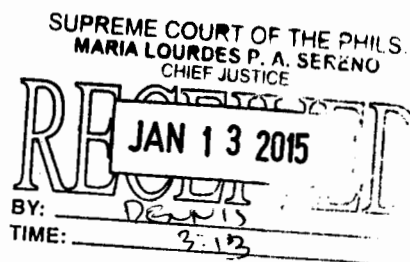




Republic of the Philippines  
Supreme Court  
Manila



EN BANC

ERLINDA FOSTER,  
Complainant,

A.C. No. 10579

Present:

SERENO, C.J.,  
CARPIO,  
VELASCO, JR.,  
LEONARDO-DE CASTRO,  
BRION,\*  
PERALTA,\*\*  
BERSAMIN,\*\*  
DEL CASTILLO,  
VILLARAMA, JR.,  
PEREZ,\*\*  
MENDOZA,  
REYES,  
PERLAS-BERNABE,  
LEONEN, and  
JARDELEZA,\*\* JJ.

- versus -

ATTY. JAIME V. AGTANG,  
Respondent.

Promulgated:  
December 10, 2014

X-----X

DECISION

**PER CURIAM.:**

This refers to the Resolution<sup>1</sup> of the Board of Governors (BOG), Integrated Bar of the Philippines (IBP), dated March 23, 2014, affirming with modification the findings of the Investigating Commissioner, who

\* On leave.

\*\* No part.

\*\*\* On official leave.

<sup>1</sup> Rollo, pp. 192-193.

recommended the suspension of respondent Atty. Jaime V. Agtang (*respondent*) from the practice of law for one (1) year for ethical impropriety and ordered the payment of his unpaid obligations to complainant.

From the records, it appears that the IBP, thru its Commission on Bar Discipline (*CBD*), received a complaint<sup>2</sup>, dated May 31, 2011, filed by Erlinda Foster (*complainant*) against respondent for “unlawful, dishonest, immoral and deceitful”<sup>3</sup> acts as a lawyer.

In its July 1, 2011 Order,<sup>4</sup> the IBP-CBD directed respondent to file his Answer within 15 days from receipt of the order. Respondent failed to do so and complainant sent a query as to the status of her complaint. On October 10, 2011, the Investigating Commissioner issued the Order<sup>5</sup> setting the case for mandatory conference/hearing on November 16, 2011. It was only on November 11, 2011, or five (5) days before the scheduled conference when respondent filed his verified Answer.<sup>6</sup>

During the conference, only the complainant together with her husband appeared. She submitted a set of documents contained in a folder, copies of which were furnished the respondent. The Investigating Commissioner<sup>7</sup> indicated that the said documents would be reviewed and the parties would be informed if there was a need for clarificatory questioning; otherwise, the case would be submitted for resolution based on the documents on file. The Minutes<sup>8</sup> of the mandatory conference showed that respondent arrived at 11:10 o’clock in the morning or after the proceeding was terminated.

On December 12, 2011, the complainant filed her Reply to respondent’s Answer.

On April 18, 2012, complainant submitted copies of the January 24, 2012 Decisions<sup>9</sup> of the Municipal Trial Court in Small Claims Case Nos. 2011-0077 and 2011-0079, ordering respondent [defendant therein] to pay complainant and her husband the sum of ₱100,000.00 and ₱22,000.00,

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<sup>2</sup> Id. at 5-9.

<sup>3</sup> Id. at 9.

<sup>4</sup> Id. at 35.

<sup>5</sup> Id. at 43.

<sup>6</sup> Id. at 45-49.

<sup>7</sup> Atty. Loreto C. Ata, Commissioner, Commission on Bar Discipline, Integrated Bar of the Philippines.

<sup>8</sup> *Rollo*, pp. 44.

<sup>9</sup> Id. at 110-120.

respectively, with interest at the rate of 12% per annum from December 8, 2011 until fully paid, plus cost of suit.<sup>10</sup>

### **Complainant's Position**

From the records, it appears that complainant was referred to respondent in connection with her legal problem regarding a deed of absolute sale she entered into with Tierra Realty, which respondent had notarized. After their discussion, complainant agreed to engage his legal services for the filing of the appropriate case in court, for which they signed a contract. Complainant paid respondent ₱20,000.00 as acceptance fee and ₱5,000.00 for incidental expenses.<sup>11</sup>

On September 28, 2009, respondent wrote a letter<sup>12</sup> to Tropical Villas Subdivision in relation to the legal problem referred by complainant. He then visited the latter in her home and asked for a loan of ₱100,000.00, payable in sixty (60) days, for the repair of his car. Complainant, having trust and confidence on respondent being her lawyer, agreed to lend the amount without interest. A promissory note<sup>13</sup> evidenced the loan.

In November 2009, complainant became aware that Tierra Realty was attempting to transfer to its name a lot she had previously purchased. She referred the matter to respondent who recommended the immediate filing of a case for reformation of contract with damages. On November 8, 2009, respondent requested and thereafter received from complainant the amount of ₱150,000.00, as filing fee.<sup>14</sup> When asked about the exorbitant amount, respondent cited the high value of the land and the sheriffs' travel expenses and accommodations in Manila, for the service of the summons to the defendant corporation. Later, complainant confirmed that the fees paid for the filing of Civil Case No. 14791-65, entitled *Erlinda Foster v. Tierra Realty and Development Corporation*, only amounted to ₱22,410.00 per trial court records.<sup>15</sup>

During a conversation with the Registrar of Deeds, complainant also discovered that respondent was the one who notarized the document being questioned in the civil case she filed. When asked about this, respondent merely replied that he would take a collaborating counsel to handle

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<sup>10</sup> Id.

<sup>11</sup> Id. at 11.

<sup>12</sup> Id. at 12-13.

<sup>13</sup> Id. at 14.

<sup>14</sup> Id. at 15.

<sup>15</sup> Id. at 16.

complainant's case. Upon reading a copy of the complaint filed by respondent with the trial court, complainant noticed that: 1] the major differences in the documents issued by Tierra Realty were not alleged; 2] the contract to buy and sell and the deed of conditional sale were not attached thereto; 3] the complaint discussed the method of payment which was not the point of contention in the case; and 4] the very anomalies she complained of were not mentioned. Respondent, however, assured her that those matters could be brought up during the hearings.

On April 23, 2010, respondent wrote to complainant, requesting that the latter extend to him the amount of ₱70,000.00 or ₱50,000.00 "in the moment of urgency or emergency."<sup>16</sup> Complainant obliged the request and gave respondent the sum of ₱22,000.00.

On August 31, 2010, respondent came to complainant's house and demanded the sum of ₱50,000.00, purportedly to be given to the judge in exchange for a favorable ruling. Complainant expressed her misgivings on this proposition but she eventually gave the amount of ₱25,000.00 which was covered by a receipt,<sup>17</sup> stating that "it is understood that the balance of ₱25,000.00 shall be paid later after favorable judgment for plaintiff Erlinda Foster." On November 2, 2010, respondent insisted that the remaining amount be given by complainant prior to the next hearing of the case, because the judge was allegedly asking for the balance. Yet again, complainant handed to respondent the amount of ₱25,000.00.<sup>18</sup>

On September 29, 2010, complainant's case was dismissed. Not having been notified by respondent, complainant learned of the dismissal on December 14, 2010, when she personally checked the status of the case with the court. She went to the office of respondent, but he was not there. Instead, one of the office staff gave her a copy of the order of dismissal.

On December 15, 2010, respondent visited complainant and gave her a copy of the motion for reconsideration. On January 15, 2011, complainant went to see respondent and requested him to prepare a reply to the comment filed by Tierra Realty on the motion for reconsideration; to include additional facts because the Land Registration Authority would not accept the documents unless these were amended; and to make the additional averment that the defendant was using false documents.

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<sup>16</sup> Id. at 29.

<sup>17</sup> Id. at 31.

<sup>18</sup> Id. at 31-32.

On January 18, 2011, respondent's driver delivered to complainant a copy of the reply with a message from him that the matters she requested to be included were mentioned therein. Upon reading the same, however, complainant discovered that these matters were not so included. On the same occasion, the driver also asked for ₱2,500.00 on respondent's directive for the reimbursement of the value of a bottle of wine given to the judge as a present. Complainant was also told that oral arguments on the case had been set the following month.<sup>19</sup>

On February 2, 2011, complainant decided to terminate the services of respondent as her counsel and wrote him a letter of termination,<sup>20</sup> after her friend gave her copies of documents showing that respondent had been acquainted with Tierra Realty since December 2007. Subsequently, complainant wrote to respondent, requesting him to pay her the amounts he received from her less the contract fee and the actual cost of the filing fees. Respondent never replied.

### **Respondent's Position**

In his Answer,<sup>21</sup> respondent alleged that he was 72 years old and had been engaged in the practice of law since March 1972, and was President of the IBP Ilocos Norte Chapter from 1998 to 1999. He admitted the fact that he notarized the Deed of Absolute Sale subject of complainant's case, but he qualified that he was not paid his notarial fees therefor. He likewise admitted acting as counsel for complainant for which he claimed to have received ₱10,000.00 as acceptance fee and ₱5,000.00 for incidental fees. Anent the loan of ₱100,000.00, respondent averred that it was complainant, at the behest of her husband, who willingly offered the amount to him for his patience in visiting them at home and for his services. The transaction was declared as "no loan" and he was told not to worry about its payment. As regards the amount of ₱150,000.00 he received for filing fees, respondent claimed that the said amount was suggested by the complainant herself who was persistent in covering the incidental expenses in the handling of the case. He denied having said that the sheriffs of the court would need the money for their hotel accommodations. Complainant's husband approved of the amount. In the same vein, respondent denied having asked for a loan of ₱50,000.00 and having received ₱22,000.00 from complainant. He also denied having told her that the case would be discussed with the judge who would rule in their favor at the very next hearing. Instead, it was complainant who was bothered by the possibility that the other party would

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<sup>19</sup> Id. at 101.

<sup>20</sup> Id. at 33.

<sup>21</sup> Id. at 45-49.

befriend the judge. He never said that he would personally present a bottle of wine to the judge.

Further, respondent belied the Registrar's comment as to his representation of Tierra Realty in the past. Respondent saw nothing wrong in this situation since complainant was fully aware that another counsel was assisting him in the handling of cases. Having been fully informed of the nature of her cause of action and the consequences of the suit, complainant was aware of the applicable law on reformation of contracts. Finally, by way of counterclaim, respondent demanded just compensation for the services he had rendered in other cases for the complainant.

### **Reply of Complainant**

In her Reply,<sup>22</sup> complainant mainly countered respondent's defenses by making reference to the receipts in her possession, all evidencing that respondent accepted the amounts mentioned in the complaint. Complainant also emphasized that respondent and Tierra Realty had relations long before she met him. While respondent was employed as Provincial Legal Officer of the Provincial Government of Ilocos Norte, he was involved in the preparation of several documents involving Flying V, an oil company owned by Ernest Villavicencio, who likewise owned Tierra Realty. Complainant insisted that the amount of ₱100,000.00 she extended to respondent was never considered as "no loan."

On June 26, 2012, complainant furnished the Investigating Commissioner copies of the Resolution, dated June 20, 2012, issued by the Office of the City Prosecutor of Laoag City, finding probable cause against respondent for estafa.<sup>23</sup>

### **Findings and Recommendation of the IBP**

In its July 3, 2012 Report and Recommendation,<sup>24</sup> the Investigating Commissioner found respondent guilty of ethical impropriety and recommended his suspension from the practice of law for one (1) year.

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<sup>22</sup> Id. at 86-97.

<sup>23</sup> Id. at 136-139.

<sup>24</sup> Id. at 145-161.

In its September 28, 2013 Resolution, the IBP-BOG adopted and approved with modification the recommendation of suspension by the Investigating Commissioner and ordered respondent to return to complainant: 1) his loan of ₱122,000.00; and 2) the balance of the filing fee amounting to ₱127,590.00.

Respondent received a copy of the said resolution on January 16, 2014 to which he filed a motion for reconsideration.<sup>25</sup> Complainant filed her opposition thereto, informing the IBP-BOG that an information charging respondent for estafa had already been filed in court and that a corresponding order for his arrest had been issued.<sup>26</sup>

In its March 23, 2014 Resolution, the IBP-BOG denied respondent's motion for reconsideration but modified the penalty of his suspension from the practice of law by reducing it from one (1) year to three (3) months. Respondent was likewise ordered to return the balance of the filing fee received from complainant amounting to ₱127,590.00.

No petition for review was filed with the Court.

The only issue in this case is whether respondent violated the Code of Professional Responsibility (*CPR*).

### **The Court's Ruling**

The Court sustains the findings and recommendation of the Investigating Commissioner with respect to respondent's violation of Rules 1 and 16 of the *CPR*. The Court, however, modifies the conclusion on his alleged violation of Rule 15, on representing conflicting interests. The Court also differs on the penalty.

Rule 1.0, Canon 1 of the *CPR*, provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." It is well-established that a lawyer's conduct is "not confined to the performance of his professional duties. A lawyer may be disciplined for misconduct committed either in his professional or private capacity. The test is whether his conduct shows him to be wanting in moral character, honesty, probity,

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<sup>25</sup> Id. at 162-165.

<sup>26</sup> Id. at 168-179.

and good demeanor, or whether it renders him unworthy to continue as an officer of the court.”<sup>27</sup>

In this case, respondent is guilty of engaging in dishonest and deceitful conduct, both in his professional and private capacity. As a lawyer, he clearly misled complainant into believing that the filing fees for her case were worth more than the prescribed amount in the rules, due to feigned reasons such as the high value of the land involved and the extra expenses to be incurred by court employees. In other words, he resorted to overpricing, an act customarily related to depravity and dishonesty. He demanded the amount of ₱150,000.00 as filing fee, when in truth, the same amounted only to ₱22,410.00. His defense that it was complainant who suggested that amount deserves no iota of credence. For one, it is highly improbable that complainant, who was then plagued with the rigors of litigation, would propose such amount that would further burden her financial resources. Assuming that the complainant was more than willing to shell out an exorbitant amount just to initiate her complaint with the trial court, still, respondent should not have accepted the excessive amount. As a lawyer, he is not only expected to be knowledgeable in the matter of filing fees, but he is likewise duty-bound to disclose to his client the actual amount due, consistent with the values of honesty and good faith expected of all members of the legal profession.

Moreover, the “fiduciary nature of the relationship between the counsel and his client imposes on the lawyer the duty to account for the money or property collected or received for or from his client.”<sup>28</sup> Money entrusted to a lawyer for a specific purpose but not used for the purpose should be immediately returned. A lawyer’s failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. Such act is a gross violation of general morality as well as of professional ethics. It impairs public confidence in the legal profession and deserves punishment.<sup>29</sup>

It is clear that respondent failed to fulfill this duty. As pointed out, he received various amounts from complainant but he could not account for all of them. Worse, he could not deny the authenticity of the receipts presented by complainant. Upon demand, he failed to return the excess money from the alleged filing fees and other expenses. His possession gives rise to the presumption that he has misappropriated it for his own use to the prejudice

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<sup>27</sup> *Navarro v. Solidum, Jr.*, A.C. No. 9872, January 28, 2014, citing *Roa v. Moreno*, A.C. No. 8382, April 21, 2010, 618 SCRA 693, 699.

<sup>28</sup> *Belleza v. Macasa*, 611 Phil. 179, 190 (2009).

<sup>29</sup> *Dhaliwal v. Dumaguing*, A.C. No. 9390, August 1, 2012, 678 SCRA 68.



of, and in violation of the trust reposed in him by, the client.<sup>30</sup> When a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for the intended purpose. Consequently, if the lawyer does not use the money for the intended purpose, the lawyer must immediately return the money to the client.<sup>31</sup>

Somewhat showing a propensity to demand excessive and unwarranted amounts from his client, respondent displayed a reprehensible conduct when he asked for the amount of ₱50,000.00 as “representation expenses” allegedly for the benefit of the judge handling the case, in exchange for a favorable decision. Respondent himself signed a receipt showing that he initially took the amount of ₱ 25,000.00 and, worse, he subsequently demanded and received the other half of the amount at the time the case had already been dismissed. Undoubtedly, this act is tantamount to gross misconduct that necessarily warrants the supreme penalty of disbarment. The act of demanding a sum of money from his client, purportedly to be used as a bribe to ensure a positive outcome of a case, is not only an abuse of his client’s trust but an overt act of undermining the trust and faith of the public in the legal profession and the entire Judiciary. This is the height of indecency. As officers of the court, lawyers owe their utmost fidelity to public service and the administration of justice. In no way should a lawyer indulge in any act that would damage the image of judges, lest the public’s perception of the dispensation of justice be overshadowed by iniquitous doubts. The denial of respondent and his claim that the amount was given gratuitously would not excuse him from any liability. The absence of proof that the said amount was indeed used as a bribe is of no moment. To tolerate respondent’s actuations would seriously erode the public’s trust in the courts.

As it turned out, complainant’s case was dismissed as early as September 29, 2010. At this juncture, respondent proved himself to be negligent in his duty as he failed to inform his client of the status of the case, and left the client to personally inquire with the court. Surely, respondent was not only guilty of misconduct but was also remiss in his duty to his client.

Respondent’s unbecoming conduct towards complainant did not stop here. Records reveal that he likewise violated Rule 16.04, Canon 16 of the CPR, which states that “[a] lawyer shall not borrow money from his client unless the client’s interests are fully protected by the nature of the case or by

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<sup>30</sup> *Belleza v. Macasa*, supra note 28, at 191.

<sup>31</sup> *Freeman v. Reyes*, A.C. No. 6246, November 15, 2011, 660 SCRA 48, 63.

independent advice. Neither shall a lawyer lend money to a client except, when in the interest of justice, he has to advance necessary expenses in a legal matter he is handling for the client.” In his private capacity, he requested from his client, not just one, but two loans of considerable amounts. The first time, he visited his client in her home and borrowed ₱100,000.00 for the repair of his car; and the next time, he implored her to extend to him a loan of ₱70,000.00 or ₱50,000.00 “in the moment of urgency or emergency” but was only given ₱22,000.00 by complainant. These transactions were evidenced by promissory notes and receipts, the authenticity of which was never questioned by respondent. These acts were committed by respondent in his private capacity, seemingly unrelated to his relationship with complainant, but were indubitably acquiesced to by complainant because of the trust and confidence reposed in him as a lawyer. Nowhere in the records, particularly in the defenses raised by respondent, was it implied that these loans fell within the exceptions provided by the rules. The loans of ₱100,000.00 and ₱22,000.00 were surely not protected by the nature of the case or by independent advice. Respondent’s assertion that the amounts were given to him out of the liberality of complainant and were, thus, considered as “no loan,” does not justify his inappropriate behavior. The acts of requesting and receiving money as loans from his client and thereafter failing to pay the same are indicative of his lack of integrity and sense of fair dealing. Up to the present, respondent has not yet paid his obligations to complainant.

Time and again, the Court has consistently held that deliberate failure to pay just debts constitutes gross misconduct, for which a lawyer may be sanctioned with suspension from the practice of law. Lawyers are instruments for the administration of justice and vanguards of our legal system. They are expected to maintain not only legal proficiency, but also a high standard of morality, honesty, integrity and fair dealing so that the people’s faith and confidence in the judicial system is ensured. They must, at all times, faithfully perform their duties to society, to the bar, the courts and their clients, which include prompt payment of financial obligations.<sup>32</sup>

Verily, 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 vest him with. Unfortunately, respondent must be found guilty of misconduct on both scores.

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<sup>32</sup>*Yuhico v. Gutierrez*, A.C. No. 8391, November 23, 2010, 635 SCRA 684, 688.

With respect to respondent's alleged representation of conflicting interests, the Court finds it proper to modify the findings of the Investigating Commissioner who concluded that complainant presented insufficient evidence of respondent's "lawyering" for the opposing party, Tierra Realty.

Rule 15.03, Canon 15 of the CPR, provides that "[a] lawyer shall not represent conflicting interest except by written consent of all concerned given after a full disclosure of the facts." The relationship between a lawyer and his/her client should ideally be imbued with the highest level of trust and confidence. This is the standard of confidentiality that must prevail to promote a full disclosure of the client's most confidential information to his/her lawyer for an unhampered exchange of information between them. Needless to state, a client can only entrust confidential information to his/her lawyer based on an expectation from the lawyer of utmost secrecy and discretion; the lawyer, for his part, is duty-bound to observe candor, fairness and loyalty in all dealings and transactions with the client. Part of the lawyer's duty in this regard is to avoid representing conflicting interests."<sup>33</sup> Thus, even if lucrative fees offered by prospective clients are at stake, a lawyer must decline professional employment if the same would trigger the violation of the prohibition against conflict of interest. The only exception provided in the rules is a written consent from all the parties after full disclosure.

The Court deviates from the findings of the IBP. There is substantial evidence to hold respondent liable for representing conflicting interests in handling the case of complainant against Tierra Realty, a corporation to which he had rendered services in the past. The Court cannot ignore the fact that respondent admitted to having notarized the deed of sale, which was the very document being questioned in complainant's case. While the Investigating Commissioner found that the complaint in Civil Case No. 14791-65 did not question the validity of the said contract, and that only the intentions of the parties as to some provisions thereof were challenged, the Court still finds that the purpose for which the proscription was made exists. The Court cannot brush aside the dissatisfied observations of the complainant as to the allegations lacking in the complaint against Tierra Realty and the clear admission of respondent that he was the one who notarized the assailed document. Regardless of whether it was the validity of the entire document or the intention of the parties as to some of its provisions raised, respondent fell short of prudence in action when he accepted complainant's case, knowing fully that he was involved in the execution of the very transaction under question. Neither his unpaid notarial fees nor the participation of a collaborating counsel would excuse him from

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<sup>33</sup> *Aniñon v. Sabitsana, Jr.*, A.C. No. 5098, April 11, 2012, 669 SCRA 76, 81.

such indiscretion. It is apparent that respondent was retained by clients who had close dealings with each other. More significantly, there is no record of any written consent from any of the parties involved.

The representation of conflicting interests is prohibited “not only because the relation of attorney and client is one of trust and confidence of the highest degree, but also because of the principles of public policy and good taste. An attorney has the duty to deserve the fullest confidence of his client and represent him with undivided loyalty. Once this confidence is abused or violated the entire profession suffers.”<sup>34</sup>

### **Penalties and Pecuniary Liabilities**

A member of the Bar may be penalized, even disbarred or suspended from his office as an attorney, for violation of the lawyer’s oath and/or for breach of the ethics of the legal profession as embodied in the CPR.<sup>35</sup> For the practice of law is “a profession, a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character.”<sup>36</sup> The appropriate penalty for an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.<sup>37</sup>

Under Section 27, Rule 138 of the Revised Rules of Court, a member of the Bar may be disbarred or suspended on any of the following grounds: (1) deceit; (2) malpractice or other gross misconduct in office; (3) grossly immoral conduct; (4) conviction of a crime involving moral turpitude; (5) violation of the lawyer's oath; (6) willful disobedience of any lawful order of a superior court; and (7) willful appearance as an attorney for a party without authority. A lawyer may be disbarred or suspended for misconduct, whether in his professional or private capacity, which shows him to be wanting in moral character, honesty, probity and good demeanor, or unworthy to continue as an officer of the court.

Here, respondent demonstrated not just a negligent disregard of his duties as a lawyer but a wanton betrayal of the trust of his client and, in general, the public. Accordingly, the Court finds that the suspension for three (3) months recommended by the IBP-BOG is not sufficient punishment for the unacceptable acts and omissions of respondent. The acts of the respondent constitute malpractice and gross misconduct in his office

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<sup>34</sup> *Tiania v. Ocampo*, A.C. No. 2285, August 12, 1991, 200 SCRA 472, citing *Hilado v. David*, 84 Phil. 576, 579 (1949).

<sup>35</sup> *Catu v. Rellosa*, 569 Phil. 539, 550 (2008).

<sup>36</sup> *Barcenas v. Alvero*, A.C. No. 8159, April 23, 2010, 619 SCRA 1, 11.

<sup>37</sup> *Lim-Santiago v. Sagucio*, 520 Phil. 538, 552 (2006).

as attorney. His incompetence and appalling indifference to his duty to his client, the courts and society render him unfit to continue discharging the trust reposed in him as a member of the Bar.

For taking advantage of the unfortunate situation of the complainant, for engaging in dishonest and deceitful conduct, for maligning the judge and the Judiciary, for undermining the trust and faith of the public in the legal profession and the entire judiciary, and for representing conflicting interests, respondent deserves no less than the penalty of disbarment.<sup>38</sup>

Notably, the Court cannot order respondent to return the money he borrowed from complainant in his private capacity. In *Tria-Samonte v. Obias*,<sup>39</sup> the Court held that it cannot order the lawyer to return money to complainant if he or she acted in a private capacity because its findings in administrative cases have no bearing on liabilities which have no intrinsic link to the lawyer's professional engagement. In disciplinary proceedings against lawyers, the only issue is whether the officer of the court is still fit to be allowed to continue as a member of the Bar. The only concern of the Court is the determination of respondent's administrative liability. Its findings have no material bearing on other judicial actions which the parties may choose against each other.

To rule otherwise would in effect deprive respondent of his right to appeal since administrative cases are filed directly with the Court. Furthermore, the quantum of evidence required in civil cases is different from the quantum of evidence required in administrative cases. In civil cases, preponderance of evidence is required. Preponderance of evidence is "a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto."<sup>40</sup> In administrative cases, only substantial evidence is needed. Substantial evidence, which is more than a mere scintilla but is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, would suffice to hold one administratively liable.<sup>41</sup> Furthermore, the Court has to consider the prescriptive period applicable to civil cases in contrast to administrative cases which are, as a rule, imprescriptible.<sup>42</sup>

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<sup>38</sup> *Pacana, Jr. v. Pascual-Lopez*, 611 Phil. 399, 410 (2009).

<sup>39</sup> A.C. No. 4945, October 8, 2013, 707 SCRA 1.

<sup>40</sup> *Go v. Court of Appeals*, 403 Phil. 883, 890-891 (2001).

<sup>41</sup> *Tapiador v. Office of the Ombudsman*, 429 Phil. 47, 54 (2002).

<sup>42</sup> *Frias v. Bautista-Lozada*, 523 Phil. 17, 19 (2006).


Thus, the IBP-BOG was correct in ordering respondent to return the amount of ₱127,590.00 representing the balance of the filing fees he received from complainant, as this was intimately related to the lawyer-client relationship between them. Similar to this is the amount of ₱50,000.00 which respondent received from complainant, as representation expenses for the handling of the civil case and for the purported purchase of a bottle of wine for the judge. These were connected to his professional relationship with the complainant. While respondent's deplorable act of requesting the said amount for the benefit of the judge is stained with mendacity, respondent should be ordered to return the same as it was borne out of their professional relationship. As to his other obligations, respondent was already adjudged as liable for the personal loans he contracted with complainant, per the small claims cases filed against him.

All told, in the exercise of its disciplinary powers, "the Court merely calls upon a member of the Bar to account for his actuations as an officer of the Court with the end in view of preserving the purity of the legal profession."<sup>43</sup> The Court likewise aims to ensure the proper and honest administration of justice by "purging the profession of members who, by their misconduct, have proven themselves no longer worthy to be entrusted with the duties and responsibilities of an attorney."<sup>44</sup>

**WHEREFORE**, finding the respondent, Atty. Jaime V. Agtang, **GUILTY** of gross misconduct in violation of the Code of Professional Responsibility, the Court hereby **DISBARS** him from the practice of law and **ORDERS** him to pay the complainant, Erlinda Foster, the amounts of ₱127,590.00, ₱50,000.00 and ₱2,500.00.

Let a copy of this Decision be sent to the Office of the Bar Confidant, the Integrated Bar of the Philippines and the Office of the Court Administrator to be circulated to all courts.

**SO ORDERED.**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice

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<sup>43</sup> *Suzuki v. Tiamson*, 508 Phil. 130, 142 (2005).

<sup>44</sup> *Id.*

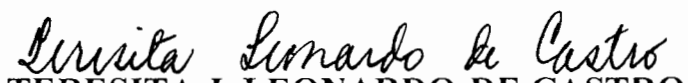




**ANTONIO T. CARPIO**  
Associate Justice



**PRESBITERO J. VELASCO, JR.**  
Associate Justice



**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

(On leave)  
**ARTURO D. BRION**  
Associate Justice

(No part)  
**DIOSDADO M. PERALTA**  
Associate Justice

(On Official Leave)  
**LUCAS P. BERSAMIN**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**MARTIN S. VILLARAMA, JR.**  
Associate Justice


(On Official Leave)  
**JOSE PORTUGAL PEREZ**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**MARVIC M.V. F. LEONEN**  
Associate Justice

(On Official Leave)  
**FRANCIS H. JARDELEZA**  
Associate Justice

