

# FIRST DIVISION

[ A.C. No. 12724, July 28, 2020 ]

**SYLVIA R. RIVERA, COMPLAINANT, VS. ATTY. BAYANI P. DALANGIN, RESPONDENT.**

## DECISION

**LOPEZ, J.:**

It is imperative that all lawyers live by the law.<sup>[1]</sup> Any lawyer who engages in deceitful conduct deserves administrative sanctions. One such instance is present in this complaint for disbarment against a lawyer who exhibited dishonesty in feigning that he did not represent a client resulting in violations of the rules on notarial practice.

## ANTECEDENTS

Sylvia Rivera, the surviving spouse of the late Teofilo Rivera, and Nicasio Rivera, Teofilo's son from another woman, filed a civil case for annulment of documents, cancellation of title and damages against Felipe Pecache and the Register of Deeds of Nueva Ecija before the Regional Trial Court (RTC) docketed as Civil Case No. 1470. The controversy is over a land registered in Teofilo's name under Transfer Certificate of Title (TCT) No. NT-217758. However, the RTC dismissed the complaint for lack of merit. Immediately, Sylvia and Nicasio elevated the case to the Court of Appeals (CA) docketed as CA-G.R. CV No. 53694. The CA affirmed the RTC's findings. Aggrieved, Sylvia and Nicasio sought assistance from Atty. Bayani Dalangin who prepared a motion for reconsideration. In due course, the CA granted the motion and ruled in favor of Sylvia and Nicasio. Upon finality of the decision, Atty. Dalangin filed a motion for execution of judgment and then a motion to clarify writ of execution.

Later, Sylvia discovered that Nicasio and his wife Emily de Luna executed on June 14, 2009 an Affidavit of Self-Adjudication with Sale<sup>[2]</sup> involving Teofilo's property. The land was sold for P100,000.00 to Spouses James Martin and Mary Ann Wy, who were later issued TCT No. N-47751 in their names.<sup>[3]</sup> Aggrieved, Sylvia charged Nicasio and Emily of estafa through falsification.<sup>[4]</sup> Thereafter, Sylvia wrote to Spouses Wy and expressed her intention to recover the property by tendering payment of P100,000.00 and consigning the amount in court in case of refusal.<sup>[5]</sup>

Meantime, Sylvia filed a complaint for the annulment of the affidavit of self-adjudication with sale against Spouses Wy, Nicasio and Emily and the cancellation of TCT No. N-47751 before the RTC. Likewise, Sylvia consigned the P100,000.00 in court.<sup>[6]</sup> In their answer, the Spouses Wy attached a Deed of Absolute Sale<sup>[7]</sup> dated May 28, 2009 with a consideration of P4,000,000.00 and notarized by Atty. Dalangin. However, Sylvia claimed that the deed was antedated to prevent the

consignment. Moreover, Atty. Dalangin was aware that Sylvia has an interest over the property of her late husband.<sup>[8]</sup>

Thus, Sylvia filed a Complaint<sup>[9]</sup> for disbarment against Atty. Dalangin on grounds of deceit and dishonesty before the Integrated Bar of the Philippines (IBP) docketed as Commission on Bar Discipline (CBD) Case No. 11-3237. As supporting evidence, Sylvia submitted a certification from the Office of the Clerk of Court that Atty. Dalangin did not submit his notarial reports for the period February 6, 2008 to December 31, 2009.<sup>[10]</sup>

On the other hand, Atty. Dalangin denied that Sylvia was his client and argued that it was Nicasio who hired his services.<sup>[11]</sup> Also, Atty. Dalangin explained that the disputed property was previously registered under TCT No. NT-217758 solely in the name of Teofilo Rivera. He has no knowledge that Sylvia is the lawful wife of the late Teofilo. Further, Atty. Dalangin maintained that the deed of absolute sale in favor of Spouses Wy was not ante-dated. As proof, he presented a page from his notarial register showing that the deed was executed on May 28, 2009. Finally, Atty. Dalangin countered that he submitted on October 11, 2011 his notarial reports for the years 2008 and 2009.<sup>[12]</sup>

On July 20, 2016, the IBP CBD reported that Atty. Dalangin violated the Code of Professional Responsibility and the Rules on Notarial Practice. It found that Atty. Dalangin previously acted as Sylvia's counsel and that the notarization of the deed of absolute sale was anomalous. Accordingly, it recommended the suspension of Atty. Dalangin in the practice of law for two years, immediate revocation of his notarial commission, and disqualification from being appointed as notary for two years<sup>[13]</sup> viz.:

Respondent became a counsel for the plaintiffs-appellants in Civil Case No. 1470 (CA-G.R. CV No. 53694) entitled Sylvia R. Rivera and Nicasio Rivera vs. Felipe Pecache. Although he denied lawyering for plaintiffs-appellants before the CA, his client, Emily de Luna, wife of Nicasio Rivera in her [*Sinumpaang Salaysay*] dated December 19, 2011 enumerated in detail how respondent became their lawyer, she admitted to have lost their case before the RTC and the CA so in their desire to appeal the Decision to the Supreme Court, they asked the help of respondent who was then working at the Public Attorney's Office (PAO) and he helped them prepare their Motion for Reconsideration before the CA without consideration although they told him that V2 of the property will go to him. This resulted to an Amended Decision favorable to them. They then asked him to file a motion for execution on behalf of the plaintiffs at the RTC and at that time, he was no longer connected with the PAO.

Exhibit D which is the Motion for Execution signed and filed by respondent stated that he is appearing as counsel for the "plaintiffs" without distinguishing between plaintiffs Narciso and Sylvia. This is evidence that respondent also acted as counsel for complainant, and he is estopped from claiming otherwise. Exhibit E which is a Motion to Clarify Writ of Execution was likewise signed and filed by respondent as counsel for the "plaintiffs." It is difficult to believe that respondent had not at all inquired into the details of the case and the background of the case

before filing pleadings on behalf of them. Any reasonably prudent attorney would inquire into the facts of the case before accepting a request to file any pleading. The said motions are substantial evidence that there was an Attorney-Client relationship between complainant and respondent.

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On the issue of the execution of Deed of Sale dated May 28, 2009, it was admitted that respondent prepared and notarized the said Deed for Four Million Pesos (PHP 4,000,000.00) in favor of Spouses Wy, signed solely by vendor Narciso it being his inheritance. This by itself is anomalous, dishonest and done in bad faith intended to prejudice the rights of the complainant. First, in the Civil Case where he became counsel for plaintiffs, it was alleged therein that the heirs of Teofilo are the surviving spouse, herein complainant and Narciso, his son by another woman. Flaving knowledge of this fact, he should not have proceeded with the said transaction with only one of the plaintiffs executing the sale without the participation of his other client, to her great loss. Art. 998 of the Civil Code provides that if a widow or widower survives with illegitimate children, such widow or widower shall be entitled to one-half of the inheritance, and the illegitimate children or descendants, whether legitimate or illegitimate, to the other half. Second, there has to be a settlement of estate and partition of the properties of the deceased so that the proper estate tax be paid first before the heirs to whom the property is adjudicated could legally sell their respective portions. Sad to say that these were not done by the respondent who, as counsel should have properly advised his client.

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In light of the foregoing facts and legal basis, respondent is found to have violated his Lawyer's Oath, the x x x Canons of Professional Responsibility and failed to faithfully comply with the rules on notarial practice, thus it is recommended that he be **SUSPENDED** from the practice of law for a two-year period. It is further recommended that his present notarial commission, if any, be **REVOKED**, and that he be **DISQUALIFIED** from reappointment as a notary public for a period of two (2) years. He should also be **WARNED** that any similar act or infraction in the future shall be a cause for Disbarment considering his previous disciplinary cases.

RESPECTFULLY SUBMITTED.<sup>[14]</sup>

The IBP Board of Governors adopted the Commission's findings.<sup>[15]</sup> Atty. Dalangin moved for a reconsideration.<sup>[16]</sup> On October 4, 2018, the IBP partly granted the motion and removed the penalty of suspension, thus:

RESOLVED to **PARTIALLY GRANT** the Respondent's Motion for Reconsideration by reducing the recommended penalty to Immediate revocation of the notarial commission, if subsisting, and. Disqualification from being commissioned as a notary public for a period of two (2) years.

<sup>[17]</sup>

## RULING

The Court adopts the IBP's findings with modification as to the penalty.

The Code of Professional Responsibility clearly mandates the obedience of every lawyer to laws and legal processes. To the best of his ability, a lawyer is expected to respect and abide by the law and, thus, avoid any act or omission that is contrary thereto. A lawyer's personal deference to the law not only speaks of his character but it also inspires respect and obedience to the law, on the part of the public. Apropos are Canons 1 and 7, to wit:

CANON 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

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

RULE 1.02 A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

CANON 7 - A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the integrated bar.

An "unlawful" conduct refers to any act or omission that is contrary to, or prohibited or unauthorized by, or in defiance of, disobedient to, or disregards the law. It does not necessarily imply the element of criminality although the concept is broad enough to include such element. To be "dishonest" means the disposition to lie, cheat, deceive, defraud or betray; be unworthy; lacking in integrity, honesty, probity, integrity in principle, fairness and straight forwardness. A "deceitful" conduct means the proclivity for fraudulent and deceptive misrepresentation, artifice or device that is used upon another who is ignorant of the true facts, to the prejudice and damage of the party imposed upon.<sup>[18]</sup>

Here, Atty. Dalangin exhibited dishonesty in feigning that he did not represent Sylvia. Foremost the caption in Civil Case No. 1470 and CA-G.R. CV No. 53694 is entitled "*Sylvia Reyes Rivera & Nicasio Rivera v. Felipe Pecache and the Register of Deeds of Nueva Ecija*." Atty. Dalangin even moved for execution<sup>[19]</sup> of judgment with preliminary words "*Plaintiffs, unto this Honorable Court, most respectfully states.*"<sup>[20]</sup> The motion to clarify writ of execution that Atty. Dalangin filed was similarly worded.<sup>[21]</sup> Verily, there is no way Atty. Dalangin could forget that Sylvia is his client. The theory that he counseled only Nicasio and Emily can hardly be given credit.

Likewise, Atty. Dalangin cannot deny that Sylvia is Teofilo's wife or that she has an interest in the disputed land. As such, Atty. Dalangin should have been circumspect in notarizing the deed of absolute sale over Teofilo's property knowing that a legal heir was left out. The transaction disregarded the rules on succession that the widow is a compulsory heir of the decedent.<sup>[22]</sup> Corollarily, Atty. Dalangin should have refused the notarization of the deed. The 2004 Rules on Notarial Practice<sup>[23]</sup> provides that: