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SECOND DIVISION

[A.C. No. 3808. February 2, 2000]

RAYMUNDO T. MAGDALUYO, *complainant, vs.* **ATTY. ENRIQUE L. NACE,** *respondent.*

SYNOPSIS

Respondent Nace was accused of acts amounting to deceit and gross misconduct. Complainant Magdaluyo alleged that he is the registered owner of parcels of land situated in Rizal and he offered to relocate the squatters living on his land. The squatters, however, refused and filed a case before the DARAB, claiming that they are tenants on complainant's land. Almost three months later, the squatters, including Nace, also filed a case before the RTC for the annulment of complainant's land titles claiming that they are owners of the land under the old Spanish title. Both agrarian and civil cases were later dismissed and Magdaluyo filed this complaint against Nace inasmuch as he was a party to both the agrarian and civil suits. Magdaluyo accused Nace of having deliberately committed a falsehood and of forum-shopping.

The Court concurred with the findings and recommendation of the Integrated Bar of the Philippines that Nace should be reprimanded for his unprofessional and improper acts. There was a violation of the prohibition in the Code of Professional Responsibility against engaging in unlawful, dishonest, immoral or deceitful conduct.

SYLLABUS

LEGAL ETHICS; LAWYERS; CODE OF PROFESSIONAL RESPONSIBILITY; PROHIBITION AGAINST ENGAGING IN UNLAWFUL CONDUCT.— Respondent violated the prohibition in the Code of Professional Responsibility against engaging in unlawful, dishonest, immoral or deceitful conduct. He was, indeed, less than sincere in asserting two conflicting rights over a portion of land that, in all probability, he knew not to be his. What made matters worse was his participation in bringing such claims to court, knowing them to be contradictory

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and therefore cannot both be true, though both could be totally false. In this he is guilty of consenting to if not actual commission of a falsehood before a court, again in violation of the Code of Professional Responsibility. As a lawyer, respondent is bound by his oath to do no falsehood or consent to its commission and to conduct himself as a lawyer according to the best of his knowledge and discretion. The lawyer's oath is a source of obligations and violation thereof is a ground for suspension, disbarment, or other disciplinary action. Respondent's acts are clearly in violation of his solemn oath as a lawyer that this Court will not tolerate.

RESOLUTION

QUISUMBING, *J.*:

In a verified complaint filed with the Office of the Bar Confidant on March 17, 1992, complainant Raymundo T. Magdaluyo accused respondent Atty. Enrique T. Nace of acts amounting to deceit and gross misconduct.

Complainant alleged that he is the registered owner of parcels of land situated in Antipolo, Rizal. In 1991, he conducted dialogues with squatters — among them respondent — living on said land and offered to relocate them to another portion of the land. The squatters refused, and on August 21, 1991, filed a complaint against complainant before the Provincial Agrarian Reform Adjudication Board (PARAB). They claimed to be tenants on complainant's land and, thus, could not be forcibly ejected.

Almost three months later, on November 14, 1991, the squatters — again including respondent — also filed a case against complainant before the Regional Trial Court of Antipolo for the annulment or cancellation of complainant's land titles. This time, they claimed to be owners, not mere tenants, of the land. They traced their alleged ownership to an old Spanish title.

In view of the conflicting causes of action in the agrarian and the civil cases, the DAR Provincial Adjudicator dismissed the squatters' complaint before the PARAB for lack of

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jurisdiction. At the same time, the civil case was also dismissed for lack of cause of action. The RTC ruled that the squatters' claim of ownership based on an old Spanish title could not defeat complainant's claim under a Torrens title.

Complainant filed this complaint against respondent inasmuch as he was a party to both the agrarian and civil suits. He accused respondent of having deliberately committed a falsehood and of forum-shopping, and prayed that proper disciplinary sanctions be imposed against respondent.

Respondent denied complainant's allegations. He stated that the agrarian case was filed not by him but by a federation of farmers and, therefore, not his personal responsibility. He denied having committed forum-shopping since, according to him, the two cases involved different causes of action.

This matter was referred to the Integrated Bar of the Philippines for the proper investigation, report, and recommendation.

