

TERESITA D. SANTECO, COMPLAINANT, VS. ATTY. LUNA B. AVANCE, RESPONDENT.*A.C. No. 5834 (Formerly CBD-01-861). February 22, 2011*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-5834/>**PER CURIAM:**

The case originated from an administrative complaint[1] filed by Teresita D. Santeco against respondent Atty. Luna B. Avance for mishandling Civil Case No. 97-275, an action to declare a deed of absolute sale null and void and for reconveyance and damages, which complainant had filed before the Regional Trial Court (RTC) of Makati City.

In an En Banc Decision[2] dated December 11, 2003, the Court found respondent guilty of gross misconduct for, among others, abandoning her client's cause in bad faith and persistent refusal to comply with lawful orders directed at her without any explanation for doing so. She was ordered suspended from the practice of law for a period of five years, and was likewise directed to return to complainant, within ten (10) days from notice, the amount of P3,900.00 which complainant paid her for the filing of a petition for certiorari with the Court of Appeals (CA), which she never filed.

Respondent moved to reconsider[3] the decision but her motion was denied in a Resolution[4] dated February 24, 2004.

Subsequently, while respondent's five-year suspension from the practice of law was still in effect, Judge Consuelo Amog-Bocar, Presiding Judge of the RTC of Iba, Zambales, Branch 71, sent a letter-report[5] dated November 12, 2007 to then Court Administrator Christopher O. Lock informing the latter that respondent had appeared and actively participated in three cases wherein she misrepresented herself as "Atty. Liezl Tanglao." When her opposing counsels confronted her and showed to the court a certification regarding her suspension, respondent admitted and conceded that she is Atty. Luna B. Avance, but qualified that she was only suspended for three years and that her suspension has already been lifted. Judge Amog-Bocar further stated that respondent nonetheless withdrew her appearance from all the cases. Attached to the letter-report were copies of several pertinent orders from her court confirming the report.

Acting on Judge Amog-Bocar's letter-report, the Court, in a Resolution[6] dated April 9, 2008, required respondent to comment within ten (10) days from notice. Respondent, however, failed to file the required comment. On June 10, 2009, the Court reiterated the directive to comment; otherwise the case would be deemed submitted for resolution based on available records on file with the Court. Still, respondent failed to comply despite notice. Accordingly, this Court issued a Resolution[7] on September 29, 2009 finding respondent guilty of indirect contempt. The dispositive portion of the Resolution reads:

ACCORDINGLY, respondent is hereby found guilty of indirect contempt and is hereby FINED in the amount of Thirty Thousand Pesos (P30,000.00) and STERNLY WARNED that a repetition of the same or similar infractions will be dealt with more severely.

Let all courts, through the Office of the Court Administrator, as well as the Integrated Bar of the Philippines

and the Office of the Bar Confidant, be notified of this Resolution, and be it duly recorded in the personal file of respondent Atty. Luna B. Avance.[8]

A copy of the September 29, 2009 Resolution was sent to respondent's address of record at "26-B Korea Ave., Ph. 4, Greenheights Subd., Nangka, Marikina City" by registered mail. The same was delivered by Postman Hermoso Mesa, Jr. and duly received by one Lota Cadete on October 29, 2009, per certification[9] dated February 3, 2011 by Postmaster Rufino C. Robles of the Marikina Central Post Office.

Despite due notice, however, respondent failed to pay the fine imposed in the September 29, 2009 Resolution based on a certification issued by Araceli C. Bayuga, Chief Judicial Staff Officer of the Cash Collection and Disbursement Division, Fiscal Management and Budget Office. The said certification reads:

This is to certify that as per records of the Cashier Division, there is no record of payment made by one ATTY. LUNA B. AVANCE in the amount of Thirty Thousand Pesos (P30,000.00) as payment for COURT FINE imposed in the resolution dated 29 Sept. 2009 Re: Adm. Case No. 5834.[10]

In view of the foregoing, the Court finds respondent unfit to continue as a member of the bar.

As an officer of the court, it is a lawyer's duty to uphold the dignity and authority of the court. The highest form of respect for judicial authority is shown by a lawyer's obedience to court orders and processes.[11]

Here, respondent's conduct evidently fell short of what is expected of her as an officer of the court as she obviously possesses a habit of defying this Court's orders. She willfully disobeyed this Court when she continued her law practice despite the five-year suspension order against her and even misrepresented herself to be another person in order to evade said penalty. Thereafter, when she was twice ordered to comment on her continued law practice while still suspended, nothing was heard from her despite receipt of two Resolutions from this Court. Neither did she pay the P30,000.00 fine imposed in the September 29, 2009 Resolution.

We have held that failure to comply with Court directives constitutes gross misconduct, insubordination or disrespect which merits a lawyer's suspension or even disbarment.[12] *Sebastian v. Bajar*[13] teaches

Respondent's cavalier attitude in repeatedly ignoring the orders of the Supreme Court constitutes utter disrespect to the judicial institution. Respondent's conduct indicates a high degree of irresponsibility. A Court's Resolution is "not to be construed as a mere request, nor should it be complied with partially, inadequately, or selectively. Respondent's obstinate refusal to comply with the Court's orders not "only betrays a recalcitrant flaw in her character; it also underscores her disrespect of the Court's lawful orders which is only too deserving of reproof."[14]

Under Section 27, Rule 138 of the Rules of Court a member of the bar may be disbarred or suspended from office as an attorney for gross misconduct and/or for a willful disobedience of any lawful order of a superior court, to wit:

SEC. 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. — A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphasis supplied.)

In repeatedly disobeying this Court's orders, respondent proved herself unworthy of membership in the Philippine

Bar. Worse, she remains indifferent to the need to reform herself. Clearly, she is unfit to discharge the duties of an officer of the court and deserves the ultimate penalty of disbarment.

WHEREFORE, respondent ATTY. LUNA B. AVANCE is hereby DISBARRED for gross misconduct and willful disobedience of lawful orders of a superior court. Her name is ORDERED STRICKEN OFF from the Roll of Attorneys.

Let a copy of this decision be attached to respondent's personal record with the Office of the Bar Confidant and copies be furnished to all chapters of the Integrated Bar of the Philippines and to all courts of the land.

SO ORDERED.

Corona, C.J., Carpio, Velasco, Jr., Nachura, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and Sereno, JJ., concur.

Carpio Morales, and Leonardo-De Castro, JJ., on official leave.

[1] Rollo, pp. 2-3.

[2] Id. at 179-189.

[3] Id. at 193-213.

[4] Id. at 269.

[5] Id. at 277.

[6] Id. at 283.

[7] Id. at 285-288.

[8] Id. at 287.

[9] Id. at 291.

[10] Id. at 289. Dated December 28, 2010.

[11] Cuizon v. Macalino, A.C. No. 4334, July 7, 2004, 433 SCRA 479, 484, citing Villaflor v. Sarita, A.C.-CBD No. 471, June 10, 1999, 308 SCRA 129, 136.

[12] Sebastian v. Bajar, A.C. No. 3731, September 7, 2007, 532 SCRA 435 and Cuizon v. Macalino, *supra*.

[13] Id.

[14] Id. at 449. Citations omitted.

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