

## SECOND DIVISION

[ A.C. No. 11584 (Formerly CBD Case No. 12-3604), March 06, 2019 ]

**ROLANDO T. KO, COMPLAINANT, VS. ATTY. ALMA UY-LAMPASA, RESPONDENT.**

### DECISION

**CAGUIOA, J:**

Before the Court is an administrative complaint<sup>[1]</sup> for disbarment filed by Rolando T. Ko (complainant) against Atty. Alma Uy-Lampasa (respondent) with the Commission on Bar Discipline (CBD), Integrated Bar of the Philippines (IBP).<sup>[2]</sup>

#### *Complaint*

In his Complaint dated October 2, 2012, complainant alleged that respondent violated the Code of Professional Responsibility for Lawyers (CPR). **First**, he claimed that respondent notarized two purported deeds of sale between Jerry Uy (Jerry) and the Sultan siblings (heirs of a certain Pablo Sultan) over a parcel of land despite knowing that the two deeds of sale were spurious. From the records, it appears that the Sultan siblings are: Pablito, Anicieto, Cristita, Juanito, Felix, Leonardo, Crispin,<sup>[3]</sup> Lilia, Victoriano and Lucita.<sup>[4]</sup>

The Deeds of Absolute Sale dated October 12, 2011<sup>[5]</sup> and October 19, 2011,<sup>[6]</sup> are similar in the following respects: the vendee, the property covered, and the consideration. However, the two deeds differ as regards the name of the vendors. For the Deed dated October 12, the vendors named were Juanito, Felix, Leonardo, Crispin, Lilia, Pablito, Victoriano and Lucita, but only Leonardo, Lilia and Victoriano signed the deed. For the Deed dated October 19, Victoriano and Lucita were not included in the vendors and among those named, *i.e.*, Juanito, Felix, Leonardo, Crispin, Pablito, and Lilia, Pablito did not sign the deed. It is noted that only eight of the ten Sultan siblings are involved, as Anicieto and Cristita do not appear in either of the deeds.

In this regard, complainant claimed that an Extra-judicial Settlement of Estate with Absolute Sale<sup>[7]</sup> (Extra-judicial Settlement) covering the same property was executed on October 20, 2011 between his son, Jason U. Ko (Jason), and all ten of the Sultan siblings. Complainant calls the attention of the Court to the fact that in contrast with the deeds of sale notarized by respondent, this Extra-judicial Settlement contains the signatures and thumbmarks of all the Sultan siblings.

**Second**, complainant also claimed that respondent, as counsel for Jerry (the vendee in the abovementioned Deeds of Sale), filed a malicious case of *Estafa* against his son Jason and the Sultan siblings, grounded on the allegation that the Extra-judicial

Settlement was not published when in fact, it was published as evidenced by an Affidavit of Publication.<sup>[8]</sup>

**Lastly**, complainant averred that respondent also committed perjury and has filed pleadings in court without the necessary Mandatory Continuing Legal Education (MCLE) compliance number, attaching to his complaint several pleadings and manifestations in support of such.<sup>[9]</sup>

#### *Answer*

In her Answer<sup>[10]</sup> dated November 10, 2012, respondent countered that she has not violated any provision of the CPR, arguing that: (1) the matter of whether the deeds of sale were spurious is now the subject of separate cases pending in court and with the City Prosecutor's Office of Catbalogan City, Western Samar; (2) the determination of whether the estafa case is malicious is within the jurisdiction of the City Prosecutor's Office conducting the preliminary investigation; and (3) she was exempted from MCLE requirements for the first up to the third compliance period because she was a former judge, and that she is currently in the process of complying with the requirement for the latest compliance period.<sup>[11]</sup>

Subsequently, the parties submitted their Reply<sup>[12]</sup> and Rejoinders<sup>[13]</sup> before the CBD in support of their arguments and counter-arguments. A mandatory conference was held on September 19, 2013 and upon its termination, both parties submitted their respective position papers.<sup>[14]</sup>

