

THIRD DIVISION

[A.C. No. 7824, July 19, 2017]

**ELIEZER F. CASTRO AND BETHULIA C. CASAFRANCISCO,
COMPLAINANTS, VS. ATTY. JOHN BIGAY, JR. AND ATTY. JUAN
SIAPNO, JR., RESPONDENTS.**

DECISION

TIJAM, J.:

This is a disbarment case against respondents Atty. John Bigay, Jr. (Atty. Bigay) and Atty. Juan Siapno, Jr. (Atty. Siapno) filed by complainants Eliezer F. Castro (Eliezer) and Bethulia C. Casafrancisco (Bethulia).

The Facts

Originally, the complaint^[1] filed directly to this Court imputed several violations, criminal and administrative in nature, against respondents such as perjury, estafa through falsification of public documents, obstruction of justice, deceit, and grave misconduct, among others. The case was then referred to the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline (CBD) for investigation and recommendation. Upon preliminary conference, it was agreed upon that the issues, stipulations, and admissions shall be limited to the pleadings filed before the said office.^[2] Thus, the factual backdrop of the case is as follows:

The complaint alleged that sometime in August 1989, Bethulia engaged Atty. Bigay's legal services for the settlement of her late father's estate, which includes a 411-square meter parcel of land situated in Poblacion, Lingayen, Pangasinan. Atty. Bigay also represented Bethulia in several cases related to the estate's settlement.^[3]

The complainants, however, discovered that Atty. Bigay had vested interest in having a share in the subject inheritance. According to the complainants, Atty. Bigay, with the cooperation of Atty. Siapno, was able to transfer an 80 sq m portion (subject property) of the said parcel of land to his and her wife's name by simulating contracts of sale, to wit: (1) a Deed of Absolute Sale dated June 1, 2005, covering the sale of the subject property to spouses Peter and Jocelyn Macaraeg (Spouses Macaraeg); and (2) a Deed of Absolute Sale dated October 4, 2006, covering the sale of the subject property to Atty. Bigay and his wife. These deeds were notarized by Atty. Siapno on the said dates.^[4]

The instant complaint is, thus, filed against Atty. Bigay for having an interest in a property subject of litigation/s which he is handling and for forging and simulating deeds to the prejudice of his client and the latter's coheirs.^[5]

For his part, Atty. Bigay denied being Bethulia's counsel in 1989, averring that he

passed the bar exam only in 1992.^[6] Further, he averred that the subject estate had long been settled and the property subject of the deeds of sale had been apportioned to Bethulia way back in 1984 through extrajudicial partition.^[7] To show Bethulia's ownership of the 411-sq m parcel of land prior to his and his wife's acquisition of the 80 sq m portion thereof, Atty. Bigay presented: (1) a Tax Declaration under Bethulia's name; (2) annotations showing that Bethulia mortgaged the property to the bank in 1992 and 1996; (3) the Deed of Sale which shows that Bethulia sold the subject property to Macaraeg; (4) and a deed of donation which shows that Bethulia donated the remaining 331 sq m portion of the said parcel of land in 2005.^[8] These circumstances, according to Atty. Bigay, clearly show that there was no irregularity in his and his wife's acquisition of the said portion, contrary to complainants' imputations.

For his part, Atty. Siapno denied having notarized the subject deeds of sale. Specifically, Atty. Siapno averred that the said deeds are falsified, that his signatures therein as notary public were forged, and that he has never met Atty. Bigay, Bethulia, and Macaraeg.^[9]

Report and Recommendation of the IBP-CBD

Relying upon Atty. Siapno's claim that his signatures in the subject deeds were forged and that he had never personally met Atty. Bigay, Bethulia, and Macaraeg, the IBP-CBD was persuaded that the said deeds were falsified. Then, by virtue of Atty. Bigay and his wife's notorious claim over the property, the IBP-CBD theorized that the said spouses are the only persons Interested in the property and the only beneficiary of the said simulated sales. The IBP-CBD then proceeded to conclude that only a person who has a legal mentality would be able to formulate such tactic to make it appear that Spouses Bigay were buyers in good faith. In addition, the IBP-CBD cited the principle that the person who is in possession of a forged/falsified document and made use and benefited from the same is presumed to be the forger/falsifier. Pinning the guilt mainly on Atty. Bigay, the IBP-CBD recommended in its November 6, 2009 Report and Recommendation,^[10] thus:

WHEREFORE, it is most respectfully recommended that respondent John L. Bigay, Jr. be SUSPENDED for six (6) months from the active practice of law. For respondent Juan C. Siapno, Jr., he is WARNED to be extra careful with his notarial paraphernalia.^[11]

The IBP Board of Governors Resolutions

On February 13, 2013, the IBP Board of Governors issued Resolution No. XX-2013-131,^[12] which reads:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification**, 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 for using a falsified Deed of Sale and benefiting (sic), Atty. John L. Bigay, Jr. is hereby **SUSPENDED from the practice of law for three (3) months** and Atty. Juan C. Siapno, Jr. is hereby*

WARNED to be circumspect in his notarial transaction. (Emphasis supplied)

Atty. Bigay's Motion for Reconsideration^[13] was denied by the IBP Board of Governors in its Resolution No. XXI-2014-187^[14] dated March 23, 2014, thus:

RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XX- 2013-131 dated February 13, 2013 is hereby **AFFIRMED**.^[15]

Having a final say on the matter of disciplining members of the bar, We now resolve the instant complaint.

