

## FIRST DIVISION

[ A.C. No. 9000, October 05, 2011 ]

**TOMAS P. TAN, JR., COMPLAINANT, VS. ATTY. HAIDE V. GUMBA,  
RESPONDENT.**

### R E S O L U T I O N

**VILLARAMA, JR., J.:**

Before us is an administrative complaint for disbarment filed by complainant Tomas P. Tan, Jr. against respondent Atty. Haide B. Vista-Gumba for gross unethical conduct.

The facts are as follows.

Complainant, a self-made businessman with a tailoring shop in Naga City, filed a verified Complaint<sup>[1]</sup> against respondent, also a resident of Naga City, before the Integrated Bar of the Philippines (IBP)-Camarines Sur Chapter. Pursuant to Section 1, Paragraph 3,<sup>[2]</sup> Rule 139-B of the Revised Rules of Court, as amended, the said Chapter forwarded the complaint to the IBP Board of Governors for proper disposition.

Complainant narrated that sometime in August 2000, respondent asked to be lent ₱ 350,000.00. Respondent assured him that she would pay the principal plus 12% interest per *annum* after one year. She likewise offered by way of security a 105-square-meter parcel of land located in Naga City, covered by Transfer Certificate of Title (TCT) No. 2055<sup>[3]</sup> and registered in her father's name. Respondent showed complainant a Special Power of Attorney<sup>[4]</sup> (SPA) executed by respondent's parents, and verbally assured complainant that she was authorized to sell or encumber the entire property. Complainant consulted one Atty. Raquel Payte and was assured that the documents provided by respondent were valid. Thus, complainant agreed to lend money to respondent. With the help of Atty. Payte, respondent executed in complainant's favor an "open" Deed of Absolute Sale over the said parcel of land, attaching thereto the SPA. Complainant was made to believe that if respondent fails to pay the full amount of the loan with interest on due date, the deed of sale may be registered. Accordingly, he gave the amount of ₱350,000.00 to respondent.

Respondent, however, defaulted on her loan obligation and failed to pay the same despite complainant's repeated demands. Left with no recourse, complainant went to the Register of Deeds to register the sale, only to find out that respondent deceived him since the SPA did not give respondent the power to sell the property but only empowered respondent to mortgage the property solely to banks. Complainant manifested that he had lent money before to other people albeit for insignificant amounts, but this was the first time that he extended a loan to a lawyer and it bore disastrous results. He submitted that respondent committed fraud and deceit or conduct unbecoming of a lawyer.

Upon being ordered by the IBP to answer the above allegations, respondent filed a Motion for Extension of Time to File a Responsive Pleading<sup>[5]</sup> but no answer or comment was ever filed by her before the IBP-Commission on Bar Discipline (CBD). Likewise, the IBP-CBD allowed respondent to answer the Amended Complaint subsequently filed by complainant but she did not file any answer thereto.<sup>[6]</sup> She also chose not to attend the mandatory conference hearings set on July 18, 2006, June 13, 2007 and January 25, 2008 despite due notice. Thus, she was deemed to have waived her right to participate in the proceedings.

On February 9, 2009, IBP Commissioner Jose I. De La Rama, Jr. rendered his report<sup>[7]</sup> finding respondent guilty of violating Canon 1, <sup>[8]</sup> Rule 1.01<sup>[9]</sup> and Canon 7<sup>[10]</sup> of the Code of Professional Responsibility and recommending that she be suspended from the practice of law for one year. Commissioner De La Rama opined that while respondent appears to be a co-owner of the property as evidenced by an annotation on the back of TCT No. 2055 showing that half of the property has been sold to her, it was evident that she employed deceit and dishonest means to make complainant believe, by virtue of the SPA, that she was duly authorized to sell the entire property.

On August 28, 2010, the IBP Board of Governors adopted and approved the report and recommendation of Commissioner De La Rama, Jr. in its Resolution No. XIX-2010-446:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of 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 1, Rule 1.01 and Canon 7 of the Code of Professional Responsibility and for her failure to submit verified Answer and did not even participate in the mandatory conference, Atty. Haide V. Gumba is **SUSPENDED** from the practice of law for one (1) year.<sup>[11]</sup>

We agree with the findings and conclusion of the IBP, but find that a reduction of the recommended penalty is called for, pursuant to the principle that the appropriate penalty for an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.<sup>[12]</sup>

Well entrenched in this jurisdiction is the rule that 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, and good demeanor, or whether it renders him unworthy to continue as an officer of the court.<sup>[13]</sup> Verily, Canon 7 of the Code of Professional Responsibility mandates all lawyers to uphold at all times the dignity and integrity of the legal profession. Lawyers are similarly required, under Rule 1.01, Canon 1 of the same Code, not to engage in any unlawful, dishonest and immoral or deceitful conduct.