

## EN BANC

**[ A.C. No. 6490 [Formerly CBD Case No. 03-1054],  
July 09, 2013 ]**

**LILIA TABANG AND CONCEPCION TABANG, COMPLAINANTS, VS.  
ATTY. GLENN C. GACOTT, RESPONDENT.**

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

#### PER CURIAM:

This case involves a complaint for disbarment directly filed with the Integrated Bar of the Philippines (IBP) charging respondent Atty. Glenn Gacott of engaging in unlawful, dishonest, immoral or deceitful conduct in violation of Rule 1.01 of the Code of Professional Responsibility (CPR).<sup>[1]</sup>

Complainants alleged that sometime in 1984 and 1985, complainant Lilia Tabang sought the advice of Judge Eustaquio Gacott, respondent Atty. Glenn Gacott's father. Lilia Tabang intended to purchase a total of thirty (30) hectares of agricultural land located in Barangay Bacungan, Puerto Princesa, Palawan, which consisted of several parcels belonging to different owners. Judge Gacott noted that under the government's agrarian reform program, Tabang was prohibited from acquiring vast tracts of agricultural land as she already owned other parcels. Thus, Judge Gacott advised her to put the titles of the parcels under the names of fictitious persons.<sup>[2]</sup>

Eventually, Lilia Tabang was able to purchase seven parcels and obtained the corresponding Transfer Certificates of Title (TCT) under the names of fictitious persons, as follows:

1. TCT No. 12475 – Amelia Andes;
2. TCT No. 12476 – Wilfredo Ondoy;
3. TCT No. 12790 – Agnes Camilla;
4. TCT No. 12791 – Leonor Petronio;
5. TCT No. 12792 – Wilfredo Gomez;
6. TCT No. 12793 – Elizabeth Dungan; and
7. TCT No. 12794 – Andes Estoy.<sup>[3]</sup>

Later, complainants Lilia and Concepcion Tabang decided to sell the seven parcels as they were in need of funds for their medication and other expenses. Claiming that he would help complainants by offering the parcels to prospective buyers, respondent Glenn Gacott borrowed from Lilia Tabang the TCTs covering the parcels.<sup>[4]</sup>

About a year after respondent borrowed the titles and after he failed to negotiate any sale, complainants confronted respondent. Respondent then told the

complainants that he had lost all seven titles.<sup>[5]</sup>

On the pretext of offering a remedy to complainants, respondent advised them to file petitions in court for re-issuance of titles. Pretending to be the “authorized agent-representative” of the fictitious owners of the seven parcels, Lilia Tabang filed petitions for re-issuance of titles.<sup>[6]</sup>

In the course of the proceedings, the public prosecutor noticed similarities in the signatures of the supposed owners that were affixed on the Special Powers of Attorney (SPA) purportedly executed in favor of Lilia Tabang. The public prosecutor, acting on his observation, asked the court to have the supposed owners summoned.<sup>[7]</sup>

Seeking to avoid embarrassment, Lilia Tabang had the petitions voluntarily dismissed without prejudice to their being re-filed.<sup>[8]</sup>

Subsequently, Lilia Tabang filed a new set of petitions. This time, she changed the fictitious owners’ signatures in the hope of making them look more varied.<sup>[9]</sup>

Upon learning that Lilia Tabang had filed a new set of petitions, respondent executed several documents that included revocations of SPAs and various affidavits of recovery purportedly signed by the parcels’ (fictitious) owners. Respondent then caused the annotation of these documents on the TCTs of the seven parcels.<sup>[10]</sup>

Also, respondent caused the publication of notices where he represented himself as the owner of the parcels and announced that these were for sale.<sup>[11]</sup> Later, respondent succeeded in selling the seven parcels. He received a total of ₱ 3,773,675.00 from the proceeds of the sales.<sup>[12]</sup>

Alleging that respondent committed gross misconduct, dishonesty, and deceit, complainants filed their complaint directly with the Integrated Bar of the Philippines on February 3, 2003. The case was docketed as Commission on Bar Discipline (CBD) Case No. 03-1054.

In his defense, respondent alleged that the owners of the seven parcels were not fictitious and that they had voluntarily sold the seven parcels. He added that Lilia Tabang had been merely the broker for the seven parcels and that she had unsuccessfully demanded a “*balato*” of twenty percent (20%) from the proceeds of the sale of the seven parcels. He alleged that after she had been refused to be given a “*balato*,” Lilia Tabang had threatened to defame him and seek his disbarment.<sup>[13]</sup>

In her Report and Recommendation dated March 4, 2004,<sup>[14]</sup> IBP Investigating Commissioner Lydia A. Navarro found respondent guilty of gross misconduct for violating Rule 1.01 of the Code of Professional Responsibility. She recommended that respondent be suspended from the practice of law for six (6) months.

In a Resolution dated April 16, 2004,<sup>[15]</sup> the IBP Board of Governors adopted the report of Commissioner Navarro. However, the IBP Board of Governors increased the penalty to disbarment. Thereafter, the case was referred to the Supreme Court pursuant to Rule 139-B of the Rules of Court.

In a Resolution dated September 29, 2004,<sup>[16]</sup> the Supreme Court remanded the case to the IBP. The Court noted that majority of the pieces of evidence presented by complainants were mere photocopies and affidavits and that the persons who supposedly executed such documents were neither presented nor subpoenaed. Thus, there could not have been adequate basis for sustaining the imposition of a penalty as grave as disbarment.

The case was then assigned to Investigating Commissioner Dennis B. Funa. Hearings were conducted on March 22, 2005; October 7, 2005; July 18, 2006; August 29, 2006; November 7, 2006; February 23, 2007; and July 25, 2007.<sup>[17]</sup>

The complainants presented several witnesses. One was Dieter Heinze, President of the Swiss American Lending Corporation.<sup>[18]</sup> Heinze testified that in April 2001, a friend introduced him to respondent who, in turn, introduced himself as the owner of seven (7) parcels in Puerto Princesa City, Palawan. They agreed on the purchase of a lot priced at P900,000.00. His company, however, paid only P668,000.00. Heinze noted that his company withheld payment upon his realization that Lilia Tabang had caused the annotation of an adverse claim and upon respondent's failure to produce Leonor Petronio, the alleged lot owner.

Another of complainants' witnesses was Atty. Agerico Paras.<sup>[19]</sup> He testified that Heinze introduced him to respondent who, in turn, introduced himself as the owner of seven (7) parcels in Puerto Princesa City, Palawan. They agreed on the purchase of a lot priced at P2,300,000.00. He paid for the said parcel in two (2) installments. Upon learning that Lilia Tabang had caused the annotation of an adverse claim, he wrote to respondent asking him to either work on the cancellation of the claim or to reimburse him. He added that respondent was unable to produce Amelia Andes, the ostensible owner of the parcel he had purchased.

Teodoro Gallinero, another buyer of one of the seven parcels, also testified for complainants.<sup>[20]</sup> He testified that in February 2001, he was introduced to respondent who claimed that several parcels with a total area of thirty (30) hectares were owned by his mother. Gallinero agreed to purchase a parcel for the price of P2,000,000.00 which he paid in cash and in kind (L-300 van).

Complainant Lilia Tabang also testified on the matters stated in the Complaint.<sup>[21]</sup>

On July 25, 2007, Commissioner Funa required the complainants to submit their Position Paper. Respondent filed his Motion for Reconsideration and the Inhibition of Commissioner Funa who, respondent claimed, deprived him of the chance to cross-examine complainants' witnesses, and was "bent on prejudicing"<sup>[22]</sup> him.

Commissioner Funa then inhibited himself. Following this, the case was reassigned to Investigating Commissioner Rico A. Limpingo.

In the meantime, with the Supreme Court *En Banc's* approval of the IBP-CBD's Rules of Procedure, it was deemed proper for an Investigating Commissioner to submit his/her Report and Recommendation based on matters discussed during the mandatory conferences, on the parties' Position Papers (and supporting documents),

and on the results of clarificatory questioning (if such questioning was found to be necessary). As such, respondent's Motion for Reconsideration was denied, and he was required to file his Position Paper.<sup>[23]</sup>

On July 30, 2009, respondent filed his Position Paper.<sup>[24]</sup> Subsequently, the case was deemed submitted for Commissioner Limpingco's Report and Recommendation.

