



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 22, 2022, which reads as follows:

A.C. No. 13503 – REDENTOR B. BOTE, SR. AND NORMA B. BOTE, complainants, versus ATTY. JUAN B. BAÑEZ, JR., respondent.

Before the Court is a Verified Petition/Complaint,¹ dated 4 September 2018, filed before the Integrated Bar of the Philippines-Commission on Bar Discipline against Atty. Juan B. Bañez, Jr. for alleged violation of Rule 1.01 and Canon 7² of the Code of Professional Responsibility.

The Facts

The Respondent Atty. Juan B. Bañez, Jr. (**Respondent**) and his wife borrowed money from Plaridel M. Dimalanta (**Dimalanta**) in the amount of ₱200,000.00, which was secured by a Deed of Real Estate Mortgage entitled “*Kasulatan ng Sanglaan ng Isang Lagay na Lupa*,”³ involving their 200-square meter lot located at Veintereales, Valenzuela City. The lot is covered by Transfer Certificate of Title (**TCT**) No. V-6135 (**subject lot**), which the Respondent surrendered to Dimalanta on 8 November 1993.⁴ On 2 February 1994, a subsequent mortgage contract was executed to cover an additional ₱230,000.00 to the original loan. The total loan thus amounted to ₱430,000.00.⁵ Both mortgages are for six months and subject to foreclosure without interest. However, according to the Respondent, the first loan extended by Dimalanta was already paid on 30 July 1996 and 15 May 1997,⁶ as evidenced by Union Bank Check No. 631028374 and Prudential Bank Check No. 0446726, respectively.⁷

¹ *Rollo*, pp. 1-5.

² Complainants misquoted Canon 7 and instead used Rule 7 in the Petition. The aforementioned part reads:
b) **RULE 7.** A Lawyer shall at all times uphold the integrity and dignity of the legal profession, and support the activities of the integrated bar. (**WHAT ATTY JUAN B. BANEZ, JR. DID WAS A DISGRACE TO THE LEGAL PROFFESION.**) (*See rollo*, p. 3.)

³ *Rollo*, pp. 9-10.

⁴ *Id.* at 49.

⁵ *Id.* at 50.

⁶ *Id.* at 50, 81, and 96.

⁷ *Id.* at 96.

On 26 June 2001, without the knowledge of the Respondent, Dimalanta executed a Deed of Assignment⁸ assigning his rights over the subject lot in favor of complainant Redentor B. Bote, Sr. (**Redentor**). The Respondent, however, argued that he was not privy to the Deed of Assignment and, thus, not bound to adhere thereto. On 27 June 2001, Dimalanta signed a *Kasunduan ng Bilihan ng Lupang Solar*⁹ (**Kasunduan**), dated 27 June 2001, in favor of Redentor. The *Kasunduan* stated that Dimalanta had already foreclosed the subject property and thereafter conveyed and transferred its ownership to Redentor for ₱800,000.00 as consideration. From the time the Deed of Assignment was executed, or from 26 June 2001, Redentor and Norma B. Bote (**Norma**), (collectively, **Complainants**), took possession of the subject lot. However, because of Dimalanta's death, the purchase price was not paid in full, leaving a balance of ₱80,000.00.¹⁰

Sometime in 2005, the Respondent executed an Affidavit of Presumptive Loss of Owner's Duplicate of Title,¹¹ dated 8 October 2013, of the owner's duplicate of the title to the subject lot. Thereafter, Respondent filed a verified petition for the issuance of a new owner's duplicate title of the subject lot with Branch 269, Regional Trial Court of Valenzuela City, (**RTC Branch 269**), docketed as LRC Case No. 4-V-14.¹² In an Order,¹³ dated 17 September 2014, TCT No. V-6135 was declared lost, null and void, and without legal effect. The dispositive portion of the Order reads:

WHEREFORE, finding the petition meritorious and with sufficient legal basis, the Court hereby GRANTS it.

As prayed for, **the Owner's Duplicate of Transfer Certificate of Title No. V-6135 of the Registry of Deeds for Valenzuela City is hereby declared lost, null and void and of no further legal effect.**

The Register of Deeds of Valenzuela City is hereby directed to issue upon payment of the required legal fees, a new Owner's Duplicate of TCT No. V-6135 under the name of Juan B. Bañez, Jr., married to Amelita Joaquin, based on the original thereof on file with that office, and which, shall contain the memorandum of encumbrance and an additional memorandum of the fact that it was issued in place of the lost duplicate, and which shall in all respect be entitled to like faith and credit as the original duplicate for all legal intents and purposes.

SO ORDERED.¹⁴

⁸ Id. at 13.

⁹ Id. at 14.

¹⁰ Id. at 245.

¹¹ Id. at 15-17.

¹² Id.

¹³ Id. at 19-22.

¹⁴ Id. at 21-22. Emphasis and underscoring supplied.

A Certificate of Finality,¹⁵ dated 23 October 2014, was subsequently issued.

