

SECOND DIVISION

[A.C. No. 11217, October 07, 2020]

LINO C. BERNAL, JR., COMPLAINANT, VS. ATTY. ERNESTO M. PRIAS, RESPONDENT.

DECISION

DELOS SANTOS, J.:

The present Complaint of Lino C. Bernal, Jr. (complainant) against respondent Atty. Ernesto Prias (respondent) for Disbarment, was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

The Antecedent Facts

Complainant gives the following account of the facts that spawned the filing of the present administrative complaint.

Sometime in December 2014, respondent went to the office of the City Treasurer of Antipolo City to redeem a property registered under the name of Solid Builders, Inc. by claiming to be the authorized representative of the delinquent taxpayer/person holding a lien or claim over the property. It was the first time that complainant, as Officer-in-Charge of the City Treasurer's Office of Antipolo City, met respondent when the latter went to his office and made such representation to redeem the said property.^[1]

The subject property is situated in *Sitio Labahan, Barangay Mambugan*, Antipolo City with an area of 766 square meters (sq m), more or less, as described under Transfer Certificate of Title (TCT) No. N-123108 and declared for real property tax purposes under Tax Declaration No. AC-011-05640 with PIN No. 177-01-011-026-188.^[2]

On December 22, 2014, respondent paid the unpaid real property taxes plus the corresponding interest which amounted to P167,982.80 as shown by Official Receipt No. 4449001.^[3]

Respondent was thereafter informed that the payment tendered by him will only redound to the benefit of the declared owner indicated on the Tax Declaration. He was also advised to submit proof of his authority, or any proof of ownership, or any mode of conveyance to redeem the subject property in behalf of the registered owner on or before January 12, 2015.^[4]

However, on the aforementioned due date, respondent failed to submit any proof of authority to qualify him as a person having legal interest or as a duly authorized representative of the registered owner of the subject property.^[5]

On January 30, 2015, complainant, in his capacity as City Treasurer, sent respondent a Letter^[6] thereby informing him that the payment he tendered for the redemption of the subject property could no longer serve its purpose of redemption for failure to show sufficient proof of legal representation and that mere redemption cannot qualify the latter as a person of legal interest, more so to convey ownership unto his name. The pertinent portion of the letter states:

In a meeting held at my office last January 9, 2015, you committed to submit documents such as Memorandum of Agreement, Contract to Sell, Deed of Sale, written Professional Engagement by the property owner/s, among others, on or before January 12, 2015, in support of your legal personality, either as a lawyer or legally constituted representative of the declared owner or otherwise, to redeem the abovementioned property in the amount of One Hundred Sixty Seven Thousand Nine Hundred Eighty Two and 80/100 (PhP167,982.80) covering the tax due from CY 2006 to CY 2014, publication cost and accrued interest.

Notwithstanding the foregoing, we did not receive to-date any document that will qualify you as "*person having legal interest*" or as a duly constituted representative of the owner to redeem the aforementioned property.

In view thereof, please be advised that the payment you made for the redemption of the said property is hereby cancelled and of no further force effect.

Finally, may we invite you to our office at your convenient time and please bring the original receipt of the said payment to enable us to facilitate your refund therefor.^[7]

Complainant thereafter attended a meeting with the registered owners of the subject property at the VV Soliven Building, EDSA, Quezon City and was informed by the President/Chairman of Solid Builders, Inc. that respondent has visited their office and offered to buy the above-described property, but his offer was denied. That a certain Florentina Genove was the duly authorized legal representative of the registered owners who were authorized to redeem the property by virtue of a Special Power of Attorney and a Board Resolution issued by the Board of Directors of the corporation.^[8]

In his defense, respondent explained that he leased the lot from a certain Mr. Carriaga who introduced himself as the owner. The lot was used by him in his gravel and sand business. At that time, it was unknown to the respondent that somebody else owns the lot. That respondent occupied the property peacefully until the lot was auctioned by the City Treasurer of Antipolo sometime in 2014 for tax delinquency. Respondent participated in the auction, but the property was awarded to La Verne Realty Corporation as the winning bidder.^[9]

Later, respondent and his wife went to the office of the City Treasurer of Antipolo and were given the details of the lot and the unpaid real property tax. Respondent told complainant personally that he is the actual possessor of the delinquent lot levied by the City of Antipolo and that he is interested of redeeming the property in the name of the registered owner. Respondent argued that being the actual possessor of the lot, he may be considered to be a person having legal interest on

the delinquent property. Meanwhile, complainant explained to respondent that there shall be an authority issued by the registered owner for him to redeem the aforementioned property in behalf of the registered owner.^[10]

After a tedious conversation, the complainant eventually agreed to the request of the respondent, subject to the condition that the latter will submit an authority from the registered owner and shall pay the amount of tax delinquency plus interest. Complainant then set the period for the submission of the authority being sought.^[11]

