

ROMAN DELA ROSA VERANO, COMPLAINANT, VS. ATTY. LUIS FERNAN DIORES, JR., RESPONDENT.

A.C. No. 8887 (Formerly CBD Case No. 12-3638). November 07, 2017

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PER CURIAM:

This administrative case stemmed from a letter-complaint[1] filed with the Court on February 2, 2011 by complainant Roman Dela Rosa Verano (Verano) against respondent Atty. Luis Fernan Diores, Jr. (Atty. Diores) for deceit, malpractice, gross ignorance of the law and violation of the Lawyer's Oath for surreptitiously using Verano's parcel of land to secure bail bonds in connection with at least 61 cases of Estafa and Violation of Batas Pambansa Blg. 22 (B.P. Blg. 22) that had been filed against Atty. Diores.[2]

The salient facts, as borne by the records, are the following:

On April 11, 2006, Verano executed a Special Power of Attorney[3] (SPA) in favor of Atty. Diores authorizing the latter to use Verano's parcel of land covered by TCT No. T-77901 (subject property) as guaranty to obtain a bail bond for particular criminal cases[4] that had been filed against Atty. Diores.

Verano was surprised when he subsequently discovered that Atty. Diores executed a Memorandum of Agreement[5] (MOA) dated August 31, 2006 with Visayan Surety and Insurance Corporation (Visayan Surety) in order to use the subject property as guarantee to obtain bail bonds for at least 61 cases of Estafa and Violation of B.P. Blg. 22 that had been filed against him, which included, among others, Criminal Case Nos. CBU-48996 and CBU-49706, which were filed with the Regional Trial Court, Branch 6, Cebu City (RTC). Verano alleged that he did not authorize Atty. Diores to enter into such MOA, much less to use the subject property as collateral for bail bonds of the more than 61 Estafa cases filed against the latter which were other than those he authorized under the SPA, causing great loss and damage to Verano.

Thereafter, the aforementioned RTC branch, through Presiding Judge Ester M. Veloso, promulgated a Joint Judgment[6] dated November 16, 2009 in the said Criminal Case Nos. CBU-48996 and CBU-49706 together with Criminal Case Nos. CBU-50599, CBU-50279, CBU-50335 and CBU-51277, finding Atty. Diores guilty beyond reasonable doubt of six (6) counts of Estafa through false pretenses and fraudulent means under Article 315 (2) (a) of the Revised Penal Code by engaging in a Ponzi scheme,[7] as follows:

WHEREFORE, the court hereby finds the accused Luis F. Diores, Jr. guilty beyond reasonable doubt of six (6) counts of the crime of Estafa and sentences him as follows:

(1)

In Criminal Case No. CBU-50599, to suffer the penalty of imprisonment of four (4) years and two (2) months of prision correccional as minimum, to twenty (20) years of reclusion temporal as maximum, and to pay the offended party Irene Lumapas the sum of [P]3,050,000.00 plus legal interest to be computed from June 2, 1999 until such time that the amount is paid in full;

(2)

In Criminal Case No. CBU-48996, to suffer the penalty of imprisonment of four (4) years and two (2) months of prision correccional as minimum, to twenty (20) years of reclusion temporal as maximum, and to pay the offended party Calixto Ventic the sum of [P]800,000.00 plus legal interest to be computed from December 7, 1998 until such time that the amount is paid in full;

(3)

In Criminal Case No. CBU-49706, to suffer the penalty of imprisonment of four (4) years and two (2) months of prision correccional as minimum, to twenty (20) years of reclusion temporal as maximum, and to pay the offended party Lilia Amy Ursal the sum of [P]416,000.00 plus legal interest to be computed from March 2, 1999 until such time that the amount is paid in full;

(4)

In Criminal Case No. CBU-50279, to suffer the penalty of imprisonment of four (4) years and two (2) months of prision correccional as minimum, to twenty (20) years of reclusion temporal as maximum, and to pay the offended party Rolando Chiu the sum of [P]660,000.00 plus legal interest to be computed from May 4, 1999 until such time that the amount is paid in full;

(5)

In Criminal [Case] No. CBU-50335, to suffer the penalty of imprisonment of four (4) years and two (2) months of prision correccional as minimum, to twenty (20) years of reclusion temporal as maximum, and to pay the offended party Philholina Villamor the sum of [P]200,000.00 plus legal interest to be computed from May 8, 1999 until such time that the amount is paid in full; and

(6)

In Criminal Case No. CBU-51277, to suffer the penalty of imprisonment of four (4) years and two (2) months of prision correccional as minimum, to twenty (20) years of reclusion temporal as maximum, and to pay the offended party John Michael Velez the sum of [P]2,100,000.00 plus legal interest to be computed from August 2, 1999 until such time that the amount is paid in full.

SO ORDERED.[8]

Thus, Verano filed this letter-complaint against Atty. Diores. In its Resolutions dated March 9, 2011[9] and November 28, 2011,[10] the Court directed Atty. Diores to file his comment on the letter-complaint. However, Atty. Diores failed to file any comment despite notice. Consequently, in its Resolution[11] dated July 25, 2012, the Court considered as waived the filing of Atty. Diores' comment, and referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

At the scheduled mandatory conference before the IBP on April 1, 2013,[12] only Verano appeared together with his counsel, Atty. Manuel F. Ong. Atty. Diores, on the other hand, failed to appear despite notice.[13] Thereafter, Verano filed his position paper,[14] adding that subsequent to the filing of the letter-complaint before the Court, Atty. Diores had jumped bail in some of his criminal cases and had failed to serve his sentence on some of the decided cases against him which had already become final and executory.[15] Atty. Diores, on the other hand, failed to file his position paper.

After due proceedings, Commissioner Eldrid C. Antiquiera (Commissioner Antiquiera) rendered a Report and Recommendation[16] on June 18, 2013, finding Atty. Diores guilty of deceit in violation of Canon 1, Rule 1.01[17] of the Code of Professional Responsibility (CPR), holding that Atty. Diores: (1) took undue advantage of the trust reposed on him by Verano by secretly entering into the subject MOA; (2) jumped bail on some of the criminal cases and failed to serve sentence in those where he was duly convicted by final judgment; and (3)

refused to comply with the orders of the Court and the IBP to submit his comment and position paper, and to attend the mandatory conference. The dispositive portion reads:

WHEREFORE, PREMISES CONSIDERED, it is recommended that respondent be SUSPENDED from the practice of law for a period of TWO (2) YEARS with a stern warning that a repetition of the same or similar acts shall be dealt with more severely.[18]

In its Resolution[19] dated October 10, 2014, the IBP Board of Governors resolved to adopt and approve the said Report and Recommendation, but recommended that Atty. Diores be disbarred, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and considering that Respondent is liable for deceit in violation of Rule 1.01 of the Code of Professional Responsibility aggravated by his recalcitrance to legal orders in his refusal to comply with the resolution of the Supreme Court for him to file Comment and his deliberate failure to file his Position Paper with the IBP and attend the Mandatory Conference before the Investigating Commissioner, Atty. Luis Fernan Diores[, Jr.] is hereby DISBARRED from the practice of law and his name stricken off the Roll of Attorneys.[20]

After a judicious examination of the records and submissions of the parties, the Court has no compelling reason to diverge from the factual findings of Commissioner Antiquiera and the recommended penalty of the IBP Board of Governors.

In dealing with clients or other people, lawyers are expected to observe the highest degree of good faith, fairness and candor, both in their private and professional capacities. Thus, any form of deception or fraudulent act committed by a lawyer in either capacity is not only disgraceful and dishonorable, but also severely undermines the trust and confidence of people in the legal profession, violates Canon 1, Rule 1.01 of the CPR, and puts the lawyer's moral character into serious doubt as a member of the Bar, rendering him unfit to continue his practice of law.[21] Moreover, a lawyer has the duty to obey lawful orders of a superior court and the IBP. Willful disobedience to such orders, especially to those issued by this Court, is a sufficient ground to disbar a lawyer or suspend him from the practice of law under Section 27,[22] Rule 138 of the Rules of Court.[23]

In this case, Commissioner Antiquiera observed that while there was an SPA executed by Verano in favor of Atty. Diores for the latter to use Verano's land as guarantee for the bail bonds, it only authorized Atty. Diores to use the same for specific criminal cases, and not for the other criminal cases filed against him. In addition, Atty. Diores failed to file his comment to Verano's letter-complaint filed against him despite two (2) notices from the Court ordering him to do so, failed to attend the mandatory conference and file his position paper despite orders from the IBP, and jumped bail in the criminal cases filed against him.

The Court agrees with Commissioner Antiquiera's observation. While the SPA executed by Verano empowered Atty. Diores, in his private capacity, to use the subject property as guaranty for his bail bond in some of his criminal cases, this did not grant him carte blanche to use the said property to secure bail bonds in his other criminal cases which were not included in the SPA, much less enter into a MOA with Visayan Surety for the said purpose. Such act not only violates the trust granted to him by Verano, but also shows doubt as to his moral character.

Moreover, the fact that Atty. Diores jumped bail in the criminal cases filed against him, failed to file a comment in the instant case despite notice from the Court, and also failed to attend the mandatory conference and file his position paper when he was directed to do so by the IBP, shows his propensity to willfully disobey the orders - of the Court, no less - and other judicial authorities, including the IBP, which is a grave affront to the legal

profession, and which should be penalized to the greatest extent.

As for the recommended penalty, the Court agrees with, and hereby adopts, the IBP's recommendation that Atty. Diores should be disbarred, in view of the totality of infractions he had committed, compounded by his conviction for six (6) counts of Estafa by the RTC.

It is also well-settled that Estafa, which is an act of defrauding another person, whether committed through abuse of confidence, false pretenses or other fraudulent acts,[24] is a crime involving moral turpitude[25] which is also a violation of Canon 1, Rule 1.01 of the CPR, and a ground to disbar or suspend a lawyer as gross misconduct under Section 27, Rule 138 of the Rules of Court.

Here, Atty. Diores was convicted of not only one, but six (6) counts of Estafa through false pretenses and fraudulent means under Article 315(2)(a) of the Revised Penal Code. Such conviction simply shows his criminal tendency to defraud and deceive other people into remitting to him their hard-earned money, which the legal profession condemns in the strongest terms. This, together with his willful disobedience of court orders and his act of using Verano's subject property as guaranty for his bail bond outside the criminal cases wherein he was authorized, cements his utter unfitness to continue exercising his duties as a lawyer. Thus, the Court will not hesitate to adopt the penalty of the IBP and hereby disbar Atty. Diores to protect the trust and confidence of the people in this noble profession.

WHEREFORE, respondent Atty. Luis Fernan Diores, Jr. is found GUILTY of Deceit in violation of Rule 1.01 of the Code of Professional Responsibility, and Willful Disobedience to a Lawful Order of the Court and Conviction for Estafa, both in violation of Section 27, Rule 138 of the Rules of Court. He is hereby DISBARRED, and his name is ordered STRICKEN FROM the Roll of Attorneys effective immediately upon the date of his receipt of this Decision.

Atty. Diores is hereby DIRECTED to immediately file a Manifestation to the Court that his disbarment has commenced, copy furnished to all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Decision be furnished to: (a) the Office of the Court Administrator for dissemination to all courts throughout the country for their information and guidance; (b) the Integrated Bar of the Philippines; and (c) the Office of the Bar Confidant to be appended to Atty. Diores' personal record as a member of the Bar.

SO ORDERED.

Sereno, C. J., Carpio, Peralta, Bersamin, Leonen, Caguioa, Martires, Tijam, Reyes, Jr., and Gesmundo, JJ., concur.

Velasco, Jr., J., on official time.

Leonardo-De Castro, J., on official business.

Del Castillo, J., on official time.

Perlas-Bernabe, J., on official business.

Jardeleza, J., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on November 7, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on December 18,

2017 at 2:30 p.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[*] Also referred to as Roman De La Rosa Verano and Roman R. Verano in other parts of the rollo.

[1] Rollo, pp. 1-4.

[2] Id. at 182.

[3] Id. at 12-13.

[4] Entitled "People of the Philippines v. Luis F. Diores, Jr." for Estafa and Violation of Batas Pambansa Blg. 22. However, the records did not disclose which particular case numbers the SPA was valid for, and the courts where the cases were filed.

[5] Rollo, pp. 8-11.

[6] Id. at 14-36, 103-125.

[7] A Ponzi scheme is a type of investment fraud wherein the organizer falsely promises that the money collected would be invested and would generate high returns with little or no risk, but would not actually do so. Instead, the money collected from new investors would be used to pay earlier investors and the balance thereof would be kept by such organizer. (Ponzi Scheme. United States Securities and Exchange Commission, available at <https://investor.gov/protect-your-investments/fraud/types-fraud/ponzi-scheme> [last accessed October 25, 2017].)

[8] Rollo, pp. 34-36, 123-125.

[9] Id. at 130.

[10] Id. at 132.

[11] Id. at 135.

[12] Id. at 137.

[13] Id. at 139.

[14] Id. at 141-146.

[15] Id. at 142. Records did not show when the criminal cases against Atty. Diores became final and executory.

[16] Id. at 182-183.

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

[18] Rollo, p. 183.

[19] Id. at 181.

[20] Id.

[21] See *Krursel v. Abion*, A.C. No. 5951, July 12, 2016, 796 SCRA 328, 340-341 and *Tan v. Diamante*, 740 Phil. 382, 390-391 (2014), both citing *Sebastian v. Calis*, 372 Phil. 673, 679 (1999); see also *De Chavez-Blanco v. Lumasag, Jr.*, 603 Phil. 59, 65 (2009).

[22] 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)

[23] See *Punla v. Maravilla-Ona*, A.C. No. 11149, August 15, 2017, p. 5; *Paras v. Paras*, A.C. No. 5333, March 13, 2017, p. 6; *In Re: Resolution dated August 14, 2013 of the Court of Appeals in C.A.-G.R. CV No. 94656 v. Mortel*, A.C. No. 10117, July 25, 2016, 798 SCRA 1, 27-32; *Tolentino v. So*, A.C. No. 6387, July 19, 2016, 797 SCRA 106, 120.

[24] REVISED PENAL CODE, Art. 315(2).

[25] *Moreno v. Araneta*, 496 Phil. 788, 797 (2005); see also *Office of the Court Administrator v. Ruiz*, A.M. No. RTJ-13-2361, February 2, 2016, 782 SCRA 630, 647-648.

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