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WHEREFORE, Primo R. Naldoza is hereby *DISBARRED*. The Office of the Clerk of Court is directed to strike out his name from the Roll of Attorneys and to inform all courts of this Decision.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and *Ynares-Santiago, JJ.*, concur.

EN BANC

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

PRISCILA L. TOLEDO, *complainant, vs.* **ATTY. ERLINDA ABALOS,** *respondent.*

SYNOPSIS

Atty. Erlinda Abalos obtained a loan of ₱20,000.00 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. 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.

According to the Supreme Court, 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. It was, however, still necessary for respondent to acknowledge the orders of the Commission in deference to its authority over her as a member of the IBP. Her wanton disregard of its lawful orders

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subjects her to disciplinary sanction. Thus, her suspension from the practice of law is warranted.

SYLLABUS

REMEDIAL LAW; ATTORNEY; DISCIPLINE; LAWYER MAY NOT BE SUSPENDED OR DISBARRED FOR MISCONDUCT IN HIS PRIVATE ACTIVITY.— 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]).

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 ₱20,000.00 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

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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 despiciency 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]).

We, however, find the recommendation to suspend respondent from the practice of law for six months to be grossly disproportionate to the act complained of, *i.e.*, her failure to appear before the Commission on Bar Discipline of the IBP. With her legal knowledge and expertise, respondent may have known all along that the Commission has no jurisdiction over a complaint for collection of a sum of money which she borrowed in her private capacity. Hence, her adamant refusal to appear before said body.

We do not, of course, ignore the fact that by virtue of one's membership in the IBP, a lawyer thus submits himself to the disciplinary authority of the organization. However, as the complaint lodged against the respondent in the case at hand did not pertain to an act that she committed in the exercise of her profession, the IBP need not assume jurisdiction to discipline respondent. As the Commission on Bar Discipline correctly

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suggested, complainant's remedy is to file the necessary collection case in court for her to recover the amount respondent owed her.

It was, however, still necessary for respondent to acknowledge the orders of the Commission in deference to its authority over her as a member of the IBP. Her wanton disregard of its lawful orders subjects her to disciplinary sanction. Thus, her suspension from the practice of law for one month is warranted.

WHEREFORE, respondent Atty. Erlinda Abalos is hereby SUSPENDED from the practice of law for a period of ONE MONTH from the date of the finality of this Resolution. Copies of this Resolution shall be furnished all courts of the land and the Office of the Bar Confidant. This Resolution shall likewise be spread on the personal record of respondent attorney.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Bellosillo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and *Ynares-Santiago, JJ.*, concur.

EN BANC

[A.M. No. CA-99-30. September 29, 1999]
(Former A.M. OCAIPI No. 99-15-CA-J)

UNITED BF HOMEOWNERS, *complainant, vs.* **JUSTICE ANGELINA SANDOVAL-GUTIERREZ and JUSTICE ALFREDO L. BENIPAYO,** *respondents.*

SYNOPSIS

An administrative complaint was filed by complainants against Justice Angelina Sandoval-Gutierrez of the Court of Appeals and Justice Alfredo L. Benipayo, the Court