

## EN BANC

[ A.C. No. 10533, January 31, 2017 ]

**SILVESTRA MEDINA AND SANTOS MEDINA LORAYA,  
COMPLAINANTS, VS. ATTY. RUFINO LIZARDO, RESPONDENT.**

### DECISION

**LEONARDO-DE CASTRO, J.:**

Complainants Silvestra Medina (Silvestra) and her nephew Santos Medina Loraya (Santos) filed a Complaint<sup>[1]</sup> with the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline against Atty. Rufino C. Lizardo (Atty. Lizardo). Complainants allege that Silvestra, because of her advanced age, entrusted the owner's duplicates of Transfer Certificates of Title (TCT) Nos. 13866 and 3900 to Atty. Lizardo. However, since complainants are not the only owners of the properties covered by said TCTs, and other heirs were asking for the original duplicate copies, complainants went to the residence of Atty. Lizardo and requested the return of said TCTs on March 5, 2011. Atty. Lizardo refused to turn over the TCTs to the complainants. Complainants submitted the following prayer in their Complaint:

WHEREFORE, premises considered it is most respectfully prayed of this Honorable Commission, after hearing, THAT:

1. Respondent turnover to the custody of complainant SILVESTRA MEDINA the above-mentioned original duplicate of certificate of titles in the presence of the Honorable Commission or its duly authorized representative;
2. Other reliefs, just and equitable under the premises are also prayed for.<sup>[2]</sup>

In his Answer,<sup>[3]</sup> Atty. Lizardo primarily argues that the Commission on Bar Discipline has no jurisdiction to hear and decide the complaint since it involves an action for specific performance.

Atty. Lizardo admitted that he is the counsel of Silvestra and her sister, the late Alicia Medina (Alicia), who is also the mother of Santos. According to Atty. Lizardo, Silvestra entrusted TCTs No. 13866 and 3900 to him sometime in 1987 because Silvestra, Santos, and Alicia sold their shares in lots 456, 457 and 458 in favor of a certain Renato Martinez (Martinez). Atty. Lizardo claims that he refused to return the subject TCTs because complainants did not secure the written consent of Martinez.

To prove his allegation, Atty. Lizardo presented the *Malayang Salaysay*<sup>[4]</sup> of Silvestra dated April 10, 1981 which states:

1. Na, ako ay isang kamagari sa sa [sic] dalawang lagay na lupa na nasa Cupang, Muntinlupa, Rizal (Metro-Manila) na ang nasabing dalawang

lagay na lupa ay kilala sa mga sumusunod:

"Lot 457 Muntinlupa Estate (LRC) Record No. 6137 situated at Cupang, Muntinlupa, Rizal, with an area of 664 Sqms."

"Lot 458 Muntinlupa Estate (LRC) Record No. 6137 situated at Cupang, Muntinlupa, Rizal with and area of 1427 Sqms."

na ang nasabing mga lagay na lupa sa itaas nito ay sinasakop ng isang Titul, "Transfer Certificate of Title No. 23866 ng Talaan ng mga kasulatan sa Rizal[.]

The *Malayang Salaysay* was signed by Silvestra and notarized by Atty. Lizardo. Atty. Lizardo also presented the *Sinumpaang Salaysay*<sup>[5]</sup> of the late Alicia Medina dated May 24, 1982 stating that she received the amount of P10,000.00 as initial payment for the sale of the property.

Atty. Lizardo notes that complainants only had a one-fourth share in the subject lots. Atty. Lizardo presented the Decision<sup>[6]</sup> dated May 16, 1962 of the Court of First Instance (CFI) of Rizal based on a compromise agreement wherein Silvestra and Alicia were awarded one-fourth share in Lot 456 (described in TCT No. 3900) and Lots 457 and 458 (described in TCT No. 13866). Complainants allegedly sold this one-fourth share to Martinez, but their co-owners resisted the transfer of the titles to said properties, forcing Silvestra and Alicia to file a Complaint for Partition,<sup>[7]</sup> docketed as Civil Case No. 18400, on September 4, 1987. According to Atty. Lizardo, Martinez supposedly shouldered all the legal expenses for the partition to protect his interest, as evidenced by Martinez's affidavit<sup>[8]</sup> dated May 10, 2011. Upon the death of Alicia, her heirs executed an Extrajudicial Settlement With Sale<sup>[9]</sup> dated July 16, 1992 wherein said heirs appear to have agreed to convey in favor of Martinez and his spouse all their shares in TCTs No. 3900 and 13866 covering Lots 456, 457 and 458. The pertinent part of the Extrajudicial Settlement reads:

That, we, together with SILVESTRA MEDINA, owner of the other [o]ne (112) half portion of the above-mentioned [o]ne [f]ourth (1/4) portion of the estate of ALICIA MEDINA LORAYA by these presents have decided to sell the (sic) our share, interest and participation over the parcels of land described above:

That, for and in consideration of the sum of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS, Philippine Currency, receipt of which in full satisfaction is acknowledged and confessed, hereby SELL, TRANSFER and CONVEY unto and in favor of Spouses RENATO MARTINEZ and PURIFICACION LOMEDA MARTINEZ our share, interest and participation in the above-mentioned Three (3) parcels of land, known as Lot 456, covered by TCT 3900 and Lot 457 and 458, covered by TCT 13866 free from any liens and encumbrances except those required by law.

Atty. Lizardo avers that when complainants learned that the sheriff was implementing the writ of execution issued in Civil Case No. 18400, they demanded the return of the two TCTs.

