



Republic of the Philippines  
 Supreme Court  
 Manila

*EN BANC*

**DOLORES NATANAUAN,**  
 Complainant,

**A.C. No. 4269**

Present:

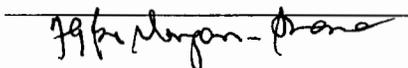
-versus-

**ATTY. ROBERTO P.**  
**TOLENTINO,**  
 Respondent.

**SERENO, C.J.,\***  
**CARPIO, Acting C.J.,\*\***  
**VELASCO, JR.,\*\*\***  
**LEONARDO-DE CASTRO,**  
**BRION,**  
**PERALTA,**  
**BERSAMIN,**  
**DEL CASTILLO,**  
**PEREZ,**  
**MENDOZA,**  
**REYES,**  
**PERLAS-BERNABE,**  
**LEONEN,\*\*\*\***  
**JARDELEZA, and**  
**CAGUIOA, JJ.**

Promulgated:

October 11, 2016



X -----X

**DECISION**

**JARDELEZA, J.:**

For the Court's consideration is Atty. Roberto P. Tolentino's (Atty. Tolentino) motion to have his disbarment case re-opened and reheard on the ground that he was denied his constitutional right to due process.

The case originated from a disbarment complaint<sup>1</sup> filed by Dolores

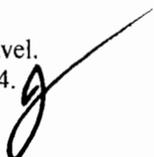
\* On official travel.

\*\* Designated as Acting Chief Justice per Special Order No. 2382 dated September 27, 2016.

\*\*\* On leave.

\*\*\*\* On official travel.

<sup>1</sup> Rollo, pp. 2-14.



Natanauan (Dolores) accusing Atty. Tolentino of deceit, malpractice, and gross misconduct in violation of the Lawyer's Oath and the Code of Professional Responsibility.

### The Facts

Complainant Dolores alleged that she is a co-owner (with her siblings Rafaela, Ernestina, and Romulo [Dolores, *et al.*]) of a parcel of land with an area of about 50,000 square meters located in Tagaytay City.<sup>2</sup> On January 3, 1978, they sold this land to Alejo Tolentino (Alejo) for ₱500,000.00. At the time, the title to the property had not yet been issued by the Land Registration Commission.<sup>3</sup> The parties thus agreed that payment for the same shall be made in installments, as follows: ₱80,000.00 upon the execution of the contract and the remaining balance in two (2) installments, payable one (1) year after the issuance of the title and then one (1) year thereafter.<sup>4</sup>

On August 9, 1979, and after the execution of the contract of sale between the parties, the Register of Deeds of Cavite issued Transfer Certificate of Title (TCT) No. T-107593<sup>5</sup> in Alejo's favor. Despite several requests from Dolores, *et al.*, Alejo, however, failed to settle the remaining obligation. Thus, on May 14, 1991, Dolores, *et al.* filed a case against Alejo and his wife Filomena, docketed as Civil Case No. TG-1188, for the recovery of possession of immovable property, declaration of nullity of the deed of sale, and damages.<sup>6</sup>

On March 30, 1993, the Regional Trial Court (RTC) promulgated a Decision<sup>7</sup> in Civil Case No. TG-1188 declaring the rescission of the contract of sale. Consequently, it ordered: (1) the reconveyance of the land back to Dolores, *et al.*; (2) the cancellation of TCT No. T-107593; (3) the issuance of a new title in favor of Dolores, *et al.*; and (4) the payment of damages by Alejo and Filomena.

Sometime in June 1993, Dolores discovered that the TCT No. 107593 under Alejo's name was issued not on the basis of the January 3, 1978 contract but on a **Deed of Sale dated August 3, 1979**, purportedly executed by their father Jose Natanauan (Jose), Salud Marqueses, Melquides<sup>8</sup> Parungao and Asuncion Fajardo (Jose, *et al.*).<sup>9</sup> She further discovered a **Joint Affidavit dated August 6, 1979**, purportedly executed by Jose, *et al.* attesting to the absence of tenants or lessees in the property<sup>10</sup> and **another**

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<sup>2</sup> *Id.* at 2-3.

<sup>3</sup> *Id.* at 4.

<sup>4</sup> *Id.* at 3, 23-24.

<sup>5</sup> *Id.* at 30.

<sup>6</sup> *Id.* at 46.

<sup>7</sup> *Id.* at 42-48.

<sup>8</sup> Also referred to as "Melquiades" in other parts of the records.

<sup>9</sup> *Rollo*, pp. 4-5, 26-27.

<sup>10</sup> *Id.* at 5-6, 28.