In its report, the IBP notes that respondent failed to appear during any of the hearings of the case, prompting complainant to present his evidence *ex parte* and thereafter submit the case for resolution.

Said the IBP in its investigation report:

". . . while it may be true that different causes of action are indeed involved, it is their total inconsistency, nay, total opposition with each other which raises doubts about the respondent's sincerity. It escapes this Commission [on Bar Discipline] how Respondent can, in good faith, allege to be a lawful tenant one moment, and be an owner the next.

Respondent herein, as a lawyer, was remiss in his duty to correctly inform the court of the law and the facts of this case. He failed to allege in his complaint the fact that a prior dispute had been existing between the parties before the PARAB, thus deceiving the court and giving it an inaccurate appreciation of facts.

Lastly, respondent was delinquent in his duty as a lawyer to maintain only such suits as appears to him to be just and such defenses only as he believes to be honestly debatable. It has long been settled that

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Spanish titles cannot be used as evidence of land ownership. Yet respondent dares raise the same in his complaint to defeat Complainant's duly registered certificate of title. Any lawyer would know that a Spanish title would have no legal leg to stand on in the face of Transfer Certificate of Title over the same parcel of land."[1]

The IBP recommends that respondent be reprimanded for his unprofessional and improper acts. Being fully supported by the evidence on record, we concur with the IBP's findings and recommendation.

Clearly, respondent violated the prohibition in the Code of Professional Responsibility against engaging in unlawful, dishonest, immoral or deceitful conduct.[2] He was, indeed, less than sincere in asserting two conflicting rights over a portion of land that, in all probability, he knew not to be his. What made matters worse was his participation in bringing such claims to court, knowing them to be contradictory and therefore cannot both be true, though both could be totally false. In this he is guilty of consenting to if not actual commission of a falsehood before a court, again in violation of the Code of Professional Responsibility.[3]

As a lawyer, respondent is bound by his oath to do no falsehood or consent to its commission and to conduct himself as a lawyer according to the best of his knowledge and discretion. The lawyer's oath is a source of obligations and violation thereof is a ground for suspension, disbarment,[4] or other disciplinary action.[5] Respondent's acts are clearly in violation of his solemn oath as a lawyer that this Court will not tolerate.

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[1] Records, Vol. I, Report of the IBP Committee on Bar Discipline, p. 4.

[2] CODE OF PROFESSIONAL RESPONSIBILITY, Canon 1, Rule 1.01.

[3] *Id.*, Canon 10, Rule 10.01.

[4] *Adez Realty, Inc. v. CA*, 215 SCRA 301 (1992); *Richards v. Asoy*, 152 SCRA 45, 50 (1987); *Diaz v. Gerong*, 141 SCRA 46, 49 (1986).

[5] *Reyes v. Gaa,* 246 SCRA 64, 67 (1995).

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WHEREFORE, as recommended, respondent Atty. Enrique L. Nace is hereby *REPRIMANDED* for his misconduct, with a warning that a repetition of the same or similar acts shall be more severely dealt with.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Buena, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[A.M. No. P-00-1359. February 2, 2000]
(Formerly A.M. OCA I.P.I. No. 97-288-P)

OFELIA C. CASEÑARES, *complainant, vs.* **ARCHIMEDES D. ALMEIDA, JR.,** *respondent.*

SYNOPSIS

Caseñares filed a complaint against Deputy Sheriff Almeida, Jr. charging the latter with graft and corrupt practices and grave misconduct. Later, however, Caseñares also filed a Sworn Affidavit of Desistance. In her complaint, Caseñares alleged that Almeida, Jr., asked ₱2,000 from her for the settlement of her case problem. Almeida, Jr., however, claimed that what happened was a miscommunication; that he was not able to fully explain the procedural aspect of securing a writ of execution for the eviction of one Aragon from the house of Caseñares. On investigation, it was found that indeed, Almeida, Jr. received money from Caseñares, but only ₱500 and the same was used for the preparation of the Motion for Execution.

Respondent failed to observe faithfully his duty as a sheriff. Volunteering assistance in the facilitation of executing an agreement via acquisition of the necessary writ was impermissible. Respondent cannot show undue interest or