

DAHLIA S. GACIAS, COMPLAINANT, VS. ATTY. ALEXANDER BULAUTAN, RESPONDENT.

A.C. No. 7280. November 16, 2006

Ponente: GARCIA, J.

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GARCIA, J.:

Before the Court is a complaint for disbarment instituted by the herein complainant Dahlia S. Gacias against Atty. Alexander Bulautan on grounds of dishonesty and grave misconduct.

Herein respondent Atty. Alexander Bulautan used to own a parcel of land with an area of 1,242 square meters located at Tuguegarao City and covered by Transfer Certificate of Title No. T-79190. Sometime in February 1996, complainant and respondent entered into an agreement for the purchase, on installment basis, of a 92-square meter portion of the 1,242-square meter lot at a unit price of P3,500.00 per square meter. Out of the total consideration of P322,000.00, complainant initially paid respondent, as down payment, US\$3,100.00, or its equivalent of P82,000.00, as evidenced by a receipt dated February 28, 1996. Subsequent installment payments were remitted, as mutually agreed upon, to the Bank of Philippine Islands, Kamuning Branch, under the account of respondent's daughter, Joan Christine. All told, complainant had, as of November 1996, paid the respondent, in cash and in kind, the peso equivalent of US\$6,950.00, which, per complainant's computation, using the \$1:P43 dollar-peso rate of exchange, amounted to P300,000.00.

As complainant would also allege in her affidavit-complaint dated April 23, 2001,[1] as amended,[2] she asked for the copy of the title over the 92-square meter portion upon learning about the mortgage the respondent constituted over his Tuguegarao property. According to complainant, respondent's inability to produce the desired title impelled her not to complete payment anymore and to request the return of the amount she had already paid the respondent. Complainant further alleged that the respondent agreed, but has not made good his undertaking, to make reimbursement. Her request for assistance from the Integrated Bar of the Philippines (IBP) proved futile, too. Meanwhile, the mortgagee bank, China Bank, foreclosed the mortgage constituted on the respondent's property, then consolidated the title over it in its name.

In his answer in compliance with an order from the IBP Commission on Bar Discipline, respondent admitted entering into a land purchase agreement with the complainant, but stressed the private nature of the transaction between them. He described as premature the complainant's demand for delivery of title inasmuch as the aforementioned agreement was not consummated for complainant's failure to pay in full the purchase price of the 92-square meter portion. Respondent admitted, though, that he undertook to pay back the amount of P300,000.00 as a measure to avoid scandal, given what to him was complainant's penchant to make a scene whenever the opportunity presented itself.

To the answer, complainant countered with a reply, to which respondent filed a rejoinder.

In the meantime, complainant, upon the facts above narrated, filed a criminal complaint for estafa against the respondent before the Office of the Provincial Prosecutor of Cagayan.

Following several failed preliminary conferences and hearings, IBP Bar Discipline Hearing Commissioner Wilfredo E.J. E. Reyes issued, on July 22, 2005, an order^[3] declaring the case as submitted for resolution on the basis of the pleadings and position papers submitted by the parties, with their attachments.

In its report dated November 8, 2005, the IBP Commission on Bar Discipline recommends that respondent be adjudged guilty of dishonesty and grave misconduct and meted the penalty of suspension from the practice of law for a period of two (2) years.

The recommendation to suspend and the findings holding it together commend themselves for concurrence.

The Code of Professional Responsibility enjoins a lawyer from engaging in unlawful, dishonest or deceitful conduct.^[4] The complementing Rule 7.03 of the Code, on the other hand, provides that "a lawyer shall not engage in conduct that adversely reflects on his fitness to practice law." Another complementing provision is found in the Rules of Court providing that a member of the bar may be suspended or even removed from office as an attorney for any deceit, malpractice, or misconduct in office.^[5] And when the Code or the Rules speaks of "conduct" or "misconduct," the reference is not confined to one's behavior exhibited in connection with the performance of the lawyer's professional duties, but also covers any misconduct which, albeit unrelated to the actual practice of his profession, would show him to be unfit for the office and unworthy of the privileges which his license and the law invest him with. To borrow from *Orbe v. Adaza*.^[6] "[T]he grounds expressed in Section 27, Rule 138, of the Rules of Court are not limitative and are broad enough to cover any misconduct, including dishonesty, of a lawyer in his professional or private capacity."

Like Atty. Adaza in *Orbe*, respondent Atty. Bulautan also refused without justifiable reason to comply with his just obligation under a contract he entered into with the complainant. There can be no quibbling as to the complainant having paid respondent the amount of P300,000.00 out of the total contract cost of P322,000.00. In other words, there had been substantial contract compliance on the part of the complainant. A reciprocal effort towards complying with his part of the bargain would have been becoming of respondent, as a man of goodwill. It would appear, however, that this kind of gesture was alas too much to hope for from the respondent. For, instead of going through the motion of delivering the portion of his property to its buyer after his receipt of almost the entire purchase price therefor, the respondent mortgaged the whole property without so much as informing the complainant about it. Like the IBP investigating commissioner, the Court finds the respondent's act of giving the property in question in mortgage bordering on the fraudulent and surely dishonest. The Court, to be sure, takes stock of respondent's attempt to make amends by promising to return the amount of P300,000.00. But this promise strikes the Court, as it did the IBP investigating commissioner, as a mere ploy by the respondent to evade criminal prosecution for estafa, what with the fact that he has yet to make good his commitment to return.

Respondent had shown, through his dealing with the complainant involving a tiny parcel of land, a want of professional honesty. Such misdeed reflects on the moral stuff which he is made of. His fitness to continue in the advocacy of law and manage the legal affairs of others are thus put in serious doubt too. The private nature of the transaction or the fact that the same was concluded without the respondent taking advantage of his legal profession is really of little moment. For, a lawyer may be suspended or disbarred for any misconduct, even if it pertains to his private activities, as long as it shows him wanting in honesty, probity or good demeanor.^[7]

While the Court agrees with the IBP Commission on Bar Discipline respecting the guilt of respondent and the propriety of a suspension, it is not, however, inclined to impose the severe recommended penalty of suspension for two (2) years.

WHEREFORE, herein respondent, ATTY. ALEXANDER BULAUTAN, is found guilty of gross misconduct and dishonesty and ordered SUSPENDED from the practice of law for a period of one (1) year effective upon his

receipt hereof. Let copies of this decision be spread on his record in the Bar Confidant's Office and furnished the IBP and the Office of the Court Administrator for proper dissemination to all courts.

SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, and Velasco, Jr., JJ., concur.

[1] Records, pp. 1 et seq.

[2] Dated July 26, 2001; Records, pp. 61 et seq.

[3] Id. at 207.

[4] Rule 1.01.

[5] Rule 138, Sec. 27 of the Rules of Court.

[6] Adm. Case No. 5252, May 20, 2004, 428 SCRA 567, citing cases.

[7] Zaguirre v. Castillo, Adm. Case No. 4921, March 6, 2003, 398 SCRA 658, citing Nakpil v. Valdes, A.C. No. 2040, March 4, 1998, 286 SCRA 758.

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