and a violation of the trust and confidence required of her as the Registrar of Deeds of the City of General Santos*"^[29] for her act of annotating an affidavit of cancellation on Sismaet's adverse claim. Gross ignorance of the law

has been defined as "*the disregard of basic rules and settled jurisprudence*"^[30] or the commission of a "*gross or patent, deliberate or malicious*" error.^[31] Gross ignorance of the law "*connotes a blatant disregard of clear and unambiguous provisions of law because of bad faith, fraud, dishonesty, or corruption*"^[32] In *Tadlip v. Atty. Borres, Jr.*,^[33] this Court applied the same definition to sanction a DARAB provincial adjudicator, viz.:

Respondent is not only a lawyer practicing his profession, but also a provincial adjudicator, a public officer tasked with the duty of deciding conflicting claims of the parties. He is part of the quasi-judicial system of our government. Thus, by analogy, the present dispute may be likened to administrative cases of judges whose manner of deciding cases was similarly subject of respective administrative cases.

To hold the judge liable, this Court has time and again ruled that the error must be "so gross and patent as to produce an inference of