



Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
Wilfredo V. Lapitan
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division

SEP 06 2017

THIRD DIVISION

SPOUSES GERALDY AND
LILIBETH VICTORY,
Complainants,

A.C. No. 10580

Present:

- versus -

VELASCO, JR., J.,
Chairperson,
BERSAMIN,
JARDELEZA,
*MARTIRES, and
TIJAM, JJ.

ATTY. MARIAN JO S.
MERCADO,
Respondent.

Promulgated:

July 12, 2017

Wilfredo V. Lapitan

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DECISION

TIJAM, J.:

This is a disbarment case against respondent Atty. Marian Jo S. Mercado for violation of the Code of Professional Responsibility and the Lawyer's Oath.

The Facts

Sometime in 2009, Spouses Geraldly and Lilibeth Victory (Spouses Victory) were enticed by respondent to enter into a financial transaction with her with a promise of good monetary returns. As respondent is a lawyer and a person of reputation, Spouses Victory entrusted their money to respondent to invest, manage, and administer into some financial transactions that would earn good profit for the parties.¹

¹Designated Fifth Member of the Third Division per Special Order No. 2461 dated July 10, 2017 vice retired Associate Justice Bienvenido L. Reyes.

¹ Rollo, p. 95.

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Respondent called and asked Geraldyn Victory (Geraldyn) whether he wanted to invest his money. The respondent promised that for an investment of PhP 400,000, she will give Geraldyn PhP 600,000 in 30 days; and for PhP 500,000, she will give Geraldyn PhP 625,000.²

The investment transactions went well for the first 10 months. Spouses Victory received the agreed return of profit. Some of such financial transactions were covered by Memoranda of Agreement.³

Later on, respondent became evasive in returning to Spouses Victory the money that the latter were supposed to receive as part of the agreement. Respondent failed to settle and account the money entrusted to her by Spouses Victory.⁴

Spouses Victory alleged that the outstanding obligation of respondent is PhP 5 Million plus interest or a total of PhP 8.3 Million.⁵

Spouses Victory filed a criminal complaint for estafa and violation of Batas Pambansa Blg. 22 with the Office of the City Prosecutor of Sta. Rosa, Laguna.⁶

After the filing of said criminal case, respondent met with Spouses Victory. Respondent proposed to reduce her obligation from PhP 8.3 Million to PhP 7.5 Million in staggered payments, to which Spouses Victory agreed. Respondent then issued three postdated checks in the amount of PhP 300,000 each. However, said checks bounced.⁷

**Report and Recommendation
of the Integrated Bar of the Philippines
Commission on Bar Discipline**

The Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline (CBD) found that respondent indeed lured Spouses Victory in entering into a series of financial transactions with a promise of return of profit. Respondent, however, failed to deliver such promise. On such premise, the IBP-CBD recommended respondent's suspension, to wit:

² Id. at 68.

³ Id. at 98.

⁴ Id. at 96.

⁵ Id. at 98.

⁶ Id. at 96.

⁷ Id. at 99.

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On the basis of the foregoing, it is respectfully recommended that respondent Atty. Marian Jo S. Mercado be SUSPENDED for SIX (6) MONTHS from the practice of law.⁸

Resolutions of the IBP Board of Governors

On March 20, 2013, the IBP Board of Governors issued Resolution No. XX-2013-199, which reads:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously 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 finding the recommendation fully supported by the evidence on record and the applicable laws and rules and considering Respondent's violation of Canon 7 of the Code of Professional Responsibility for evading the settlement of her financial obligations to the complainants and for not bothering to appear in the investigation of this case, Atty. Marian Jo S. Mercado is hereby **DISBARRED**.*⁹ (Emphasis supplied)

Respondent filed a motion for reconsideration,¹⁰ which was denied in Resolution No. XXI-2014-158, to wit:

*RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. However, considering that Respondent is currently settling her financial obligations to Complainants and very apologetic and granting her good faith in her investment transaction with Complainants, Resolution No. XX-2013-199 dated March 20, 2013 is hereby **AFFIRMED, with modification**, and accordingly the penalty earlier imposed on Atty. Marian Jo S. Mercado is hereby reduced to **SUSPENSION** from the practice of law for one (1) year.*¹¹ (Emphasis supplied)

Issue

Should the respondent be held administratively liable based on the allegations in the pleadings of all parties on record?

