

## THIRD DIVISION

[ A.C. NO. 4947, February 14, 2005 ]

**ROSA YAP-PARAS, PETITIONER, VS. ATTY. JUSTO PARAS,  
RESPONDENT.**

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

**GARCIA, J.:**

Before us is this verified Petition<sup>[1]</sup> filed by Rosa Yap-Paras praying for the disbarment of her estranged husband Atty. Justo Paras on alleged acts of deceit, malpractice, grave misconduct, grossly immoral conduct and violation of his oath as a lawyer.

On 18 January 1989, respondent filed his comment<sup>[2]</sup> to the Petition.

In a Resolution dated 10 February 1999,<sup>[3]</sup> the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

The background facts are summarized in a Report and Recommendation dated 13 January 2004<sup>[4]</sup> of Commissioner Lydia A. Navarro of the IBP Commission on Bar Discipline, which Report reads in part, as follows:

“Complainant alleged that on February 9, 1965 the children of Ledesma de Jesus Paras-Sumabong namely Conegunda, Justo, Corazon, Carmen and Cataluna all surnamed Paras executed a Special Power of Attorney prepared by the respondent to sell parcels of land located in Matobato, Bindoy, Negros Oriental giving authority to their mother to sell the subject real properties previously registered in the name of the heirs of Vicente Paras wherein respondent was one of the signatories therein.

Complainant alleged that on May 4, 1966 on the basis of said Special Power of Attorney, Ledesma J. Paras-Sumabang executed a Deed of Absolute Sale in favor of Aurora Dy-Yap over the subject real property located in Matobato, Bindoy, Negros Oriental which was with the respondent’s full knowledge since he was residing at the house of Soledad Dy-Yap at that time and from that time, the Yap family had been in possession of the subject real property up to the present.

Complainant alleged that sometime in June 1998 her attention was called to the fact that a free patent title to the aforesaid property was issued in respondent’s name and upon verification with the DENR, Bureau of Lands, Dumaguete City, complainant was able to get copies of the documents for lot Nos. 660, 490 and 585 pertaining to the Notice of Application for Free Patent dated April 2, 1985 signed by the respondent;

over the aforesaid lots previously sold by Ledesma de Jesus to Aurora D. Yap; Quitclaim/Renunciation of Property Rights and Interest Over Real Property executed by Ledesma de Jesus dated May 28, 1985; Letter of Application dated April 2, 1985 signed by respondent under oath before Apolonio Tan authorized officer to administer oath; Letter of Certification signed by Apolonio Tan dated June 4, 1985 and Order of Approval dated August 19, 1985 signed by District Land Officer Teopisto L. Gallozo with a Free Patent No. 328 in the name of respondent Justo J. Paras.

Complainant alleged that the aforementioned application was made by the respondent without her knowledge and consent and those acts of deceit, machinations and falsification of documents were deliberately willfully, and maliciously committed by the respondent in violation of Art. 172 in relation to Art. 171 of the RPC; in betrayal of his oath as a lawyer and a transgression of the Canons of Professional Responsibility.

Complainant alleged that respondent surreptitiously obtained a free patent title over real properties which had been previously sold by his own mother to Aurora D. Yap and now still under the control and possession of complainant's natural family, a fact respondent allegedly withheld from the Bureau of Lands which he had full knowledge in successfully causing the release of a free patent in his name and unjustly and unlawfully deprived the rightful owners of their legitimate title to the said property in betrayal of the court to pervert the administration of justice in gross violation of his oath of office.

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In his Comment, respondent alleged that complainant was obviously not the owner of the properties and considering that the properties were applied for free patent titling during their marital union prior to its breakage, complainant was likewise a communal owner thereof and as such was also complaining against herself.

Respondent alleged that later on, a great portion of the public lands classified as forested zone in Matobato were declared and reclassified into public agricultural lands, then publicly surveyed and parcelized by lots identified in the survey map based on actual or known occupants; then the Bureau of Lands allegedly made a public announcement that the lands were available for private ownership thru Free Patent Application available only to native settlers or natural born Filipinos.

Respondent alleged that none of the Yaps including complainant being native or natural born Filipinos muchless Aurora D. Yap who in 1985 was said to be already an American citizen; complainant and her family; the Yaps prevailed upon him to apply for free patent over said questioned properties for the reason that respondent had already occupied the properties; introduced improvements thereon; acted as owner thereof; and could easily align his right to the property which had been identified in the public survey as "Heirs of Vicente Paras", otherwise the questioned properties allegedly according to the Yaps will be applied for and awarded to other qualified natural born Filipinos.

