

THIRD DIVISION

[A.C. NO. 5499, August 16, 2005]

WILSON PO CHAM, COMPLAINANT, VS. ATTY. EDILBERTO D. PIZARRO, RESPONDENT.

DECISION

CARPIO MORALES, J.:

Before this Court is an administrative complaint for disbarment filed by Wilson Po Cham (complainant) against Atty. Edilberto D. Pizarro (respondent) for commission of falsehood and misrepresentations in violation of a lawyer's oath.

Complainant gives the following account of the facts that spawned the filing of the present administrative complaint.

Sometime in July 1995, Emelita Cañete (Cañete), Elenita Alipio (Alipio), and now deceased Mario Navarro (Navarro) who was then the Municipal Assessor of Morong, Bataan, offered for sale to him a parcel of land with an area of approximately forty (40) hectares, identified as Lot 1683 of Cad. Case No. 262, situated at Sitio Gatao, Nagbalayong, Morong, Bataan (the property).

He having expressed interest in the offer, Cañete and Navarro arranged a meeting between him and respondent at the latter's residence in Balanga, Bataan^[1] where respondent categorically represented to him that the property being offered for sale was alienable and disposable.^[2] Respondent in fact presented to him 1) Real Property Tax Order of Payment^[3] dated July 10, 1995 covering the property signed by Edna P. Pizarro as Municipal Treasurer and Navarro as Municipal Assessor; 2) a Deed of Absolute Sale^[4] dated July 25, 1995 purportedly executed by the alleged previous actual occupant of the property, one Jose R. Monzon (Monzon), transferring all his rights, interest and possession thereover in favor of Virgilio Banzon (Banzon), Rolando B. Zabala (Zabala) and respondent for an agreed consideration of P500,000.00; and 3) Special Power of Attorney^[5] dated July 25, 1995 executed by Banzon and Zabala authorizing him (respondent) to:

1. x x x offer to sell [their] rights over a certain parcel of land, which is more particularly described as follows:

AREA: 40 has. more or less
situated at Pook Batangas, Nagbalayong, Morong, Bataan
covered by Tax Declaration No. 6066 PIN
#108-08-044-05-126

2. x x x negotiate and enter into a contract for the consumation (sic) of sale of the subject property; and to sign the same.

3. x x x receive proceeds thereof with obligation to distribute the corresponding share of each co-owner;

x x x^[6] (Underscoring supplied)

On July 25, 1995, he as buyer and respondent as seller executed an Option to Buy,^[7] the pertinent portions of which provide:

WHEREAS, the SELLER is the owner and Attorney-In-Fact of his co-owners of **rights** with planted trees (improvements) containing an area of FORTY THREE (43) hectares, situated in Pook Batangas, Nagbalayong, Morong, Bataan; (Portion of Lot 1683, Cad. 262, Morong Cadastre), covered by Tax Declaration 6066.

WHEREAS, the BUYER is interested to buy the same for a total price of THREE MILLION AND SEVEN HUNDRED THOUSAND PESOS (P3,700,000.00) payable in two (2) gives (sic), as follows:

a) Earnest money of P10,000.00 upon signing of this contract and the balance of full payment within three (3) weeks from date hereof which offer the SELLER accepts;

NOW THEREFORE, for and in consideration of the foregoing premises and the terms and conditions hereunder specified the parties have agreed on the following:

1) That the Buyer shall give an option money and earnest (sic) of P10,000.00 upon signing of this contract, which shall form part of the contract price if and when the buyer comply (sic) with his obligation to pay in full within three (3) weeks from date hereof, otherwise should the BUYER fails (sic) to comply with his obligation to pay in full on the scheduled period the P10,000.00 earnest money shall be forfeited in favor of the SELLER and the Option to Buy is automatically cancelled.

2) That the SELLER upon full payment of the price shall execute a final Deed of Sale and shall surrender all documents, plans and paper relative to the properties subject of sale;

3) That the SELLER shall warrants (sic) their rights and claims over the above stated properties including the trees planted on it as against the rights of third party except that of the government.^[8] (Emphasis and underscoring supplied)

In accordance with the terms of the Option to Buy, he paid respondent the amount of P10,000.00 for which respondent issued the corresponding Receipt^[9] reading:

Received the sum of TEN THOUSAND PESOS (P10,000.00) from MR. WILSON CHAM, representing earnest/option money for Lot 1683 of Cad. Case No. 262 situated at Boundaries:

NORTH : Right of Catalino Agujo
SOUTH : National Road-Bagac-Morong
WEST : Right of Nicasio Canta
EAST : Sapang Batang Panao

including the trees and improvement situated thereon.

Full payment shall be paid within three (3) weeks from date hereof.^[10]
(Underscoring supplied)

On August 21, 1995, respondent executed a Deed of Absolute Sale^[11] over the property in his favor, the pertinent portions of which read as follows:

For and in consideration of the sum of THREE MILLION THREE HUNDRED SEVENTY TWO THOUSAND FIVE HUNDRED THIRTY THREE (P3,372,533.00), Philippine Currency, the receipt whereof is hereby acknowledged from the BUYER to the entire satisfaction of the SELLERS, the said SELLERS do by these presents SELL, TRANSFER and CONVEY, in manner absolute and irrevocable, in favor of the said BUYER, his heirs and assigns, all their **rights, interest and participation** over that certain real estate destined for, and in actual use as fruit land, situated at Pook Batangas, Nagbalayong, Morong, Bataan and more particularly described as follows:

Location : Pook Batangas, Nagbalayong, Morong, Bataan
Area : That portion of Lot 1683, Cad. 262, Morong Cadastre, containing an area of 392,155 square meters more or less.

Boundaries : North : Right of Catalino Agujo
South : National Road, Bagac-Morong
West : Right of Nicasio Canta
East : Sapang Batang Panao

The SELLERS do hereby declare that the boundaries of the foregoing land are visible by means of monuments, creeks and trees; that the land including the permanent improvements existing thereon consist of fruit-bearing trees assessed for the current year at TWO HUNDRED SIXTY TWO THOUSAND FOUR HUNDRED P262,400.00 as per Tax Declaration No. 5010; and that the property is presently in the possession of the SELLERS.

The SELLERS hereby agree with the BUYER that **they are the absolute owners of the rights** over the said property; that they have the perfect right to convey the same; that they acquired their rights over the said property by absolute deed of sale from Jose R. Monzon who acquired his rights over the property from Marianito Holgado; that Marianito Holgado acquired his right from Pedro de Leon who, in turn, acquired his right from Julian Agujo who was the original owner who cleared the land and who was in possession of the same immediately after the Second World War.

The SELLERS warrant their rights and claims over the aforescribed real

estate including the trees planted thereon and they undertake to defend the same unto said Vendee, his heirs and assigns against the claims of any third person whomsoever.^[12] (Emphasis and underscoring supplied)

Respondent thereafter furnished him with a copy of Tax Declaration No. 5010^[13] with Property Index No. 018-08-004-05-126 issued in his (respondent's) name and his alleged co-owners, and Real Property Tax Receipt No. 025201^[14] dated August 17, 1995 issued in his (respondent's) name.

He thus gave respondent two checks dated August 21, 1995 representing the purchase price of the rights over the property, Asian Bank Corporation Check No. GA063210^[15] in the amount of P168,627.00 payable to respondent, and Asian Bank Manager's Check No. 004639GA ^[16] in the amount of P3,193,906.00 payable to respondent, Banzon and Zabala.

He subsequently took possession of the property and installed a barbed wire fence at its front portion. Soon after, however, a forest guard approached him and informed him that the property could not be fenced as it was part of the Bataan National Park.^[17]

Upon investigation, he discovered that the property is not an alienable or disposable land susceptible of private ownership. He thus secured a Certification^[18] from the Community Environment and Natural Resources Office (CENR) in Bagac, Bataan of the Department of Environment and Natural Resources (DENR) dated July 2, 1998, signed by CENR Officer Laurino D. Macadangdang, reading:

This pertains to your request for a certification as to the status of land claimed by spouses Perfecto and Purificacion, Jose Monson, et. al, Virgilio Banzon and Edilberto Pizarro, all located at Nagbalayong, Morong, Bataan.

Please be informed that per verification conducted by the personnel of this Office, said lands fall within the Bataan Natural Park per L.C. Map/N.P. Map No. 34 as certified on December 1, 1945. Under the Public Land Law, lands within this category are not subject for disposition.^[19] (Underscoring supplied)

He also obtained a Letter-directive^[20] dated August 31, 1995 issued by Officer-in-Charge Ricardo R. Alarcon of the Provincial Environment and Natural Resources Office (PENR) of Balanga, Bataan to the Municipal Assessor, the pertinent portions of which read:

Please be informed that it comes to our attention that there are **some forest occupants that are securing land tax declarations from your office in (sic) the pretext that the area they occupied (sic) were (sic) within alienable and disposable lands. Presently, this tax declaration is being used in the illegal selling of right [of] possession within the Bataan Natural Park which is prohibited under our laws.**

In this regard, I would like to request for your assistance by way of informing us and in controlling this land rush and massive selling and buying of rights of possession within prohibited areas as stated above.

[21] (Emphasis and underscoring supplied)

Upon his request, the PENR issued a Certification^[22] dated March 14, 1996 stating that those named by respondent as prior owners of rights over the property from whom respondent and his alleged co-owners acquired their alleged rights were not among those inventoried as occupants per the PENR's 1978 to 1994 Forest Occupancy Census (IFO) Survey.

Despite repeated demands, respondent refused to return the purchase price of the rights over the property.^[23]

In his present complaint^[24] dated September 10, 2001, complainant charges respondent to have violated his oath as a member of the Bar in committing manifest falsehood and evident misrepresentation by employing fraudulent means to lure him into buying rights over the property which property he represented to be disposable and alienable.^[25]

In his Comment^[26] dated January 12, 2002, respondent denied having employed deceit or having pretended to co-own rights over the property or having represented that it was alienable and disposable. He claimed that complainant, being engaged in speculation in the purchase of property, knew exactly the character and nature of the object of his purchase;^[27] and that despite complainant's awareness that he was merely "buying rights to forest land," he just the same voluntarily entered into the transaction because of the property's proximity to the Subic Bay Economic Zone.

Respondent surmised that complainant bought the rights over the property in the hope that lands belonging to the public domain in Morong "would be eventually declared alienable and disposable to meet the rising demand for economic zones."^[28]

By Resolution^[29] of February 6, 2002, this Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation or decision within ninety (90) days from notice.

On May 6, 2002, complainant filed before the IBP his Reply^[30] to respondent's Comment, maintaining that the sale of rights over the property was attended with deceit as respondent deliberately did not disclose that the property was within the confines of the Bataan National Park.^[31] And he denied being engaged in speculation, he claiming that with his purchase of the property, he would venture into low-cost housing for the employees of the nearby Subic Bay area.^[32]

To complainant's Reply, respondent filed his Rejoinder on June 21, 2002.^[33]

Complainant later filed his Affidavit^[34] and Position Paper^[35] on June 21, 2002 and September 17, 2001, respectively, reiterating his assertions in his previous