

## **FIRST DIVISION**

**[ A.C. No. 12086 [Formerly CBD Case No. 12-3300], October 07, 2020 ]**

**ANTONIO T. AGUINALDO, COMPLAINANT, VS. ATTY. ISIAH C. ASUNCION, JR., RESPONDENT.**

### **D E C I S I O N**

**PERALTA, C.J.:**

Before us is a Complaint for Disbarment<sup>[1]</sup> filed by Antonio T. Aguinaldo (*Aguinaldo*) before the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*) seeking to disbar the respondent Atty. Isaiah C. Asuncion, Jr. (*Atty. Asuncion*), for allegedly violating the Lawyer's Oath and the Code of Professional Responsibility (*CPR*).

The facts are as follows.

Complainant alleged that sometime in October 2010, he, together with the respondent, the respondent's mother and their agent Mia Gan, talked about the sale of respondent's property at Banauang, Moncada, Tarlac, consisting of 4.4 hectares. Respondent agreed to sell the property to complainant. As part of the agreement, the complainant handed to respondent One Hundred Thousand Pesos (P100,000.00) as earnest money. Later, respondent went back to the complainant asking for Four Hundred Thousand Pesos (P400,000.00) which the complainant refused to give due to the fact that the respondent failed to present documents pertaining to the property. Due to the continued failure of respondent to give the particular details of the property subject of their agreement, complainant sought the return of his money. Despite repeated demand, respondent failed to return the earnest money to the damage of the complainant.

For respondent's failure to return the earnest money, complainant accuses respondent of fraud and of using his profession to take advantage of the limited knowledge of the complainant which is in violation of the Lawyer's Oath and the CPR.

On the other hand, the respondent claims that he is wrongfully accused of fraud by the complainant. He asserts that the agreement he had with the complainant was that the earnest money would serve as guaranty that the complainant would not back out from the transaction and that the respondent's mother would not sell the subject portion of the land to other buyers until November 20, 2012, the date when the complainant is bound to pay the down payment of Four Hundred Thousand Pesos (P400,000.00). He insists that he is not legally obliged to return the earnest money since the complainant failed to comply with his own obligation of not paying the down payment on its due date and is then considered to have backed out from the transaction.

In addition, the respondent explains that the complainant is deemed to have backed out from the transaction when he was imposing a condition which was not previously discussed and agreed upon. These conditions include that the portion of the 4.4 hectares he was buying be first segregated and that a separate title be issued for said portion, which is contrary to the usual practice of transactions involving the sale of undivided portion of the land.

Likewise, the respondent asserts that his failure to return the earnest money does not give rise to any wrongdoing on his part. In support of his position, he cites the case of *Spouses Doromal v. Court of Appeals*,<sup>[2]</sup> where according to him, the Supreme Court had ruled that the money given as earnest money by the buyer to the sellers was acknowledged to have been received under the concept of the old Civil Code as a guaranty that the buyer would not back out, and if they should do so, they would forfeit the amount paid.

Lastly, the respondent claims that he did not use his profession to take advantage of the limited knowledge of the complainant because the dispute between them purely involves a contract to sell a land based on complainant's own terms which did not push through owing to the complainant's failure to comply with his own obligation.

On June 13, 2012, a mandatory conference was held attended by both parties. They were ordered to submit their respective verified position papers as well as their respective comments. On August 28, 2012, both parties filed a Joint Manifestation and Motion to Dismiss<sup>[3]</sup> stating that a settlement between them was reached out of their mutual desire to make peace with each other.

However, on December 4, 2012, the complainant filed his Position Paper<sup>[4]</sup> stating that the settlement between him and the respondent did not materialize for the failure of the respondent to comply with the terms of settlement. In response, the respondent filed his Manifestation with Comment<sup>[5]</sup> claiming that the complainant did not enter the settlement in good faith faulting the latter for the not honoring the previous settlement.

Upon a thorough evaluation of the evidence presented by the parties in their respective pleadings, the IBP-CBD submitted its Report and Recommendation<sup>[6]</sup> dated December 14, 2014 finding Atty. Asuncion to have violated Canon 1 of the CPR, specifically Rule 1.01 for engaging in deceitful conduct. Thus, the IBP Investigating Commissioner found Atty. Asuncion administratively liable for misconduct and recommended that he be meted the penalty of suspension from the practice of law for six (6) months. This ruling is based on Atty. Asuncion's failure to disclose material facts regarding the status of the subject property and his obstinate refusal to return the earnest money.

In a Resolution<sup>[7]</sup> dated February 25, 2016, the IBP Board of Governors (*IBP-BOG*) resolved to adopt the aforesaid Report and Recommendation. Atty. Asuncion moved for reconsideration reiterating his arguments from previous pleadings. However, the reconsideration was denied by the IBP Board of Governors through Notice of Resolution<sup>[8]</sup> No. XXII-17-1269 dated April 20, 2017.

On February 7, 2018, the IBP-CBD transmitted to the Court the Notices of Resolution and records of the case for appropriate action.

### ***The Issue Before the Court***

The essential issue in this case is whether or not respondent should be held administratively liable for violating the Code of Professional Responsibility.

### ***Our Ruling***

The Court resolves to adopt the findings of fact of the IBP.

In the present case, the issue between the parties is a contractual dispute that can be raised before the proper courts. However, 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.<sup>[9]</sup>

Public interest is its primary objective, and the real question for determination is whether or not the attorney is still a fit person to be allowed the privileges as such. Hence, 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 and 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 pertaining to the office of an attorney.<sup>[10]</sup> Corollarily, the Court will limit the issue on whether Atty. Asuncion committed transgressions that would have held him administratively liable for violating the Code of Professional Responsibility.

Canon 1 of the Code of Professional Responsibility provides:

CANON 1 - A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

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

Canon 1 clearly mandates the obedience of every lawyer to laws and legal processes. To the best of his ability, a lawyer is expected to respect and abide by the law and, thus, avoid any act or omission that is contrary thereto. A lawyer's personal deference to the law not only speaks of his character but it also inspires respect and obedience to the law, on the part of the public.<sup>[11]</sup>

Given the facts of this case, Atty. Asuncion employed trickery by luring the Aguinaldo into agreeing to buy the subject property. Respondent should not have led the complainant to believe that the subject parcel of land was still owned by his mother when in truth and in fact, it was already sold to another buyer. Atty. Asuncion failed to disclose the fact that the property is already owned by the Posadas family. This was substantiated by the fact that the respondent failed to produce documents to prove his title/ownership of the property when it was required by the complainant. As a lawyer, the respondent was duty-bound to observe fairness and candor in his dealing with the complainant.

Further, the respondent willfully refused to return the earnest money given by the complainant, notwithstanding the fact that the transaction did not materialize. Atty. Asuncion's integrity was placed in serious doubt when the earnest money was paid