**Deed of Sale dated March 9, 1979**, executed between Dolores, *et al.* as vendors and Atty. Tolentino as vendee covering purportedly the same property.<sup>11</sup>

Dolores claims that the foregoing documents were falsified as Jose, who died in Talisay, Batangas on June 12, 1977, could not have signed the Deed of Sale dated August 3, 1979 and the Joint Affidavit dated August 6, 1979.<sup>12</sup> Furthermore, the Deeds of Sale were all notarized by Notary Public Perfecto P. Fernandez (Perfecto) who Dolores later on discovered was not commissioned as a notary public for and in the City of Manila for the year 1979.<sup>13</sup>

It was also around the same time that Dolores discovered that the title to the property has been subsequently registered, under TCT No. T-21993, in the name of Buck Estate, Inc., where Atty. Tolentino is a stockholder,<sup>14</sup> and mortgaged to Rizal Commercial Banking Corporation for Ten Million Pesos (₱10,000,000.00).<sup>15</sup>

Thus, on June 1, 1994, Dolores filed the present disbarment complaint against Atty. Tolentino and Perfecto for their alleged acts of falsification. In her complaint, Dolores attached an Affidavit dated December 2, 1980, where Alejo and Filomena attested that the subject property never belonged to them in truth or in fact, the true and absolute owner of the same being Alejo's brother, Atty. Tolentino.<sup>16</sup> Notably, this Affidavit bears Atty. Tolentino's conformity.<sup>17</sup>

In a Resolution<sup>18</sup> dated July 18, 1994, this Court required respondents to file their Comment within ten (10) days from notice.

Despite several attempts, a copy of the Resolution was not served on Perfecto due to lack of knowledge as to his whereabouts.<sup>19</sup> Atty. Tolentino, on the other hand, was able to file the required Comment<sup>20</sup> through his then-counsel Atty. Tranquilino M. Fuentes (Atty. Fuentes).

In his Comment, Atty. Tolentino specifically denied having any participation in the falsification of the Deed of Sale dated August 3, 1979,<sup>21</sup> and vehemently denied any participation in the transactions, deeds of sale and other documents covering the subject property.<sup>22</sup> Atty. Tolentino claimed

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<sup>11</sup> *Id.* at 8, 38-40.

<sup>12</sup> *Id.* at 4, 25.

<sup>13</sup> *Id.* at 6, 29.

<sup>14</sup> *Id.* at 10-11, 49-53.

<sup>15</sup> *Id.* at 11, 49-50.

<sup>16</sup> *Id.* at 8-9, 40-41.

<sup>17</sup> *Id.* at 41.

<sup>18</sup> *Id.* at 55.

<sup>19</sup> *Id.* at 68-70, 73, 80.

<sup>20</sup> *Id.* at 56-58.

<sup>21</sup> *Id.* at 56.

<sup>22</sup> *Id.* at 57.

that there was no specific or concrete allegation of fact in the Complaint as to how he colluded with Alejo and Filomena in the commission of the alleged falsifications. He further pointed out that: (1) he does not appear as party to any of the falsified documents; and (2) it was not alleged that he benefited from the same.<sup>23</sup> Atty. Tolentino also averred that Buck Estate, Inc. did not acquire the property from Alejo and Filomena, but rather bought the same in a 1990 auction sale after the property was foreclosed due to the latter's failure to pay their loan obligations. He further alleged that he does not personally know his co-respondent Perfecto and has never dealt nor met with him in any capacity.<sup>24</sup>

In her Reply,<sup>25</sup> Dolores countered that Atty. Tolentino cannot disclaim knowledge or participation of the falsification as the latter, in fact, also misrepresented before the Supreme Court that he is the absolute owner of the subject parcel of land by virtue of the **March 9, 1979 Deed of Sale** notarized by Fernandez. To support this, Dolores cited this Court's decision in *Banco De Oro v. Bayuga*<sup>26</sup> involving the same subject property.

In the meantime, and in the course of her efforts to locate respondent Perfecto, Dolores discovered that Perfecto was not a member of the Philippine Bar as evidenced by a Certification<sup>27</sup> dated March 18, 1996 issued by then Deputy Clerk of Court and Bar Confidant Erlinda C. Verzosa. Neither has he been commissioned as notary public for and in the City of Manila since 1979 to 1996.<sup>28</sup>

On December 4, 1996, this Court referred the case to the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) for investigation, report and recommendation.<sup>29</sup> Due to Atty. Tolentino's repeated failure and refusal to appear on the scheduled hearings, Dolores was allowed to give testimony and present her evidence *ex-parte*.<sup>30</sup>

### **Findings of the Integrated Bar of the Philippines**

In a Report and Recommendation<sup>31</sup> dated January 31, 2010, IBP Commissioner Edmund T. Espina (Commissioner Espina) found that Atty. Tolentino violated the Lawyer's Oath as well as Canon 1, Rule 1.01 of the Code of Professional Responsibility.<sup>32</sup>

Commissioner Espina gave credence to Dolores' testimony and found that this and other supporting documentary evidence clearly illustrated the

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<sup>23</sup> *Id.*

<sup>24</sup> *Rollo*, pp. 57-58.

