

FIRST DIVISION

[A.C. No. 5858, December 11, 2003]

ROGELIO R. SANTOS, SR., COMPLAINANT, VS. ATTY. RODOLFO C. BELTRAN, RESPONDENT.

DECISION

YNARES-SANTIAGO, J.:

This is an administrative complaint for disbarment^[1] filed by Rogelio R. Santos, Sr. against Atty. Rodolfo C. Beltran on the grounds of gross misconduct and malpractice.

The pertinent facts are as follows:

Spouses Filomeno Santiago Santos, Sr. and Benita Roxas Rodriguez had ten children, namely, Romeo, Filomeno, Jr., Arturo, Erlinda, Ma. Alicia, Arcely, Renato, Alberto and Benito and complainant Rogelio Santos, Sr. After the death of Filomeno, Benita donated their two residential lots situated at 11 Javier Baritan, Malabon, Metro Manila, consisting of 489 and 333.4 square meters, respectively, and covered by Transfer Certificates of Titles (TCT) Nos. R-18060 and R-18061, including the ancestral house situated thereon, in favor of the nine children, except complainant. Respondent lawyer notarized the Deed of Donation.^[2]

Benita Rodriguez died. Complainant and his brother, Alberto, were appointed administrators^[3] in the intestate proceeding for the settlement of the spouses' estate, docketed as SP. Proc. No. 516-AF, entitled *In the Matter of the Intestate Estate of Spouses Filomeno Santiago Santos, Sr. and Benita Roxas Rodriguez*, filed before the Regional Trial Court of Cabanatuan City, Branch 26 thereof.

On November 9, 1999, complainant filed a verified complaint against respondent before the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD), alleging that when respondent notarized the subject Deed of Donation, his siblings did not personally appear before him.^[4] Complainant submitted the affidavit executed by Benito and Renato attesting to the fact that they signed the Deed of Donation not in the law office of the respondent but in their houses at Villa Benita Subdivision. The Deed also showed that his siblings secured their Community Tax Certificates twenty-two days after the execution of the Deed of Donation, or on September 9, 1994. Complainant contended that respondent notarized the Deed of Donation in disregard of Article 904^[5] of the Civil Code. Moreover, he argued that his siblings were American citizens who were thus disqualified from owning real properties in the Philippines.

Complainant further alleged that respondent appeared as private prosecutor in Criminal Case No. 73560 for falsification of public document, which he filed against

Renato and Benito, without being engaged by him or authorized by the court; that respondent represented conflicting interest when he entered his appearance as defense counsel in an ejectment case in which his former client, Erlinda R. Santos-Crawford, was the plaintiff; and that respondent, through insidious machination acquired the titles of two residential lots at Villa Benita Subdivision owned by Spouses Filomeno and Benita Santos.

Respondent denied the allegations. He confirmed the due execution of the Deed of Donation and submitted in support thereof the affidavit executed by Mely Lachica, the secretary of his law office. In her Affidavit, Lachica categorically stated that she caused all parties to sign the Deed. She, nevertheless admitted that she forgot to change the date of the execution of the Deed from August 18, 1994 to September 9, 1994 when all the parties had secured their CTCs.^[6]

Respondent argued that complainant's siblings may still acquire properties in the Philippines through hereditary succession even though they were already American citizens. The certifications issued by the Bureau of Immigration and Deportation were not conclusive proof of the arrival and departure of his siblings considering that there were many ports of entry in the country. Respondent also declared that complainant humiliated his mother when, in his presence and that of his siblings, complainant uttered the unsavory Tagalog words, "*Putang ina mo matanda ka, walanghiya ka, walang pinagkatandaan dapat mamatay ka na.*"^[7]

Respondent denied having represented complainant in Criminal Case No. 73560 on December 15, 1999 when he appeared as private prosecutor. He explained that complainant filed a complaint for falsification of public document against him and his nine siblings, docketed as I.S. No. 04-99-3187, before the Office of the City Prosecutor of Cabanatuan City, relying on the affidavit executed by Benito and Renato that they signed the Deed of Donation in their houses at Villa Benita and not at respondent's office. The prosecutor dismissed the complaint. A second action for falsification of public document was filed by complainant against Renato and Benito, docketed as Criminal Case No. 73560. Respondent appeared at one of the hearings of the said case to defend himself from the accusation of Benito and Renato. Respondent emphasized that he did not ask for any compensation from complainant for that isolated appearance.

Respondent denied having acquired any property under litigation. On February 16, 1999, he bought^[8] two parcels of land inside Villa Benita Subdivision, covered by TCT Nos. T-50223 and 50225, from a corporation owned by the Santos, Fabern's Inc., and not from Spouses Filomeno and Benita Santos, as claimed by complainant. He was surprised when sometime in August 2002, complainant caused the annotation on the said titles of an adverse claim that the properties belonged to the estate of Spouses Filomeno and Benita Santos. Complainant relied on the *Contract of Development* dated May 10, 1995 which Fabern's Inc. executed in favor of Villa Benita Management and Development Corporation where respondent was one of the directors.

Respondent admitted having represented Erlinda R. Santos-Crawford in Civil Case No. 12105 for ejectment, entitled "*Erlinda R. Santos-Crawford v. Renato R. Santos and Rogelio R. Santos, Sr.*,"^[9] involving a land covered by TCT No. T-10168 at No. 1 F. S. Avenue, Villa Benita Subdivision, Cabanatuan City and the improvements

thereon. He also acted as defense counsel of Evalyn Valino, Norberto Valino and Danilo Agsaway in Civil Case No. 14823^[10] for ejectment filed by Rogelio Santos on behalf of Erlinda R. Santos involving the same property. He emphasized that the decision in Civil Case No. 12105 had long been executed, thus the attorney-client relationship between him and Erlinda Santos-Crawford was also terminated.

On July 19, 2002, the IBP-CBD found respondent guilty of violating his notarial commission and recommended that his commission be suspended for a period of one year.^[11]

The Board of Governors, in Resolution No. CBD Case No. 99-670, modified the recommendation, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/ Decision as Annex "A", and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, **with modification**, and considering respondent's violation of his notarial obligation, Respondent's Commission as Notary Public is hereby **SUSPENDED**, with **DISQUALIFICATION** from being appointed as Notary Public for two (2) years from notice of final decision.^[12]

On October 11, 2002, respondent filed a motion for reconsideration of the aforesated Resolution, which was denied by the Board on December 14, 2002 on the ground that it has lost jurisdiction thereof upon its endorsement to this Court.^[13]

In essence, complainant seeks the disbarment of the respondent for allegedly notarizing a Deed of Donation without the affiants personally appearing before him. Indeed, the power to disbar must be exercised with great caution, and may be imposed only in a clear case of misconduct that seriously affects the standing and the character of the lawyer as an officer of the court and as a member of the bar.^[14] Corollary thereto, gross misconduct is defined as "improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not mere error in judgment."^[15]

The rule is that a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity.^[16] In the instant case, complainant failed to controvert the said presumption by clear and convincing evidence. Instead, the quantum of evidence shows that complainant's siblings appeared before the respondent as notary public and in fact, signed the deed. The claim of Renato and Benito Santos in their affidavit that they did not sign the document in the law office of the respondent but in their houses at Villa Benita is admissible only against them.^[17] Likewise, we find the allegation of the complainant that it was physically impossible for his siblings to sign the document untenable. The certifications issued by the BID that the complainant's siblings were absent at the time of the execution of the Deed of Donation is not absolute. There are many ports of entry which complainant's siblings may have used in coming into the