# SPS. AMADOR AND ROSITA TEJADA, PETITIONERS, VS. ATTY. ANTONIUTTI K. PALAÑA, RESPONDENT.

*A.C. No. 7434. August 23, 2007*

Ponente: VELASCO, JR., J.

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**VELASCO, JR., J.:**

Petitioners-spouses Rosita and Amador Tejada filed a Complaint Affidavit before the Integrated Bar of the Philippines (IBP) to initiate disbarment proceedings against respondent Atty. Antoniutti K. Palaña for his continued refusal to settle his long overdue loan obligation to the complainants, in violation of his sworn duty as a lawyer to do justice to every man and Rule 7.03 of Canon 7 of the Code of Professional Responsibility.

More specifically, the complaint alleges that:

> - Sometime on January, 2001, respondent lawyer Antoniutti K. Palana taking advantage of his special knowledge as a lawyer represented to the petitioners that he has an alleged parcel of land covered by Transfer Certificate of Title No. (73196) 16789 and that he needs an amount of One Hundred Thousand Pesos (P100,000.00) so that he could reconstitute the torrens title on the same;
>
> - Respondent then induced by sweet promises and assurances petitioners spouses to finance such undertaking with a solemn commitment on his part that after he has already reconstituted such torrens title, he will deliver the same to the petitioners spouses as security for the amount they had financed;
>
> Thereafter, petitioner spouses shall earn an amount of P70,000.00 from the P100,000.00 they had financed or all and [sic] all, respondent lawyer shall pay petitioner spouses a total amount of P170,000.00;
>
> - The agreement between the petitioner spouses and respondent lawyer, Antoniutti K. Palana in this regard is being partly evidenced by their written agreement thereon dated January 12, 2001, a xerox copy of which is hereto attached as Annex "A". Likewise, the receipt by the respondent of the P100,000.00 is being evidenced in the bottom part of page 1 of the agreement;
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> - Under the clear terms of their agreement, respondent lawyer Antoniutti K. Palana solemnly assured petitioner spouses that he will reconstitute, deliver the reconstituted title and give the P170,000.00 to the petitioners spouses all within a period of three months reckoned from their execution of their written agreement dated January 12, 2001;
>
> - However, after respondent lawyer, Antoniutti K. Palana had gotten the P100,000.00 amount from the petitioner spouses, respondent from that time on up to the present had intentionally evaded the performance of his due, just, legal and demandable obligations to petitioner spouses.
>
> It turned out that all his assurances that he had a torrens title, he will reconstitute the same and deliver an amount of P170,000.00 to petitioner spouses were all fraudulent representations on his part or else were only fictitious in character to defraud petitioner spouses of their hard owned monies;
>
> x x x x

> - Legal demands had already been made to respondent lawyer to fulfill all his moral and legal responsibilities to petitioner spouses but all of said demands simply went unheeded. A xerox copy of the two legal demand letters to respondent lawyer in this regard is hereto attached as Annex "B" and "C."[1]

Despite due notice, respondent failed to file his answer to the complaint as required by the Commission on Bar Discipline of the IBP. Respondent likewise failed to appear on the scheduled date of the mandatory conference despite due notice.

Thus, on March 10, 2005, the IBP declared respondent to have waived his right to submit evidence and to participate further in the proceedings of the case.

After a careful consideration of the pleadings and evidence submitted by the complainants ex parte, Investigating Commissioner Elpidio G. Soriano III submitted his February 1, 2006 Report to the IBP Board of Governors, recommending respondent's suspension from the practice of law for three (3) months.

Based on said Report, petitioners were able to satisfactorily prove the following: that Rosita Tejada and respondent and his companion executed a written agreement (Annex "A"); that respondent received the amount of one hundred thousand pesos (PhP 100,000) from Rosita Tejada pursuant to said agreement; and that petitioners sent a demand letter to respondent (Annex "C"), but, until now, respondent has failed to settle his obligation. Petitioners, however, failed to present evidence to show that respondent fraudulently represented himself to be the owner of the aforesaid lot. Noting respondent's indifference to the proceedings of the case, the Investigating Commissioner cited Ngayan v. Tugade,[2] where the Supreme Court considered respondent's failure to answer the complaint and his failure to appear in four hearings below as evidence of his flouting resistance to a lawful order of the court, and illustrate his despiciency to his oath of office in violation of Section 3, Rule 138 of the Rules of Court.

Thus, for respondent's misconduct, the Investigating Commissioner recommended respondent's suspension for a period of three (3) months, guided by Supreme Court rulings in analogous cases, viz: Sanchez v. Somoso,[3] where the lawyer was suspended for six (6) months for having issued personal checks from a closed bank account and subsequently refused to pay for his medical expenses despite demand after the checks were dishonored; Constantino v. Saludares,[4] where the lawyer was suspended for three (3) months for his unwarranted refusal to pay a personal loan despite demand; and Lizaso v. Amante,[5] where the lawyer was suspended indefinitely for his failure to return and account for the money delivered to him for investment purposes.[6]

In its November 18, 2006 Resolution, the IBP Board of Governors adopted and approved said report and recommendation of the Investigating Commissioner, "considering Respondent's continued refusal to settle his obligation to the complainants and for his failure to participate in the proceedings before the Commission of Bar Discipline."[7]

After a review of the records and especially sans the submittal of any response or evidence from respondent, we find no reason to disturb the findings of Commissioner Soriano.

