

EN BANC

[A.C. No. 7027, January 30, 2009]

TANU REDDI, COMPLAINANT, VS. ATTY. DIOSDADO C. SEBRIO, JR., RESPONDENT.

DECISION

PER CURIAM:

Tanu Reddi (complainant), an American citizen of Indian descent and a practicing endodontist in New York, seeks the disbarment of Atty. Diosdado C. Sebrio, Jr. (respondent) for allegedly deceiving her into giving him a total of US\$ 3,000,000 for the purpose of, among other things, purchasing several real estate properties for resale.

From the records of the case, the following facts are gathered:

Taking after her parents who had been involved in various charitable activities in India, complainant nurtured philanthropic desires of her own consisting primarily in opening a hospital with modern facilities in an underdeveloped part of Asia.^[1]

Together with Immaculada Luistro (Immaculada), a Filipino citizen,^[2] who was her assistant of over 10 years, complainant visited the Philippines for the first time in 2000. Noting the level of poverty in the country and the lack of medical services for the poor,^[3] she decided to put up a hospital.^[4]

Immaculada suggested to complainant to consider engaging in the real estate business in the Philippines in order to speed up the generation of funds.^[5] Heeding the suggestion, complainant returned to the Philippines in 2003 to explore opportunities in the real estate business.^[6]

Complainant was introduced to respondent who would help her acquire real properties for development and/or resale. Since she could not acquire ownership of lands in the Philippines, respondent advised her to use corporate vehicles to effect the purchases. Three corporations were thus formed - Tagaytay Twins, Inc., Manila Chic Twins, Inc., and Tanu, Inc.^[7]

By complainant's account, respondent cajoled her into buying several parcels of land located at Tagaytay City, Las Piñas City, Makati City, Quezon City, and Pasay City. She related the details surrounding the intended acquisition of property as follows:

Re the Tagaytay City Property

Respondent represented to complainant that his client Teresita Monzon (Teresita) owned an untitled 27-hectare property located at Tagaytay City. Through the

Tagaytay Twins, Inc., complainant and Teresita executed a Memorandum of Agreement dated March 21, 2003 (Tagaytay MOA)^[8] prepared by respondent under which she agreed to finance the titling of the property in the total amount of P20,000,000, and that once titled, the property would be offered for sale, the proceeds of which would be divided equally between her and Teresita. Complainant thereupon made staggered payments of US\$1,000, P2,000,000, and US\$36,360 to Teresita.^[9]

Complainant was later to discover that 996 square meters of the 27-hectare property had been purchased by Aldio Properties, Inc. in an extrajudicial foreclosure sale, which sale Teresita challenged in an action for annulment before the Regional Trial Court of Tagaytay City. In said action, respondent was Teresita's counsel of record.^[10]

Re the Las Piñas City Property

Respondent offered to complainant the option to purchase a house and lot located at Las Piñas City, which were encumbered by a mortgage, and which respondent represented as owned and being sold by one Francisca Parales (Francisca)^[11] to finance an urgently needed heart surgery of her daughter.^[12]

On respondent's advice, complainant obtained a franchise to operate a Jollibee food outlet, with the agreement that out of the profits that its operation would generate, she would get 50% while respondent and Immaculada would share the remaining 50%.^[13] Complainant thus sent respondent sums of money for the acquisition of both the Las Piñas property and a franchise to operate a Jollibee outlet.^[14]

Re the Makati City Property

Respondent introduced complainant to a certain Mario C. Mangco (Mangco), alleged legal officer of the intestate estate of one Faustino Ramos (Ramos), which estate was alleged to be the owner of a real property located at the consular area adjacent to Forbes Park in Makati City.^[15] Complainant having been interested in acquiring the property, respondent prepared a Memorandum of Agreement (Makati MOA) which she, together with Mangco, forged on March 20, 2004.^[16]

Under the Makati MOA, complainant agreed to, as she did, release P10,000,000 representing the cost of development and titling of the property, and payment of back taxes; and an additional P2,000,000 for the execution of the Makati MOA.

Complainant was later to learn that the property was neither owned by the intestate estate of Ramos nor for sale.

Re the Quezon City Property

Respondent broached to complainant the idea of buying the land on which SM North Mall in Quezon City stands, he representing that it belongs to his client, purportedly a retired US Navy employee who resides in Mindanao.^[17] Complainant assented and transmitted large sums of money to respondent for the purpose of, among other things, filing a petition for injunction against SM North Mall, paying back taxes, and

titling of the land.^[18]

Re the Pasay City Property

Complainant sent respondent hefty amounts of money for the purchase of a vacant lot located along Roxas Boulevard in Pasay City, alleged to belong to Florenda Estrada (Florenda) and Alma Mallari (Alma), but which was mortgaged to one Atty. Go to secure a loan of P5,000,000.^[19] She also defrayed expenses, on the strength of respondent's representations, to secure title to the lot, settle the mortgage obligation, relocate squatters on the lot, and bribe a judge to "close the transaction."^[20]

Complainant subsequently discovered that there was no such vacant lot along Roxas Boulevard in Pasay City; instead, she found out that the "vacant lot" referred to was titled in the names of Philippine Bank of Communications (PBC) and Banco De Oro Universal Bank (BDO).^[21]

In light of the foregoing developments, complainant's counsel, by letter dated December 19, 2005,^[22] demanded from respondent the return of the amount of US\$3,000,000, claimed to be part of the total sum of money she had sent to him for all the transactions that did not come about. No amount has been returned to complainant.

Hence, spawned the filing on January 27, 2006^[23] of the present complaint for disbarment against respondent.

By his Comment, respondent admits receiving a total of US\$544,828 from complainant^[24] which amount he claims was used not only for the purchase of the Las Piñas property and discharge of the mortgage thereon, but also for the setting up of the earlier mentioned corporations, as well as for the downpayment on the Makati property and related expenses.^[25]

Respondent likewise admits having represented to complainant that the Las Piñas City property belonged to one Francisca,^[26] certificate of title to which and the corresponding deed of sale signed by Francisca, by his claim, are in his possession; but the title has not been transferred to Tanu, Inc., as agreed, in view of complainant's failure to provide the money needed therefor, he adding that he is also exercising his retaining lien over the Las Piñas documents.^[27]

Specifically with respect to the Makati property, respondent claims having paid P500,000 to Mangco representing initial payment^[28] thereof.

Regarding the Tagaytay City property, respondent admits that the Tagaytay MOA exists, and avers that it is complainant who wants to get out of a perfected sale in order to recover her partial payment amounting to approximately P4,000,000.^[29]

With respect to the Quezon City property, respondent states that he is willing to surrender all the documents pertaining thereto, but would do so only if complainant is first ordered to pay him his professional fees.^[30]

As for the Pasay City property, respondent denies complainant's claims thereon as mere "preposterous allegations."

Following the filing by complainant of her Reply, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation/decision by Resolution of January 22, 2007.^[31]

At the mandatory conference scheduled by the IBP Commission on Bar Discipline on September 13, 2007 before Commissioner Lolita A. Quisumbing (the Commissioner),^[32] respondent failed to appear despite notice. He instead sent a representative who sought a resetting as, allegedly, respondent was in Ilocos attending to an important family matter.^[33] The Commissioner, finding respondent's absence inexcusable, given that he had ample time to file a motion for resetting but he did not, considered respondent to have waived his right to participate in the proceedings.^[34] Complainant thereupon presented evidence *ex-parte* and submitted her position paper.^[35]

In her Report and Recommendation^[36] submitted to the IBP Board of Governors on December 14, 2007, the Commissioner found respondent to have committed fraudulent acts which constitute violations of the lawyer's oath and numerous provisions of the Code of Professional Responsibility (CPR), viz:

1. Respondent violated CANON 1 which states: "A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for the law and for legal processes."

Respondent committed estafa punishable under Art. 315 of the Revised Penal Code. With unfaithfulness and abuse of confidence, he misappropriated millions of pesos which was [*sic*] given to him on his misrepresentation that such were needed for the acquisition of the aforementioned properties.

Respondent also committed an unlawful act (i.e., falsification as part of his fraudulent scheme) when he tampered with the Articles of Incorporation of Tanu, Inc.. A perusal of the Articles of Incorporation given by respondent to complainant shows that the incorporators are Tanu Reddi, Michael Lee, Prasuna Reddy, Ahalya Devi, and Robert Juntilla. When complainant obtained a copy of the same in September 2005, she discovered that other names were inserted. The names of respondent, Clarito D. Cardozo, Brian Pellazar, and Michael Angelo Lopez were intercalated. (Exhibit "W")

2. He likewise violated Rule 1.01 of the CPR which provides: "A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."

He engaged in unlawful, dishonest and deceitful conduct when he offered properties for sale to complainant on the misrepresentation that complainant was dealing with the true owners thereof. This is very clear from the documents he asked complainant to sign;