<sup>25</sup> *Id.* at 61-64.

<sup>26</sup> G.R. No. L-49568, October 17, 1979, 93 SCRA 443.

<sup>27</sup> *Rollo*, p. 105.

<sup>28</sup> *Id.* at 106.

<sup>29</sup> *Id.* at 112.

<sup>30</sup> *Id.* at 118.

<sup>31</sup> *Id.* at 214-223.

<sup>32</sup> *Id.* at 221.

acts of falsification committed by Atty. Tolentino in connivance with his brother Alejo and associate Perfecto.<sup>33</sup> Specifically, Commissioner Espina inferred Atty. Tolentino's direct participation in the falsifications from the fact that he was the one who personally entered into the subject contract with Dolores, *et al.*, merely using his brother Alejo and the sister-in-law Filomena as dummies.<sup>34</sup>

x x x Circumstances exist which point to respondent's complicity in the two (2) acts of falsification- he is the brother of Alejo Tolentino, the original vendee, and the parcel of land consisting of fifty (*sic*) (50,000) square meters, more or less, was subsequently conveyed, transferred and ceded to Buck Estate, Inc., of which he is one of the incorporators and stockholders, and which mortgaged the parcel of land with the bank. Another important document which points to respondent's fraudulent act is the very Affidavit of Spouses Alejo and Filomena Tolentino dated December 2, 1990 strongly stating, among other things, that subject parcel of land had never belonged to them, the true and absolute owner thereof being respondent, Atty. Roberto P. Tolentino. More importantly, said Deed of Sale and Joint-Affidavit were notarized by Perfecto P. Fernandez, a close associate of respondent Atty. Roberto P. Tolentino, both of them being residents and/or holding office in the same address, and worse, who is not a notary public or lawyer.

Not content with the foregoing felonious, unlawful and malicious acts, respondent Atty. Roberto P. Tolentino committed yet another falsification when he filed and submitted to the Supreme Court a Deed of Sale dated March 9, 1979 relative to that case entitled “[*Banco de Oro v. Bayuga*”], docketed as No. L-49568, 93 SCRA 443. Such Deed of Sale shows that complainant and her brother and sisters sold on installment basis the same parcel of land to respondent.<sup>35</sup>

Lastly, Commissioner Espina found that Atty. Tolentino's failure to appear before the IBP-CBD was another ground for disciplinary action. As a lawyer, he is required to submit himself to the disciplinary authority of the IBP.<sup>36</sup> Commissioner Espina thus recommended that Atty. Tolentino be suspended from the practice of law for a period of six (6) months.

On May 13, 2011, the IBP Board of Governors (IBP Board) issued a Resolution<sup>37</sup> adopting Commissioner Espina's Report and Recommendation but increasing the recommended penalty of suspension from the practice of law for six (6) months to three (3) years.<sup>38</sup>

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<sup>33</sup> *Id.* at 220-221.

<sup>34</sup> *Id.* at 220.

<sup>35</sup> *Id.* at 220-221.

<sup>36</sup> *Id.* at 222.

<sup>37</sup> *Id.* at 243.

<sup>38</sup> *Id.*

Atty. Tolentino filed a Motion for Reconsideration with Motion to Re-Open Case<sup>39</sup> and a Supplemental Motion for Reconsideration<sup>40</sup> dated July 29, 2011 and August 25, 2011, respectively. In his Supplemental Motion for Reconsideration, Atty. Tolentino attached a *Sinumpaang Salaysay*<sup>41</sup> signed by his brother Alejo and wife Filomena stating that they are, in fact, the true owners of the property subject of this case and that Atty. Moises Samson (counsel for Dolores) made them sign an affidavit written in English under the following pretext: “x x x *para maisaayos ang bilihan namin ng lupa nina Romulo [Natanauan] at mga kapatid nito* x x x.”<sup>42</sup> They also denied attesting to such affidavit before anyone.

In a Resolution<sup>43</sup> dated December 15, 2012, the IBP Board unanimously denied Atty. Tolentino’s motions. The IBP Board’s resolutions were thereafter transmitted to this Court on April 4, 2013.<sup>44</sup>

On August 6, 2013, Atty. Tolentino filed a Manifestation and/or Motion<sup>45</sup> claiming that he was denied his constitutional right to due process when the IBP Board failed to give him an opportunity to be heard and present his side. Atty. Tolentino claims that neither he nor his counsel received a subpoena or notice of the order directing parties to file their memorandum. He likewise challenges the findings made by Commissioner Espina, on the ground that the latter simply relied on Dolores’ Memorandum, there being no transcript of stenographic notes of the proceedings.<sup>46</sup> Atty. Tolentino further decries the IBP Board’s decision to increase the recommended penalty from six (6) months to three (3) years suspension from the practice of law, as this was done without giving him the opportunity to be notified and heard.<sup>47</sup>

### Issues

The issues to be resolved in this case are as follows: (1) whether there was a violation of Atty. Tolentino’s constitutional right to due process; and (2) whether Atty. Tolentino committed deceit, malpractice and gross misconduct through the aforementioned falsifications in violation of the Code of Professional Responsibility and the Lawyer’s Oath which would merit his disbarment and removal from the legal profession.

