

SECOND DIVISION

**[A.M. No. MTJ-00-1318 (Formerly A.C. No. 4755),
November 23, 2004]**

**NELIA A. ZIGA, COMPLAINANT, VS. JUDGE RAMON A. AREJOLA,
MTC-DAET, CAMARINES NORTE, RESPONDENT.**

R E S O L U T I O N

TINGA, J.:

This is an administrative complaint filed on 30 May 1997 by complainant Nelia A. Ziga against respondent Judge (then Atty.) Ramon A. Arejola for "disregard of the lawyer's duty to represent and protect the interest of his client."

Complainant alleges in her *Complaint*^[1] that respondent, her cousin and co-heir, acted as counsel for all the heirs of Fabiana Arejola who were the applicants in Land Registration Case No. RTC'95-142 (LRC No. 95-142) before the Regional Trial Court (RTC) of Naga City, Branch 23. After the trial court rendered a *Decision*^[2] confirming the title to the property of the applicants and ordering its registration in their names, respondent failed to ask for the correction of complainant's name which was misspelled as "LILIA." Respondent used the erroneous name in the *Deed of Absolute Sale* which he prepared to finalize the sale of the land to the City of Naga, complainant adds.

Complainant submits that respondent's failure to have the spelling amended despite having read the *Decision*^[3] and having been requested in a letter^[4] by the City Attorney of Naga City to correct the mistake constitutes utter disregard of a lawyer's duty to protect his client.^[5]

Due to respondent's imputed omission, complainant was constrained to file in her own behalf an *Urgent Ex-Parte Motion for Correction*^[6] which the trial court granted in an *Order*^[7] dated 12 March 1997.^[8]

In his *Comment*^[9] dated 28 August 1997, respondent Judge Ramon A. Arejola denies the existence of an attorney-client relationship between him and the complainant. He insists that he never represented the complainant in LRC No. 95-142 because he filed the case on his own behalf as applicant heir and on behalf of his co-heirs, not as complainant's counsel.^[10]

Respondent also reasons out that the spelling of complainant's name was of no importance. The mention of her name as representative of the heirs of Expectacion A. Ziga, he claims, was only for purposes of expediency so that the trial court could have a specific name and address to send to in case notices have to be sent to the heirs. What was important was that the heirs of Expectacion A. Ziga were officially included in the *Decision* as among the heirs of Fabiana Arejola in whose name the

property was being registered.^[11]

In her *Clarifications on Respondent's Comment*,^[12] complainant belies respondent's allegation that there was no attorney-client relationship between her and the respondent as the latter himself alleged the contrary in his *Notice of Attorney's Lien*.^[13]

Complainant also brands as bereft of truth respondent's statement that he filed the *Petition*^[14] on his own behalf and without participation from his co-heirs, the truth being that when the heirs executed the *Deed of Conditional Sale*^[15] with the City of Naga, they provided for the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00) as advance payment for the expenses that will be incurred in the filing of the *Petition*. This sum of money is clearly a common fund evidencing assistance and participation from his co-heirs.^[16]

She maintains that respondent's comment about her being unconcerned about the titling of the land is not correct because even before respondent filed the *Petition* on 25 January 1995, she had already made an initial contribution in September 1994, together with all the heirs, for titling expenses and taxes.^[17]

In a resolution,^[18] this Court required the complainant to file a *Reply* to respondent's *Comment* and noted the *Clarifications on Respondent's Comment*. Complainant filed her *Reply*^[19] on 24 February 1998, substantially reiterating her allegations in her *Clarifications on Respondent's Comment*.

On 14 January 1998, this Court noted complainant's *Manifestation*^[20] that respondent had been appointed as Municipal Trial Court Judge of Daet, Camarines Norte on 9 June 1997 and that the latter's *Comment* was filed when he had already taken his oath of office on 1 August 1997.^[21] For this reason, the Court ordered the case to be redocketed as an administrative matter and referred it to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.^[22]

In its *Report*^[23] dated 24 January 2001, the OCA recommended that the respondent be "cleared of any administrative liability in so far as the Office of the Court Administrator is concerned" and that the case be referred back to the Office of the Bar Confidant on the ground that the acts complained of were allegedly committed before respondent's appointment to the judiciary.

The Court, however, did not share the recommendation and resolved to return the case to the OCA. In its *Resolution*^[24] dated 28 February 2001, the Court stated that "(C)harges against judges, even if made for acts committed by them before their appointment to the judiciary are to be investigated by the Office of the Court Administrator pursuant to Rule 139-B, §1, as amended x x x. The reason for this is that such acts may reflect on or affect the judicial function of the respondent. Thus, even if the complaint in this case was filed on May 30, 1997, before respondent's appointment to the judiciary on June 9, 1997, the matter should be investigated by the Office of the Court Administrator."

