

EN BANC

[A.C. No. 10261, July 16, 2019]

**RUFINA LUY LIM, COMPLAINANT, V. ATTY. MANUEL V.
MENDOZA, RESPONDENT.**

D E C I S I O N

PER CURIAM:

Before the Court is a Complaint^[1] for Disbarment filed by Rufina Luy Lim (Rufina) against Atty. Manuel V. Mendoza (Atty. Mendoza) for violation of Canon 1, Rules 1.01 and 1.02, Canon 7, Rule 7.03, Canon 8, Rule 8.01, Canon 10, Rule 10.01, Canon 11, Rule 11.03, and Canon 19, Rule 19.01 of the Code of Professional Responsibility (CPR) and Section 20, Rule 138 of the Rules of Court.

Rufina is the surviving spouse of Pastor Y. Lim (Pastor) who died on June 11, 1994. She claimed that during his lifetime, Pastor used conjugal funds to organize several dummy corporations^[2] (Skyline International, Inc. (Skyline), Nell Mart, Inc. (Nell Mart), etc.) using his mistresses and employees as incorporators and/or stockholders, in order to defeat her claims to said properties.^[3]

On March 17, 1995, Rufina filed a Joint Petition before the Regional Trial Court (RTC) of Quezon City for the settlement of Pastor's estate. Miguel Lim (Miguel), brother of Pastor, on behalf of his mother Yao Hiong, filed a Petition for Intervention dated August 17, 1995 categorically stating under oath that Skyline, etc., are dummy corporations and that the persons whose names appear as incorporators, stockholders and officers thereof were mere dummies. The Petition also averred that the parcels of lands titled under the names of the corporations were really owned by Pastor.^[4]

The Petition for Intervention was executed before Atty. Mendoza, as notary public.^[5] He also notarized the affidavits of Teresa T. Lim, Lani G. Wenceslao, Susan Sarcia-Sabado and Miguel, who all admitted under oath that: Pastor created dummy corporations; the purported stockholders thereof did not pay a single centavo for shares under their names; and, the affiants as directors, stockholders, or officers did not have any actual participation in the operation of said companies.^[6]

Later, however, Atty. Mendoza, as counsel of Skyline, argued that Skyline is the registered owner of several real properties and that it has all the right to protect its interest against Rufina. Rufina averred that Atty. Mendoza made such allegation despite his knowledge that Skyline is a dummy corporation and it has been judicially declared as conjugal property of Rufina and Pastor.

Rufina also claimed that Atty. Mendoza, acting as Vice-President of Nell Mart demanded from the tenants of lots covered by Transfer Certificates of Title (TCT) Nos. 236236 and 236237 to vacate the property, claiming that Nell Mart owned the same, even while knowing that Nell Mart is a dummy corporation.

Rufina finally averred that Atty. Mendoza used intemperate language in his pleadings particularly when he said that Rufina collected "BILLIONS OF PESOS" as rentals which were "DISSIPATED ON HER GAMBLING VICES."^[7]

Atty. Mendoza, in his Answer, countered that Rufina and Pastor were separated for more than 26 years by the time Pastor died. On May 11, 1972, the couple entered into an Agreement where they already partitioned their conjugal properties. As for the issue on dummy corporations, the RTC of Quezon City, Branch 99 already held in Special Proceeding Case No. Q-95-23334 that "the bank deposits in the names of [Nell Mart] and Skunac Corporation x x x which were found to be properties distinct from the estate, are x x x not properties of the estate of xxx Pastor x x x and are, therefore, ordered excluded therefrom x x x."^[8]

While he admitted having filed the Petition for Intervention, he said that it was "pre-arranged between Rufina Luy Lim and Miguel Y. Lim." Unfortunately, Miguel and Yao Hiong died before they could testify, hence the statements made in the Petition for Intervention are mere hearsay.^[9]

Atty. Mendoza further pointed out that this is the second complaint filed by Rufina against him before the Integrated Bar of the Philippines (IBP) involving the same issue of ownership of the properties covered by TCT Nos. 236236 and 236237 registered in the name of Nell Mart. He claimed that Rufina filed the disbarment complaints against him in retaliation for her losses in other cases.^[10]

IBP Report and Recommendation

On March 4, 2009, Commissioner Norberto B. Ruiz of the IBP Commission on Bar Discipline (IBP-CBD) issued his Report and Recommendation^[11] recommending the suspension of Atty. Mendoza from the practice of law for two years.

The Report noted that although Atty. Mendoza admitted that the 1972 Agreement may be improper, he still argues that the same is valid between the parties. Respondent's insistence on the validity of the Agreement only betrays his ignorance of the law which contravenes Canons 1^[12] and 5^[13] of the CPR.

The Report further observed that assuming that respondent drafted the Petition for Intervention, since he signed the same, the presumption is that the contents thereof are true and correct, as in fact, his client attested to the truthfulness of the contents thereof. To later assail the truthfulness of the Petition for Intervention, alleging that it was a pre-arranged agreement between his client and the complainant, shows that respondent actually lied to the courts.

