

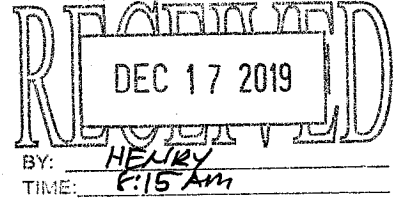


Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **November 20, 2019**, which reads as follows:

“**A.C. No. 9336 (Susan D. Galang v. Atty. Genesis L. Lagan)** – The Court **NOTES** the letter dated August 28, 2019 of Atty. Randall C. Tabayoyong, Director for Bar Discipline of the Integrated Bar of the Philippines Commission on Bar Discipline, transmitting to this Court the documents pertaining to this case.

This case arose from an administrative complaint¹ filed by Susan D. Galang (*complainant*) seeking the disbarment of Atty. Genesis L. Lagan (*respondent*) for alleged failure to comply with his promise to deliver a parcel of land despite the payment of the amount of ₱460,000.00.

Complainant alleged that respondent is her lawyer in two (2) land dispute cases. Respondent and a certain Arlinda A. Valdez (*Valdez*) collected from her an amount of ₱460,000.00 supposedly for the payment of taxes of a parcel of land and 1,000 square meter portion of said lot. She claimed that respondent failed to deliver the promised 1,000 square meters of lot, and in fact sold said portion to several buyers. In support of her complaint, she attached her own affidavit in a criminal case for *estafa* she filed against Valdez and herein respondent,² an affidavit of a certain Archie D. Tamayo,³ and an acknowledgment receipt of the amount of ₱460,000.00 signed by Valdez.⁴

Respondent denied the allegations and countered that the *estafa* case which the complainant filed with the City Prosecutor’s Office in Baguio City was already dismissed. He denied being complainant’s counsel as the latter became a client only by mere implication because she was a transferor of a lot subject of litigation of respondent’s real clients. He insisted that he never received the amount of ₱460,000.00, and in truth, was used for payment of

¹ *Rollo*, p. 1.

² *Id.* at 3-4.

³ *Id.* at 5.

⁴ *Id.* at 6.

back taxes where complainant was present during the transaction. Further, in view of the agreement of Valdez and complainant, the aforesaid amount was returned to the latter in the form of land.⁵ Respondent attached several documents to support his defense.⁶

On December 7, 2015, the Court referred the case to the Integrated Bar of the Philippines (*IBP*) for investigation, report and recommendation.⁷ Thereafter, the Commission on Bar Discipline (*CBD*) conducted mandatory conference. During the 1st mandatory conference, complainant failed to appear and respondent sent a representative, thus, it was rescheduled.⁸ On the 2nd mandatory conference where respondent was present, complainant sent her daughter with a special power of attorney, who manifested that complainant was no longer interested in pursuing the instant case.⁹ The parties were required to submit their position papers but complainant failed to submit the same.¹⁰

The CBD submitted the case for resolution despite the absence of the position paper of complainant. After a careful assessment of the records, the CBD found for respondent and recommended the dismissal of the disbarment case.¹¹

The CBD determined that complainant failed to present evidence to show that respondent received the amount of ₱460,000.00 from complainant, or at the very least his presence during the alleged transaction. Likewise, complainant failed to present evidence to show that respondent promised to deliver a 1,000-square meter parcel of land, nor was there any proof that the same was sold to several buyers. The postulation of respondent that the transaction concerning the said parcel of land was only between complainant and Valdez was accepted after considering the Memorandum of Agreement (*MOA*) on June 26, 2007. The *MOA* states that complainant and Valdez agreed to assist each other by way of selling a 75,593-square meter parcel of land covered by PSU Approved Plan No. 251872 under the name of the latter as owner. This explains why complainant handed to Valdez the amount of ₱460,000.00 intended for the payment of taxes.¹²

The CBD held that “[i]n the absence of proof that respondent received the amount of ₱460,000.00 from complainant and promised to deliver one

⁵ Id. at 97-107.

⁶ Id. at 117-123.

⁷ Id. at 284.

⁸ Id. at 482, Report and Recommendation dated July 28, 2017, penned by Commissioner Leandro M. Millano.

⁹ Id.

¹⁰ Id.

¹¹ Id. at 487.

¹² Id. at 485.

thousand (1,000) square meters parcel of land to the latter, the administrative charge against respondent on the ground that he neither returned said amount nor delivered said parcel of land to complainant has no leg to stand on.”¹³

The IBP Board of Governors resolved to adopt the Report and Recommendation of the Investigating Commissioner to dismiss the complaint.¹⁴

The Court's Ruling

In light of the settled principles that apply for a proper disposition of administrative cases, the Court adopts the recommendation of the IBP.

Quantum of proof necessary in administrative proceedings is substantial evidence, or that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.¹⁵

Burden of proof in disbarment cases rests on the complainant. The Court, in *Advincula v. Atty. Macabata*,¹⁶ has emphasized:

x x x. The burden of proof rests on the complainant, and she must establish the case against the respondent by clear, convincing and satisfactory proof, disclosing a case that is free from doubt as to compel the exercise by the Court of its disciplinary power. Thus, the adage that he who asserts not he who denies, must prove.¹⁷

Complainant failed to discharge the burden required of her as she did not substantiate her allegations against respondent which would warrant a disciplinary action against the latter.

It is basic that “mere allegation is not evidence and is not equivalent to proof. Charges based on mere suspicion and speculation likewise cannot be given credence.”¹⁸

WHEREFORE, premises considered, the complaint against Atty. Genesis L. Lagan is hereby **DISMISSED**.

¹³ Id. at 486.

¹⁴ Id. at 478.

¹⁵ See *Saladaga v. Atty. Astorga*, 748 Phil. 1, 16 (2014).

¹⁶ 546 Phil. 431 (2007).

¹⁷ Id. at 445-446.

¹⁸ *Cabas v. Atty. Sususco*, 787 Phil. 167, 174 (2016).

SO ORDERED.” (Leonen, J., on Official Business per Special Order No. 2737 dated November 8, 2019; Lazaro-Javier, J., designated as Additional Member per Special Order No. 2728 dated October 25, 2019, on Wellness Leave.)

Very truly yours,

Mis D C Batt
MISAEAL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
pm 11/21/19

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