

EN BANC

**[A.C. No. 5141 (Formerly CBD Case No. 317),
September 29, 1999]**

**PRISCILA L. TOLEDO, COMPLAINANT, VS. ATTY. ERLINDA
ABALOS, RESPONDENT.**

RESOLUTION

MELO, J.:

This is a case of a lawyer who borrowed money without paying it back.

On July 9, 1981, Atty. Erlinda Abalos obtained a loan of P20,000.00 from Priscila Toledo, payable within six months from date, plus interest of 5% per month. To guarantee the payment of said obligation, respondent executed a Promissory Note (Exhibit "B"). After the lapse of six months, and despite repeated demands, respondent failed to pay her obligation. Afraid that she will not recover her money, Ms. Toledo sought the help of the Integrated Bar of the Philippines (IBP), which referred the matter to the Commission on Bar Discipline.

On February 1, 1995, the Commission issued an order directing Atty. Abalos to file her Answer to the letter-complaint of Ms. Toledo. Despite receipt of said order, respondent did not answer the complaint.

On August 17, 1995, Investigating Commissioner Benjamin B. Bernardino, issued an order setting the case for hearing on September 29, 1995 at 2 p.m. Despite due notice, respondent failed to appear. Accordingly, complainant was allowed to present her evidence *ex-parte* after which, the case was considered submitted for resolution. Respondent received this order as shown by the registry return. However, she again did not do anything about it.

On June 19, 1999, the Commission passed a resolution recommending the suspension from the practice of law of respondent for a period of six months "for her flouting resistance to lawful orders of the Court and illustrating her despicency of her oath of office as a lawyer." The Commission, however, declined to discipline her for failing to meet her financial obligation, the same having been incurred in her private capacity.

We agree with the Commission that respondent may not be disciplined either by the IBP or by this Court for failing to pay her obligation to complainant. Complainant's remedy is to file a collection case before a regular court of justice against respondent. The general rule is that a lawyer may not be suspended or disbarred, and the court may not ordinarily assume jurisdiction to discipline him, for misconduct in his non-professional or private capacity (In re *Pelaez*, 44 Phil. 569 [1923]; *Lizaso vs. Amante*, 198 SCRA 1 [1991]).