In his Position Paper, respondent noted that he filed criminal complaints against Lilia Tabang on account of Tabang's statement that she had fabricated the identities of the owners of the seven (7) parcels. He claimed that since 1996, he had relied on the Torrens Titles of the seven (7) owners who were introduced to him by Lilia Tabang. He asserted that Lilia Tabang could not have been the owner of the seven (7) parcels since the SPAs executed by the parcels' owners clearly made her a mere agent and him a sub-agent. He also assailed the authenticity of the public announcements (where he supposedly offered the seven <sup>[7]</sup> parcels for sale) and Memorandum of Agreement. He surmised that the signatures on such documents appearing above the name "Glenn C. Gacott" had been mere forgeries and crude duplications of his own signature.

In his Report and Recommendation dated August 23, 2010,<sup>[25]</sup> Commissioner Limpingco found respondent liable for gross violation of Rule 1.01 of the CPR. He likewise noted that respondent was absent in most of the hearings without justifiable reason, in violation of Rule 12.04 of the CPR.<sup>[26]</sup> He recommended that respondent be disbarred and his name, stricken from the Roll of Attorneys.

On October 8, 2010, the IBP Board of Governors issued a Resolution<sup>[27]</sup> adopting the Report of Investigating Commissioner Limpingco.

On June 26, 2011, the IBP Board of Governors denied respondent's Motion for Reconsideration.<sup>[28]</sup>

Respondent then filed his Notice of Appeal with the IBP on August 8, 2011.

On August 17, 2011, respondent filed before the Supreme Court his Urgent Motion for Extension of Time (to file Petition for Review/Appeal). On September 20, 2011, the Court granted respondent's Motion and gave him an extension of thirty (30) days to file his Appeal. The Supreme Court warned respondent that no further extension will be given. Despite this, respondent filed two (2) more Motions for Extension – the first on September 29, 2011 and the second on November 3, 2011 – both of which were denied by the Court.

Despite the Court's denials of his Motions for Extension, respondent filed on December 14, 2011 a Motion to Admit Petition for Review/Appeal (with attached Petition/Appeal). This Motion was denied by the Court on April 17, 2012.

For resolution is the issue of whether or not respondent engaged in unlawful, dishonest, immoral or deceitful conduct violating Rule 1.01 of the Code of Professional Responsibility, thus warranting his disbarment.

After a careful examination of the records, the Court concurs with and adopts the

findings and recommendation of Commissioner Limpingo and the IBP Board of Governors. It is clear that respondent committed gross misconduct, dishonesty, and deceit in violation of Rule 1.01 of the CPR when he executed the revocations of SPAs and affidavits of recovery and in arrogating for himself the ownership of the seven (7) subject parcels.

While it may be true that complainant Lilia Tabang herself engaged in illicit activities, the complainant's own complicity does not negate, or even mitigate, the repugnancy of respondent's offense. Quite the contrary, his offense is made even graver. He is a lawyer who is held to the highest standards of morality, honesty, integrity, and fair dealing. Perverting what is expected of him, he deliberately and cunningly took advantage of his knowledge and skill of the law to prejudice and torment other individuals. Not only did he countenance illicit action, he instigated it. Not only did he acquiesce to injustice, he orchestrated it. Thus, We impose upon respondent the supreme penalty of disbarment.

Under Rule 138, Section 27 of the Rules of Court (Rules), a lawyer may be disbarred for any of the following grounds:

- a. deceit;
- b. malpractice;
- c. gross misconduct in office;
- d. grossly immoral conduct;
- e. conviction of a crime involving moral turpitude;
- f. violation of the lawyer's oath;
- g. willful disobedience of any lawful order of a superior court; and
- h. willfully appearing as an attorney for a party without authority to do so.

It is established in Jurisprudence that disbarment is proper when lawyers commit gross misconduct, dishonesty, and deceit in usurping the property rights of other persons. By way of examples:

- a. In *Brennisen v. Contawi*:<sup>[29]</sup> Respondent Atty. Ramon U. Contawi was disbarred for having used a spurious SPA to mortgage and sell property entrusted to him for administration.
- b. In *Sabayle v. Tandayag*:<sup>[30]</sup> One of the respondents, Atty. Carmelito B. Gabor, was disbarred for having acknowledged a Deed of Sale in the absence of the purported vendors and for taking advantage of his position as Assistant Clerk of Court by purchasing one-half (1/2) of the land covered by said Deed of Sale knowing that the deed was fictitious.
- c. In *Daroy v. Legaspi*:<sup>[31]</sup> The Court disbarred respondent Atty. Ramon Legaspi for having converted to his personal use the funds that he received for his clients.

Nevertheless, recourse to disbarment must be done with utmost caution. As this