Respondent alleged that Free Patent Application was filed by him over the communal property of him and the complainant as well as those purchased by him including the portion whose occupancy of a public land was purchased by Aurora D. Yap from Ledesma Vda de Paras upon the prodding of the Yaps for all of them were not qualified to apply for ownership of an agricultural public land via free patent; none of them being a natural born Filipino or native settler and were disqualified from a gratuitous grant of public land from the government.

Respondent alleged that the whole idea of giving to him and the complainant the properties was hatched and executed by the Yaps, most particularly Atty. Francisco D. Yap to circumvent the law and prevent the properties from being given by the government to some other qualified persons. He allegedly applied for issuance of free patent in good faith and thereafter took dominion and control of the properties in the concept of a legitimate owner under authority of a gratuitous grant of the government.

Respondent alleged that complainant or any member of her family much less American citizen Aurora Dy Yap had not made any prior demand for the return of the questioned properties; nor filed a complaint under the Katarungang Pambarangay Law; nor filed an administrative remedy before the DENR for the cancellation and reversion/transfer of the Free Patent and Title to them; nor brought any action in any civil court for either quieting of title, or cancellation of free patent title or recovery of ownership or whatever.

Respondent alleged that even without such civil court determination on whether or not complainant or her family were qualified to become grantee of a government gratuitous grant of public agricultural land, if the Honorable Supreme Court will decide that complainant, her mother, brothers and sisters were within the ambit of the term natural born citizen or native citizens under the 1946 Constitution and to them rightfully belong the ownership of the questioned titled public agricultural lands; and that he can never be guilty of the Anti-Dummy Law consequent to such cession, respondent alleged that he will gladly deliver and transfer title to them.

Respondent alleged that he sought and prayed for recovery of possession of all conjugal/communal properties including the herein questioned properties for after he left the conjugal home in 1988 possession of all these properties, real and personal were until now with the complainant and her biological family.

Respondent prayed for the outright dismissal of the petition for lack of merit."

Complainant subsequently filed a Reply<sup>[5]</sup> to respondent's Comment, therein refuting respondent's claims that he was used as a "dummy" since complainant and her siblings had previously acquired Free Patents in their names. Complainant further alleged that respondent is morally unfit to continue to be an officer of the

court because of his falsely declaring under oath that he had been occupying the subject real property since 1985 when in fact he did not and was never in occupation/possession thereof.

On 27 August 1999, the IBP Commission on Bar Discipline issued an Order<sup>[6]</sup> noting the filing of the last pleading and setting the instant case for hearing. Several hearings<sup>[7]</sup> were conducted wherein complainant presented all her witnesses together with their respective affidavits and supporting documents<sup>[8]</sup>, which were all subjected to cross-examination by the respondent. Likewise, respondent presented his Counter-Affidavit<sup>[9]</sup> and supporting documents.

Based on the foregoing, the Investigating Commissioner concluded her Report and made a recommendation, as follows:

"From the facts obtaining respondent committed deceit and falsehood in having applied for free patent over lands owned by another over which he had no actual physical possession being aware of the fact that the same was previously transferred in the name of Aurora Yap; an act which adversely reflected on his fitness to practice law in violation of Rule 7.03, Canon 7 of the Code of Professional Responsibility.

"It is immaterial as to who instituted the complaint for as long as there was a violation of the Code of Professional Responsibility which partakes the nature of proper disciplinary action pursuant to Section 1, Rule 139-B of the Disbarment and Discipline of Attorneys.

"Wherefore in view of the foregoing, the Undersigned respectfully recommends for the suspension of Atty. Justo Paras from the practice of his law profession for a period of three (3) months from receipt hereof.

"It is also hereby recommended that the IBP Chapter wherein respondent Paras is a registered member be furnished a copy of the Order and notified of the said suspension for proper enforcement."

Via Resolution No. XVI-2004-120 dated 27 February 2004,<sup>[10]</sup> the IBP Board of Governors adopted the Report of the Investigating Commissioner but modified the latter's recommended penalty by recommending that respondent be suspended from the practice of law for six (6) months for violation of Rule 7.03, Canon 7 of the Code of Professional Responsibility.

The case is now before us for confirmation.

We agree with the IBP Board of Governors that respondent should be sanctioned. We find, however, that the recommended penalty is not commensurate to the gravity of the wrong perpetrated.

The Court has always reminded that a lawyer shall at all times uphold the integrity and dignity of the legal profession<sup>[11]</sup> as the bar should always maintain a high standard of legal proficiency as well as of honesty and fair dealing among its members. By and large, a lawyer can do honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients.<sup>[12]</sup> To