### The Court’s Ruling

The Court resolves to deny Atty. Tolentino’s motion and affirm the

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<sup>39</sup> *Rollo*, pp. 224-227.

<sup>40</sup> *Id.* at 232-236.

<sup>41</sup> *Id.* at 237-238.

<sup>42</sup> *Id.* at 237.

<sup>43</sup> *Id.* at 242.

<sup>44</sup> *Id.* at 241.

<sup>45</sup> *Id.* at 347-353.

<sup>46</sup> *Id.* at 348.

<sup>47</sup> *Id.* at 349.

IBP Resolution with modification.

*There was no denial of due process and opportunity to be heard.*

Atty. Tolentino, like any respondent in a disbarment or administrative proceeding, is entitled to due process. The most basic tenet of due process is the right to be heard, hence, denial of due process means the total lack of opportunity to be heard or to have one's day in court.<sup>48</sup> As a rule, no denial of due process takes place where a party has been given an opportunity to be heard and to present his case.<sup>49</sup>

Rule 138, Section 30 of the Revised Rules of Court also provides:

*Sec. 30. Attorney to be heard before removal or suspension.* – No attorney shall be removed or suspended from the practice of his profession, until he has had full opportunity upon reasonable notice to answer the charges against him, to produce witnesses in his own behalf, and to be heard by himself or counsel. But if upon reasonable notice he fails to appear and answer the accusation, the court may proceed to determine the matter *ex-parte*.

Contrary to his claims, Atty. Tolentino was not denied due process or deprived of an opportunity to be heard. The records show that his then counsel Atty. Fuentes filed a Comment on his behalf. He also filed a Motion for Reconsideration of the May 13, 2011 Resolution of the IBP Board, and a Supplemental Motion for Reconsideration. His participation through pleadings and motions cured whatever defect that may have attended the issuance of notices regarding the proceedings held before the IBP.

In *Vivo v. Philippine Amusement and Gaming Corporation*,<sup>50</sup> we held that any defect in the observance of due process is cured by the filing of a motion for reconsideration and that denial of due process cannot be successfully invoked by a party who was afforded the opportunity to be heard.<sup>51</sup> We likewise reiterated that defects in procedural due process may be cured when the party has been afforded the opportunity to appeal or to seek reconsideration of the action or ruling complained of.<sup>52</sup>

Knowing that there is a pending administrative complaint against him, Atty. Tolentino should have actively and voluntarily participated in the case especially so when he believes that his defense is meritorious. Instead, after filing his Comment containing bare denials and facts unsupported by any

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<sup>48</sup> *Ylaya v. Gacott*, A.C. No. 6475, January 30, 2013, 689 SCRA 452, 463.

<sup>49</sup> *Ylaya v. Gacott*, *supra*. See also *Alliance of Democratic Free Labor Organization v. Laguesma*, G.R. No. 108625, March 11, 1996, 254 SCRA 565, 574.

<sup>50</sup> G.R. No. 187854, November 12, 2013, 709 SCRA 276.

<sup>51</sup> *Id.* at 285, citing *Gonzales v. Civil Service Commission*, G.R. No. 156253, June 15, 2006, 490 SCRA 741, 746.

<sup>52</sup> *Id.*, citing *Autencio v. Mañara*, G.R. No. 152752, January 19, 2005, 449 SCRA 46, 55-56.

proof, Atty. Tolentino deliberately failed to participate in the proceeding and now hides behind the flimsy excuse that no notices were received by him or his counsel.

As a lawyer, Atty. Tolentino is presumed to understand the gravity of a disbarment proceeding. His failure to present his side of the controversy, despite opportunity for him to do so, constitutes a waiver by him of such right.<sup>53</sup>

*The right to practice law is a privilege accorded only to those worthy of it.*

The practice of law is neither a natural nor a constitutional right but a privilege bestowed by the State only upon the deserving and worthy for conferment of such privilege.<sup>54</sup>

No lawyer should ever lose sight of the verity that the practice of the legal profession is always a privilege that the Court extends only to the deserving, and that the Court may withdraw or deny the privilege to him who fails to observe and respect the Lawyer's Oath and the canons of ethical conduct in his professional and private capacities.<sup>55</sup> It is a privilege granted only to those who possess the strict intellectual and moral qualifications required of lawyers who are instruments in the effective and efficient administration of justice.<sup>56</sup>

As guardian of the legal profession, this Court has the ultimate disciplinary power over members of the Bar to ensure that the highest standards of competence, honesty and fair dealing are maintained.<sup>57</sup>

Under Section 27, Rule 138 of the Revised Rules of Court, a lawyer may be suspended or disbarred from the practice of law for any of the following grounds:

- 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 to the lawful order of the court;
- 8) Willful appearance as an attorney for a party without authority to do so; and

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<sup>53</sup> *Roces v. Aportadera*, A.M. No. 2936, March 31, 1995, 243 SCRA 108, 114.

<sup>54</sup> *Alcantara v. De Vera*, A.C. No. 5859, November 23, 2010, 635 SCRA 674, 679.

<sup>55</sup> *Embido v. Pe, Jr.*, A.C. No. 6732, October 22, 2013, 708 SCRA 1, 10-11.

<sup>56</sup> *In Re: Al Argosino*, B.M. No. 712, March 19, 1997, 270 SCRA 26, 30.

<sup>57</sup> *Overgaard v. Valdez*, A.C. No. 7902, March 31, 2009, 582 SCRA 567, 582.

9) Solicitation of cases at law for the purpose of gain either personally or through paid agents or brokers.<sup>58</sup>

A lawyer may be disciplined or suspended from the practice of law for any misconduct, whether in his professional or private capacity, which shows him to be wanting in character, honesty, probity and good demeanor and thus unworthy to continue as an officer of the court.<sup>59</sup> A lawyer may be disbarred or suspended not only for acts and omissions of malpractice and dishonesty in his professional dealings. He may also be penalized for gross misconduct not directly connected with his professional duties that reveal his unfitness for the office and his unworthiness of the principles that the privilege to practice law confers upon him.<sup>60</sup>

We, however, emphasize that the purpose of disbarment is not meant as a punishment to deprive a lawyer of a means of livelihood. Rather, it is intended to protect the courts and the public from members of the bar who have become unfit and unworthy to be part of the esteemed and noble profession.<sup>61</sup> Considering the serious consequences of the disbarment or suspension of a member of the Bar, this Court has held that substantial evidence is necessary to justify the imposition of the administrative penalty.<sup>62</sup>

In this case, respondent Atty. Tolentino is charged with violating the Lawyer's Oath and Canons 1, 7, and 10 of the Code of Professional Responsibility.

The Lawyer's Oath is a covenant every lawyer undertakes to become and remain part of the legal profession.<sup>63</sup> It is not mere facile words, drift and hollow, but a sacred trust that must be upheld and kept inviolable.<sup>64</sup> It is a source of obligation and duty for every lawyer,<sup>65</sup> which includes an undertaking to obey the laws and legal orders of duly constituted authorities therein, and not to do falsehood, nor consent to the doing of any in court. All lawyers are obligated to uphold their Oaths lest they be subjected to administrative cases and sanctions.<sup>66</sup>

Canons 1, 7, and 10 of the Code of Professional Responsibility, on the other hand, read as follows:

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<sup>58</sup> See also *Jimenez v. Francisco*, A.C. No. 10548, December 10, 2014, 744 SCRA 215, 240.

<sup>59</sup> *Macarrubo v. Macarrubo*, A.C. No. 6148, February 27, 2004, 424 SCRA 42, 49.

<sup>60</sup> *Lizaso v. Amante*, A.C. No. 2019, June 3, 1991, 198 SCRA 1, 9-10, citing *In Re: Pelaez*, 44 Phil. 567 (1923).

<sup>61</sup> *Yap-Paras v. Paras*, A.C. No. 4947, June 7, 2007, 523 SCRA 358, 362.

<sup>62</sup> *Reyes v. Nieva*, A.C. No. 8560, September 6, 2016, citing *Cabas v. Sususco*, A.C. No. 8677, June 15, 2016.

<sup>63</sup> REVISED RULES OF COURT, Rule 138, Sec. 17; *In Re: Benjamin Dacanay*, B.M. No. 1678, December 17, 2007.

<sup>64</sup> *Tan v. Diamante*, A.C. No. 7766, August 5, 2014, 732 SCRA 1, 9; *Sebastian v. Calis*, A.C. No. 5118, September 9, 1999, 314 SCRA 1, 7.

<sup>65</sup> *Madrid v. Dealca*, A.C. No. 7474, September 9, 2014, 734 SCRA 468, 478.

<sup>66</sup> *Id.*

Canon 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

Canon 7 – A lawyer shall at all times uphold the integrity and dignity of the legal profession and support the activities of the Integrated Bar.

Canon 10 – A lawyer owes candor, fairness, and good faith to the court.

*Complainant sufficiently proved the charges of falsification against Atty. Tolentino.*

In disbarment proceedings, the burden of proof rests upon the complainant; and the Court will exercise its disciplinary power only if the complainant establishes the complaint with substantial evidence.<sup>67</sup>

In her Complaint, Dolores alleged that she (with her siblings) sold the property to Alejo and Filomena, presenting as proof thereof the Deed of Sale dated January 3, 1978. We note, however, that Dolores would later on disclose<sup>68</sup> the *actual* transaction which transpired between them and Atty. Tolentino involving the subject property, *viz*:

On ex-parte presentation of evidence, complainant testified that **she knew personally respondent Atty. Roberto P. Tolentino as he was the one who actually purchased their parcel of land** located at Barangay Sunga, Tagaytay City consisting of FIFTY THOUSAND (50,000) square meters; she and her brother, Romulo Natanauan and sisters, Rafaela Natanauan and Ernestina Natanauan, are co-owners of said parcel of land as evidenced by a Deed of Sale dated August 3, 1976 x x x executed in their favor by Jose Natanauan and Salud Marqueses.

At the time of the said sale, Jose Natanauan and Salud Marqueses are the registered owners of said parcel of land by virtue of an Original Certificate of Title No. 0-1822 x x x issued by the Register of Deeds for the Province of Cavite.

**Atty. Roberto P. Tolentino purchased said parcel of land through the intervention of a certain Juan Luna;** on January 3, 1978, they were accompanied by Juan Luna to the Office of Atty. Roberto P. Tolentino located at Roxas Boulevard, Manila. Thereat, **Atty. Roberto P. Tolentino, paid them the amount EIGHTY THOUSAND (P80,000.00) PESOS for and as downpayment for the**

<sup>67</sup> *Reyes v. Nieva*, *supra* note 62.

<sup>68</sup> See Memorandum for Complainant, *rollo*, pp. 141-159.

**purchase of said parcel of land. After receiving such amount, they were asked by him to sign a Deed of Sale dated August 3, 1979 x x x subject to the condition that he will cause the transfer of ownership of the said parcel of land from Jose Natanauan to them and thereafter, he will pay the unpaid balance of the purchase price.**

Instead of transferring said ownership from Jose Natanauan to them, she declared that Atty. Roberto Tolentino caused the transfer of ownership from Jose Natanauan to Spouses Alejo Tolentino and Filomena Tolentino by executing a falsified Deed of Sale dated August 3, 1979 x x x and Joint Affidavit dated August 6, 1979 x x x; Atty. Roberto P. Tolentino falsified and forged the signatures of Jose Natanauan, Salud Marqueses, Melquiades [Parungao] and Asuncion Fajardo in such documents making it appear that they (Jose, Salud, Melquiades and Asuncion) sold the said parcel of land to Spouses Alejo Tolentino and Filomena Tolentino.<sup>69</sup> (Emphasis supplied.)

We agree with Commissioner Espina's finding that there is sufficient proof to hold that Atty. Tolentino was involved in the falsification. The totality of evidence (consisting of the falsified documents, Dolores' testimony detailing the transactions surrounding the land, and the investigation conducted by this Court) leaves no doubt as to Atty. Tolentino's involvement in, or at the very least, benefit from the acts of falsification imputed against him.

Both Commissioner Espina and the IBP Board found that Atty. Tolentino's direct participation in the falsification of the Deed of Sale and the Joint Affidavit could be inferred from the fact that he was the one who personally entered into the subject contract with Dolores and her siblings, merely using his brother Alejo and his wife Filomena as dummies.

We agree with the IBP. We find most telling of Atty. Tolentino's involvement is the Deed of Sale dated March 9, 1979<sup>70</sup> which, as found by the IBP, Atty. Tolentino himself presented<sup>71</sup> before this Court in the case of *Banco De Oro v. Bayuga*.<sup>72</sup> We quote the relevant portion of the *Banco De Oro* decision, to wit:

During the oral argument, the Bank was required to submit copies of the Record on Appeal filed in CA-G.R. No. 64130-R of the Court of Appeals and a chronology of relevant incidents. Its Compliance was filed on June 8, 1979. TOLENTINO was also required to submit, not later than the close of office hours of June 7, 1979, copy of the alleged deed showing the purchase by him of about eight

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<sup>69</sup> *Id.* at 152-153.

<sup>70</sup> *Id.* at 251-252.

<sup>71</sup> *Id.* at 136-138.

<sup>72</sup> G.R. No. L-49568, October 17, 1979, 93 SCRA 443.

hectares of real estate in Tagaytay City on account of which he allegedly paid ₱350,000.00 out of the ₱389,000.00 received by him from the loan proceeds. **TOLENTINO complied by submitting on June 7, 1979, at 11:00 A.M., a Deed of Sale dated March 9, 1979 of a parcel of land of 5 hectares in Tagaytay City for which he is shown to have made a down payment of ₱280,000.00.** At 3:00 P.M. of the same day, he submitted another Deed of Sale dated April 2, 1979 over a piece of property of 2 hectares in Tagaytay City for which he obligated himself to make a down payment of ₱70,000.00. Both sales, while duly acknowledged before a Notary Public, do not disclose any evidence of registration.<sup>73</sup> (Emphasis supplied.)

The Court examined the *rollo* of the *Banco De Oro* case and found that, indeed, **the Deed of Sale dated March 9, 1979 presented by Atty. Tolentino therein is the very same Deed of Sale dated March 9, 1979 which gave rise to the present disbarment case.**<sup>74</sup>

The circumstances surrounding the transactions covered by the falsified documents, viewed against Atty. Tolentino's bare denials, constrain us to apply the rule that in the absence of satisfactory explanation, one who is found in possession of, and who has used, a forged document, is the forger and, therefore, guilty of falsification.<sup>75</sup> The effect of a presumption upon the burden of proof is to create the need of presenting evidence to overcome the *prima facie* case created, which, if no contrary proof is offered, will thereby prevail.<sup>76</sup> A *prima facie* case of falsification having been established, Atty. Tolentino should have presented sufficient evidence to overcome such burden. Through his own fault, this he failed to do.

Furthermore, we are convinced of Atty. Tolentino's dishonesty when he denied his association with Notary Public Perfecto. The March 9, 1979 Deed of Sale shows a contract of sale executed between Dolores, Romulo, Rafaela and Ernestina Natanauan, as vendors, and Atty. Tolentino, as vendee, **and notarized by "Notary Public" Perfecto.**<sup>77</sup> This clearly belies Atty. Tolentino's claim that he does not personally know Perfecto nor dealt with him in any capacity. This, in turn, further bolsters the conclusion that he had knowledge of or participation in the alleged falsifications.

In addition, we stress that while Atty. Tolentino vehemently denies any participation in the alleged falsification of the August 3, 1979 Deed of Sale, he kept silent (both in his Comment and the subsequent motions he filed before the IBP and the Supreme Court) as to the March 9, 1979 Deed of Sale, a copy of which was attached as Annex I of the disbarment complaint.

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<sup>73</sup> *Id.* at 452-453.

<sup>74</sup> *Rollo* (G.R. No. L-49568), pp. 324-325.

<sup>75</sup> *Pacasum v. People*, G.R. No. 180314, April 16, 2009, 585 SCRA 616, 637-638.

<sup>76</sup> *Republic v. Vda. de Neri*, G.R. No. 139588, March 4, 2004, 424 SCRA 676, 692-693, citing Francisco, *The Revised Rules Of Court In The Philippines*, Vol. VII, Part II (1997 ed.), p. 7.

<sup>77</sup> *Rollo*, pp. 38-39. Emphasis supplied.

It also does not appear that Atty. Tolentino ever disputed his signature appearing in conformity to the Spouses Tolentino's Affidavit dated December 2, 1980 stating that the property never belonged to them and that he (Atty. Tolentino) was its true and absolute owner.

To us, these clearly demonstrate Atty. Tolentino's lack of candor before the IBP and the Supreme Court. In *Silva Vda. de Fajardo v. Bugaring*,<sup>78</sup> we held:

x x x Complete candor or honesty is expected from lawyers, particularly when they appear and plead before the courts for their own causes x x x. With his armada of legal knowledge and skills, respondent clearly enjoyed the upper hand. x x x

Respondent is thus reminded that he is first and foremost an officer of the court. His bounden duty is to assist it in rendering justice to all. Lest he has forgotten, lawyers must always be disciples of truth. It is highly reprehensible when they themselves make a travesty of the truth and mangle the ends of justice. Such behavior runs counter to the standards of honesty and fair dealing expected from court officers.<sup>79</sup>

We reiterate that a lawyer is not merely a professional but also an officer of the court and as such, he is called upon to share in the task and responsibility of dispensing justice and resolving disputes in society. Any act on the part of a lawyer, an officer of the court, which visibly tends to obstruct, pervert, impede and degrade the administration of justice is contumacious, calling for both an exercise of disciplinary action and application of the contempt power.<sup>80</sup> For his acts of dishonesty, Atty. Tolentino not only violated the Lawyer's Oath and Canon 10 of the Code of Professional Responsibility, he also failed to observe his duty as an officer of the court.

Furthermore, Canons 1 and 7 of the Code of Professional Responsibility provide that a lawyer shall, "uphold the Constitution, obey the laws of the land and promote respect for law and legal processes" and "at all times, uphold the integrity and dignity of the legal profession and support the activities of the Integrated Bar." Atty. Tolentino's deliberate non-participation in the disciplinary proceedings shows a lack of respect for the legal (disciplinary) process and sullies the integrity and dignity of the legal profession. We agree with the IBP that this constitutes another reason to suspend Atty. Tolentino from the practice of law:

x x x We cannot ignore the fact that by virtue of one's

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<sup>78</sup> A.C. No. 5113, October 7, 2004, 440 SCRA 160.

<sup>79</sup> *Id.* at 171-172.

<sup>80</sup> *Siy v. National Labor Relations Commission*, G.R. No. 158971, August 25, 2005, 468 SCRA 154, 165. See also *Masinsin v. Albano*, G.R. No. 86421, May 31, 1994, 232 SCRA 631, 637, citing *Zaldivar v. Gonzales*, G.R. Nos. 79690-707 & L-80578, October 7, 1988, 166 SCRA 316.

membership in the IBP, a lawyer thus submits himself to the disciplinary authority of the organization. x x x Respondent's cavalier attitude in repeatedly ignoring the orders of the Supreme Court constitutes utter disrespect to the judicial institution. x x x It is necessary for respondent to acknowledge the orders of the Commission in deference to its authority over him as a member of the IBP. His wanton disregard of its lawful orders subjects him to disciplinary sanction.<sup>81</sup> (Citations omitted.)

All lawyers must inculcate in themselves that the practice of law is not a right but a privilege granted only to those of good moral character. The Bar must maintain a high standard of honesty and fair dealing.<sup>82</sup> Lawyers must conduct themselves beyond reproach at all times, whether they are dealing with their clients or the public at large, and a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment.<sup>83</sup>

We thus affirm the IBP Board's recommended action to suspend him from the practice of law for three (3) years.

**WHEREFORE**, premises considered, the Court finds respondent Atty. Roberto P. Tolentino **GUILTY** of violating the Lawyer's Oath, and Canons 1, 7, and 10 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for **THREE (3) YEARS EFFECTIVE FROM NOTICE**, with a **STERN WARNING** that any similar infraction in the future will be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant to be appended to respondent Roberto P. Tolentino's personal record as an attorney, the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

**SO ORDERED.**



**FRANCIS H. JARDELEZA**

*Associate Justice*

WE CONCUR:

*(On Official Travel)*

**MARIA LOURDES P. A. SERENO**

*Chief Justice*

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<sup>81</sup> *Rollo*, p. 253.

<sup>82</sup> *Tejada v. Palaña*, A.C. No. 7434, August 23, 2007, 530 SCRA 771, 776; *Ronquillo v. Cezar*, A.C. No. 6288, June 16, 2006, 491 SCRA 1, 7; *Maligsa v. Cabanting*, A.C. No. 4539, May 14, 1997, 272 SCRA 408, 413.

<sup>83</sup> *Philippine Association of Court Employees v. Alibutdan-Diaz*, A.C. No. 10134, November 26, 2014, 742 SCRA 351, 357. See also *De Ere v. Rubi*, A.C. No. 5176, December 14, 1999, 320 SCRA 617, 622.



**ANTONIO T. CARPIO**  
*Acting Chief Justice*

*(On Leave)*

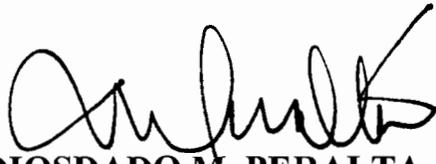
**PRESBITERO J. VELASCO, JR.**  
*Associate Justice*



**TERESITA J. LEONARDO-DE CASTRO**  
*Associate Justice*



**ARTURO D. BRION**  
*Associate Justice*



**DIOSDADO M. PERALTA**  
*Associate Justice*



**LUCAS P. BERSAMIN**  
*Associate Justice*



**MARIANO C. DEL CASTILLO**  
*Associate Justice*



**JOSE PORTUGAL PEREZ**  
*Associate Justice*



**JOSE G. MENDOZA**  
*Associate Justice*

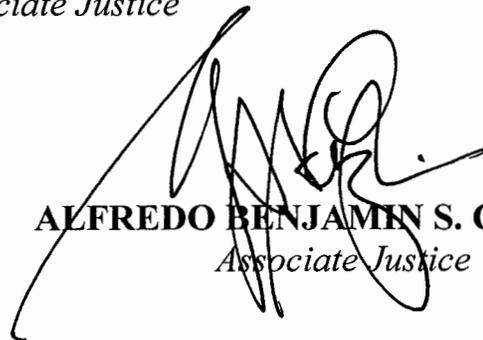


**BIENVENIDO L. REYES**  
*Associate Justice*



**ESTELA M. PERLAS-BERNABE**  
*Associate Justice*

*(On Official Travel)*  
**MARVIC M. V. F. LEONEN**  
*Associate Justice*



**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*