In accordance with the condition imposed by the complainant, respondent went to the office of the registered owner at VV Soliven Building along EDSA and negotiated with Mrs. Purita Soliven (Mrs. Soliven) and Atty. Zorreta, one of the legal counsels of Mrs. Soliven, wife of the former President of Solid Builders, Inc. Respondent was then cordially informed that the registered owners will be the one to redeem the property considering that the delinquent tax is not so big and within their means.^[12]

That contrary to the self-serving allegations of the complainant, the respondent has an outstanding verbal agreement with Solid Builders, Inc. to buy the property in the amount of P10,000.00 per sq m. However, the same has not materialized due to the difficulty of Solid Builders, Inc. to conduct a relocation survey of the remaining area left, after the lot was traversed by the Marcos Highway and consequently reduced. Respondent has also demanded for a certified photocopy of the title of the lot, but unfortunately there has been no compliance to the request made.^[13]

In sum, respondent is of the position that he never misrepresented himself as the authorized representative of the registered owner contrary to the averments of the complainant. There never was any concealment of the fact that respondent is the actual possessor of the lot and the only purpose of the redemption in the name of Solid Builders, Inc. was to avoid paying interest in the period before the allowable redemption period has expired. These are apparent from the allegations of the complainant under paragraphs 5, 6, 7, and 8 of his Affidavit-Complaint^[14] that in the event that no authority be submitted, the payment made by respondent will be cancelled, with no force and effect and thereafter be refunded.^[15]

Respondent further maintained that there never was any act of dishonesty, immorality, or deceitful conduct on his part, as can be gleaned from the allegations above. It was not unlawful to redeem a levied property, neither was it immoral, considering that nothing was concealed by the respondent to the complainant in desiring to redeem the levied property. There was no deceit to speak of.^[16]

In parting, respondent asserted that complainant seems to be motivated by personal reasons in filing a complaint against respondent, in the absence of any showing that his office or his person was adversely affected when he himself caused the acceptance of the redemption money. Respondent could not think of any reason, considering that the discussion at complainant's office was very professional, cordial and without any animosity shown by either party except for exchange of ideas on the issue. The dispute arose only when respondent was shown a letter from the winning bidder, La Verne Realty Corporation, objecting to the redemption done by the respondent thereby assailing squatters as a negative factor in the growth of the local government to which respondent did not mind.^[17]

By a Verified Disbarment Complaint/Letter-Affidavit,^[18] complainant directly filed with the Supreme Court a disbarment case against respondent for violation of the Lawyer's Oath and Rule 1.01, Canon 1 of the Code of Professional Responsibility (CPR), which states:

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

Subsequently, the Supreme Court, Second Division issued a Resolution^[19] directing the respondent to file a Comment within 10 days from notice, to which he complied.^[20] Subsequently, the Court issued a Resolution dated October 12, 2016 which reads as follows:

The Court resolves to NOTE respondent's comment dated 11 June 2016 on the verified disbarment complaint/letter-affidavit in compliance with the Resolution dated 20 April 2016, and to REFER this case to the Integrated Bar of the Philippines for investigation, report and recommendation/decision within ninety (90) days from receipt of the records.

Report and Recommendation of the IBP

Pursuant to a referral by the Court, a Notice of Mandatory Conference/Hearing^[21] dated March 29, 2017 was issued by Commissioner Rebecca Villanueva-Maala (Commissioner Maala) of the IBP Commission on Bar Discipline (CBD).

Afterwards, the IBP Board of Governors approved the Report and Recommendation^[22] dated July 10, 2017 of Commissioner Maala in CBD Case No. 17-5294 (ADM. Case No. 11217), a salient portion of which, states:

WHEREFORE, there being no clear, convincing and satisfactory proof to warrant disciplinary action against respondent, ATTY. ERNESTO M. PRIAS, we respectfully recommend that this complaint for disbarment be DISMISSED for lack of merit.^[23]

Our Ruling

The Court resolves to reverse the IBP findings.

The purpose of disbarment is mainly to determine the fitness of a lawyer to continue acting as an officer of the court and as participant in the dispensation of justice.^[24] It is to protect the courts and the public from the misconduct of the officers of the court and to ensure the administration of justice by requiring that those who exercise this important function shall be competent, honorable and trustworthy men in whom courts and clients may repose confidence.^[25] A case of suspension or disbarment is *sui generis* and not meant to grant relief to a complainant as in a civil case, but is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts.^[26]

Jurisprudence is replete with cases reiterating that in disbarment proceedings, the burden of proof rests upon the complainant.^[27] For the Court to exercise its disciplinary powers, the case against the respondent must be established by convincing and satisfactory proof.^[28] In the recent case of *Reyes v. Nieva*,^[29] this