

**LILIA TABANG AND CONCEPCION TABANG, COMPLAINANTS, VS.
ATTY. GLENN C. GACOTT, RESPONDENT.***A.C. No. 6490 [Formerly CBD Case No. 03-1054]. July 09, 2013*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-6490/>**PER CURIAM:**

This case involves a complaint for disbarment directly filed with the Integrated Bar of the Philippines (IBP) charging respondent Atty. Glenn Gacott of engaging in unlawful, dishonest, immoral or deceitful conduct in violation of Rule 1.01 of the Code of Professional Responsibility (CPR).[1]

Complainants alleged that sometime in 1984 and 1985, complainant Lilia Tabang sought the advice of Judge Eustaquio Gacott, respondent Atty. Glenn Gacott's father. Lilia Tabang intended to purchase a total of thirty (30) hectares of agricultural land located in Barangay Bacungan, Puerto Princesa, Palawan, which consisted of several parcels belonging to different owners. Judge Gacott noted that under the government's agrarian reform program, Tabang was prohibited from acquiring vast tracts of agricultural land as she already owned other parcels. Thus, Judge Gacott advised her to put the titles of the parcels under the names of fictitious persons.[2]

Eventually, Lilia Tabang was able to purchase seven parcels and obtained the corresponding Transfer Certificates of Title (TCT) under the names of fictitious persons, as follows:

1. TCT No. 12475 – Amelia Andes;
2. TCT No. 12476 – Wilfredo Ondoy;
3. TCT No. 12790 – Agnes Camilla;
4. TCT No. 12791 – Leonor Petronio;
5. TCT No. 12792 – Wilfredo Gomez;
6. TCT No. 12793 – Elizabeth Dungan; and
7. TCT No. 12794 – Andes Estoy.[3]

Later, complainants Lilia and Concepcion Tabang decided to sell the seven parcels as they were in need of funds for their medication and other expenses. Claiming that he would help complainants by offering the parcels to prospective buyers, respondent Glenn Gacott borrowed from Lilia Tabang the TCTs covering the parcels.[4]

About a year after respondent borrowed the titles and after he failed to negotiate any sale, complainants confronted respondent. Respondent then told the complainants that he had lost all seven titles.[5]

On the pretext of offering a remedy to complainants, respondent advised them to file petitions in court for re-issuance of titles. Pretending to be the "authorized agent-representative" of the fictitious owners of the seven parcels, Lilia Tabang filed petitions for re-issuance of titles.[6]

In the course of the proceedings, the public prosecutor noticed similarities in the signatures of the supposed owners that were affixed on the Special Powers of Attorney (SPA) purportedly executed in favor of Lilia Tabang. The public prosecutor, acting on his observation, asked the court to have the supposed owners summoned.[7]

Seeking to avoid embarrassment, Lilia Tabang had the petitions voluntarily dismissed without prejudice to their

being re-filed.[8]

Subsequently, Lilia Tabang filed a new set of petitions. This time, she changed the fictitious owners' signatures in the hope of making them look more varied.[9]

Upon learning that Lilia Tabang had filed a new set of petitions, respondent executed several documents that included revocations of SPAs and various affidavits of recovery purportedly signed by the parcels' (fictitious) owners. Respondent then caused the annotation of these documents on the TCTs of the seven parcels.[10]

Also, respondent caused the publication of notices where he represented himself as the owner of the parcels and announced that these were for sale.[11] Later, respondent succeeded in selling the seven parcels. He received a total of ₱3,773,675.00 from the proceeds of the sales.[12]

Alleging that respondent committed gross misconduct, dishonesty, and deceit, complainants filed their complaint directly with the Integrated Bar of the Philippines on February 3, 2003. The case was docketed as Commission on Bar Discipline (CBD) Case No. 03-1054.

In his defense, respondent alleged that the owners of the seven parcels were not fictitious and that they had voluntarily sold the seven parcels. He added that Lilia Tabang had been merely the broker for the seven parcels and that she had unsuccessfully demanded a "balato" of twenty percent (20%) from the proceeds of the sale of the seven parcels. He alleged that after she had been refused to be given a "balato," Lilia Tabang had threatened to defame him and seek his disbarment.[13]

In her Report and Recommendation dated March 4, 2004,[14] IBP Investigating Commissioner Lydia A. Navarro found respondent guilty of gross misconduct for violating Rule 1.01 of the Code of Professional Responsibility. She recommended that respondent be suspended from the practice of law for six (6) months.

In a Resolution dated April 16, 2004,[15] the IBP Board of Governors adopted the report of Commissioner Navarro. However, the IBP Board of Governors increased the penalty to disbarment. Thereafter, the case was referred to the Supreme Court pursuant to Rule 139-B of the Rules of Court.

In a Resolution dated September 29, 2004,[16] the Supreme Court remanded the case to the IBP. The Court noted that majority of the pieces of evidence presented by complainants were mere photocopies and affidavits and that the persons who supposedly executed such documents were neither presented nor subpoenaed. Thus, there could not have been adequate basis for sustaining the imposition of a penalty as grave as disbarment.

The case was then assigned to Investigating Commissioner Dennis B. Funa. Hearings were conducted on March 22, 2005; October 7, 2005; July 18, 2006; August 29, 2006; November 7, 2006; February 23, 2007; and July 25, 2007.[17]

The complainants presented several witnesses. One was Dieter Heinze, President of the Swiss American Lending Corporation.[18] Heinze testified that in April 2001, a friend introduced him to respondent who, in turn, introduced himself as the owner of seven (7) parcels in Puerto Princesa City, Palawan. They agreed on the purchase of a lot priced at P900,000.00. His company, however, paid only P668,000.00. Heinze noted that his company withheld payment upon his realization that Lilia Tabang had caused the annotation of an adverse claim and upon respondent's failure to produce Leonor Petronio, the alleged lot owner.

Another of complainants' witnesses was Atty. Agerico Paras.[19] He testified that Heinze introduced him to respondent who, in turn, introduced himself as the owner of seven (7) parcels in Puerto Princesa City, Palawan. They agreed on the purchase of a lot priced at P2,300,000.00. He paid for the said parcel in two (2) installments. Upon learning that Lilia Tabang had caused the annotation of an adverse claim, he wrote to respondent asking

him to either work on the cancellation of the claim or to reimburse him. He added that respondent was unable to produce Amelia Andes, the ostensible owner of the parcel he had purchased.

Teodoro Gallinero, another buyer of one of the seven parcels, also testified for complainants.[20] He testified that in February 2001, he was introduced to respondent who claimed that several parcels with a total area of thirty (30) hectares were owned by his mother. Gallinero agreed to purchase a parcel for the price of P2,000,000.00 which he paid in cash and in kind (L-300 van).

Complainant Lilia Tabang also testified on the matters stated in the Complaint.[21]

On July 25, 2007, Commissioner Funa required the complainants to submit their Position Paper. Respondent filed his Motion for Reconsideration and the Inhibition of Commissioner Funa who, respondent claimed, deprived him of the chance to cross-examine complainants' witnesses, and was "bent on prejudicing"[22] him.

Commissioner Funa then inhibited himself. Following this, the case was reassigned to Investigating Commissioner Rico A. Limpingo.

In the meantime, with the Supreme Court En Banc's approval of the IBP-CBD's Rules of Procedure, it was deemed proper for an Investigating Commissioner to submit his/her Report and Recommendation based on matters discussed during the mandatory conferences, on the parties' Position Papers (and supporting documents), and on the results of clarificatory questioning (if such questioning was found to be necessary). As such, respondent's Motion for Reconsideration was denied, and he was required to file his Position Paper.[23]

On July 30, 2009, respondent filed his Position Paper.[24] Subsequently, the case was deemed submitted for Commissioner Limpingo's Report and Recommendation.

In his Position Paper, respondent noted that he filed criminal complaints against Lilia Tabang on account of Tabang's statement that she had fabricated the identities of the owners of the seven (7) parcels. He claimed that since 1996, he had relied on the Torrens Titles of the seven (7) owners who were introduced to him by Lilia Tabang. He asserted that Lilia Tabang could not have been the owner of the seven (7) parcels since the SPAs executed by the parcels' owners clearly made her a mere agent and him a sub-agent. He also assailed the authenticity of the public announcements (where he supposedly offered the seven [7] parcels for sale) and Memorandum of Agreement. He surmised that the signatures on such documents appearing above the name "Glenn C. Gacott" had been mere forgeries and crude duplications of his own signature.

In his Report and Recommendation dated August 23, 2010,[25] Commissioner Limpingo found respondent liable for gross violation of Rule 1.01 of the CPR. He likewise noted that respondent was absent in most of the hearings without justifiable reason, in violation of Rule 12.04 of the CPR.[26] He recommended that respondent be disbarred and his name, stricken from the Roll of Attorneys.

On October 8, 2010, the IBP Board of Governors issued a Resolution[27] adopting the Report of Investigating Commissioner Limpingo.

On June 26, 2011, the IBP Board of Governors denied respondent's Motion for Reconsideration.[28]

Respondent then filed his Notice of Appeal with the IBP on August 8, 2011.