#### *Report and Recommendation of the Investigating Commissioner*

On December 18, 2013, the Investigating Commissioner of the CBD issued a Report and Recommendation,<sup>[15]</sup> the pertinent portions of which are reproduced below:

xxx Stripped of the non-essentials, a scrutiny of the records would show that respondent has, indeed, notarized two (2) documents of sale involving the same parties but containing different dates of notarization. Respondent has never denied notarizing the subject documents in her verified answer and in her subsequent pleadings filed before the CBD. Very clearly, this alone is a violation of the notarial law. Moreover, there is sufficient evidence to prove that respondent failed to indicate her MCLE Compliance Certificate Number in various pleadings filed before the courts and the Prosecutors Office of Catbalogan City, Western Samar. Her argument that she was on the process of obtaining her MCLE certificate for the latest compliance period does not, in any way, exempt her from the mandate of the circular. Prudence dictates that respondent should have refrained from signing pleadings while her MCLE certificate is being processed. Unfortunately, however, she failed to do so.

**WHEREFORE, PREMISES CONSIDERED**, it is recommended that respondent shall be **suspended as a Notary Public for a period of SIX (6) MONTHS** with **a stern warning** that a repetition of the same shall be dealt with more severely.<sup>[16]</sup> (Emphasis and underscoring supplied)

## *Resolution of the IBP Board of Governors*

In a Resolution<sup>[17]</sup> dated October 11, 2014, the IBP Board of Governors (IBP Board) adopted and approved the Report and Recommendation of the Investigating Commissioner, finding the same to be fully supported by the evidence on record and applicable laws. The IBP Board found that respondent indeed violated the *2004 Rules on Notarial Practice* and *Bar Matter No. (B.M.) 850*. However, the IBP Board modified the recommendation of the Investigating Commissioner and imposed on respondent the penalty of **immediate revocation of her notarial commission and disqualification for re-appointment as notary public for two (2) years**, not six months as recommended by the Investigating Commissioner. In addition, the IBP Board also **suspended respondent from the practice of law for a period of six (6) months**.

Respondent filed a Motion for Reconsideration<sup>[18]</sup> (MR), which was denied by the IBP Board in a Resolution<sup>[19]</sup> dated February 25, 2016.

The Court notes that in respondent's MR before the IBP Board, she argued that the latter merely adopted the Report and Recommendation of the Investigating Commissioner, which was likewise not exhaustive enough in its findings and conclusions. Moreover, respondent claimed that the IBP Board failed to cite any specific violation of the Notarial and MCLE Rules. Lastly, respondent argued that the IBP Board increased the penalty imposed on her without citing any additional fact or basis.

Indeed, despite the numerous submissions of the parties, the Report and Recommendation of the Investigating Commissioner as well as the Resolutions of the IBP Board leave much to be desired. Thus, the Court shall expound on respondent's administrative liability.

### ***Ruling of the Court***

#### *Non-compliance with the MCLE Requirements*

On the issue of compliance with the MCLE, the Court disagrees with the Investigating Commissioner and the IBP Board.

B.M. 850 requires members of the IBP to undergo continuing legal education "to ensure that throughout their career, they keep abreast with law and jurisprudence, maintain the ethics of the profession and enhance the standards of the practice of law."<sup>[20]</sup> The *First Compliance Period* for the MCLE requirement was from 15 April 2001 to 14 April 2004; the *Second Compliance Period* was from 15 April 2004 to 14 April 2007; and the *Third Compliance Period* was from 15 April 2007 to 14 April 2010; and the *Fourth Compliance Period* was from 15 April 2010 to 14 April 2013.<sup>[21]</sup>

Here, complainant alleged that in several pleadings filed by respondent, the latter did not indicate her MCLE compliance number. He cited five pleadings filed by respondent which were dated December 7, 2011,<sup>[22]</sup> February 25, 2012,<sup>[23]</sup> March 8, 2012,<sup>[24]</sup> and two pleadings dated March 27, 2012,<sup>[25]</sup> thus falling under the *Fourth Compliance Period*.

