

EN BANC

[A.C. No. 11095 [Formerly CBD Case No. 11-3140], September 20, 2016]

EUFEMIA A. CAMINO, COMPLAINANT, VS. ATTY. RYAN REY L. PASAGUI, RESPONDENT.

D E C I S I O N

PER CURIAM:

Before us is a Disbarment Complaint^[1] dated July 13, 2011 filed by Eufemia A. Camino against respondent Atty. Ryan Rey L. Pasagui before the Integrated Bar of the Philippines-Commission on Bar Discipline (*IBP-CBD*), docketed as CBD Case No. 11-3140, now A.C. No. 11095.

The facts are as follows:

Complainant Eufemia A. Camino (*Camino*) is the vendor of a lot covered by Transfer Certificate of Title (*TCT*) No. T-70247,^[2] still registered under the name of the Heirs of Camino's father. Respondent Atty. Ryan Rey L. Pasagui (*Atty. Pasagui*) was allegedly the lawyer of Congresswoman Mila Tan (*Tan*) who was in charge of handling the payments for the property which Camino sold to Tan in 2010. Camino narrated that sometime after the election, Atty. Pasagui offered her Tan's payment in the amount of Thirty Thousand Pesos (P30,000.00). However, Camino refused to accept the same as she wanted to have the payment in full and added that she also returned to Atty. Pasagui the postdated check amounting to Two Million Pesos (P2,000,000.00) which Tan previously issued.

Atty. Pasagui then advised her to this effect, "*maupay ngani na war ay mo karawta, kay magrerecall man ngani diri ka na mababaydan kay war ay na hi Congresswoman Mila Tan kwarta. Pamiling nala hin iba na buyer ibabalik nato it kwarta ha iya ngan maghihimo nala ako hin demand letter na kinahanglan na maimpasan kay kun diri makahatag, ibabalik nala an iya nahatag*" (Good that you did not accept it because there will be a recall and Congresswoman Mila would not have enough money to pay you. Look for another buyer and we'll return her money. I will prepare a demand letter that she must pay you or else you will just pay her back the amount she has paid). Camino further alleged that Atty. Pasagui assured her that he will take care of everything and encouraged her to look for another buyer and advised her to set its price at Seven Million Pesos (Php7,000,000.00).

Few weeks after, Camino informed Atty. Pasagui that she has a buyer but the latter wanted to have a clean title of the property since said property is still under the names of all the heirs of her father. Atty. Pasagui then asked for the title to make the verifications and facilitate the transferring of the title under her name considering that she has paid her siblings with their respective shares. Atty. Pasagui then told her that the transfer of the title in her name will cost about Seven Hundred

Thousand Pesos (P700,000.00) or more and that the said amount would be enough because he can ask for discounts from his friend at the Bureau of Internal Revenue (*BIR*).

Sometime in January 2011, Atty. Pasagui told Camino that they will proceed with the sale to another buyer since Tan did not give any payment yet even after sending her the demand letter. Atty. Pasagui, however, failed to show Camino the said demand letter.

Convinced by Atty. Pasagui's assurance that she could still sell the property to another buyer, she consented to his proposition and told him that she will look for a sufficient amount of money necessary for the processing of the transfer of the title.

In the evening of February 3, 2011, Camino informed Atty. Pasagui that she already has the amount of P120,000.00 to start the processing of the transfer of title in her name. However, on the day they were supposed to meet, Atty. Pasagui failed to meet her and instead sent his mother, Susie Pasagui, to receive the P120,000.00.^[3]

Thereafter, Atty. Pasagui advised Camino to apply for a loan at Perpetual Help Credit Cooperative, Inc. (PHCCI), Alang-alang, Leyte, using her residential house and lot at V & G as collateral. The proceeds thereof will then be used for the necessary expenses in transferring the title in Camino's name. He claimed that the loan can be released in one (1) week.

Thus, Camino and her husband, Perpetuo P. Camino, executed a Special Power of Attorney (*SPA*)^[4] in favor of respondent Atty. Pasagui, authorizing the latter to obtain a loan in their behalf with PHCCI to be secured by their own property covered by TCT No. T-35197.^[5]

A month after, Camino went to Atty. Pasagui's house to inquire about the status of the loan application. She was then told that the application was still in process and the maximum loanable amount was only Seven Hundred Thousand Pesos (P700,000.00) and that the release will be on a staggered basis.

Doubtful, Camino personally went to PHCCI and asked for the copy of his loan application. Upon securing a copy of the application, Camino discovered that the loan was already approved and that the proceeds thereof amounting to One Million Pesos (P1,000,000.00) was released on February 15, 2011.

Sometime in April 2011, Atty. Pasagui, together with his parents invited complainant and her son, Francis Peter Camino, to the pension house where Tan was staying. At that time, Camino have yet to confront Atty. Pasagui about her discovery that he already collected the loan proceeds from PHCCI as she was hoping that he would be the one to tell her himself.

On the way to the pension house, Camino recalled that Atty. Pasagui advised her to refuse payment from Tan should she attempt to hand over an amount less than Two Hundred Thousand Pesos (P200,000.00). Camino then wondered why Tan would still offer her payment of P200,000.00 when she thought that Atty. Pasagui already told her that the sale of the property will no longer push through.

When they reached the pension house, Atty. Pasagui went directly to the room of Tan and spent almost thirty minutes inside. When they got out of the room, Tan handed to her an envelope containing the amount of P150,000.00. Atty. Pasagui then gave her a signal to accept the said amount. She accepted the money from Tan who also promised her the full payment on April 28, 2011.

On April 28, 2011, Camino tried to call Atty. Pasagui to follow up on Tan's payment but he did not answer her call. Neither did Atty. Pasagui get in touch with her after their meeting.

Camino then decided to check the status of the title of the property at the Register of Deeds. She found out that Atty. Pasagui neither processed the transfer of the title in her name nor paid the necessary fees for its transfer. Camino also went to Atty. Pasagui's house to inquire about Tan's promise of payment but he was not around.

Confused, on June 6, 2011, with the assistance of a lawyer, Camino wrote Atty. Pasagui and reminded him of their agreement that he will be the one to facilitate and secure a loan with PHCCI in order to finance the payment of the necessary expenses for the transfer of the title in her name.^[6] Camino mentioned that she was able to secure a printout of the loan interest worksheet and that it was reflected therein that Atty. Pasagui already received the proceeds of the loan. Camino alleged that sufficient time have elapsed already, yet, even after several inquiries and verification from the Register of Deeds and other government agencies concerned, there had been no transaction filed in connection with the transfer of the ownership of the property. Camino added that she tried to get in touch with Atty. Pasagui but the same was futile, thus, she demanded from him to account and turn-over the proceeds of the real estate loan from the PHCCI and to return back to her all pertinent documents and papers which were entrusted to him.^[7]

In his Answer^[8] dated June 16, 2011, Atty. Pasagui explained, to wit

As of the moment, however, the undersigned is already facilitating for the release of your documents from Perpetual Help Credit Cooperative, Inc., Alang-alang Branch, Alang-alang, Leyte. As to your pertinent documents relative to Transfer Certificate of Title No. T-70247, the same is not within my possession as those documents are in the possession of the person who bought the same real property way back in the year 2009.

On August 12, 2011, the IBP-CBD ordered Atty. Pasagui to submit his Answer to the complaint.^[9]

Atty. Pasagui, in his Answer^[10] dated September 21, 2011, admitted that he had indeed applied for a loan with PHCCI but insisted that the same was personal to him, thus, he will also be the one to personally pay for it. He further alleged that he is not under any obligation to report or account to Camino where the proceeds of the loan went because it is he, himself, Who will pay it anyway.

On October 12, 2011, the IBP-CBD notified the parties to appear before the Commission for the mandatory conference.^[11]

In its Report and Recommendation^[12] dated July 10, 2014, the IBP-CBD found Atty. Pasagui guilty of violating Rule 1.01 of the Code of Professional Responsibility for Lawyers which is a mandate for lawyers to desist from "dishonest, immoral or deceitful conduct." It recommended that Atty. Pasagui be reprimanded with a warning that a repetition of the same infraction will result in the imposition of a more severe penalty.

In Resolution No. XXI-2014-938^[13] dated December 14, 2014, the IBP-Board of Governors resolved to adopt and approve with modification as to the penalty the Report and Recommendation of the IBP-CBD. Instead, it recommended that Atty. Pasagui be suspended from the practice of law for one (1) year for violation of Rule 1.01 of the Code of Professional Responsibility, without prejudice to the filing by the complainant of an appropriate action in court.

We sustain the findings of the IBP-CBD except as to the penalty.

A lawyer is duty-bound to observe candor, fairness and loyalty in all his dealings and transactions with his clients. The profession, therefore, demands of an attorney an absolute abdication of every personal advantage conflicting in any way, directly or indirectly, with the interest of his client. In this case, Atty. Pasagui failed to measure up to the exacting standard expected of him.^[14]

Rule 1.0, Canon 1 of the Code of Professional Responsibility, provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." It is well established that a lawyer's conduct is "not confined to the performance of his professional duties. 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."^[15]

Any act or omission that is contrary to, or prohibited or unauthorized by, or in defiance of, disobedient to, or disregards the law is "unlawful." "Unlawful" conduct does not necessarily imply the element of criminality although the concept is broad enough to include such element. To be "dishonest" means the disposition to lie, cheat, deceive, defraud or betray; be unworthy; lacking in integrity, honesty, probity, integrity in principle, fairness and straight-forwardness, while conduct that is "deceitful" means the proclivity for fraudulent and deceptive misrepresentation, artifice or device that is used upon another who is ignorant of the true facts, to the prejudice and damage of the party imposed upon.^[16]

In the instant case, Atty. Pasagui's guilt is undisputed. Atty. Pasagui's defense that the loan was personal to him fails to convince. A perusal of the Special Power of Attorney issued by Camino and her husband to Atty. Pasagui clearly shows that the application of the loan with PHCCI was in behalf of the Caminos and that the property mortgaged was likewise the property of the latter. If it were true that it was a personal loan to him, Atty. Pasagui failed to provide an explanation as to why he used Camino's property as collateral. There was likewise no explanation as to why the Caminos would allow such set up of applying a loan for the personal benefit of Atty. Pasagui using their own property as collateral. In the absence of any agreement between the parties, as in this case, it does not make sense that the Caminos would allow their own residential property to be mortgaged in order to