On August 17, 2011, respondent filed before the Supreme Court his Urgent Motion for Extension of Time (to file Petition for Review/Appeal). On September 20, 2011, the Court granted respondent's Motion and gave him an extension of thirty (30) days to file his Appeal. The Supreme Court warned respondent that no further extension will be given. Despite this, respondent filed two (2) more Motions for Extension – the first on September 29, 2011 and the second on November 3, 2011 – both of which were denied by the Court.

Despite the Court's denials of his Motions for Extension, respondent filed on December 14, 2011 a Motion to Admit Petition for Review/Appeal (with attached Petition/Appeal). This Motion was denied by the Court on April 17, 2012.

For resolution is the issue of whether or not respondent engaged in unlawful, dishonest, immoral or deceitful conduct violating Rule 1.01 of the Code of Professional Responsibility, thus warranting his disbarment.

After a careful examination of the records, the Court concurs with and adopts the findings and recommendation of Commissioner Limpingo and the IBP Board of Governors. It is clear that respondent committed gross misconduct, dishonesty, and deceit in violation of Rule 1.01 of the CPR when he executed the revocations of SPAs and affidavits of recovery and in arrogating for himself the ownership of the seven (7) subject parcels.

While it may be true that complainant Lilia Tabang herself engaged in illicit activities, the complainant's own complicity does not negate, or even mitigate, the repugnancy of respondent's offense. Quite the contrary, his offense is made even graver. He is a lawyer who is held to the highest standards of morality, honesty, integrity, and fair dealing. Perverting what is expected of him, he deliberately and cunningly took advantage of his knowledge and skill of the law to prejudice and torment other individuals. Not only did he countenance illicit action, he instigated it. Not only did he acquiesce to injustice, he orchestrated it. Thus, We impose upon respondent the supreme penalty of disbarment.

Under Rule 138, Section 27 of the Rules of Court (Rules), a lawyer may be disbarred for any of the following grounds:

- deceit;
- malpractice;
- gross misconduct in office;
- grossly immoral conduct;
- conviction of a crime involving moral turpitude;
- violation of the lawyer's oath;
- willful disobedience of any lawful order of a superior court; and
- willfully appearing as an attorney for a party without authority to do so.

It is established in Jurisprudence that disbarment is proper when lawyers commit gross misconduct, dishonesty, and deceit in usurping the property rights of other persons. By way of examples:

- In *Brennisen v. Contawi*:^[29] Respondent Atty. Ramon U. Contawi was disbarred for having used a spurious SPA to mortgage and sell property entrusted to him for administration.
- In *Sabayle v. Tandayag*:^[30] One of the respondents, Atty. Carmelito B. Gabor, was disbarred for having acknowledged a Deed of Sale in the absence of the purported vendors and for taking advantage of his position as Assistant Clerk of Court by purchasing one-half (1/2) of the land covered by said Deed of Sale knowing that the deed was fictitious.
- In *Daroy v. Legaspi*:^[31] The Court disbarred respondent Atty. Ramon Legaspi for having converted to his personal use the funds that he received for his clients.

Nevertheless, recourse to disbarment must be done with utmost caution. As this Court noted in *Moran v.*

Moron:[32]

Disbarment should never be imposed unless it is evidently clear that the lawyer, by his serious misconduct, should no longer remain a member of the bar. Disbarment is the most severe form of disciplinary sanction, and, as such, the power to disbar must always be exercised with great caution, only for the most imperative reasons and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar. Accordingly, disbarment should not be decreed where any punishment less severe – such as a reprimand, suspension, or fine – would accomplish the end desired.[33]

Moreover, considering the gravity of disbarment, it has been established that clearly preponderant evidence is necessary to justify its imposition.[34]

As explained in *Aba v. De Guzman*,[35] “[p]reponderance of evidence means that the evidence adduced by one side is, as a whole, superior to or has greater weight than that of the other. It means evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.”[36]

Per Rule 133, Section 1 of the Rules, a court may consider the following in determining preponderance of evidence:

- All the facts and circumstances of the case;
- The witnesses’ manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony;
- The witnesses’ interest or want of interest and also their personal credibility so far as the same may ultimately appear in the trial; and
- The number of witnesses, although it does not mean that preponderance is necessarily with the greater number.

In this case, complainants have shown by a preponderance of evidence that respondent committed gross misconduct, dishonesty, and deceit in violation of Rule 1.01 of the CPR.