Complainants soon discovered the Order, dated 17 September 2014, granting the issuance of the second owner's duplicate of the title to the subject lot. Thus, they filed a petition to annul the same, and it was docketed as Civil Case No. 166-V-16 with the same RTC Branch. The petition for annulment was granted in an Order,¹⁶ dated 29 August 2017, which declared the title that was earlier issued to the Respondent in the Order, dated 17 September 2014, of RTC Branch 269, as null and void. The dispositive portion of the said Order reads:

WHEREFORE, the Court hereby renders judgment in favor of plaintiffs. The Order dated September 17, 2014, issued by the Regional Trial Court of Valenzuela City, this Branch, in LRC Case No. 4-V-14, as well as **the new Owner's Duplicate of Transfer Certificate of Title No. V-6135 issued pursuant thereto, are hereby declared null and void.**

No pronouncement as to costs.

SO ORDERED.¹⁷

The order of cancellation became final on 11 December 2017.¹⁸

Thereafter, Complainants filed a falsification case against the Respondent in the Office of the City Prosecutor (OCP) of Valenzuela City.¹⁹ However, in a Resolution,²⁰ dated 20 March 2018, the OCP dismissed the falsification case against Respondent.

On 4 September 2018, Complainants filed the present Verified Petition/Complaint (**Complaint**),²¹ dated 4 September 2018, before the Integrated Bar of the Philippines–Commission on Bar Discipline (**IBP-CBD**) for disciplinary action against the Respondent for violating Rule 1.01 and Canon 7 of the Code of Professional Responsibility (**CPR**), and further prayed that the Respondent be compelled to honor the mortgage contract executed in favor of Dimalanta, as well as the Deed of Assignment of the subject lot to Complainants.²²

¹⁵ Id. at 8.

¹⁶ Id. at 24-27.

¹⁷ Id. at 27. Emphasis and underscoring supplied.

¹⁸ Id. at 245.

¹⁹ Id.

²⁰ Id. at 60-65.

²¹ Id. at 1-5.

²² Id. at 3.

Respondent submitted his Answer to the Complaint on 18 February 2019. The mandatory conference was held on 10 December 2019. It was at this time that Norma and her counsel put on record that Redentor died on 17 June 2019. The mandatory conference was terminated on 10 December 2019 and on the same date, the Investigating Commissioner directed the parties to file their respective position papers.²³

Proceedings before the IBP-CBD

In the Report and Recommendation,²⁴ dated 10 June 2021, the IBP-CBD recommended that the Respondent be meted the penalty of indefinite suspension:

Cognizant of the above premises and in view of the multiple violations of respondent of the Lawyer's Oath and the cited provisions of the Code of Professional Responsibility, it is respectfully recommended to the Board of Governors of the Integrated Bar of the Philippines that respondent be meted the penalty of indefinite suspension as a member of good standing of the Philippine Bar and such suspension to be lifted only upon showing of proof that respondent has already make amends with complainant pertaining to her rights and interests over TCT No. V-6135.

Respectfully submitted.²⁵

Resolution of the IBP-Board of Governors

On 18 March 2022, the IBP Board of Governors (**IBP-BOG**) passed a resolution modifying the Report and Recommendation of the IBP-CBD, which reads:

*RESOLVED, to MODIFY, as it is hereby MODIFIED, the Report and Recommendation of the Investigating Commissioner in the instant case, and to recommend instead that Respondent Atty. Juan B. Banez be meted with the penalty of **SUSPENSION from the practice of law for Two (2) Years.***²⁶

The Issue

Should the Respondent be held administratively liable?

²³ Id. at 244

²⁴ Id. at 1-7.

²⁵ Id. at 6-7.

²⁶ Id. at 1. Emphasis in the original.

*The Ruling of the Court**Respondent violated the
Lawyer's Oath and Rules
1.01 and 10.01 of the CPR*

The Lawyer's oath is not just a hollow and meaningless recital of words but a sacred promise to uphold one's duty as a lawyer and to perform them faithfully and truthfully. A lawyer, at all times, must impose upon himself or herself the highest standards and ideals as he or she is a representative of the legal profession in society.

As a lawyer, the Respondent is expected to maintain at all times a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform his or her four-fold duty to society, the legal profession, the courts, and the clients, in accordance with the values and norms embodied in the CPR.²⁷ A lawyer has a sworn duty, in accordance with the Lawyer's Oath to "do no falsehood, nor consent to the doing of any in court" and to "conduct [oneself] as a lawyer according to the best of [his or her] knowledge and discretion, with all good fidelity as well to the courts as to [his or her] clients."

In the present case, the Respondent violated his Oath when he filed a case before the RTC for the issuance of a new owner's duplicate of TCT No. V-6135 despite knowing fully well that he mortgaged the subject lot to Dimalanta and surrendered the title to him. It is highly improbable, if not incredible, that he did not know that it was with Dimalanta all along since he turned it over to Dimalanta himself.