Upon the OCA's recommendation, the Court referred the case to the Executive Judge

of the RTC of Daet, Camarines Norte, to ensure the speedy disposition of the case and for the convenience of the parties.^[25]

In support of her petition, complainant testified^[26] and brought to the witness stand Mrs. Helen R. Arejola^[27] who affirmed her affidavit attesting to the fact that she refused to sign the *Deed of Absolute Sale* of the property, subject of the land registration case, being routed by respondent's sister Mrs. Milagros Arejola de los Santos, because it bore the erroneous name of complainant which was stated as "LILIA" instead of "NELIA." Also offered in evidence by complainant were the *Complaint*^[28] itself together with its annexes which included an *Affidavit*^[29] of a certain Mrs. Fanny Lourdes B. Alvarez which states that Judge (then Atty.) Ramon Arejola openly declared to her that he (Judge Arejola) purposely did not seek the correction of the name of complainant in land registration case decision so that "the complainant could not collect her check." Affiant Fanny Alvarez was, however, not presented in court to affirm her statement. The complainant's *Reply*^[30] to respondent's *Comment* was also offered in evidence. However, the *Notice of Attorney's Lien*^[31] supposed to have been filed in court by respondent in connection with the land registration case but which document is in fact attached to the *Clarifications on Respondent's Comment* was not offered in evidence.

Respondent, on the other hand, offered among other exhibits, viz: (1) the application for registration of Title of Lot 1883 under LRC No. 95-142;^[32] (2) the *Urgent Ex-Parte Motion for Correction*^[33] dated 10 March 1997, filed by complainant before Branch 23, RTC of Naga City; (3) the *Order*^[34] dated 12 March 1997 of the RTC in LRC No. 95-142; and (4) the *Complaint*^[35] filed by the complainant.

In his report^[36] dated 14 October 2003, Executive Judge Racoma found that there was an attorney-client relationship between the complainant and the respondent. To arrive at this conclusion, the Executive Judge took judicial notice of the *Notice of Attorney's Lien* which contradicts respondent's claim that he did not stand as counsel for the complainant.

The Executive Judge, however, reported that respondent's failure to cause the correction of the misspelled name could not be said to be malicious as would amount to culpable negligence and utter remissness in his duty as complainant's counsel. He also noted that the correction of the name was promptly effected so that no damage was caused at all to the complainant. In the alternative, he is of the opinion that the complainant in effect constructively dismissed the respondent when she filed the *Urgent Ex-Parte Motion for Correction*. Further, he recommended that the *Complaint* be dismissed.

While we agree with most of his findings and are of the same view that the lack of damage mitigates respondent's offense, we cannot sustain the conclusion of the Executive Judge in his report.

The ethics of the legal profession enjoins lawyers to act with the highest standards of truthfulness, fair play and nobility in the course of their practice of law. A lawyer may be disciplined or suspended for any misconduct, whether in his professional or private capacity, which shows him wanting in moral character, in honesty, in probity

and good demeanor.^[37]

Canon 17 of the Code of Professional Responsibility provides: "A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him." As held in the case of *Ramos v. Atty. Jacoba*:^[38]

Once he agrees to take up the cause of a client, the lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted fidelity, care, and devotion. Elsewise stated, he owes entire devotion to the interest of the client, warm zeal in the maintenance and defense of his client's rights, and the exertion of his utmost learning and ability to the end that nothing be taken or withheld from his client, save by the rules of law, legally applied. This simply means that his client is entitled to the benefit of any and every remedy and defense that is authorized by the law of the land and he may expect his lawyer to assert every such remedy or defense. If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with it the correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession.

The trust and confidence reposed by clients require in a lawyer a high standard and appreciation of his duty to them. To this end, nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty, and integrity of the legal profession.^[39]

As per the report of the Executive Judge, respondent stood as counsel for the Heirs of Fabiana Arejola, complainant Nelia A. Ziga included. Judge Arejola filed the initial and subsequent pleadings in the land registration case and appeared for and in behalf of the heirs of Fabiana Arejola from its inception to its termination. He even represented them with the City Government of Naga in the transaction involving the sale of the subject land.^[40] A written contract is not essential to establish the relation. It is sufficient that the advice and assistance of an attorney is sought and received in any manner pertinent to his profession.^[41] Besides, the *Notice of Attorney's Lien* contradicts respondent's denials.

As complainant's counsel, he should be devoted to his client's cause from beginning to end. True, he may be excused for not having complainant's erroneous name amended if in his judgment it was not necessary. But he should have been properly apprised of the need for the amendment when the City Attorney requested the correction to be made to facilitate the sale of the land. The City Attorney's letter addressed to respondent was dated 3 February 1997—more than a good month's time before complainant filed her *Urgent Ex-Parte Motion for Correction* dated 10 March 1997. Within the elapsed period of time, it is reasonable to suppose that respondent could have easily filed the motion himself.

Further, we cannot countenance respondent's use of the erroneous name in the