Specifically, complainants have shown not only through Lilia Tabang’s testimony but more so through the testimonies of Dieter Heinze, Atty. Agerico Paras, and Teodoro Gallinero that:

- respondent misrepresented himself as the owner of or having the right to dispose of the subject parcels;
- respondent actively sought to sell or otherwise dispose of the subject parcels;
- respondent perfected the sales and received the proceeds of the sales – whether in cash or in kind – of the subject parcels;
- such sales were without the consent or authorization of complainants; and
- respondent never remitted the proceeds of the sales to complainants.

More importantly, complainants’ witnesses showed that when respondent had been confronted with Lilia Tabang’s adverse claims and asked to substantiate the identities of the supposed owners of the subject parcels, he had failed to produce such persons or even show an iota of proof of their existence. In this regard, the testimonies of Dieter Heinze, Atty. Agerico Paras, and Teodoro Gallinero are particularly significant in so far as they have been made despite the fact that their interest as buyers is contrary to that of complainants’ interest as adverse claimants.

In contrast, respondent failed to present evidence to rebut complainant's allegations.

Respondent's defense centered on his insistence that the owners of the seven parcels were not fictitious and that they had voluntarily sold the seven parcels. Respondent also evaded the allegations against him by flinging counter-allegations. For instance, he alleged that Lilia Tabang had unsuccessfully demanded a "balato" from the proceeds of the sale of the subject parcels and that after she had been refused, she threatened to defame respondent and seek his disbarment. In support of this allegation, he pointed out that he had filed criminal complaints against Lilia Tabang. He also surmised that the signatures on the subject documents appearing above the name "Glenn C. Gacott" were mere forgeries and crude duplications of his signature.

Per Rule 131, Section 1 of the Rules of Court,[37] the burden of proof is vested upon the party who alleges the truth of his claim or defense or any fact in issue. Thus, in *Leave Division, Office of Administrative Services, Office of the Court Administrator v. Gutierrez*[38] where a party resorts to bare denials and allegations and fails to submit evidence in support of his defense, the determination that he committed the violation is sustained.

It was incumbent upon respondent to prove his allegation that the supposed owners of the seven parcels are real persons. Quite the contrary, he failed to produce the slightest proof of their identities and existence, much less produce their actual persons. As to his allegations regarding Lilia Tabang's supposed extortion and threat and the forgery or crude duplication of his signature, they remain just that – allegations. Respondent failed to aver facts and circumstances which support these claims.

At best, respondent merely draws conclusions from the documents which form the very basis of complainants' own allegations and which are actually being assailed by complainants as inaccurate, unreliable, and fraudulent. Respondent makes much of how Lilia Tabang could not have been the owner of the seven (7) parcels since her name does not appear on the parcels' TCTs[39] and how he merely respected the title and ownership of the ostensible owners.[40] Similarly, he makes much of how Lilia Tabang was named as a mere agent in the SPAs.[41] However, respondent loses sight of the fact that it is precisely the accuracy of what the TCTs and SPAs indicate and the deception they engender that are the crux of the present controversy. In urging this Court to sustain him, respondent would have us rely on the very documents assailed as fraudulent.

Apart from these, all that respondent can come up with are generic, sweeping, and self-serving allegations of (1) how he could not have obtained the TCTs from Tabang as "it is a standing policy of his law office not to accept Torrens title [sic] unless it is related to a court case"[42] and because "[he] does not borrow any Torrens title from anybody and for whatever purpose;"[43] (2) how complainants could not have confronted him to demand the return of the TCTs and how he could not have told them that he lost the TCTs because "[a]s a lawyer, [he] always respects and recognizes the right of an owner to keep in his custody or possession any of his properties of value;"[44] and (3) how he could not have met and talked with Lilia Tabang for the engagement of his services only to refuse Lilia Tabang because legal practice constituted his livelihood, and there was no reason for him to refuse an occasion to earn income.[45]

Rather than responding squarely to complainants' allegations, respondent merely embarks on conjectures and ascribes motives to complainants. He accuses Lilia Tabang of demanding a "balato" of twenty percent (20%) from the proceeds of the sale of the seven parcels, and of threatening to defame him and to seek his disbarment after she had been refused. This evasive posturing notwithstanding, what is clear is that respondent failed to adduce even the slightest proof to substantiate these claims. From all indications, Lilia Tabang had sufficient basis to file the present Complaint and seek sanctions against respondent.

Given the glaring disparity between the evidence adduced by complainants and the sheer lack of evidence adduced by respondent, this Court is led to no other reasonable conclusion than that respondent committed the acts of which he is accused and that he acted in a manner that is unlawful, dishonest, immoral, and deceitful in

violation of Rule 1.01 of the Code of Professional Responsibility.