The Respondent's malicious acts cannot escape the scrutiny of the Court. He knew for a fact that he still has a remaining loan obligation to Dimalanta for the second loan that he obtained on 2 February 1994 in the amount of ₱230,000.00, which was secured by the subject lot,²⁸ and thus he cannot recover the title without first settling his standing obligation.

Clearly, the Respondent made a deliberate and intentional assertion of falsehood before the RTC by filing a petition for the issuance of a new owner's duplicate of the title to the subject lot under the guise that it was "presumptively lost," despite knowledge that the claim is untrue.

Accordingly, the Respondent violated Rules 1.01 and 10.01 of the CPR, which provide:

²⁷ *Molina v. Atty. Magat*, 687 Phil. 1, 5 (2012)

²⁸ *Rollo*, pp. 20, 49-50, and 81.

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

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

For deliberately misleading the RTC that the title of the subject lot was lost, the Respondent engaged in dishonest conduct and accordingly committed falsehood in relation to his Affidavit of Presumptive Loss and the petition that he filed before the RTC for the issuance of a new owner's duplicate title. Verily, the Respondent's actuations warrant the exercise of the Court's disciplinary powers.

There is substantial evidence to prove the culpability of the Respondent

The quantum of proof necessary for a finding of guilt in disciplinary proceedings is substantial evidence or that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.²⁹

In the present case, there is substantial evidence to prove that Respondent committed several infractions when: (1) he executed his Affidavit of Presumptive Loss alleging, among others, that the title of the subject lot is lost, when in fact he knew fully well that he surrendered it to Dimalanta; (2) for filing the petition to issue a new owner's duplicate title on the false ground that the "title is lost;"³⁰ and (3) for using his legal knowledge to evade his obligation.

Patently, the totality of circumstances would show the culpability of the Respondent.

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."³¹ The Court has the duty, when complaint is made, to see to it that its own sworn officers shall be held to strict accounts for their behavior toward the court, their clients, and the public³² and to ensure the proper and

²⁹ *Vantage Lighting Philippines, Inc. v. Diño, Jr.*, A.C. Nos. 7389 & 10596, 2 July 2019, 907 SCRA 155, 180, citing *Cabas v. Sususco*, 787 Phil. 167, 174 (2016), as cited in *Reyes v. Nieva*, 794 Phil. 360, 379 (2016).

³⁰ *Rollo*, p. 19.

³¹ *Suzuki v. Tiamson*, 508 Phil. 130, 142 (2005).

³² *In re Montagne & Dominguez*, 3 Phil. 577, 589 (1904).

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.³³

However, the Complainants' prayer that the Respondent be made to honor the mortgage contract and the Deed of Assignment, cannot be entertained by the Court for the simple reason that:

A case of suspension or disbarment is *sui generis* and not meant to grant relief to a complainant as in a civil case, but is intended to cleanse the ranks of the legal profession of its undesirable members in order to protect the public and the courts. A disbarment case is not an investigation into the acts of respondent but on his conduct as an officer of the court and his fitness to continue as a member of the Bar.³⁴

Respondent should be meted the penalty of suspension from the practice of law for six months

In *Harper v. Ibañez (Harper)*,³⁵ respondent-lawyer Atty. Amado O. Ibañez (**Ibañez**) filed a petition for the issuance of a new owner's duplicate of title despite knowing that the original owner's duplicate of title was in the possession of complainant James Harper. In the Resolution of the IBP-BOG, Ibañez was found to be administratively liable for violation of Rule 10.01, Canon 10 of the CPR and recommended that Ibañez be suspended from the practice of law for two years. Upon review, the Court found Ibañez not only liable for violation of Rule 10.01, Canon 10, and the Lawyer's Oath but also Canon 1, Rules 1.01 and 1.02, and was meted the penalty of six months suspension from the practice of law.

Accordingly, in the present case, the Court finds it just to impose the penalty of six months suspension against Respondent who is already 86 years old,³⁶ and who conceded that because of his age and health, his primary source of income is derived from his notarial services.³⁷

WHEREFORE, the Court **ADOPTS** the Resolution, dated 18 March 2022, of the Integrated Bar of the Philippines–Board of Governors subject to the **MODIFICATION** that Atty. Juan B. Bañez, Jr. is **SUSPENDED FOR SIX (6) MONTHS FROM THE PRACTICE OF LAW** effective upon

³³ *Rico v. Salutan*, A.C. No. 9257 (formerly CBD Case No. 12-3490), 5 March 2018, 857 SCRA 195, 201.

³⁴ *Cristobal v. Renta*, A.C. No. 9925, 17 September 2014, 735 SCRA 247, 249.

³⁵ A.C. No. 10364, 7 September 2020.

³⁶ *Rollo*, p. 192.

³⁷ *Id.* at 180.

receipt of this Resolution, with the stern warning that any repetition by him of the same or similar acts will be punished more severely.

Let a copy of this Resolution be entered in the personal records of Atty. Juan B. Bañez, Jr. as a member of the Philippine Bar, and copies furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for proper dissemination to all courts in the country.

SO ORDERED.

By authority of the Court:

MisPDC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
CA 132623

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