

EN BANC

[A.C. No. 8382, April 21, 2010]

**ALFREDO B. ROA, COMPLAINANT, VS. ATTY. JUAN R. MORENO,
RESPONDENT.**

R E S O L U T I O N

CARPIO, J.:

The Case

This complaint, filed by Alfredo B. Roa (complainant) against Atty. Juan R. Moreno (respondent), stemmed from a transaction involving the sale of a parcel of land. Complainant asks that respondent be disciplined and ordered to return the amount of money paid for the sale.

The Antecedent Facts

Sometime in September 1998, respondent sold to complainant a parcel of land located along Starlite Street in Cupang, Antipolo. Complainant paid respondent P70,000 in cash as full payment for the lot. Respondent did not issue a deed of sale. Instead, he issued a temporary receipt^[1] and a Certificate of Land Occupancy^[2] purportedly issued by the general overseer of the estate in which the lot was located. Respondent assured complainant that he could use the lot from then on.

Complainant learned, not long after, that the Certificate of Land Occupancy could not be registered in the Register of Deeds. When complainant went to see respondent, the latter admitted that the real owner of the lot was a certain Rubio. Respondent also said there was a pending legal controversy over the lot. On 25 February 2001, complainant sent a letter^[3] to respondent demanding the return of the P70,000 paid for the lot.

Complainant then filed a criminal case against respondent in the Municipal Trial Court (Branch 2) of Antipolo City. On 26 September 2003, the trial court rendered a decision^[4] convicting respondent of the crime of other forms of swindling under Article 316, paragraph 1 of the Revised Penal Code. The MTC sentenced respondent to suffer the penalty of imprisonment for one month and one day and ordered him to return the amount of P70,000 to complainant.

On appeal, the Regional Trial Court (Branch 74) of Antipolo City set aside the lower court's ruling. For lack of evidence establishing respondent's guilt beyond reasonable doubt, the RTC acquitted respondent in a decision^[5] dated 20 December 2005. The decision further stated that the remedy of complainant was to institute a civil action for the recovery of the amount he paid to respondent.

On 23 February 2006, complainant filed with the Integrated Bar of the Philippines

(IBP) an Affidavit-Complaint^[6] against respondent.

In his Answer,^[7] respondent explained that what he sold to complainant was merely the right over the use of the lot, not the lot itself. Respondent maintained he never met the complainant during the negotiations for the sale of said right. Respondent claimed it was a certain Benjamin Hermida who received the purchase price. Respondent further alleged that it was one Edwin Tan, and not the complainant, who paid the purchase price.

At the hearing set on 14 October 2008, complainant narrated that respondent personally sold to him the lot in question. Complainant stated respondent assured him that the papers would be processed as soon as payment was made. Complainant claimed he duly paid respondent P70,000, but when he followed up the sales documents, respondent just dismissed him and denied any transaction between them. For his part, respondent did not appear at the hearing despite receipt of notice.

The IBP's Report and Recommendation

In a Report and Recommendation^[8] dated 17 October 2008, the IBP Commissioner on Bar Discipline (IBP-CBD) found respondent guilty of violating Rules 1.01 and 7.03 of the Code of Professional Responsibility.

The IBP-CBD recommended that respondent be suspended from the practice of law for three months and ordered to immediately deliver the amount of P70,000 to complainant, thus:

PREMISES CONSIDERED, it is submitted that Respondent is GUILTY of violating Rules 1.01 and 7.03 of the Code of Professional Responsibility and should be given the penalty of THREE (3) MONTHS SUSPENSION.

Respondent is hereby ORDERED to immediately deliver the amount of Seventy Thousand Pesos (P70,000.00) to herein complainant.^[9]

In Resolution No. XVIII-2008-632^[10] passed on 11 December 2008, the IBP Board of Governors adopted and approved with modification the recommendation of the Investigating Commissioner. The IBP Board of Governors suspended respondent from the practice of law for three months and ordered him to return the amount of P70,000 to complainant within 30 days from receipt of notice. Thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, 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 finding Respondent guilty of violating Rules 1.01 and 7.03 of the Code of Professional Responsibility, Atty. Juan R. Moreno is hereby SUSPENDED from the practice of law for three (3) months and Ordered