

## **EN BANC**

**[ A.C. No. 12815, November 03, 2020 ]**

**EDRALYN B. BERZOLA, COMPLAINANT, VS. ATTY. MARLON O. BALDOVINO, RESPONDENT.**

### **D E C I S I O N**

#### **PER CURIAM:**

A lawyer who knowingly assists a witness to misrepresent himself or to impersonate another is guilty of deceitful conduct and deserves administrative sanctions.

#### **ANTECEDENTS**

On January 28, 2002, Lawrence Antonio (Lawrence) and Edralyn Berzola (Edralyn) were lawfully married in Sta. Ignacia, Tarlac. On December 9, 2009, Presiding Judge Liberty Castañeda of the Regional Trial Court (RTC) Branch 67 of Paniqui, Tarlac declared their marriage void in a Decision rendered in Civil Case No. 128-P'09.<sup>[1]</sup> Upon checking the records of the case, Edralyn learned that Lawrence personally submitted himself to a psychological examination on February 27, 2009. Afterwards, Atty. Marlon Baldovino (Atty. Baldovino) represented Lawrence in filing a petition for nullity of marriage on March 26, 2009 on the ground of psychological incapacity.<sup>[2]</sup> Atty. Baldovino likewise notarized the verification attached to the petition<sup>[3]</sup> that Lawrence signed on March 25, 2009 and his judicial affidavit<sup>[4]</sup> executed on June 10, 2009. However, Lawrence was absent in the Philippines on those dates since he left for Italy as an undocumented worker on August 7, 2007 and returned only on March 14, 2011. Also, Atty. Baldovino indicated that Lawrence is a resident of Barangay Cabayaoasan, Paniqui, Tarlac instead of Barangay Cabugbugan, Sta. Ignacia, Tarlac. Worse, Edralyn discovered that her signature was forged to make it appear that she personally received the summons although she was not in the Philippines at the time it was served on April 10, 2009.<sup>[5]</sup> Lastly, the psychologist who examined Lawrence was not registered with the Professional Regulatory Commission. Aggrieved, Edralyn filed a complaint for falsification and use of falsified document against Lawrence and Atty. Baldovino before the office of the public prosecutor. In his counter-affidavit, Lawrence revealed that he never participated in the proceedings in Civil Case No. 128-P'09 but merely relied on the representation of his counsel.

Thereafter, Edralyn filed a complaint for disbarment against Atty. Baldovino for mocking the judicial processes and conniving with Lawrence to conceal the annulment proceedings from her. As supporting evidence, Edralyn submitted the following: (a) a copy of her marriage contract with Lawrence with notation on the decree of nullity; (b) a copy of the petition for nullity of marriage; (c) a copy of Lawrence's psychological evaluation report dated February 27, 2009; (d) a copy of the decision in Civil Case No. 128-P'09; (e) affidavit of her mother Rosalinda Berzola Tomei recounting that Lawrence arrived in Rome on August 8, 2007 under an

assumed name and that he stayed with them for several months;<sup>[6]</sup> (f) affidavit of Dianne Santos narrating that she saw her cousin Lawrence at the train station in Rome on several occasions in February, March and June 2009 and that both of them applied for Italy's amnesty program for illegal workers and returned in the Philippines in 2011;<sup>[7]</sup> (g) information on Italy's Amnesty Program for undocumented foreign workers who were still employed at the time the program was opened on June 30, 2009;<sup>[8]</sup> (h) certification from the Bureau of Immigration (BOI) showing that Lawrence's earliest travel record of arrival to the Philippines was on March 14, 2011;<sup>[9]</sup> (i) certification that Lawrence is not a *bona fide* resident of Barangay Cabayaoasan; (j) certification that the psychologist who examined Lawrence was not registered with the Professional Regulatory Commission; and (k) a copy of Lawrence's counter-affidavit before the public prosecutor.

On the other hand, Atty. Baldovino averred that in 2009 a man came to his office and inquired about the procedure for annulment of marriage. The person identified himself as Lawrence Antonio who is residing in Barangay Cabayaoasan, Paniqui, Tarlac. Accordingly, he represented the man claiming to be Lawrence in filing a petition for nullity of marriage. Atty. Baldovino added that the affidavits of Edralyn's witnesses are self-serving. Further, the case against him is a pure legal conclusion absent evidence that Lawrence left the Philippines in 2009 since his travel documents only showed that he returned in the country in 2011.<sup>[10]</sup> In her Reply,<sup>[11]</sup> Edralyn explained that Atty. Baldovino could have ascertained the true identity of his client, assuming that someone misrepresented himself as Lawrence, by requesting documents or asking questions. At any rate, Lawrence already admitted that he hired the services of Atty. Baldovino but did not participate in the case. Clearly, Atty. Baldovino knowingly misrepresented another person as Lawrence before the court.

On May 29, 2017, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) recommended the disbarment of Atty. Baldovino for securing a favorable judgment through false pretenses, insidious machinations and unethical conduct,<sup>[12]</sup> to wit:

**Here, the evidence against the respondent is simply overwhelming. Complainant had sufficiently and satisfactorily proven that respondent violated the Canons of Professional Responsibility when through false pretenses, insidious machinations and unethical conduct, he was able to secure a judgment in Civil Case No. 128-P'09.**

The following facts are undisputed: a) respondent was counsel of record for complainant's husband, Lawrence Antonio, in a petition for the declaration of nullity of marriage x x x denominated as Civil Case No. 128-P'09; b) respondent drafted the petition, prepared the Judicial Affidavit of Lawrence Antonio and presented a person who identified and attested to the declarations in the Judicial Affidavit; c) respondent also presented a certain Dr. Carina S. Roman, a purported psychologist who it turns out, is not even registered with the Professional Regulatory Commission.

