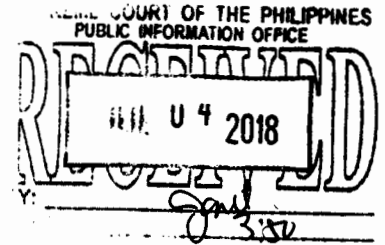




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

CHRISTOPHER R. SANTOS,
Complainant,

A.C. No. 8502

Present:

LEONARDO-DE CASTRO,*
DEL CASTILLO,
*Acting Chairperson,***
JARDELEZA,
TIJAM, and
GESMUNDO,* JJ.**

- versus -

ATTY. JOSEPH A. ARROJADO,
Respondent.

Promulgated:
JUN 27 2018

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DECISION

DEL CASTILLO, J.:

Where a lawyer's integrity is questioned through a disbarment complaint, this Court, as the ultimate arbiter of such disbarment proceedings, is duty-bound to ascertain the veracity of the charges involved therein. But, when the charges lack merit, the Court will not hesitate to dismiss the case.

In an Affidavit¹ dated December 7, 2009, complainant Christopher R. Santos (Complainant Santos) sought the disbarment of respondent Atty. Joseph A. Arrojado (Atty. Arrojado) for violation of Article 1491 of the Civil Code, by acquiring an interest in the land involved in a litigation in which he had taken part by reason of the exercise of his profession.

* On official leave.
 ** Per Special Order No. 2562 dated June 20, 2018.
 *** Per Special Order No. 2560 dated May 11, 2018.
¹ Rollo, pp. 1-6.

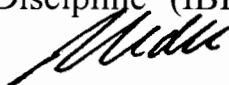
Complainant Santos alleged that he was the defendant in the unlawful detainer case filed by Lilia Rodriguez (Lilia) wherein the respondent lawyer, Atty. Arrojado, was the counsel for Lilia. The case eventually reached the Supreme Court which resolved² the same in favor of Atty. Arrojado's client.

Complainant, however, claimed that on August 7, 2009, while the case was pending before the Supreme Court, Lilia sold one of the properties in *litis pendentia* to Atty. Arrojado's son, Julius P. Arrojado (Julius) and that Atty. Arrojado even signed as a witness of that sale. Believing that Atty. Arrojado committed malpractice when he acquired, through his son Julius, an interest in the property subject of the unlawful detainer case in violation of Article 1491 of the Civil Code, complainant instituted the instant complaint.

In his Verified Comment,³ Atty. Arrojado admitted: (1) that Lilia was a client of the law firm wherein he was a senior partner; (2) that Julius was his son; and (3) that one of the subject properties in the ejectment suit was purchased by his son from Lilia. Atty. Arrojado maintained that he did not violate Article 1491 as he had absolutely no interest in the property purchased by his son; and that the proscription in the said article did not extend to the relatives of the judicial officers mentioned therein. He postulated that, when the sale took place, Julius was already of legal age and discretion, as well as a registered nurse and an established businessman; and that while it was through him (respondent lawyer) that Lilia and Julius met, he did not at all facilitate the transaction. Respondent lawyer also pointed out that complainant failed to cite a specific provision or canon in the Code of Professional Responsibility which he had allegedly transgressed or violated.

Report and Recommendation of the Integrated Bar of the Philippines

In his Report and Recommendation,⁴ Investigating Commissioner Winston A. Abuyuan of the Integrated Bar of the Philippines – Commission on Bar Discipline (IBP-CBD), recommended the exoneration of Atty. Arrojado.



² See SC Resolution dated September 14, 2009 in *Christopher R. Santos v. Lilia B. Rodriguez*, G.R. No. 188910; *id.* at 327.

³ *Rollo*, pp. 13-29.

⁴ *Id.* at 408-413.

In recommending the dismissal of the administrative case against respondent lawyer, the Investigating Commissioner opined that:

Undeniably, [Julius] is the son of [Atty. Arrojado], counsel of the owners of the parcel of land which was leased by [Santos]. The subject property was acquired by [Julius] while the unlawful detainer case was still pending before the Supreme Court.

In an unlawful detainer case, the issue to be resolved is possession and not ownership of the property in question. This is very clear. There is no showing that [Santos] is even claiming ownership of the property in question. In fact, it appears that the issues that remain to be resolved are [Santos'] obligation to pay the rentals due (as lessee) to the owner of the property.

Did [Atty. Arrojado] take advantage of his fiduciary relationship with his clients when his son bought the property in question? We rule in the negative.

There is no evidence to show that [Atty. Arrojado] had used his son as a conduit to gain the property in question considering that [Julius] is a personality separate and distinct from his father, herein respondent. He is quite capable of acquiring property on his own. x x x. Moreover, a scrutiny of complainant's arguments would reveal that he himself is even unsure if respondent had indeed taken advantage of his fiduciary relationship with his client, as he safely uses the words 'it looks like' or 'we believe'. There is no established jurisprudence to the effect that the prohibition applies to immediate family members. In fact, Article 1491(5) is quite clear and explicit, stating in unequivocal terms that the prohibition solely applies to lawyers, with respect to the property and rights to the object in litigation. There is not even the slightest inkling that the prohibition was qualified to extend to any family member.

x x x x

There is even no proof presented to show that [Atty. Arrojado] had used his fiduciary relationship with his client in order to obtain the property in question. What merely changed was the ownership of the property, and the lease of [Santos] was not in any [manner] affected. In fact, records would reveal that [Julius] was even thinking of allowing [Santos] to continue leasing the property in question but the same was rejected by the latter. As can be seen, no rights of [Santos] were prejudiced by this sale.

x x x x

Considering that there is no proof presented by [Santos] to substantiate any of his allegations, we have no other option but to dismiss the charges.⁵

⁵ Id. at 410-412.

