

SECOND DIVISION

[A.C. No. 10756 (Formerly CBD Case No. 11-3218), February 21, 2018]

JUNIELITO R. ESPANTO, COMPLAINANT, V. ATTY. ERWIN V. BELLEZA, RESPONDENT.

D E C I S I O N

PERALTA, J.:

Before us is the verified Complaint^[1] of Junielito R. Espanto (*Junielito*) against Atty. Erwin V. Belleza (*Atty. Belleza*) for grave misconduct, malpractice, deliberate falsehood, violation of oath of office and violation of the Code of Professional Responsibility in connection with the demolition of complainant's 2-storey residential house situated at *Barangay Maya, MacArthur, Leyte*, without his knowledge and against his will.

Complainant alleged that he is the owner of a 2-storey concrete residential house situated on a lot covered by Original Certificate of Title No. P-43641,^[2] which was sold by his father to him on January 12, 2001.^[3] Junielito alleged that sometime in 2006 while working abroad, he was informed that Nelia Alibangbang-Miller (*Nelia*), their neighbor, was claiming that his house was encroaching on a portion of the adjoining lot she bought. Thereafter, Nelia filed a case for Recovery of Possession with Damages before the Municipal Circuit Trial Court (*MCTC*) of MacArthur-Mayorga, MacArthur, Leyte, docketed as Civil Case No. 75 against the Espantos.^[4] However, Junielito asserted that he was not included as party to said complaint despite Nelia's allegation that his house was encroaching on the latter's lot.

In January 2009, after Junielito went back to the Philippines, he averred that Nelia would always harass him to pay the portion of the land allegedly being encroached upon by his house. He complained that Nelia threatened him and his family that she would demolish their houses as she already won in the case she filed against his brother, sister and mother.

On November 22, 2010, through a letter,^[5] Atty. Belleza notified Junielito that he is given seven (7) days to vacate the subject property of his client, Nelia. After seven days, Nelia posted a notice on the door of his house stating "*To: Lito, your 7 days is up! Nelia Miller*" and padlocked the gate of Junielito's house.^[6]

On December 1, 2010, Junielito alleged that Atty. Belleza went to his house and threatened him that they will file a writ of execution to demolish his house if he will not agree to sell and vacate his house. Junielito lamented that while he initially refused, he eventually gave in as he was already tired of his situation.

On the same day, because Junielito was initially reluctant, Nelia and Atty. Belleza assured him that he will be informed of the final details of the sale should there be a buyer of the property. Junielito alleged that Atty. Belleza drafted an acknowledgment

receipt^[7] where it was indicated therein that he received the amount of P50,000.00 as a partial payment, and that he will receive the final percentage of the sale price when the property of Nelia is sold. Thereafter, Atty. Belleza and the Spouses Miller told him to vacate the house to facilitate its sale and to be able to make the necessary repairs to which he complied as he believed their sincerity and honesty.

Thus, in the morning of February 14, 2011, Junielito was surprised to receive a text message from his niece, Elenita Pille, informing him that his house was being demolished with the participation of Nelia and a certain Irene Tano (*Irene*), allegedly the buyer of the property.

Junielito lamented that when he got hold of the Deed of Absolute Sale^[8] executed by Nelia and Irene, which was prepared and notarized by Atty. Belleza, he then realized that the latter defrauded him as shown by the fact that he facilitated the sale without his knowledge. Junielito felt aggrieved as they agreed that Atty. Belleza and Nelia will inform him should there be a buyer of the property so he can participate in the sale transaction, considering that his house sits on a portion of Nelia's property. However, not only did Atty. Belleza fail to inform him of the sale of the property, but they also had his house demolished without his knowledge and consent, and without permit from the municipal government.

Likewise, Junielito pointed out that in his Counter-Affidavit^[9] dated April 30, 2011 Atty. Belleza lied when he stated therein that Civil Case No. 75 has been decided with finality, when in truth and in fact, said case has yet to be decided with finality as shown by the Certification^[10] dated May 19, 2011 issued by Melba Lagunzad, Clerk of Court II, 13th MCTC, MacArthur-Mayorga, MacArthur, Leyte.

Junielito also alleged that in the Counter-Affidavit^[11] dated April 30, 2011 of the Spouses Miller, they lied when they made it appear that the P50,000.00 was given to him out of pity when in fact it was a partial payment and guarantee that he will be informed of the sale should there be anyone interested to buy his property.

Junielito expressed his frustration as he believed that Atty. Belleza, a lawyer, was supposed to be an instrument in the administration of justice. However, given his above-mentioned actuations and behavior, Atty. Belleza not only failed to observe his duty and obligations as a lawyer but he likewise showed his unfitness to be retained as member of the bar. He, thus, pray that Atty. Belleza be suspended or disbarred from the practice of law.

On October 7, 2011, the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*), ordered Atty. Belleza to submit his Answer on the complaint against him.^[12]

In his Answer^[13] dated November 10, 2011, Atty. Belleza countered that there was already a Compromise Agreement between the parties in Civil Case No. 75, which was approved by the court on December 27, 2006.^[14] He, likewise, claimed that he merely typed and printed the acknowledgment receipt and served as witness to the issuance of the same. He further denied that he had any participation in the demolition of complainant's house.

