

THIRD DIVISION

[A.C. No. 10580, July 12, 2017]

**SPOUSES GERALDY AND LILIBETH VICTORY, COMPLAINANTS,
VS. ATTY. MARIAN JO S. MERCADO, RESPONDENT.**

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 Geraldty 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]

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

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?

Our Ruling