The Report further noted that despite his knowledge about the irregularity in the issuance of shares in Nell Mart, he still acquired shares of stocks and even claimed to be a buyer in good faith.

As a notary, he notarized affidavits which in effect attested to repeated violations of the Corporation Code, without any showing that he even attempted to caution his clients of the illegality of their acts. Respondent also did not deny using offensive language in his pleadings. Finally, the Report noted that respondent's Position Paper lacked Professional Tax Receipt Number, IBP Receipt or Lifetime Number, Roll of Attorneys Number and his Mandatory Continuing Legal Education (MCLE), in clear violation of Bar Matter Nos. 1132 and 1922.^[14]

On April 16, 2013, the IBP Board of Governors passed a Resolution approving and adopting the Commission's report and recommendation.

It reads:

RESOLUTION No. XX-2013-510
CBD Case No. 08-2263
Rufina Luy Lim vs.
Atty. Manuel V. Mendoza

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering that Respondent violated Canons 1, 5, 10 and Rule 10.01 of the Code of Professional Responsibility, Atty. Manuel V. Mendoza is hereby ***SUSPENDED from the practice of law for two (2) years.***^[15]

The Court's Ruling

We adopt the findings of the IBP Board of Governors. Considering however that this is not the respondent's first infraction, the penalty of disbarment, instead of mere suspension, is in order.

It has been pronounced, time and again, that the practice of law is a privilege bestowed on those who show that they possess and continue to possess the legal qualifications for it. Lawyers are expected to maintain at all times a high standard of legal proficiency and morality, including honesty, integrity and fair dealing. They must perform a four-fold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms of the legal profession as embodied in the CPR.^[16]

The Lawyer's Oath enjoins every lawyer, not just to obey the laws of the land, but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts, as well as to his clients. All lawyers are servants of the law, and have to observe and maintain the rule of law, as well as be exemplars worthy of emulation by others. It is by no means a coincidence, therefore, that the CPR emphatically reiterates the core values of honesty, integrity, and trustworthiness.^[17]

Canon 10 of the CPR stresses that a lawyer owes candor, fairness and good faith to the court.

While Rule 10.01 states:

Rule 10.01 — A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

As properly observed by the IBP-CBD, respondent drafted and signed the Petition for Intervention which avers in essence that the subject corporations, Skyline, etc., were mere dummies created by the late Pastor Lim.^[18] He also notarized the

affidavits of Teresa Lim, Lani Wenceslao and Susan Sabado stating in essence that they were dummies in the corporations of Pastor.^[19]

Respondent in his Position Paper before the IBP-CBD claimed however that the statements in the Petition for Intervention, as well as the Affidavits in support thereto were not his statements. The petition was filed pursuant to "agreed arrangements" between complainant and the late Miguel Lim and that the assignment of shares of stock by Miguel to him, was a "pre-arranged agreement as payments for attorney's fees and for reimbursements of whatever litigations [sic] expenses advanced by the respondent."^[20]

The flip-flopping averments of respondent in his pleadings betray a lack of forthrightness and transparency on his part. He initially averred, through the Petition for Intervention and supporting affidavits which he signed and notarized, that the corporations were dummies of Pastor. He now claims, however, that the statements in the Petition were mere hearsay and that the shares of stocks he now owns in the corporations were actually payments to him for his services and advances.

With the incompatibility of the two positions, it is clear that respondent has been less than truthful in at least one occasion. This, we cannot countenance.

As officers of the court, lawyers are expected to act with complete candor. They may not resort to the use of deception, not just in some, but in all their dealings. The CPR bars lawyers from committing or consenting to any falsehood, or from misleading or allowing the court to be misled by any artifice or guile in finding the truth. Needless to say, complete and absolute honesty is expected of lawyers when they appear and plead before the courts. Any act that obstructs or impedes the administration of justice constitutes misconduct which merits disciplinary action on lawyers.^[21]

As a lawyer, respondent is expected to be a disciple of truth, having sworn upon his admission to the Bar that he would do no falsehood nor consent to the doing of any in court, and that he would conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity as well to the courts as to his clients.^[22]

Respondent should bear in mind that as an officer of the court, his high vocation is to correctly inform the court upon the law and the facts of the case and to aid it in doing justice and arriving at a correct conclusion. Courts meanwhile are entitled to expect only complete honesty from lawyers appearing and pleading before them.^[23]

This respondent failed to do.

Respondent also cannot feign ignorance as to the veracity of the statements in the petition because he signed the same.^[24] Lest respondent forgot, a counsel's signature on a pleading is neither an empty formality nor even a mere means for identification. It is a solemn component of legal practice that through a counsel's signature, a positive declaration is made. In certifying through his signature that he has read the pleading, that there is ground to support it, and that it is not interposed for delay, a lawyer asserts his competence, credibility, and ethics.^[25]