In its Report and Recommendation^[15] dated July 19, 2012, the IBP-CBD recommended that Atty. Belleza be suspended from the practice of law for six (6)

months for his deliberate disregard of Canon 1 of the Code of Professional Responsibility.

However, the IBP-Board of Governors, in Notice of Resolution No. XX-2013-761,^[16] dated June 21, 2013, resolved to adopt and approve with modification the Report and Recommendation of the IBP-CBD, and instead suspended Atty. Belleza from the practice of law for three (3) months.

We concur with the findings and recommendation of the IBP-CBD.

Well established is the rule that administrative cases against lawyers belong to a class of their own. These cases are distinct from and proceed independently of civil and criminal cases.^[17] Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, in the exercise of its disciplinary powers, the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members who by their misconduct have proven themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney.^[18] Corollarily, We will limit the issue on whether Atty. Belleza committed transgressions that would question his fitness to practice law, and thus, refrain from discussing issues that are judicial in nature.

Canon 1 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.^[19]

Given the facts of the case, we find that Atty. Belleza failed to exercise the good faith required of a lawyer in handling the legal affairs of his client. Even without touching the issue of the subject properties' ownership, Atty. Belleza cannot deny that the subject property sold by Nelia to Irene was still pending litigation due to the alleged encroachment of Junielito's house on the property of Nelia. It was precisely the reason why they filed a complaint for recovery of possession against Junielito's relatives. Moreover, when Atty. Belleza sent a notice to vacate Nelia's property to Junielito on November 22, 2010, the civil case was still pending litigation.

As noted by the IBP-CBD, the acknowledgment receipt of P50,000.00 issued by Nelia as witnessed and signed by Atty. Belleza is an evidence by itself that he had knowledge of Junielito's interest on the property even if he disputes the latter's ownership of the subject property. We quote the acknowledgment receipt for clarification, to wit:

I, LITO ESPANTO acknowledge receipt of the sum of Fifty Thousand (50,000.00) pesos, Philippine Currency from Nelia Miller as partial payment towards sale of "house". ***I acknowledged I will receive a final percentage of sale price when house and lot by Nelia Miller is ultimately sold. Final sales details will be disclosed immediately to me when all property is sold and final payment will be made at that time. I acknowledge sale price cannot be "predetermined" due to economic conditions.***

Upon review of the foregoing acknowledgment receipt, it can be inferred that Junielito acknowledged that he received P50,000.00 as partial payment and that he will receive the final percentage of sale price when house and lot by Nelia is sold. It likewise stated therein that Junielito has the right to be informed of the final sale price and other details related to the sale. Considering that Junielito was in fact paid *albeit* partial and was given the right to be informed of the final sale details, it clearly shows that Nelia and Atty. Belleza recognized Junielito's interest as an owner although it pertains only to a portion of Nelia's property where his house sits. Why else would they agree on informing Junielito of such material information if they knew that he has no right whatsoever with the property being sold.

It should also be pointed out that Atty. Belleza neither denied the existence of the acknowledgment receipt nor the fact that he signed the same.^[21] Thus, given the foregoing circumstances, it can be presumed that Atty. Belleza knew that the sale of the property will necessarily affect Junielito. Consequently, when they sold the property of Nelia without informing Junielito despite their agreement to such effect, Atty. Belleza not only breached their agreement and betrayed Junielito's trust; he also instigated a malicious and unlawful transaction to the prejudice of Junielito.

Furthermore, even assuming there was already a compromise agreement, it was malicious to sell Nelia's property without complying with the conditions and agreements set forth therein. Atty. Belleza knew that one of the issues sought to be resolved in said case was the issue on whether Junielito's house was encroaching on Nelia's property. However, said issue could not be resolved without settling the boundaries of the lots, which explains why the compromise agreement contained provisions for a relocation survey. For clarification, We quote the pertinent portion of the compromise agreement as thus:

1. Parties agreed to relocate the subject properties designated as Cadastral Lot Nos. 127, and 159;

2. **Parties agreed that a commissioner be appointed by the Court to conduct the relocation survey which be (sic) composed of a qualified and licensed geodetic engineer from the office of the Land and Surveys Division of the Department Environment and Natural Resources, Sto. Niño, Extension, Tacloban City;**

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4. Parties likewise agreed that if ever it will be found out by the result of the survey that indeed defendants encroached a portion of the land of the plaintiff designated as Cadastral Lot No. 159, parties have the following options:

- a. Defendants will buy from the plaintiff the whole area encroached at a reasonable price; or
- b. If defendants cannot afford, defendants shall buy only the area encroached which the house of the defendant is located with reasonable yard at reasonable price and defendant shall vacate the remaining area and transfer to the unoccupied portion of lot 127 vacated by the heirs of Onofre Lagarto provided further that plaintiff will be responsible to the heirs of