This Court has repeatedly emphasized that the practice of law is imbued with public interest and that “a lawyer owes substantial duties not only to his client, but also to his brethren in the profession, to the courts, and to the nation, and takes part in one of the most important functions of the State – the administration of justice – as an officer of the court.”[46] Accordingly, “[l]awyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity and fair dealing.”[47]

Respondent has fallen dismally and disturbingly short of the high standard of morality, honesty, integrity, and fair dealing required of him. Quite the contrary, he employed his knowledge and skill of the law as well as took advantage of the credulity of petitioners to secure undue gains for himself and to inflict serious damage on others. He did so over the course of several years in a sustained and unrelenting fashion and outdid his previous wrongdoing with even greater, more detestable offenses. He has hardly shown any remorse. From how he has conducted himself in these proceedings, he is all but averse to rectifying his ways and assuaging complainants’ plight. Respondent even foisted upon the IBP and this Court his duplicity by repeatedly absenting himself from the IBP’s hearings without justifiable reasons. He also vexed this Court to admit his Appeal despite his own failure to comply with the much extended period given to him, thus inviting the Court to be a party in delaying complainants’ cause. For all his perversity, respondent deserves none of this Court’s clemency.

WHEREFORE, respondent ATTY. GLENN C. GACOTT, having clearly violated the Canons of Professional Responsibility through his unlawful, dishonest, and deceitful conduct, is **DISBARRED** and his name ordered **STRICKEN** from the Roll of Attorneys.

Let copies of this Decision be served on the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts in the country for their information and guidance. Let a copy of this Decision be attached to respondent's personal record as attorney.

SO ORDERED.

Sereno, C.J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, Reyes, Perlas-Bernabe, and Leonen, JJ., concur.

Brion, J., on leave.

[1] Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

[2] Rollo, p. 2.

[3] Id. at 3.

[4] Id. at 4.

[5] Id.

[6] Id.

[7] Id. at 5.

[8] Id.

[9] Id.

[10] Id. at 6.

[11] Id. at 7.

[12] Id. at 8.

[13] Id. at 58-59.

[14] Id. at 198-211.

[15] Id. at 197.

[16] Id. at 230-241.

[17] Id. at 1512.

[18] Id. at 1515.

[19] Id. at 1515-1516.

[20] Id. at 1516.

[21] Id.

[22] Id. at 1512.

[23] Id. at 897-898.

[24] Id. at 914-960.

[25] Id. at 1340-1358.

[26] Rule 12.04 – A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse Court processes.

[27] Rollo, p. 1511.

[28] Id. at 1510.

[29] A.C. No. 7481, April 24, 2012, 670 SCRA 358.

[30] A.C. No. 140-J, March 8, 1988, 158 SCRA 497.

[31] 160 Phil. 306 (1975).

[32] A.C. No. 7390, February 27, 2012 citing Kara-an v. Pineda, A.C. No. 4306, March 28, 2007, 519 SCRA 143, 146.

[33] Id.

[34] Aba v. De Guzman, A.C. No. 7649, December 14, 2011, 662 SCRA 361 citing Santos v. Dichoso, A.C. No. 1825, August 22, 1978, 84 SCRA 622; 174 Phil. 115 (1978), and Noriega v. Sison, A.C. No. 2266, October 27, 1983, 125 SCRA 293; 210 Phil. 236 (1983).

[35] Id.

[36] Id. at 372 citing Habagat Grill v. DMC-Urban Property Developer, Inc., 494 Phil. 603, 613 (2005); Bank of the Philippine Islands v. Reyes, G.R. No. 157177, February 11, 2008, 544 SCRA 206, 216; Republic v. Bautista, G.R. No. 169801, September 11, 2007, 532 SCRA 598, 612.

[37] Rule 131, Sec. 1. Burden of proof. — Burden of proof is the duty of a party to present evidence on the facts in

issue necessary to establish his claim or defense by the amount of evidence required by law.

[38] A.M. No. P-11-2951, February 15, 2012, 666 SCRA 29, 34.

[39] Rollo, p. 941.

[40] Id. at 944.

[41] Id. at 940, 945.

[42] Id. at 948.

[43] Id.

[44] Id. at 949-950.

[45] Id. at 950.

[46] In the Matter of the IBP Membership Dues Delinquency of Atty. MARCIAL A. EDILLON (IBP Administrative Case No. MDD-1), 174 Phil. 55, 62 (1978).

[47] Ventura v. Samson, A.C. No. 9608, November 27, 2012.

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