

SECOND DIVISION

[A.C. No. 10619, September 02, 2020]

ELIZA ARMILLA-CALDERON, COMPLAINANT, VS. ATTY. ARNEL L. LAPORE, RESPONDENT.

RESOLUTION

INTING, J.:

As a rule, an attorney enjoys the legal presumption that he is innocent of the charges against him until the contrary is proved. The burden of proof in disbarment and suspension proceedings always rests on the complainant. Considering the serious consequence of disbarment or suspension of a member of the Bar, this Court has consistently held that clear preponderant evidence is necessary to justify the imposition of administrative penalty. The burden is obviously not satisfied when complainant relies on mere assumptions and suspicions as evidence.^[1]

Before the Court is a Complaint^[2] for disbarment filed with the Office of the Bar Confidant by Eliza Armilla-Calderon (complainant) against Atty. Arnel L. Lapore (Atty. Lapore).

Complainant is the registered owner of a lot located in Brgy. IV, Sipalay City, Negros Occidental, covered by Original Certificate of Title No. P-14240 (Sipalay lot). In 2014, she received information that the Sipalay lot was bought by her niece, Charity Reinwald (Charity), who is married to a Swiss national. On June 20, 2014, when complainant went home, Charity confirmed that she bought the lot from Julieta Armilla (Julieta), complainant's mother, and that it was their family lawyer, Atty. Lapore, who facilitated the transaction.^[3]

According to complainant, the transaction was attended by fraud as her signature in the Deed of Absolute Sale^[4] dated August 8, 2012 was forged. She cannot personally sign the document since she was in San Mateo, Rizal. She further claimed that Atty. Lapore falsified another Deed of Absolute Sale^[5] dated December 10, 2013^[6] to make it appear that her mother sold the Sipalay lot to Charity. She suggested that Atty. Lapore took advantage of her absence and abused her trust. He exploited her aged mother and her dying father, Eliseo Armilla (Eliseo), in convincing them to sell the subject property.^[7]

In response, Atty. Lapore averred that the present complaint was a replica of a complaint docketed as Civil Case No. 2033 filed with Branch 61, Regional Trial Court, Kabankalan City. He clarified that complainant was never the owner of the Sipalay lot but merely a trustee thereof. He narrated that complainant was not a natural child of spouses Julieta and Eliseo, but they sent her to school and cared for her as their daughter. Later, she abandoned her two children under the care of the spouses.

[8]

Atty. Lapore admitted that it was him who convinced the complainant to return the property to Julieta. Through a Deed of Absolute Sale, she freely signed and consented to convey the property to her mother in exchange for the latter's sacrifices, money, and effort in rearing for complainant's children. The Deed of Absolute Sale was notarized on August 8, 2012 after complainant visited him in his office.^[9]

On December 14, 2015, the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline (CBD) scheduled a Mandatory Conference but none of the parties appeared. In the second hearing, only Atty. Lapore appeared.^[10] Based on the records, complainant failed to attend both hearings because the mails were returned to the IBP-CBD with a notation "Unknown addressee". Later, in an Order^[11] dated March 21, 2016, the IBP-CBD terminated the mandatory conference and directed the parties to submit their respective position papers. Only Atty. Lapore complied and submitted his position paper.^[12]

Proceedings before the IBP

In her Report and Recommendation^[13] dated November 29, 2016, Investigating Commissioner Dominica L. Dumangeng-Rosario (Investigating Commissioner Dumangeng-Rosario) opined that Atty. Lapore failed to faithfully discharge his duties as a notary public, and recommended: (1) the revocation of his notarial commission; (2) his disqualification from reappointment as notary public for two years; and (3) his suspension for two months from the practice of law.

On July 2, 2018, the IBP-Board of Governors (BOG) reversed the recommendations of Investigating Commissioner Dumangeng-Rosario and dismissed the complaint against Atty. Lapore.^[14] The IBP-BOG observed that the complainant failed to substantiate her claims and allegations. Being a notarized document, the Deed of Absolute Sale is not only entitled to full faith and credit, it is also a *prima facie* evidence of the facts stated therein.^[15]

Issue

Whether Atty. Lapore should be held administratively liable for the complained acts against hire.

The Court's Ruling

The Court adopts the findings of the IBP-BOG and resolves to dismiss the complaint against Atty. Lapore for lack of *prima facie* case to warrant the penalty of disbarment or the revocation of his notarial commission.

The Court has repeatedly stressed that in administrative complaints for disbarment and suspension against lawyers, the required quantum of proof is clear and preponderant evidence. Preponderance of evidence means evidence which is of greater weight, or more convincing than that which is offered in opposition to it. The *onus probandi* lies on the complainant, who is duty-bound to prove the veracity of