

## SECOND DIVISION

**[ ADM. CASE No. 4495, October 08, 2008 ]**

**ANTONIO DE ZUZUARREGUI, JR., COMPLAINANT, VS. ATTY.  
APOLONIA A. C. SOGUILON, RESPONDENT.**

### **R E S O L U T I O N**

**TINGA, J.:**

Before us is an administrative case for disbarment filed by complainant Antonio de Zuzuarregui, Jr. against respondent Atty. Apolonia A.C. Soguilon. Complainant accuses respondent of misconduct, concealment of the truth and misleading the court.

Respondent acted as counsel for the petitioner in LRC No. Q-7195 (95) before the Regional Trial Court (RTC) of Quezon City, Branch 93. In his letter<sup>[1]</sup> dated 15 September 1995, complainant narrated that in the course of the presentation of evidence in support of the petition for reconstitution, respondent introduced as evidence the certified copy of the technical description and the sketch plan of the land both issued by the Land Management Services. The documents were subsequently marked as Exhibits "F" and "G," respectively.

A closer study of the documents however revealed that they contained the following notations:

a) In re Exhibit "F"

Note: This is not an updated survey data. This might have been already superseded by subsequent subd./cons. surveys, Amendment, correction or [c]ancellation by the order of [the] court or by the Regional Executive/Technical Director, DENR. This is not valid for land titling/Registration and for preparation of deed of sale and/or transfer of right.

b) In re Exhibit "G"

Note: This plan is used for reference purposes only.<sup>[2]</sup>

The above-quoted notations notwithstanding, the trial court allowed reconstitution of the title. As such, complainant submitted that respondent was remiss in not calling the attention of the trial court to the notations indicated in the documents, emphasizing her duty to avoid concealment of the truth from the court.

In his Supplemental Letter<sup>[3]</sup> dated 25 October 1995, complainant additionally charged respondent of committing fraud. For one, complainant alleged that the requirements of Section 12 in relation to Section 3(f) of Republic Act (R.A.) No. 26 were not observed as the petition failed to state the "names and addresses of the

occupants or persons in possession of the property or the owners of the adjoining properties and of all persons who may have any interest in the property." Secondly, respondent allegedly manifested untruthfully to the trial court that her client had complied with the requirements of the Land Registration Authority (LRA) when in fact there had been no compliance. And finally, complainant contended that per the certification issued by the Deputy Register of Deeds of Rizal Province, TCT No. 17730, the title sought to be reconstituted, was missing as of the inventory conducted in September 1981. As such, complainant asserted, there was no basis for the claim that the said title belonged to one Gregorio Agabao.

In answer to these allegations, respondent submitted to this Court her Comment<sup>[4]</sup> dated 6 April 1996 wherein she refuted all the charges against her. Anent the annotations on the documents, respondent stated that she could not be charged of concealing facts from the court as she had submitted the documents without alteration for the evaluation of the trial court. With regard to the alleged non-observance of the requirements of R.A. No. 26, respondent countered that she had to merely rely, as she did, on the documents and information supplied to her by her client. As to the charge of having fraudulently claimed compliance with the LRA requirements, respondent averred that she submitted the documentary requirements to the LRA through certified copies thereof which were all received by the records clerk of said office. Lastly, concerning the contention that the certification issued by the Deputy Register of Deeds of Rizal Province did not contain the name of the real owner, the location and the metes and bounds of the property referred in the certification, as well as the name and purpose of the person who requested for it, respondent asserted that she had nothing to do with the preparation of said certification and therefore cannot be blamed for any of the lapses committed by the one who issued it.

The Court referred the matter to the Integrated Bar of the Philippines (IBP) for investigation. Both parties presented their respective evidence before the Commission on Bar Discipline of the IBP. After investigation, the Commissioner made the following findings and recommendation:

As to the charge of misleading the court by not pointing out the notations in the technical description and sketch plan, there appears to be no malice or intentional machination to mislead the court. Indeed, the said notations were not **hidden or manipulated** by Respondent. x x x **It is clear that Respondent and the trial court committed error** that should be characterized as "reversible error" in the absence of proof of intentional machination or collusion.

The same findings are true for the charge of deliberate omission of persons entitled to notice under R.A. No. 26. The said omission should have been fatal omissions that should have jeopardized the petition for reconstitution of title. Nevertheless, it was allowed by the trial court to prosper. Furthermore, there appears to be no reason for Respondent to disbelieve or not to rely on the representation made to her by her client.

As to the alleged fraudulent claim of compliance with LRA requirements, it is noted that the trial judge of RTC, Quezon City, Branch 93 x x x did not cite Respondent in contempt of court.

x x x x

Clearly, what should have been **fatal omissions** on the part of Respondent, as counsel of the petitioner in the Petition for Reconstitution (LRC Case No. Q-7195 [95]) were allowed to pass without challenge. A simple perusal of the Decision dated June 5, 1995 (In Re: Petition for Reconstitution of TCT No. 17730, LRC Case No. Q-7195 [95]) x x x shows that there was **reversible error** on the part of the presiding judge of RTC, Branch 93 of Quezon City.

x x x x

x x x However, the disciplinary process does not punish errors, mistakes or incompetence. Errors and mistakes are corrected by legal remedies such as motions for reconsideration, appeals, and petitions for relief. The reversal of the June 5, 1995 Decision of the trial court has remedied the error committed.

**PREMISES CONSIDERED**, it is submitted that respondent did not commit any act for which she should be disciplined or administratively sanctioned.

It is therefore recommended that this **CASE BE DISMISSED** for lack of merit. [5]

On 25 June 2005, the IBP Board of Governors passed a Resolution<sup>[6]</sup> dismissing the complaint based on the Report and Recommendation of Commissioner Funa. The parties were furnished with copies of the IBP Resolution. On 6 September 2005, the Court received a Petition<sup>[7]</sup> from complainant praying that his administrative complaint be reinstated on the basis of the appellate court's pronouncements in its: (1) Decision dated 30 January 1997<sup>[8]</sup> in C.A. G.R. SP No. 40897 entitled *Edith R. Agabao v. Hon. Demetrio B. Macapagal as RTC Judge, Br. 93, Quezon City, ADEZ REALTY, INC., AGUEDO EUGENIO and REPUBLIC OF THE PHILIPPINES*, and (2) Decision dated 29 March 2004<sup>[9]</sup> in C.A. G.R. CV No. 59363 entitled *In the Matter of the Petition for the Reconstitution of TCT No. 17730 of the Register of Deeds for the Province of Rizal under R.A. No. 26 Edith R. Agabao v. Adez Realty, Inc. and the Republic of the Philippines*, affirming the Order dated 22 February 2006<sup>[10]</sup> of the RTC of Quezon City, Branch 93 which set aside the reconstitution previously ordered.

The crux of the controversy is whether respondent maliciously misled the court by failing to point out material notations in the documents she had submitted; whether she deliberately omitted mention of certain persons entitled to notice under the law; and whether she fraudulently claimed that she had complied with the LRA requirements or whether all these omissions could be considered honest mistakes or errors.

The Court finds no reason to disturb the findings of the Commissioner.

The Court agrees with the Commissioner's evaluation that respondent did not employ deceit or misrepresentation in acting as counsel for the petitioner in the