**At all times material to the filing of the said case and up to the issuance of a Decision therein, [i.e.], the year 2009, respondent's**

**client Lawrence Antonio was not in the Philippines at all.** This is primordially supported by the Certification of the Bureau of Immigration that the very first or earliest record of Antonio's travel was on March 14, 2011 which is the date of his arrival in the Philippines. There is no record of her husband's departure from the Philippines prior to March 14, 2011 x x x. which, together with Affidavit of Rosalinda Berzola Tomei x x x, reinforces complainant's assertion that her husband left the Philippines under an assumed name. Lending credence to Antonio's absence in 2009 is the [Regolarizzazione Colf E Badanti] x x x, under which the Italian government implemented an amnesty program for undocumented domestic helpers who as of June 30, 2009 had been illegally employed for at least three months and who were still employed at the time the program was opened. It is thus plausible that Antonio would have remained in Italy until after his employment status would have been legalized. That Antonio was in Italy in the year 2009 is further bolstered by Dianne Santos' sworn statement that she and her cousin Lawrence Antonio had several opportunities to see each other at the train station in other areas of Rome, including the months of February, March and June, 2009 and that she and Lawrence were able to return to the Philippines for the first time only in 2011 x x x. **Most telling of all is the declaration of Lawrence Antonio himself in his Counter-Affidavit filed before the Prosecutor's Office x x x that he had not participated in the judicial proceeding for the annulment of marriage.** Portions of his statements are as follows:

*"In this case, I hired the services of a legal counsel to represent me in the annulment of my marriage contract. I paid the fees required of me. I was told the annulment papers will be processed. I believe in good faith to (sic) my legal counsel."*

He reiterated his non-participation, maintaining thus:

*"4. If the complainant claims that I was liable because I benefit ted from the malpractice of the legal profession and the judiciary, the records will show that I NEVER was a part of the proceedings; In this case, I hired the services of a legal counsel to represent me in the annulment of my marriage contract. I paid the fees required of me. I was told the annulment papers will be processed. I believe in good faith to (sic) my legal counsel. "*

Lawrence Antonio's affidavit is actually heavily punctuated with the above disclaimer. **Respondent on the other hand, was not able to provide any countervailing evidence other than his puerile assertion that he was led to believe that the person he had been dealing was Lawrence Antonio. Such assertion however, is simply incredulous. It taxes credulity to believe that he had been able to initiate a petition for declaration of nullity of marriage, prepare the Judicial Affidavit and present the purported affiant without having discovered that the person he was supposedly dealing with as his client was not Lawrence Antonio.** In the same vein, respondent could not satisfactorily explain why he presented as an expert witness one

Carina Roman, a supposed psychologist who was not in fact accredited nor registered with the Professional Regulatory Commission. These are all the false schemes which respondent employed to secure a judgment. He had knowingly assisted witnesses to represent themselves and/or impersonate another, in violation of Rule 12.06.

x x x x

Respondent has fallen below such exacting standard of honesty and fair dealing. Considering that respondent had violated Canons 1 (Rule 1.01 [1.02]), 7, 10 (Rule 10.01), Rule 12.06, and 19 (Rule 19.01) of the Code of Professional Responsibility, the undersigned recommends that respondent be DISBARRED from the practice of law.

Respectfully submitted.<sup>[13]</sup> (Emphases supplied.)

The IBP Board of Governors adopted the Commission's findings.<sup>[14]</sup> Atty. Baldovino moved for a reconsideration.<sup>[15]</sup> On June 17, 2019, the IBP partly granted the motion and modified the penalty to two years suspension, viz.:

RESOLVED to partially GRANT the Motion for Reconsideration and MODIFY the penalty from disbarment to Two (2) Years SUSPENSION from the practice of law.

### **RULING**

The Court adopts the IBP's findings with modification as to the penalty.

A lawyer must exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.<sup>[16]</sup> Any act on his part which visibly obstructs, perverts, impedes or degrades the administration of justice constitutes misconduct and justifies disciplinary action. Indeed, a lawyer must represent his client within the bounds of the law lest he transgresses his corresponding duties to the court, the bar, and the public.<sup>[17]</sup> Specifically, a "*lawyer shall not knowingly assist a witness to misrepresent himself or to impersonate another.*"<sup>[18]</sup> Otherwise, the lawyer is as equally guilty as the witness who falsely testifies in court.<sup>[19]</sup> This amounts to a deceitful conduct which is a ground for disbarment or suspension not to mention the possible criminal prosecution. Here, convincing evidence exist that Atty. Baldovino represented Lawrence in the case for nullity of marriage despite his absence in the Philippines. Thereafter, Atty. Baldovino knowingly presented another person to act on Lawrence's behalf during the proceedings and an expert witness who does not have the required qualifications. These further resulted in violations of the rules on notarial practice.

Foremost, Atty. Baldovino admitted that Lawrence is his client in Civil Case No. 128-P'09 and that he is the counsel of record who drafted the petition for nullity of marriage. Both Atty. Baldovino and Lawrence did not deny these facts. Also, it was proven that Lawrence was abroad when the case was filed until it was decided. The affidavits of Rosalinda Berzola Tomei and Dianne Santos, information on Italy's Amnesty Program, certification from the BOI, and Lawrence's counter-affidavit before the public prosecutor established this finding. In stark contrast, Atty. Baldovino did not disprove these evidence but merely argued that the person he was dealing as his client was not Lawrence. Yet, Atty. Baldovino failed to substantiate