During the Mandatory Conference on July 21, 2011, Santos testified that he and Silvestra did not notice that Lot 456 covered by TCT No. 3900 was sold together with Lots 457 and 458 covered by TCT No. 13866. Santos claims that they did not read the Extrajudicial Settlement since they trusted Atty. Lizardo to sell only one parcel of land<sup>[10]</sup> covering 1,000 square meters to Martinez.<sup>[11]</sup>

In a Letter-Appeal/Manifestation, complainants informed the Investigating Commissioner of their letter terminating the services of Atty. Lizardo as counsel in Civil Case No. 18400 for total loss of trust and confidence and prayed for the latter's disbarment.

When the original Investigating Commissioner was elected president of his IBP chapter, the case was reassigned to a new commissioner who set another hearing for mandatory conference on November 4, 2011. At the November 4, 2011 mandatory conference, complainants were present while a paralegal appeared for Atty. Lizardo and brought a verified medical certificate attesting that Atty. Lizardo was indisposed. After noting the rule that failure of any party to appear at the mandatory conference despite notice is considered a waiver of his/her right to participate in the proceedings, the Investigating Commissioner proceeded with the mandatory conference and gave complainants an opportunity to clarify matters not tackled or discussed in the mandatory conference held on July 21, 2011. The parties were thereafter directed to file their respective verified position papers.<sup>[12]</sup>

In the Commissioner's Report<sup>[13]</sup> dated August 3, 2012, the Investigation Commissioner recommended that Atty. Lizardo be suspended from the practice of law for two years, since the former believed that disbarment was too harsh a penalty under the circumstances. On March 21, 2013, the Board of Governors of the IBP issued a Resolution adopting and approving the Report and Recommendation of the Investigating Commissioner, thereby suspending Atty. Lizardo from the practice of law for two years.

The Investigating Commissioner observed that Martinez stated in his Affidavit dated May 10, 2011 that Silvestra sold her share in Lots 456, 457 and 458 to him, and incorporated into said affidavit a copy of Silvestra's *Malayang Salaysay* dated April 10, 1981. In the *Malayang Salaysay*, however, Silvestra mentioned only two parcels of land: Lot 457 with an area of 664 square meters, and Lot 458 with an area of 1,427 square meters. According to the Investigating Commissioner, Atty. Lizardo should have known this because he was the one who prepared and notarized Silvestra's *Malayang Salaysay*.

The Commissioner's Report adopted in the IBP Board of Governors Resolution thereby found Atty. Lizardo to have represented conflicting interests, to wit:

As above stated, during the mandatory conference, Mr. Santos Medina Loraya stated the following:

Mr. Santos Medina Loraya: Paanong mangyaring naiipit e sya ang legal counsel po namin. Siguro kami ang dapat niyang protektahan.

(TSN dated July 21, 2011, page 38)

The question thrown by the complainants during the said conference is very alarming as far as the undersigned is concerned. Complainants firmly believe that as their lawyer, Atty. Lizardo should protect their interests and legal rights. Respondent should not favor other persons except his clients. It would appear that as admitted by Renata Martinez, he was the one who shouldered all legal expenses including that of the respondent. Respondent should not have allowed the same to happen because definitely, a conflict of interest might arise later on, as what is happening now. Respondent is lawyering for the complainants and at the same time, lawyering for the interest of Renata Martinez.<sup>[14]</sup>

The Investigating Commissioner further observed that Atty. Lizardo did not merely represent conflicting interests, but even actively participated in deceiving his clients, the complainants in the case at bar:

Not only that, respondent allowed himself to be used by Renata Martinez in deceiving the complainants to make it appear that they sold three (3) parcels of land. The intention to deceive the complainants and the heirs is very evident because as stated by the complainants, the Extrajudicial Settlement with Sale was signed during the wake of Alicia Medina. Why would an Extra-judicial Settlement with Sale be executed and signed at the time of the wake of Alicia Medina? Why is the respondent and Renato Martinez in a hurry to have the document signed?

Probably, the heirs, at the time were still grieving for the loss of Alicia Medina. The timing of the preparation and signing is highly questionable as far as the undersigned is concerned.<sup>[15]</sup> (Underscoring omitted.)

On Atty. Lizardo's allegation that the Commission on Bar Discipline does not have jurisdiction over the complaint, the report adopted by the IBP Board of Governors held:

It is the position of the respondent that the Commission on Bar Discipline has no jurisdiction on the subject controversy. The undersigned begs to differ. The Commission on Bar Discipline, as the investigating body of the Integrated Bar of the Philippines and the Supreme Court, has jurisdiction over all cases involving lawyers. The jurisdiction of this Commission covers transactions committed either in their personal or professional capacity. x x x.<sup>[16]</sup>

Atty. Lizardo filed a Motion for Reconsideration,<sup>[17]</sup> alleging that he did not represent conflicting interests. He claims that Silvestra, Alicia and Martinez all engaged his services to file the partition case, but agreed that the named complainants shall only be Silvestra and Alicia in accordance with the decision of the CFI of Pasay City. As the share of Silvestra and Alicia were already sold to Martinez, it was Martinez who shouldered the expenses and appeared in every hearing. According to Atty. Lizardo, Silvestra, Alicia, and Martinez had the same interest in the filing of the partition case.

Atty. Lizardo denied that the Extrajudicial Settlement with Sale was signed during the wake of Alicia. He claims that the preparation, execution, signing and notarization of the Extrajudicial Settlement with Sale were all done in his office in