



Republic of the Philippines  
Supreme Court  
Office of the Court Administrator  
Manila

**OCA CIRCULAR NO. 59-2005**

**TO : THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC ATTORNEY'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES**

**SUBJECT : DISBARMENT OF ATTY. JOSE C. GO**

For the information and guidance of all concerned, quoted hereunder is the Decision of the Court En Banc dated January 31, 2005 in Administrative Case No. 1526, entitled "Nazaria S. Hernandez (Deceased), substituted by Luciano S. Hernandez, Jr. vs. Atty. Jose C. Go", to wit:

"For our resolution is the verified letter-complaint<sup>1</sup> for disbarment against Atty. Jose C. Go dated June 23, 1975 filed by Nazaria S. Hernandez (now deceased). Both parties are from Zamboanga City.

The allegations in the letter-complaint are:

Sometime in 1961, complainant's husband abandoned her and her son, Luciano S. Hernandez, Jr. Shortly thereafter, her husband's numerous creditors demanded payments of his loans. Fearful that the various mortgage contracts involving her properties will be foreclosed and aware of impending suits for sums of money against her, complainant engaged the legal services of Atty. Jose C. Go, herein respondent.

Respondent instilled in complainant a feeling of helplessness, fear, embarrassment, and social humiliation. He advised her to give him her land titles covering Lots 848-A, 849-Q, and 849-P at Zamboanga City so he could sell them to enable her to pay her creditors. He then persuaded her to execute deeds of sale in his favor without any monetary or valuable consideration. Complainant agreed on condition that he would sell the lots and from the proceeds pay her creditors.

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<sup>1</sup> Rollo, pp. 25-26.

Complainant also owned Lots 2118, 2139, and 1141-A likewise located in Zamboanga City, which were mortgaged to her creditors. When the mortgages fell due, respondent redeemed the lots. Again, he convinced her to execute deeds of sale involving those lots in his favor. As a result, respondent became the registered owner of all the lots belonging to complainant.

Sometime in 1974, complainant came to know that respondent did not sell her lots as agreed upon. Instead, he paid her creditors with his own funds and had her land titles registered in his name, depriving her of her real properties worth millions.

In our Resolution dated September 24, 1975, respondent was required to file his comment on the complaint.

Instead of filing his comment, respondent submitted a motion to dismiss on the ground that the complaint is premature since there is pending before the then Court of First Instance of Zamboanga City Civil Case No. 1781<sup>2</sup> for recovery of ownership and declaration of nullity of deeds of sale filed by complainant against him involving the subject lots.

On November 14, 1975, we issued a Resolution denying respondent's motion and requiring him to submit his answer.

In his answer dated December 19, 1975, respondent denied the allegations in the instant complaint. He averred that he sold, in good faith, complainant's lots to various buyers, including himself, for valuable consideration. On several occasions, he extended financial assistance to complainant and even invited her to live with his family. His children used to call her "Lola" due to her frequent visits to his residence. He prayed that the complaint be dismissed for failure to state a cause of action.

On January 17, 1977, we referred the case to the Office of the Solicitor General (OSG) for investigation, report, and recommendation.

It was only on March 13, 1990 or after 13 years, 1 month and 26 days that the OSG filed a motion to refer the instant case to the IBP for the retaking of the testimonies of complainant's witnesses and the submission of its report and recommendation.

On April 4, 1990, we issued a Resolution referring the case to the IBP for investigation, report, and recommendation.

<sup>2</sup> On January 19, 1990, Civil Case No. 1781 was decided by the Regional Trial Court of Zamboanga City, Branch 15, against the respondent. The Deeds of Sale executed in favor of respondent covering Lots 848-A-1, Lots 849-P and 849-Q, Lots 2118 and 2129, Lots 1141-A and B were declared null and void for being simulated. The certificates of title issued in the names of the respondent and his children were ordered cancelled and respondent was ordered to reconvey the properties and all the improvements thereon to the complainant (Records, Vol. III, pp. 75-114). On appeal, docketed as CA-G.R. CV No. 27310, the Appellate Court rendered its Decision affirming with modification the trial court's judgment (Records, Vol. III, pp. 150-179).

The Report and Recommendation dated June 15, 2004 of Atty. Lydia A. Navarro, Commissioner of the IBP Commission on Bar Discipline, is quoted as follows:

"A careful examination and evaluation of the evidence submitted by the parties showed that all the properties of the complainant are presently owned by the respondent by virtue of several deeds of sale executed by the complainant in favor of the respondent without monetary consideration except Lot 849-D situated in Tomas Claudio which was returned by the respondent to the complainant on September 5, 1974.

It is evident from the records that respondent was the one who notarized the documents involving the said properties redeemed or repurchased by the complainant from her creditors which ended up in respondent's name like in the deed of sale executed by Victoriano Dejerano in favor of Nazaria Hernandez over Lots 1141-A-3-A and 1141-A-3-B; deed of sale executed by Antonio Masrahon on September 3, 1961 regarding Lot No. 1141-A; deed of absolute sale executed by Francisco Esperat over the Curuan properties on November 9, 1971 and the cancellation of the mortgage executed by Alfonso Enriquez on July 18, 1964 over the Tomas Claudio properties.

The foregoing legal activities and operations of the respondent in addition to his having discussed, advised and gave solutions to complainant's legal problems and liabilities to her creditors and even requested her creditors for extension of time to pay complainant's accounts constitute practice of law as legal counsel for consultation aside from representing complainant in other cases; a mute proof of a lawyer-client relations between them, a fact also admitted by the respondent.

It is incumbent upon the respondent to have rendered a detailed report to the complainant on how he paid complainant's creditors without selling her properties. Instead of selling to buyers at higher price, he paid them out of his own funds; then later on admitted that he was one of the purchasers of complainant's properties in utter disregard of their agreement and no evidence was submitted by the respondent concerning the value of the said sale of complainant's properties.

As such, respondent did not adhere faithfully and honestly in his obligation and duty as complainant's legal adviser and counsel when he took advantage of the trust and confidence reposed in him by the complainant in ultimately putting complainant's properties in his name and possession in violation of **Canon 17 of the Code of Professional Responsibility**.

WHEREFORE, in view of the foregoing, the undersigned respectfully recommends that respondent Atty. Jose C. Go be suspended from the practice of law for a period of six (6) months from receipt hereof and the IBP Chapter where he is a registered member be furnished a copy of the same for implementation hereof, subject to the

approval of the Honorable Members of the Board of Governors.”

On July 30, 2004, the IBP Board of Governors passed Resolution No. XVI-2004-39 adopting and approving the Report of Commissioner Navarro with modification in the sense that the recommended penalty of suspension from the practice of law was increased from six (6) months to three (3) years.

We sustain the Resolution of the IBP Board of Governors finding that respondent violated the Code of Professional Responsibility. However, we have to modify its recommended penalty.

Canon 16 of the Code of Professional Responsibility, the principal source of ethical rules for lawyers in this jurisdiction, provides:

**“A lawyer shall hold in trust all moneys and properties of his client that may come into his possession.”**

Respondent breached this Canon. His acts of acquiring for himself complainant’s lots entrusted to him are, by any standard, acts constituting gross misconduct, a grievous wrong, a forbidden act, a dereliction in duty, willful in character, and implies a wrongful intent and not mere error in judgment.<sup>3</sup> Such conduct on the part of respondent degrades not only himself but also the name and honor of the legal profession. He violated this Court’s mandate that lawyers must at all times conduct themselves, especially in their dealing with their clients and the public at large, with honesty and integrity in a manner beyond reproach.<sup>4</sup>

Canon 17 of the same Code states:

**“A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.”**

The records show that complainant reposed such high degree of trust and confidence in herein respondent, that when she engaged his services, she entrusted to him her land titles and allowed him to sell her lots, believing that the proceeds thereof would be used to pay her creditors. Respondent, however, abused her trust and confidence when he did not sell her properties to others but to himself and spent his own money to pay her obligations. As correctly observed by Investigating IBP Commissioner Lydia Navarro, respondent is duty-bound to render a detailed report to the complainant on how much he sold the latter’s lots and the amounts paid to her creditors.

<sup>3</sup> *Whitson vs. Atienza*, A.C. No. 5535, August 28, 2003, 410 SCRA 10, 15, citing *Osop vs. Fontanilla*, 365 SCRA 398 (2001).

<sup>4</sup> *Gatchalian Promotions Talent Pool, Inc. vs. Naldoza*, A.C. No. 4017, September 29, 1999, 315 SCRA 406, 417, citing *Resurrecion vs. Sayson*, 300 SCRA 129 (1998).

Obviously, had he sold the lots to other buyers, complainant could have earned more. Records show that she did not receive any amount from respondent. Clearly, respondent did not adhere faithfully and honestly in his duty as complainant's counsel.

Undoubtedly, respondent's conduct has made him unfit to remain in the legal profession. He has definitely fallen below the moral bar when he engaged in deceitful, dishonest, unlawful and grossly immoral acts. We have been exacting in our demand for integrity and good moral character of members of the Bar. They are expected at all times to uphold the integrity and dignity of the legal profession<sup>5</sup> and refrain from any act or omission which might lessen the trust and confidence reposed by the public in the fidelity, honesty, and integrity of the legal profession.<sup>6</sup> Membership in the legal profession is a privilege.<sup>7</sup> And whenever it is made to appear that an attorney is no longer worthy of the trust and confidence of his clients and the public, it becomes not only the right but also the duty of this Court, which made him one of its officers and gave him the privilege of ministering within its Bar, to withdraw the privilege.<sup>8</sup> Respondent, by his conduct, blemished not only his integrity as a member of the Bar, but also the legal profession.

Public interest requires that an attorney should exert his best efforts and ability to protect the interests of his clients. A lawyer who performs that duty with diligence and candor not only protects his client's cause; he also serves the ends of justice and does honor to the bar and helps maintain the respect of the community to the legal profession.

It is a time-honored rule that good moral character is not only a condition precedent to admission to the practice of law. Its continued possession is also essential for remaining in the legal profession.<sup>9</sup>

Section 27, Rule 138 of the Revised Rules of Court mandates that a lawyer may be disbarred or suspended by this Court for any of the following acts: (1) deceit; (2) malpractice; (3) **gross misconduct in office**; (4) grossly immoral conduct; (5) conviction of a crime involving moral turpitude; (6) violation of the lawyer's oath; (7) willful disobedience of any lawful order of a superior court; and (8) willfully appearing as an attorney for a party without authority to do so.<sup>10</sup>

<sup>5</sup> *Sipin-Nabor vs. Baterina*, A.C. No. 4073, June 28, 2001, 360 SCRA 6; *Eustaquio, et al. vs. Rimorin*, A.C. No. 5081, March 24, 2003, citing *Tapucar vs. Tapucar*, 355 Phil. 66, 74 (1998).

<sup>6</sup> *Manalang, et al. vs. Atty. Francisco F. Angeles, supra*, citing *Maligsa vs. Cabanting*, 272 SCRA 408, 413 (1997).

<sup>7</sup> *Lao vs. Medel*, A.C. No. 5916, July 1, 2003, citing *Dumadag vs. Lumaya*, 334 SCRA 513 (2000), *Arrieta vs. Llosa*, 346 Phil. 932 (1997), *NBI vs. Reyes*, 326 SCRA 109 (2000); *Eustaquio, et al. vs. Rimorin, supra*.

<sup>8</sup> *Eustaquio, et al. vs. Rimorin, supra*, citing *In Re: Almacen*, No. L-27654, 31 SCRA 562, 601-602 (1970); *In Re: Paraiso*, 41 Phil. 24 (1920); *In Re: Sotto*, 38 Phil. 532, 549 (1918).

<sup>9</sup> *People vs. Tuned*, 181 SCRA 692 (1990); *Lead vs. Tabang*, 206 SCRA 395 (1992).

<sup>10</sup> *Re: Administrative Case Against Atty. Occeña*, 433 Phil. 138, 155 (2002).

In *Rayos-Ombac vs. Rayos*,<sup>11</sup> we ordered the disbarment of a lawyer when he deceived his 85-year old aunt into entrusting him with all her money and later refused to return the same despite demand. In *Navarro vs. Meneses III*,<sup>12</sup> we disbarred a member of the Bar for his refusal or failure to account for the ₱50,000.00 he received from a client to settle a case. In *Docena vs. Limson*,<sup>13</sup> we expelled from the brotherhood of lawyers, an attorney who extorted money from his client through deceit and misrepresentation. In *Busiños vs. Ricafort*,<sup>14</sup> an attorney was stripped of his license to practice law for misappropriating his client's money.

Considering the depravity of respondent's offense, we find the penalty recommended by the IBP too light. It bears reiterating that a lawyer who takes advantage of his client's financial plight to acquire the latter's properties for his own benefit is destructive of the confidence of the public in the fidelity, honesty, and integrity of the legal profession. Thus, for violation of Canon 17 and Canon 17 of the Code of Professional Responsibility, which constitutes gross misconduct, and consistent with the need to maintain the high standards of the Bar and thus preserve the faith of the public in the legal profession, respondent deserves the ultimate penalty, that of expulsion from the esteemed brotherhood of lawyers.

**WHEREFORE**, respondent JOSE C. Go is found guilty of gross misconduct and is **DISBARRED** from the practice of law. His name is ordered **STRICKEN** from the Roll of Attorneys **EFFECTIVE IMMEDIATELY**.

Let copies of this Decision be furnished the Bar Confidant, the Integrated Bar of the Philippines and all courts throughout the country.

**SO ORDERED.**

Copy of the decision was received by respondent and his counsel on February 15, 2005 as shown by Registry Return Receipts No. 13428 and No. 13430, respectively.

13 May 2005.

**PRESBITERO J. VELASCO, JR.**  
Court Administrator

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<sup>11</sup> A.M. No. 2884, January 28, 1998, 285 SCRA 93.

<sup>12</sup> CBD Adm. Case No. 313, January 30, 1998, 285 SCRA 586.

<sup>13</sup> A.C. No. 2387, September 10, 1998, 295 SCRA 262.

<sup>14</sup> A.C. No. 4349, December 22, 1997, 283 SCRA 407.