For her part, respondent explained that she was exempted from MCLE compliance for the *First, Second, and Third Compliance Periods*, until she resigned as a judge on March 2010. After which, she endeavored to comply with the *Fourth Compliance Period* while also in the process of requesting copies of her certificate of exemption. [26]

The Court notes that respondent eventually completed the required units on May 19, 2012, which is still within the *Fourth Compliance Period*. Likewise, she was also issued Certificates of Exemption [27] on September 4, 2012 for the *First, Second, and Third Compliance Periods*. [28]

Moreover, respondent manifested that the presiding judge of the Regional Trial Court (RTC) where the cases involved were pending required her to submit her Certificates of Compliance. When respondent received said certificates, she immediately submitted the same to the trial court. [29]

In finding respondent administratively liable, the IBP Board merely stated that she violated B.M. 850. The relevant provisions thereof are Rules 12 and 13, which provide:

## **RULE 12**

### *Non-Compliance Procedures*

XXXX

SECTION 2. *Non-compliance Notice and 60-day Period to Attain Compliance.* — Members **failing to comply will receive a Non-Compliance Notice stating the specific deficiency and will be given sixty (60) days from the date of notification to file a response clarifying the deficiency or otherwise showing compliance with the requirements.** xxx

XXXX

Members given sixty (60) days to respond to a Non-Compliance Notice may use this period to attain the adequate number of credit *units* for compliance. xxx

## **RULE 13**

### *Consequences of Non-Compliance*

SECTION 1. *Non-compliance Fee.* — A member who, for whatever reason, is in non-compliance at the end of the compliance period shall **pay a non-compliance fee.**

SECTION 2. *Listing as Delinquent Member.* — A member who **fails to comply with the requirements after the sixty (60) day period for compliance has expired, shall be listed as a delinquent member of the IBP upon the recommendation of the MCLE Committee.** The investigation of a member for non-compliance shall be conducted by the

IBP's Commission on Bar Discipline as a fact-finding arm of the MCLE Committee. (Emphasis and underscoring supplied)

Based on the rules, an IBP member shall only be declared delinquent for failure to comply with the education requirements "after the sixty (60) day period for compliance has expired." This 60-day period shall commence from the time such member received a notice of non-compliance. Without the notice of compliance, a member who believes that the units he or she had taken already amounts to full compliance may be declared delinquent without being made aware of such lack of units and with no chance to rectify the same.<sup>[30]</sup>

In the instant case, there is no showing that respondent had ever been issued a Notice of Non-Compliance. On the contrary, the records show that for the *first to third compliance periods*, she was exempted for being a member of the judiciary, and that she was able to complete the requirements for the *fourth compliance period*. The Court also notes that when complainant filed the disbarment case on October 12, 2012, respondent still had until April 14, 2013 to comply with the *fourth compliance period*. She eventually completed the required units on May 19, 2012. Thus, there is no reason for respondent to be held liable and declared delinquent under B.M. 850.

#### *Violation of the Notarial Rules*

Despite the foregoing, the Court agrees with the IBP Board that respondent can be held liable for violation of the Rules on Notarial Practice.

The act of notarization is impressed with public interest. As such, a notary public must observe the highest degree of care in complying with the basic requirements in the performance of his or her duties in order to preserve the confidence of the public in the integrity of the notarial system.<sup>[31]</sup> In this case, respondent failed to faithfully comply with her duties as a notary public.

It appears that respondent notarized two Deeds of Absolute Sale covering the same property and involving substantially the same parties. In the October 12, 2011 Deed of Absolute Sale, the Acknowledgement reads in part:

BEFORE ME, a Notary Public for and in the Province of Samar, **personally appeared** JUANITO A. SULTAN, FELIX A. SULTAN, LEONARDO A. SULTAN, CRISPEN A. SULTAN, LILIA A. SULTAN, PABLITO A. SULTAN, VICTORIANO A. SULTAN, LUCITA S. UY and JERRY I. UY, **exhibiting to me their Community Tax Certificate numbers**, known to me to be the same persons who executed the foregoing instrument, which **they acknowledged to me** as their free and voluntary act and deed.<sup>[32]</sup> (Emphasis supplied)

However, among the vendors, only Leonardo, Lilia, and Victoriano actually signed the deed. Details of the Community Tax Certificate (CTC) of Juanito, Felix, and Crispin were provided, but they did not sign the deed. As for Pablito and Lucita, the space for the signature and identification details was left blank.

Likewise, in the October 19, 2011 Deed of Absolute Sale, the Acknowledgement reads in part: