

SECOND DIVISION

[A.C. No. 3910, August 14, 2000]

JOSE S. DUCAT, JR., COMPLAINANT, VS. ATTYS. ARSENIO C. VILLALON, JR. AND CRISPULO DUCUSIN, RESPONDENTS.

DECISION

DE LEON, JR., J.:

Before us is a verified letter-complaint^[1] for disbarment against Attys. Arsenio C. Villalon, Jr.; Andres Canares, Jr. and Crispulo Ducusin for deceit and gross misconduct in violation of the lawyer's oath. Investigation proceeded only against respondent Villalon because it was discovered that Andres Canares was not a lawyer while Atty. Crispulo Ducusin passed away on February 3, 1996.^[2]

In the letter-complaint,^[3] complainant alleged that on October 29, 1991, respondent Villalon, as counsel for the family of complainant, spoke to the father of complainant and asked that he be given the title over a property owned by complainant located in Pinugay, Antipolo, Rizal and covered by TCT No. M-3023, Emancipation Patent No. 410414, because he allegedly had to verify the proper measurements of the subject property. Sometime in November, 1991, however, complainant and his family were surprised when several people entered the subject property and, when confronted by the companions of complainant, the latter were told that they were workers of Canares and were there to construct a piggery. Complainant complained to the barangay authorities in Pinugay and narrated the incident but respondent Canares did not appear before it and continued with the construction of the piggery in the presence of armed men who were watching over the construction. Complainant then went to respondent Villalon to complain about the people of respondent Canares but nothing was done.

Complainant then filed a case for ejectment against respondent Canares. In his Reply however, the latter answered that the subject property was already sold by complainant to respondent Canares in the amount of P450,000.00 as evidenced by the Deed of Absolute Sale of Real Property dated December 5, 1991 and notarized by respondent Atty. Crispulo Ducusin. Complainant, however, averred that he never sold the property, signed any document nor received any money therefor, and he also denied having appeared before respondent Ducusin who was the notary public for the Deed of Absolute Sale. Complainant discovered that respondent Villalon claimed that complainant's father allegedly gave the subject property to him (respondent Villalon) as evidenced by a document of sale purportedly signed by complainant.

In his Comment,^[4] respondent Villalon denied that allegations of the complainant and in turn, he alleged that the property was given voluntarily by Jose Ducat, Sr. to him out of close intimacy and for past legal services rendered. Thereafter, respondent Villalon, with the knowledge and consent of Jose Ducat, Sr., allowed the

subject property to be used by Andres Canares to start a piggery business without any monetary consideration. A Deed of Sale of Parcel of Land was then signed by Jose Ducat, Sr. to evidence that he has conveyed the subject property to respondent Villalon with the name of respondent Canares included therein as protection because of the improvements to be introduced in the subject property. Upon presenting the title covering the subject property, it was discovered that the property was registered in the name of Jose Ducat, Jr. and not Jose Ducat, Sr., but the latter told respondents Villalon and Canares not to worry because the land was actually owned by him and that he merely placed the name of his son, Jose Ducat, Jr. Jose Ducat, Sr. then suggested that the subject property be transferred directly from Jose Ducat, Jr. to respondent Canares; hence, he (Ducat, Sr.) got the title and guaranteed that he would return the document already signed and notarized, which he did the following day. According to respondent Canares, the trouble began when Jose Ducat, Sr. came to his office demanding to know why he was not allowed to cut the trees inside the subject property by the caretaker of respondent Canares.

On January 21, 1993, Jose Ducat, Jr. wrote^[5] to this Court and averred that he neither signed the Deed of Sale covering the subject property nor did he appear before the notary public Crispulo Ducusin, who notarized the same. He averred that respondents Villalon and Ducusin should be disbarred from the practice of law and respondent Villalon be imprisoned for forging his signature and selling the subject property without his consent.

In his Rejoinder^[6], respondent Villalon denied the allegations of complainant and maintained that he is a member of good standing of the Integrated Bar and that he has always preserved the high standards of the legal profession. Respondent Villalon expressed his willingness to have the Deed of Sale examined by the National Bureau of Investigation and reiterated that the subject property was orally given to him by Jose Ducat, Sr. and it was only in October, 1991 that the conveyance was reduced in writing. He added that the complainant knew that his father, Jose Ducat, Sr., was the person who signed the said document for and in his behalf and that this was done with his consent and knowledge.

This Court referred^[7] the case to the Integrated Bar of the Philippines for investigation, report and recommendation.

On May 17, 1997, the IBP Board of Governors passed a resolution adopting and approving the report and recommendation of its Investigating Commissioner who found respondent Atty. Villalon guilty, and recommended his suspension from the practice of law for two (2) years and likewise directed respondent Atty. Villalon to deliver to the complainant his TCT No. M-3023 within ten (10) days from receipt of notice, otherwise, this will result in his disbarment.

The findings of IBP Investigating Commissioner Victor C. Fernandez are as follows:

Complainant and his witness, Jose Ducat, Sr., testified in a straightforward, spontaneous and candid manner. The sincerity and demeanor they displayed while testifying before the Commission inspire belief as to the truth of what they are saying. More importantly, respondent failed to impute any ill-motive on the part of the complainant and his witness which can impel them to institute the instant complaint and testify falsely against him. To be sure, the testimony of the

complainant and his witness deserves the Commission's full faith and credence.

Respondent's evidence, on the other hand, leaves much to be desired. His defense (that he considered himself the owner of the subject property which was allegedly given to him by Jose Ducat, Sr.) rings hollow in the face of a welter of contravening and incontrovertible facts.

FIRST, the registered owner of the subject property is complainant Jose Ducat, Jr. Accordingly, respondent (being a lawyer) knew or ought to know that Jose Ducat, Sr. could not possibly give to him the said property unless the former is duly authorized by the complainant through a Special Power of Attorney. No such authorization has been given. Moreover, Jose Ducat, Sr. has vigorously denied having given the subject property to the respondent. This denial is not too difficult to believe considering the fact that he (Jose Ducat, Sr.) is not the owner of said property.

SECOND, being a lawyer, respondent knew or ought to know that conveyance of a real property, whether gratuitously or for a consideration, must be in writing. Accordingly, it is unbelievable that he would consider himself the owner of the subject property on the basis of the verbal or oral "giving" of the property by Jose Ducat, Sr. no matter how many times the latter may have said that.

THIRD, the Deed of Sale of Parcel of Land (Exh. "1" for the respondent and Exh. "A-2" for the complainant) allegedly executed by Jose Ducat, Sr. in favor of respondent Atty. Arsenio Villalon and/or Andres Canares, Jr. covering the subject parcel of land which respondent prepared allegedly upon instruction of Jose Ducat, Sr. is of dubious character. As earlier adverted to, Jose Ducat, Sr. is not the owner of said property. Moreover, said Deed of Sale of Parcel of Land is a falsified document as admitted by the respondent himself when he said that the signature over the typewritten name Maria Cabrido (wife of Jose Ducat, Sr.) was affixed by Jose Ducat, Sr. Being a lawyer, respondent knew or ought to know that the act of Jose Ducat, Sr. in affixing his wife's signature is tantamount to a forgery. Accordingly, he should have treated the said Deed of Sale of Parcel of Land as (sic) a mere scrap of worthless paper instead of relying on the same to substantiate his claim that the subject property was given to him by Jose Ducat, Sr. Again, of note is the fact that Jose Ducat, Sr. has vigorously denied having executed said document which denial is not too difficult to believe in the light of the circumstances already mentioned.

FOURTH, the Deed of Absolute Sale of Real Property (Exh. "2" for the respondent and Exh. "A-3" for the complainant) allegedly executed by Jose Ducat, Jr. in favor of Andres Canares, Jr. over the subject property (which respondent claims he prepared upon instruction of Jose Ducat, Sr.) is likewise of questionable character. Complainant Jose Ducat, Jr. has vigorously denied having executed said document. He claims that he has never sold said property to Andres Canares, Jr. whom he does not know; that he has never appeared before Atty. Crispulo Ducusin to subscribe to the document; and that he has never received the amount of