Respondent, like all other members of the bar, is expected to always live up to the standards embodied in the Code of Professional Responsibility, particularly the following Canons, viz:

> CANON 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.
>
> Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.
>
> Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.


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> CANON 7 - A lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the Integrated Bar.
>
> Rule 7.03 - A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

Membership in the bar is a privilege burdened with conditions. A high sense of morality, honesty, and fair dealing is expected and required of a member of the bar. Rule 1.01 of the Code of Professional Responsibility provides that "a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." The nature of the office of a lawyer requires that s/he shall be of good moral character. This qualification is not only a condition precedent to the admission to the legal profession, but its continued possession is essential to maintain one's good standing in the profession.[8]

Indeed, the strength of the legal profession lies in the dignity and integrity of its members. As previously explained in Sipin-Nabor v. Baterina:

> A lawyer shall at all times uphold the integrity and dignity of the legal profession. The trust and confidence necessarily reposed by clients requires in the attorney a high standard and appreciation of his duty to his clients, his profession, the courts and the public. The bar must maintain a high standard of legal proficiency as well as of honesty and fair dealing. Generally speaking, a lawyer can do honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients. To this end, members of the legal fraternity can do nothing that might tend to lessen in any degree the confidence of the public in the fidelity, honesty and integrity of the profession.[9]

In the instant case, respondent's unjustified withholding of petitioners' money years after it became due and demandable demonstrates his lack of integrity and fairness, and this is further highlighted by his lack of regard for the charges brought against him. Instead of meeting the charges head on, respondent did not bother to file an answer nor did he participate in the proceedings to offer a valid explanation for his conduct.

The Court has emphatically stated that when the integrity of a member of the bar is challenged, it is not enough that s/he denies the charges against him; s/he must meet the issue and overcome the evidence against him/her. S/he must show proof that s/he still maintains that degree of morality and integrity which at all times is expected of him/her.[10]

Finally, respondent's acts, which violated the Lawyer's Oath "to delay no man for money or malice" as well as the Code of Professional Responsibility, warrant the imposition of disciplinary sanctions against him.

With respect to the recommendation to suspend respondent Palaña for three (3) months, we find that the sanction is not commensurate to the breach committed and disrespect to the Court exhibited by the erring member of the bar. We increase the suspension to six (6) months in view of our ruling in Barrientos v. Libiran-Meteoro.[11]

We find that the complainants could not have been defrauded without the representations of respondent that he can easily have the torrens title of his lot reconstituted with his special knowledge as a legal practitioner as long as he is provided PhP 100,000 to finance the reconstitution. Respondent knew that his representations were false since the filing fee for a petition for reconstitution in 2001 was only PhP 3,145, and other expenses including the publication of the filing of the petition could not have cost more than PhP 20,000. It is clear that he employed deceit in convincing complainants to part with their hard earned money and the latter could not have been easily swayed to lend the money were it not for his misrepresentations and failed promises as a member of the bar. Moreover, when he failed to pay his just and legal obligation, he disobeyed the provisions of the Civil Code which is one of the substantive laws he vowed to uphold when he took his oath as a lawyer. Lastly, to aggravate

his misconduct, he totally ignored the directives of the IBP to answer the complaint when he fully knew as a lawyer that the compulsory bar organization was merely deputized by this Court to undertake the investigation of complaints against lawyers, among which is the instant complaint. In short, his disobedience to the IBP is in reality a gross and blatant disrespect to the Court. Lawyers fully know, as respondent is aware or at least is assumed to know, that lawyers like him cannot disobey the orders and resolutions of the Court. Failing in this duty as a member of the bar which is being supervised by the Court under the Constitution, we find that a heavier sanction should fall on respondent.

WHEREFORE, respondent Atty. Antoniutti K. Palaña is hereby SUSPENDED from the practice of law for a period of six (6) months and is ordered to settle his loan obligation to petitioners-spouses Amador and Rosita Tejada within two (2) months from the date of this Decision's promulgation.

This Decision is immediately executory.

**SO ORDERED.**

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Tinga, JJ., concur.

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[1]Rollo, pp. 2-3.

[2] G.R. No. 2490, February 7, 1991, 193 SCRA 779.

[3] A.C. No. 6061, October 3, 2003, 412 SCRA 569.

[4] A.C. No. 2029, December 7, 1993, 228 SCRA 233.

[5] A.C. No. 2019, June 3, 1991, 198 SCRA 1.

[6]Rollo, pp. 34-37.

[7]Id. at 27.

[8] Schulz v. Flores, A.C. No. 4219, December 8, 2003, 417 SCRA 159, 160.

[9]A.C. No. 4073, June 28, 2001, 360 SCRA 6, 10.

[10] Reyes v. Gaa, A.M. No. 1048, July 14, 1995, 246 SCRA 64, 67.

[11] A.C. No. 6408, August 31, 2004, 437 SCRA 209.


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