

EN BANC

[A.C. No. 13630 (Formerly CBD Case No. 17-5285). June 27, 2023]

ALIFER C. PANTE, COMPLAINANT, VS. ATTY. JOSE ALLAN M. TEBELIN, RESPONDENT.

D E C I S I O N

PER CURIAM:

Before us is a Complaint^[1] dated March 2, 2017 filed by Alifer C. Pante (complainant) charging Atty. Jose Allan M. Tebelin (respondent) with violation of Canons 16, 17, and 18 of the Code of Professional Responsibility (CPR), to wit:

Canon 16. A lawyer shall hold in trust all moneys and properties of his client that may come into his possession.

Canon 17. A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

Canon 18. A lawyer shall serve his client with competence and diligence.

The Antecedents

In the Complaint, complainant alleged that he was introduced to respondent by his uncle, Mr. Albert Pante, sometime on June 2012.^[2] At the time, complainant needed a lawyer to help him file a case for declaration of nullity of his marriage.^[3]

Complainant and respondent agreed on the price of Two Hundred Thousand Pesos (P200,000.00) package deal to cover the attorney's fees and all other possible expenses.^[4] They then entered into an Attorney-Client Agreement on July 13, 2012.^[5] On the same day, complainant gave respondent a down payment of Thirty Thousand Pesos (P30,000.00), for which the latter issued an Acknowledgement Receipt.^[6]

A few days later, complainant and respondent went to the house of psychologist Dr. Arnulfo

V. Lopez, where complainant gave the latter Twenty Thousand Pesos (P20,000.00) as down payment for his services.^[7]

On September 30, 2012, complainant met respondent and his wife at the Mall of Asia where he was given a copy of the Petition for his declaration of nullity of marriage.^[8] Complainant then paid respondent Nineteen Thousand Pesos (P19,000.00), which respondent acknowledged at the back of the said Petition's last page.^[9]

On February 11, 2013, complainant made another down payment of Fifty-One Thousand Pesos (P51,000.00) to respondent while at Luk Yuen restaurant inside Cash and Carry Mall, Makati City.^[10] Respondent issued an Acknowledgement Receipt for it.^[11] Complainant then asked when the hearing starts and ends, and respondent told him to just wait and trust him.^[12]

After a few weeks, complainant tried to contact respondent to ask about the status of his case, but the latter rarely answered his messages.^[13] This prompted complainant to personally inquire with the Regional Trial Court (RTC), Branch 109 of Pasay City about his case.^[14] To his surprise, the RTC told him that the copy of the Petition furnished to him by respondent is non-existent, and the case number (Civil Case No. R-PSY-12-03988-CV) thereon is actually for another case, as stated in the Certification issued by the Clerk of Court, Atty. Marivic S. Tibayan.^[15] Complainant then tried to call respondent but still could not reach him.^[16] Complainant ended up asking respondent's wife to relay his message to him.^[17]

Due to the circumstances complainant found himself in, he resorted to threatening respondent with a complaint before the Supreme Court and the Integrated Bar of the Philippines (IBP).^[18] Only then did respondent respond to complainant, whom he begged to refrain from filing the complaint for the sake of his children.^[19] Complainant decided to give respondent another chance.^[20] The latter then referred complainant to one Atty. Lazaro S. Galindez, Jr. (Atty. Galindez) whose signature appears on the Ex Parte Motion to Admit Amended Petition.^[21] However, complainant never even met or saw Atty. Galindez.^[22]

Since then, complainant never heard from respondent. He later learned that respondent also failed to pay the fees for his case despite receiving the money for the same.^[23] Complainant thus decided to seek help from the Public Attorney's Office (PAO) who referred him to the IBP.^[24] Complainant and respondent met and talked at the IBP twice, and the latter executed two promissory notes for the former, for which reason petitioner held back

on filing a complaint against respondent.^[25]

On February 22, 2014, respondent went to complainant who was then confined at V. Luna General Hospital in order to borrow Fifty Thousand Pesos (P50,000.00) for his children's tuition fee.^[26] On the same month, he asked for Sixteen Thousand Pesos (P16,000.00) to allegedly pay the psychologist.^[27] On May 14, 2014, respondent once again asked complainant for another Sixteen Thousand Pesos (P16,000.00) supposedly for publication fees.^[28] Complainant was only able to give Fourteen Thousand Pesos (P14,000.00) as his savings were running low.^[29] Later, complainant discovered that respondent did not pay the psychologist while he only paid Five Thousand Pesos (P5,000.00) to People's Balita for publication.^[30]

Complainant last saw and spoke to respondent on February 8, 2017, the hearing day of his case.^[31] A few days later, he called respondent to ask if the Formal Offer of Evidence has already been filed, to which respondent replied, "*bukas alifer submit k na at kakausapin ko si judges at update ko sayo.*"^[32] Upon verifying the following day, however, complainant learned that respondent has not yet submitted anything.^[33]

Complainant never heard from respondent again, and was forced to engage the services of another lawyer, Atty. Rowena C. De Castro-Matira.^[34] Complainant thus pushed through with filing an administrative case against respondent on March 2, 2017.^[35]

Despite notices sent to respondent, he has failed to participate in the proceedings and did not submit a position paper.^[36]

The Report and Recommendation of the Integrated Bar of the Philippines

In a Report and Recommendation^[37] dated June 24, 2019, the Integrated Bar of the Philippines (IBP) Investigating Commissioner Denise Monina F. Uy (Commissioner Uy) recommended that respondent be suspended from the practice of law for a period of one (1) year. The recommendation reads:

In view of the foregoing premises, it is respectfully recommended that Respondent Atty. Jose Allan M. Tebelin be SUSPENDED from the practice of law for ONE YEAR.

RESPECTFULLY SUBMITTED.^[38]

In a Resolution^[39] dated December 15, 2019, the IBP Board of Governors resolved to modify the Report and Recommendation dated June 24, 2019, and instead, imposed the penalty of disbarment, to wit:

RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, Atty. Jose Allan M. Tebelin is hereby DISBARRED from practice of law and his name be stricken off from the Roll of Attorneys and directed to return the amount of money to complainant with legal interest.

RESOLVED, FURTHER, that the Commission prepare an extended resolution explaining the Board action.^[40]

In an Extended Resolution^[41] dated July 3, 2022, the IBP Board of Governors resolved as follows:

WHEREFORE, premises considered, this Board RESOLVES to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, Atty. Jose Allan M. Tebelin is hereby DISBARRED from practice of law and his name be stricken off from the Roll of Attorneys and directed to return the amount of money to complainant with legal interest.

SO ORDERED.^[42]

The Issue

The issue before the Court is whether respondent's acts violated the CPR to merit the penalty of disbarment.

The Court's Ruling

After examining the records of this case, the Court resolves to adopt the findings of the IBP and disbar respondent.

Jurisprudence has established that the proper evidentiary threshold in disbarment cases is substantial evidence,^[43] which is that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.^[44] The burden of proof rests upon the complainant.^[45]

In this case, complainant was able to prove by substantial evidence that respondent: (a) was engaged by him as his lawyer for his case;^[46] (b) received from him the amounts of Thirty Thousand Pesos (P30,000.00),^[47] Nineteen Thousand Pesos (P19,000.00),^[48] and Fifty One Thousand Pesos (P51,000.00),^[49] in total One Hundred Thousand Pesos (P100,000.00), for the purpose of filing a petition for declaration of nullity of his marriage; and (c) furnished complainant with a copy of an alleged Petition for Declaration of Nullity of Marriage with Case No. R-PSY-12-03988 which was later discovered to be “non-existent” as certified by RTC Branch 109 of Pasay City.^[50]

The foregoing establishes that respondent was unable to carry out his duties as complainant’s lawyer, and worse, was dishonest in his dealings with complainant. As counsel of the latter, respondent is bound by the Code of Professional Responsibility and Accountability (CPRA) which repealed the CPR, and applies to all pending cases before this Court:

GENERAL PROVISIONS

SECTION 1. *Transitory provision.* - The CPRA shall be applied to all pending and future cases....

Respondent’s acts violate the following provisions of the CPRA:

CANON II PROPRIETY

A lawyer shall, at all times, act with propriety and maintain the appearance of propriety in personal and professional dealings, observe honesty, respect and courtesy, and uphold the dignity of the legal profession consistent with the

highest standards of ethical behavior.

SECTION 1. *Proper conduct.* — A lawyer shall not engage in unlawful, dishonest, immoral, or deceitful conduct.

X X X X

**CANON III
FIDELITY**

Fidelity pertains to a lawyer’s duty to uphold the Constitution and the laws of the land, to assist in the administration of justice as an officer of the court, and to advance or defend a client’s cause, with full devotion, genuine interest, and zeal in the pursuit of truth and justice.

X X X X

SECTION 3. *Lawyer-client relationship.* — A lawyer-client relationship is of the highest fiduciary character. As a trust relation, it is essential that the engagement is founded on the confidence reposed by the client on the lawyer. Therefore, a lawyer-client relationship shall arise when the client consciously, voluntarily and in good faith vests a lawyer with the client’ confidence for the purpose of rendering legal services such as providing legal advice or representation, and the lawyer, whether expressly or impliedly, agrees to render such services.

X X X X

SECTION 6. *Fiduciary duty of a lawyer.* - A lawyer shall be mindful of the trust and confidence reposed by the client.

To this end, a lawyer shall not abuse or exploit the relationship with a client.

X X X X

SECTION 52. *Prohibition on lending and borrowing; exceptions.* - During

the existence of the lawyer-client relationship, a lawyer shall not lend money to a client, except under urgent and justifiable circumstances. Advances for professional fees and necessary expenses in a legal matter the lawyer is handling for a client shall not be covered by this rule.

Neither shall a lawyer borrow money from a client during the existence of the lawyer-client relationship, unless the client's interests are fully protected by the nature of the case, or by independent advice. This rule does not apply to standard commercial transactions for products or services that the client offers to the public in general, or where the lawyer and the client have an existing or prior business relationship, or where there is a contract between the lawyer and the client.

X X X X

CANON IV

COMPETENCE AND DILIGENCE

A lawyer professionally handling a client's cause shall, to the best of his or her ability, observe competence, diligence, commitment, and skill consistent with the fiduciary nature of the lawyer-client relationship, regardless of the nature of the legal matter or issues involved, and whether for a fee or *pro bono*.

SECTION 1. *Competent, efficient and conscientious service.* - A lawyer shall provide legal service that is competent, efficient, and conscientious. A lawyer shall be thorough in research preparation, and application of the legal knowledge and skills necessary for an engagement.

SECTION 2. *Undertaking legal services; collaborating counsel.* - A lawyer shall only undertake legal services he or *she* can deliver.

With the prior written consent of the client, a lawyer may secure the services of a collaborating counsel.

SECTION 3. *Diligence and punctuality.* - A lawyer shall diligently and seasonably act on any legal matter entrusted by a client.

A lawyer shall be punctual in all appearances, submission of pleadings and documents before any court, tribunal or other government agency, and all matters professionally referred by the client, including meetings and other commitments.

X X X X

SECTION 6. *Duty to update the client.* - A lawyer shall regularly inform the client of the status and the result of the matter undertaken, and any action in connection thereto, and shall respond within a reasonable time to the client's request for information.

Respondent violated Section 1, Canon II (Propriety) of the CPRA when he was dishonest with complainant, giving him a fake copy of the Petition for Declaration of Nullity of his marriage, with the case number thereon assigned to a different case as certified by the RTC.^[51]

He likewise violated Canon III (Fidelity) and Canon IV (Competence and Diligence), when he did not file the said petition despite the amounts advanced by complainant for that purpose.^[52] He failed to update complainant on the status of the case, such that complainant resorted to inquiring directly with RTC Branch 109 of Pasay City^[53], and ultimately ended up hiring another lawyer for his case.^[54]

Worst of all, respondent borrowed money from complainant even while he was confined and recovering at V. Luna General Hospital, in violation of Section 52 of Canon III (Fidelity).^[55] That respondent had the audacity to borrow money at the time of complainant's illness, when respondent had not even rendered the legal services for which he was previously paid, is unfathomable to this court. The totality of respondent's actions smacks of neglect of his client's cause at best, and abuse of his client's trust at worst.

Further, this Court also finds that respondent failed to abide by the Lawyer's Oath:

Revised Lawyer's Oath

I, (name), do solemnly swear (affirm) that I accept the honor, privilege, duty and responsibility of practicing law in the Philippines as an Officer of the Court in the

interest of our people.

I declare fealty to the Constitution of the Republic of the Philippines.

In doing so, I shall work towards promoting “the rule of law and a regime of truth, justice, freedom, love, equality, and peace.”

I shall conscientiously and courageously work for justice, as well as safeguard the rights and meaningful freedoms of all persons, identities, and communities. I shall ensure greater and equitable access to justice. **I shall do no falsehood** nor shall I pervert the law to unjustly favor nor prejudice anyone. **I shall faithfully discharge these duties and responsibilities to the best of my ability, with integrity, and utmost civility.** I impose all these upon myself without menial reservation nor purpose of evasion.

[For oaths] So help me, God.

So help me God. (Emphases supplied)

We note that this is not the first time respondent has been charged administratively, as he was also the respondent in *Jesus M. Ferrer v. Atty. Jose Allan M. Tebelin*.^[56] In the said case, wherein he was meted out the penalty of suspension from the practice of law for two (2) months and ordered to return P5,000.00 with legal interest to his client, respondent ignored the notices sent by the IBP, which he has also done in the instant case before us.^[57] It seems that respondent has made a habit of neglecting not just his client’s cases, but his own as well.

In cases with similar factual milieu as this one, the Court has deemed it fit to impose the penalty of disbarment upon the erring lawyer.^[58] The Court has likewise not shied away from ordering a return of acceptance fees in cases wherein the lawyer had been negligent in the handling of his client’s case.^[59]

This Court is further guided by the following provisions of the CPRA:

CANON VI ACCOUNTABILITY

SECTION 33. *Serious offenses.* — Serious offenses include:

X X X X

(b) Serious dishonesty, fraud, or deceit, including falsification or documents and making untruthful statements:

X X X X

(d) Gross negligence in the performance of duty, or conduct that is reckless and inexcusable, which results in the client being deprived of his or her day in court;

X X X X

SECTION 37. *Sanctions.* —

(a) If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:

(1) Disbarment;

X X X X

SECTION 38. *Modifying circumstances.* - In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

X X X X

(b) Aggravating Circumstances

(1) Finding of previous administrative liability where a penalty is imposed, regardless of nature or gravity;

X X X X

SECTION 39. *Manner of imposition.* — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court

may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. **The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.**^[60]

X X X X

SECTION 41. *Payment of fines and return of client's money and property.*

— When the penalty imposed is a fine or the respondent is ordered to return the client's money or property, the respondent shall pay or return it within a period not exceeding three (3) months from receipt of the decision or resolution. If unpaid or unreturned, the Court may cite the respondent in indirect contempt.

Respondent herein is guilty of the serious offenses of dishonesty, fraud, and deceit including falsification of documents, as well as gross negligence in his duties as a lawyer to the complainant. His transgressions are aggravated by the fact that this is not his first offense, and he has been held administratively liable in the past. As such, this Court finds that his behavior must be meted out the supreme penalty of disbarment, as well as the return of complainant's hard earned money. Respondent is no longer worthy of the title and privileges of the legal profession, and must be stripped thereof.

WHEREFORE, the Court finds respondent Atty. Jose Allan M. Tebelin **GUILTY** of violating the Revised Lawyer's Oath and Canons 2, 3, and 4 of the Code of Professional Responsibility and Accountability. Accordingly, he is **DISBARRED** from the practice of law and his name is **ORDERED** stricken off from the Roll of Attorneys, effective immediately.

Atty. Jose Allan M. Tebelin is also **ORDERED** to pay and return to complainant Alifer C. Pante all the sums he received from the latter, with legal interest at the rate of six percent (6%) *per annum* from receipt of this Decision until its full payment. Payment must be made within a period not exceeding three (3) months from receipt of this Decision. He is further **DIRECTED** to submit to this Court proof of payment within ten (10) days from said payment.

Let copies of this Decision be furnished to: (a) the Office of the Bar Confidant to be appended to respondent's personal record as member of the Bar; (b) the Integrated Bar of the Philippines for its information and guidance; and, (c) the Office of the Court

Administrator for dissemination to all courts throughout the country for information and guidance.

SO ORDERED.

*Leonen, ** SAJ., Caguioa, Hernando, Lazaro-Javier, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.*
Gesmundo, C.J., on official leave.*

* On official leave.

** Acting Chief Justice per Special Order No. 2989 dated June 24, 2023.

^[1] *Rollo*, pp. 3-6.

^[2] *Id.* at 45.

^[3] *Id.*

^[4] *Id.* at 46.

^[5] *Id.*

^[6] *Id.* at 10.

^[7] *Id.* at 46.

^[8] *Id.*

^[9] *Id.* at 11.

^[10] *Id.* at 46.

^[11] *Id.* at 12.

^[12] *Id.* at 46.

^[13] *Id.*

^[14] *Id.*

^[15] *Id.* at 47.

^[16] *Id.*

^[17] *Id.*

^[18] *Id.*

^[19] *Id.*

^[20] *Id.*

^[21] *Id.*

^[22] *Id.*

^[23] *Id.*

^[24] *Id.*

^[25] *Id.*

^[26] *Id.*

^[27] *Id.*

^[28] *Id.*

^[29] *Id.*

^[30] *Id.*

^[31] *Id.* at 47.

^[32] *Id.* at 5.

^[33] *Id.*

^[34] *Id.* at 47-48.

^[35] *Id.* at 48.

^[36] *Id.* at 79.

^[37] *Id.* at 76-82.

^[38] *Id.* at 82.

^[39] *Id.* at 83.

^[40] *Id.*

^[41] *Id.* at 83-86. Penned by CBD Task Force Commissioner Diana S. Fajardo-Lampa.

^[42] *Id.* at 86.

^[43] **Arsenio v. Atty. Tabuzo**, 809 Phil. 206, 212 (2017) [Per J. Tijam, Third Division].

^[44] **Lao v. Atty. Causing, A.C. No. 13453**, October 4, 2022 [*Per Curiam, En Banc*].

^[45] **Arsenio v. Atty. Tabuzo**, *supra*.

^[46] *Rollo*, p. 8.

^[47] *Id.* at 10.

^[48] *Id.* at 11.

^[49] *Id.* at 12.

^[50] *Id.* at 13.

^[51] *Rollo*, p. 85.

^[52] *Id.*

^[53] *Id.* at 80.

^[54] *Id.* at 79.

^[55] *Id.* at 47.

^[56] 500 Phil. 1 (2005). See *rollo*, p. 81.

^[57] *Id.*

^[58] **Mariano v. Atty. Laki**, 840 Phil. 438, 449 (2018) [*Per Curiam, En Banc*]; **Domingo v. Atty. Sacdalan**, 850 Phil. 553, 565-566 (2019) [*Per Curiam, En Banc*].

^[59] **Ignacio v. Atty. Alviar**, 813 Phil. 782, 793 (2017) [Per J. Tijam, Third Division].

^[60] Emphasis supplied.

Date created: October 23, 2023