Issue

Should the respondents be held administratively liable based on the allegations in the pleadings of all parties on record?

Our Ruling

It is well to remember that in disbarment proceedings, the burden of proof rests upon the complainant. For the Court to exercise its disciplinary powers, the case against the respondent must be established by convincing and satisfactory proof.^[16]

It is settled that considering the serious consequences of the disbarment or suspension of a member of the Bar, the Court has consistently held that preponderant evidence is necessary to justify the imposition of administrative penalty on a member of the Bar.^[17] Preponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other. It means evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.^[18]

In the absence of preponderant evidence, the presumption of innocence of the lawyer subsists and the complaint against him must be dismissed.^[19]

The IBP-CBD found Atty. Bigay guilty of forging the subject deeds of sale and using the same for his benefit, hence, it recommended the latter's suspension from the practice of law for six months. Atty. Siapno, on the other hand, was merely warned to be extra careful with his notarial paraphernalia, the IBP-CBD relying on the latter's allegations and denial.

However, the findings and conclusions of the IBP lack factual and legal support.

As can be gleaned from the report and recommendation of the IBP CBD quoted hereunder, its findings were merely based on bare allegations, assumptions, conjectures, and disputable legal presumption. Pertinent portions of the said report and recommendation read:

Respondent John Bigay, Jr. was retained by complainant/petitioner Bethulia Casafrancisco as legal counsel/adviser of the heirs of the late

Luis M. Castro, for possible division/settlement of their inheritance among the said nine heirs. x x x.

Respondent Juan Siapno **claimed** that his signatures were falsified in [the subject deeds]. He further **claimed** that he had not met personally respondent John Bigay. Also, Bethulia Casafrancisco, Peter Macaraeg, and Jocelyn Macaraeg did not appear before him.

On the other hand, respondent John Bigay with the use of **alleged** falsified Deeds of Absolute Sale made it appear that complainant Bethulia Casafrancisco sold portion of 80 square meters to Peter M. Macaraeg to simulate the sale not a direct sale from Bethulia Casafrancisco to the spouses respondent John Bigay and Glenda Lee Bigay.

Spouses Atty. John L. Bigay and Glenda Lee J. Bigay are the only two persons **appearing** to have interest and benefited on the sale x x x as clearly manifested in their Affidavit of Adverse Claim, Notice of Rights and Ownership and photographs of the property showing that said property is already acquired by them. x x x.

Being the interested and now the owners of the above-mentioned portion of land, Atty. John L. Bigay and wife Glenda Lee J. Bigay are **presumed** to know who really made the **alleged forgery/falsification** in this case. If it were true that there was an agreement between Atty. Bigay and his client Bethulia C. Casafrancisco as to the payment of his legal services to be taken from her share on the properties subject of litigations, why the [sic] diversionary tactic employed in the first Deed of Absolute Sale from Bethulia C. Casafrancisco to the alleged fictitious spouses Peter and Jocelyn Macaraeg and the latter to spouses Atty. John L. Bigay and Glenda Lee J. Bigay? This tactic, for sure, was planned by one of legal mentality just to make it appear that they (Bigay) appear to be buyers in good faith and for value.

The facts and circumstances above explained squarely fall on that leading case of *People v. Manansala* where the court held that "He who is in possession of a forged/falsified document and made use and benefited from the same is **presumed** to be the forger/falsifier." x x x.^[20] (Emphasis supplied)

After a careful review of the factual backdrop of the case and available evidence on record, the Court finds that the evidence submitted by the complainants, even if considered together with those presented by Atty. Siapno, fell short of the required quantum of proof. Aside from bare allegations, no evidence was presented to clearly and convincingly establish that Atty. Bigay engaged in unlawful and dishonest conduct, specifically, in forging and/or falsifying deeds of sale for his benefit and dealing with the property of his client under litigation.

To begin with, the allegation of forgery was not clearly substantiated. There is nothing on record that would show that the contracts were simulated, much less that the same were forged and/or falsified by Spouses Bigay. Atty. Siapno may have corroborated complainants' claim of forgery by alleging that he did not notarize and had never met the parties in the said deeds. We, however, could not accept hook,