⁸ Id. at 101.

⁹ Id. at 94.

¹⁰ Id. at 102-110.

¹¹ Id. at 115.

Our Ruling

Emphatically, a lawyer shall at all times uphold the integrity and dignity of the legal profession. The bar should maintain a high standard of legal proficiency as well as honesty and fair dealing. A lawyer brings honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients.¹² Canon 1, Rule 1.01, and Canon 7 provides:

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.

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.

Exercising its disciplinary authority over the members of the bar, this Court has imposed the penalty of suspension or disbarment for any gross misconduct that a lawyer committed, whether it is in his professional or in his private capacity. Good character is an essential qualification for the admission to and continued practice of law. Thus, any wrongdoing, whether professional or non-professional, indicating unfitness for the profession justifies disciplinary action.¹³

In this case, it is without dispute that respondent has an outstanding obligation with Spouses Victory, as the latter's investments which they coursed through the respondent fell through. To make matters worse, respondent issued several checks to settle her obligation; unfortunately, said checks bounced.

As a lawyer, respondent is expected to act with the highest degree of integrity and fair dealing. She is 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. She must, at all times, faithfully perform her duties to society, to the bar, to the courts and to her clients, which include prompt payment of financial obligations.¹⁴

¹² *Atty. Alcantara, et al. v. Atty. De Vera*, A.C. No. 5859, November 23, 2010.

¹³ *Sosa v. Atty. Mendoza*, A.C. No. 8776, March 23, 2015.

¹⁴ *Id.*, citing *Yuhico v. Atty. Gutierrez*, A.C. No. 8391, November 23, 2010.

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It must be considered that the deliberate failure to pay just debts and the issuance of worthless checks constitute 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.¹⁵

We cannot exempt respondent from liability just because she encountered financial difficulties in the course of her investment deals. Respondent even admitted that she continued to do business despite such financial hardships; as such, her monetary obligations with different investors accumulated at an alarming rate. In an attempt to settle her obligations, respondent issued checks, which all bounced.

To Our mind, the actuations of respondent fell short of the exacting standards expected of every member of the bar.

In this case, while respondent admitted her responsibility and signified her intention of complying with the same, We cannot close our eyes to the fact that respondent committed infractions. To uphold the integrity of the legal profession, We deem it proper to uphold the findings as well as the sanction imposed by the IBP Board of Governors.

WHEREFORE, premises considered, We resolve to **SUSPEND** Atty. Marian Jo S. Mercado from the practice of law for **one (1) year** to commence immediately from the receipt of this Decision, with a **WARNING** that a repetition of the same or similar offense will warrant a more severe penalty.


Let copies of this Decision be furnished all courts, the Office of the Bar Confidant, and the Integrated Bar of the Philippines for their information and guidance. The Office of the Bar Confidant is directed to append a copy of this Decision to respondent's record as member of the Bar.

SO ORDERED.

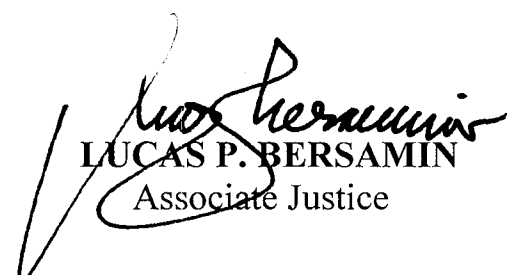

NOEL GIMENEZ TIJAM
Associate Justice

¹⁵ *Barrientos v. Atty. Libiran-Meteoro*, AC No. 6408, August 31, 2004, 437 SCRA 209, 216.


WE CONCUR:




PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



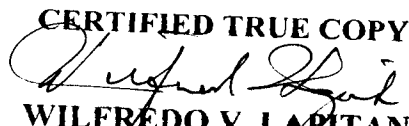
LUCAS P. BERSAMIN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



SAMUEL R. MARTIRES
Associate Justice

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