

SECOND DIVISION

**[A.C. No. 10583 [Formerly CBD 09-2555],
February 18, 2015]**

ROBERTO BERNARDINO, COMPLAINANT, VS. ATTY. VICTOR REY SANTOS, RESPONDENT.

[A.C. NO. 10584 [FORMERLY CBD 10-2827]]

ATTY. JOSE MANGASER CARINGAL, COMPLAINANT, VS. ATTY. VICTOR REY SANTOS, RESPONDENT.

R E S O L U T I O N

LEONEN, J.:

These cases involve administrative Complaints^[1] against Atty. Victor Rey Santos for violation of Canon 10, Rule 10.01^[2] and Canon 15, Rule 15.03^[3] of the Code of Professional Responsibility.

In A.C. No. 10583, complainant Roberto C. Bernardino (Bernardino) filed a Letter-Complaint^[4] against Atty. Victor Rey Santos (Atty. Santos) before the Integrated Bar of the Philippines, praying that Atty. Santos be investigated and subjected to disciplinary action.^[5]

Bernardino alleged that the death certificate of his aunt, Rufina de Castro Turla, was falsified by Atty. Santos. Atty. Santos made it appear that Rufina Turla died in 1992, when in fact, she died in 1990.^[6]

Atty. Santos used the falsified death certificate to support the Affidavit of Self-Adjudication^[7] executed by Mariano Turla, husband of Rufina Turla.^[8] Paragraph 6 of the Affidavit of Self-Adjudication prepared by Atty. Santos states:

Being her surviving spouse, I am the sole legal heir entitled to succeed to and inherit the estate of said deceased who did not leave any descendant or any other heir entitled to her estate.^[9] (Emphasis in the original, underscoring supplied)

Years later, Atty. Santos, on behalf of Marilu Turla, daughter of Rufina and Mariano Turla,^[10] filed a Complaint^[11] for sum of money with prayer for Writ of Preliminary Injunction and temporary restraining order against Bernardino, docketed as Civil Case No. 09-269.^[12] The Complaint in Civil Case No. 09-269 alleged that Marilu Turla is an heir of Mariano Turla,^[13] which allegedly contradicts the Affidavit of Self-Adjudication that Atty. Santos drafted.^[14] Hence, Atty. Santos represented clients

with conflicting interests.^[15]

In Civil Case No. 09-269, Atty. Santos testified during cross-examination:

CROSS-EXAMINATION BY:

ATTY. CARINGAL

Q : In your Judicial Affidavit[,] you mentioned that you know Marilu C. Turla[,] the plaintiff[,] since she was about four years old.

A : Yes, sir.

Q : As a matter of fact[,] you know her very well[,] considering that you are a *Ninong* of the plaintiff, isn't it?

A : I was not a *Ninong* when I first knew Marilu Turla, I was just recently married to one of her cousins.

. . .

Q : Now, the parents of Marilu Turla are Mariano C. Turla and Rufina C. Turla?

THE WITNESS

: Yes, sir. As per my study and as per my knowledge of her relationship[s].

THE COURT

: What's the name of the mother?

ATTY. CARINGAL

: Rufina, your Honor. Rufina Turla.

Q : And wife died ahead of Mariano, isn't it?

THE WITNESS

: Yes, sir.

Q : And of course, being the daughter of Rufina Turla, Marilu is also an heir of Rufina Turla, isn't it?

A : Of course.

Q : Now, we go by the ethics of the profession, Mr. Witness. You recall[,] of course[,] and admitted [sic] in court that you drafted this document which you requested to be marked as Exhibit B.

THE COURT

: Exhibit?

ATTY. CARINGAL

: "B", your Honor, in particular reference to the Affidavit of Adjudication for the extra judicial settlement of the intestate estate of the late Rufina De Castro Turla[,] and I have just learned from you as you just testified. Rufina is the mother of the plaintiff here[,] Marilu Turla.

THE WITNESS

: Yes, sir.

Q : And as you admitted, you prepared you drafted [sic] this Extra Judicial.

A :

Yes, sir.

Q : Or this Affidavit of Adjudication.

ATTY. REY SANTOS

: At this point in time, your Honor, I would object to the question regarding my legal ethics because it is not the issue in this case.

. . .

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ATTY. CARINGAL

. . .

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Q :

. . . In this document consisting of one, two, three, four and appearing to have been duly notarized on or about 29th [of] June 1994 with document number 28, page number 7, book number 23, series of 1994 before Notary Public Hernando P. Angara. I call your attention to the document[,] more particularly[,] paragraph 6 thereof and marked as Exhibit 7-A for the defendants[.] I read into the record and I quote, "Being her surviving spouse, I am the sole legal heir entitled to succeed to and inherit the estate of the said deceased who did not leave any descendant, ascendant or any other heir entitled to her estate."^[16] *Mr. Witness, is this particular provision that you have drafted into this document . . . true or false?*

ATTY. REY SANTOS

: Your Honor, I would like to reiterate that any question regarding the matter that would impugn the legitimacy of the plaintiff, Marilu Turla[,] is impertinent and immaterial in this case[.] [I]t was only the wife Rufina Turla [who] ha[s] the right to impugn the legitimacy of the plaintiff[,] and that has been the subject of my continuing objection from the very beginning.

THE COURT

: But then again[,] you have presented this document as your Exhibit B[.] [Y]ou have practically opened the floodgate to . . . questions on this document.

ATTY. REY SANTOS

: Only for the purposes [sic] of showing one or two . . . properties owned by the late Mariano Turla, your Honor. That is why that's only [sic] portion I have referred to in marking the said documents, your Honor.

THE COURT

: So, you now refused [sic] to answer the question?

ATTY. REY SANTOS

: No, I am not refusing to answer, I am just making a manifestation.

ATTY. CARINGAL

: What is the answer, is it true or false, your Honor[?]

ATTY. REY SANTOS

: My answer regarding the same would be subject to my objection on the materiality and impertinency and relevancy of this question, your Honor[,] to this case.

THE COURT

: So anyway, the court has observed the continuing objection before[,] and to be consistent with the ruling of the

court[,] I will allow you to answer the question[.] [I]s it true or false?

THE WITNESS

: No, that is not true.

ATTY. CARINGAL

: That is not true. Mr. Witness, being a lawyer[,] you admit before this court that you have drafted a document that caused the transfer of the estate of the deceased[d] Rufina Turla.

THE WITNESS

: Yes, sir.

. .
. .

ATTY. CARINGAL

Q : *This document, this particular provision that you said was false, you did not tell anybody[,] ten or five years later[,] that this is false, is it not?*

THE WITNESS

: *I called the attention of Mr. Mariano Turla[.] I . . . asked him what about Lulu^[17] she is entitled [sic] to a share of properties and he . . . told me, "Ako na ang bahala kay Lulu[,] hindi ko pababayaang yan". So, he asked me to proceed with the Affidavit of Adjudication wherein he claimed the whole [sic] properties for himself.^[18] (Emphasis supplied)*

Another Complaint^[19] was filed against Atty. Santos by Atty. Jose Mangaser Caringal (Atty. Caringal). This was docketed as A.C. No. 10584.^[20] Similar to Bernardino's Complaint, Atty. Caringal alleged that Atty. Santos represented clients with conflicting interests.^[21] He also alleged that in representing Marilu Turla, Atty. Santos would necessarily go against the claims of Mariano Turla.^[22]

Also, in representing Marilu Turla, Atty. Santos was allegedly violating the so-called "Dead Man's Statute"^[23] because "he [would] be utilizing information or matters of fact occurring before the death of his deceased client. Similarly, he . . . [would] be unscrupulously utilizing information acquired during his professional relation with his said client . . . that [would] constitute a breach of trust . . . or of privileged communication[.]"^[24]

Atty. Caringal further alleged that Atty. Santos violated Canon 12^[25] of the Code of Professional Responsibility when he filed several cases against the other claimants of Mariano Turla's estate.^[26] In other words, he engaged in forum shopping.^[27]

In addition, Atty. Santos allegedly violated Canon 10, Rule 10.01^[28] of the Code of Professional Responsibility when he drafted Mariano Turla's Affidavit of Self-Adjudication. The Affidavit states that Mariano Turla is the sole heir of Rufina Turla, but Atty. Santos knew this to be false.^[29] Atty. Santos' wife, Lynn Batac, is Mariano Turla's niece.^[30] As part of the family, Atty. Santos knew that Rufina Turla had other heirs.^[31] Atty. Caringal further alleged:

14.4 Being the lawyer of Mariano Turla in the drafting of the document some fifteen years ago, he is fully aware of all the circumstances therein recited. Moreover at that time, the [sic] Lynn Batac Santos was then employed at the BIR [sic] who arranged for the payment of the taxes due. There is some peculiarity in the neat set up [sic] of a husband and wife team where the lawyer makes the document while the wife who is a BIIR [sic] employee arranges for the payment of the taxes due the government;

14.5 Respondent attorney could not have been mistaken about the fact recited in the *Affidavit of Adjudication, etc. that said deceased (Rufina de Castro Turla)* "did not leave any descendant, xxx, or any other heir entitled to her estate' [sic] . . . [.]^[32] (Emphasis in the original)

Atty. Caringal argued that Atty. Santos was bound by the statement in Mariano Turla's affidavit that Rufina Turla had no other heir.^[33]

Moreover, Atty. Santos allegedly converted funds belonging to the heirs of Mariano Turla for his own benefit. The funds involved were rental income from Mariano Turla's properties that were supposed to be distributed to the heirs. Instead, Atty. Santos received the rental income.^[34]

Lastly, Atty. Caringal alleged that Atty. Santos cited the repealed Article 262 of the Civil Code in his arguments.^[35]

In his Answer,^[36] Atty. Santos denied having falsified the death certificate.^[37] He explained that the death certificate and the Affidavit of Self-Adjudication were given to him by Mariano Turla and that he was not aware that there was a falsified entry in the death certificate.^[38]

As regards the issue on conflict of interest, Atty. Santos argued that he did not represent and was not representing conflicting interests since Mariano Turla was already dead.^[39] Further, "he [was] representing Marilu Turla against those who ha[d] an interest in her father's estate."^[40] Mariano Turla's Affidavit of Self-Adjudication never stated that there was no other legal heir but only "that Mariano Turla was the sole heir of Rufina Turla."^[41]

Regarding the allegations of Atty. Caringal, Atty. Santos insisted that he did not commit forum shopping because the various cases filed had different issues.^[42]

As to the conversion of funds, Atty. Santos explained that the funds used were being held by his client as the special administratrix of the estate of Mariano Turla.^[43] According to Atty. Santos, payment of attorney's fees out of the estate's funds could be considered as "expenses of administration."^[44] Also, payment of Atty. Santos' legal services was a matter which Atty. Caringal had no standing to question.^[45]

On the allegation that Atty. Santos cited a repealed provision of law, he discussed that Article 262 of the Civil Code is applicable because it was in force when Marilu