The Board of Governors (BOG) of the IBP, in Resolution No. XX-2012-359 dated July 21, 2012, adopted the findings of the Investigating Commissioner and his recommendation to dismiss the complaint for lack of merit.⁶

Similarly, in Resolution⁷ No. XX-2013-306 dated March 21, 2013, the IBP-BOG denied complainant's motion for reconsideration.

Hence, the case is now before us for final action pursuant to Section 12(c), Rule 139-B of the Rules of Court.

Issue

Whether or not the prohibition in Article 1491(5) of the Civil Code against justices, judges, prosecuting attorneys, clerks of court, and other officers and employees connected with the administration of justice, as well as lawyers, from purchasing property and rights which may be the object of any litigation in which they may take part by virtue of their profession, extends to their respective immediate families or relatives.

Our Ruling

It is complainant's contention that respondent lawyer, as counsel of record in the ejectment case in question, cannot acquire the property subject of litigation, either personally or through his son, without violating the Civil Code and his ethical duties.

The Court does not agree.

For reference, Article 1491(5) of the Civil Code is reproduced below:

Article 1491. The following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another.

⁶ Id. at 454.

⁷ Id. at 453.

X X X X

(5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon on execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

In *Peña v. Delos Santos*,⁸ we held that:

The rationale advanced for the prohibition in Article 1491(5) is that public policy disallows the transactions in view of the fiduciary relationship involved, *i.e.*, the relation of trust and confidence and the peculiar control exercised by these persons. It is founded on public policy because, by virtue of his office, an attorney may easily take advantage of the credulity and ignorance of his client and unduly enrich himself at the expense of his client. x x x

Undeniably, Article 1491(5) of the Civil Code prohibits the purchase by lawyers of any interest in the subject matter of the litigation in which they participated by reason of their profession. Here, however, respondent lawyer was not the purchaser or buyer of the property or rights in litigation. For, in point of fact, it was his son Julius, and not respondent lawyer, who purchased the subject property.

Were we to include within the purview of the law the members of the immediate family or relatives of the lawyer laboring under disqualification, we would in effect be amending the law. We apply to this case the old and familiar Latin maxim *expressio unius est exclusio alterius*, which means that the express mention of one person, thing, act, or consequence excludes all others. Stated otherwise, “where the terms are expressly limited to certain matters, it may not, by interpretation or construction, be stretched or extended to other matters.”⁹

As worded, Article 1491(5) of the Civil Code covers only (1) justices;



⁸ G.R. No. 202223, March 2, 2016, 785 SCRA 440, 452.

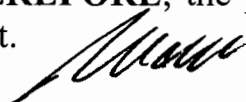
⁹ *Zuellig Pharma Corporation v. Sibal*, 714 Phil. 33, 51 (2013).

(2) judges; (3) prosecuting attorneys; (4) clerks of court; (5) other officers and employees connected with the administration of justice; and (6) lawyers. The enumeration cannot be stretched or extended to include relatives of the lawyer – in this case, Julius, son of respondent lawyer.

Concededly, Article 1491 provides that “[t]he following persons cannot acquire by purchase, even at a public or judicial auction, either in person or through the mediation of another x x x.” However, perusal of the records would show that complainant failed to adduce any shred of evidence that Julius acted or mediated on behalf of respondent lawyer, or that respondent lawyer was the ultimate beneficiary of the sale transaction. The mere fact that it was Julius, son of respondent lawyer, who purchased the property, will not support the allegation that respondent lawyer violated Article 1491(5) of the Civil Code. As aptly noted by the Investigating Commissioner, “[t]here is no evidence to show that respondent had used his son as a conduit to gain the property in question x x x.”¹⁰

In addition, it must be stressed that the “prohibition which rests on considerations of public policy and interests is intended to curtail any undue influence of the lawyer upon his client on account of his fiduciary and confidential relationship with him.”¹¹ Again, we adopt the findings of the Investigating Commissioner that “a scrutiny of complainant’s arguments would reveal that he himself [was] even unsure if respondent had indeed taken advantage of his fiduciary relationship with his client, as he safely uses the words “it looks like” or “we believe”.¹² Moreover, the Investigating Commissioner aptly observed that there was no “slightest proof showing that [Julius] was used by respondent to acquire the property of his clients. Affidavits executed by the owners, as well as [Julius] himself showed that respondent did not even actively participate in the negotiations concerning the property.”¹³ At most, although respondent lawyer’s role or participation in the sale in question, if any, might ruffle very sensitive scruples, it is not, however, *per se* prohibited or forbidden by said Article 1491.

WHEREFORE, the present administrative case is **DISMISSED** for lack of merit.



¹⁰ *Rollo*, p. 410.

¹¹ *Zalamea v. De Guzman, Jr.*, A.C. No.7387, November 7, 2016, 807 SCRA 1, 6-7.

¹² *Id.* at 410.

¹³ *Id.* at 411.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice
Acting Chairperson

WE CONCUR:

(On official leave)
TERESITA J. LEONARDO-DE CASTRO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice