

ENRIQUE M. REYES, COMPLAINANT, VS. ATTY. LEOPOLDO T. MAGLAYA, RESPONDENT.

Adm. Case No. 2125. April 03, 1995

Ponente: FELICIANO, J.

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FELICIANO, J.:

This concerns the administrative complaint filed by Enrique Reyes against Atty. Leopoldo Maglaya on 28 February 1980. The complaint alleged the following:

"1. That on June 8, 1979 complainant endorsed to the respondent, all pertinent papers regarding the anomalous and fraudulent actuations of one Angelica Offemaria an alleged President and General Manager of the Bicol Veterans Handicrafts Enterprises, Inc., in which complainant was defrauded of P31,863.30, for the purpose of filing the necessary criminal action against said Angelica Offemaria and for the recovery of the aforesaid amount x x x.

2. That the respondent agreed to handle the case, and asked for, and was given the amount of P1,500.00, as his fee therefor.

3. That once having received the documents and the check for P1,500.00, complainant has not heard from respondent, although said complainant has been calling said respondent almost daily, to inquire as to the status of the case he has endorsed.

x x x x x x x x

7. On January 18, 1980, at the request of complainant, another letter was addressed to the respondent demanding the return of the P1,500.00, within five (5) days from receipt thereof, but respondent failed to return the aforesaid amount up to the present, although he received the letter of demand on January 23, 1980.

x x x x x x x x

9. That, however, due to respondent's inaction in the case endorsed to him by the complainant for a period of more than four (4) months; his failure to return all the documentary evidence entrusted to him, and his failure to return the amount he received, the case against Offemaria has not yet been commenced up to the present.

x x x x x x x x"[1]

In his unverified Answer to the complaint, respondent Maglaya averred that at the time of the endorsement of said case, complainant Reyes merely had xerox copies of his documents as the originals thereof were in the possession of one Agent Urmatan of the Criminal Investigation Service ("CIS") of the Philippine Constabulary where complainant first had his case investigated.[2] As the originals were necessary in order to file the criminal action contemplated, respondent stated that he enlisted the help of Atty. Abando, Chief of the PC-CIS legal service on the advice of complainant.[3] However, respondent asserted the investigative reports which he received from Atty. Abando were only those of complainant's relatives and not the record of complainant himself.[4]

Respondent Maglaya also stated that the amount of P1,500.00 which he received from complainant, was not only for his fees but also for expenses incurred in retrieving complainant's records from the CIS.[5] Furthermore, respondent submitted that "complainant has no cause of action, except the return of P1,500.00 which respondent agreed to if only to show complainant that respondent cannot profit at the former's expense despite time and money spent on his case." [6]

In his Reply, complainant Reyes insisted that the amount of P1,500.00 was for respondent's fee in the filing of the criminal action against Angelica Offemaria and not for expenses in retrieving the records from the CIS.[7] He also pointed out that respondent was not candid with this Court when he alleged that he did not receive the record or file of the complainant.[8] As a matter of fact, his receipt of the complete file of complainant against Angelica Offemaria from the PC-CIS is evidenced by a receipt in respondent's own handwriting as early as 20 July 1979.[9] Thus, considering that respondent had with him the complete file of complainant obtained by respondent from the PC-CIS as early as 20 July 1979, and yet had not instituted the desired criminal action against said Angelica Offemaria more than three (3) months later, complainant was impelled in a letter dated 24 October 1979 to demand from respondent the return of the documents and the amount of P1,500.00. Hence, complainant contended that such inaction was indicative of respondent's negligence in handling the case of his client.[10]

This case was referred to the Office of the Solicitor-General for investigation, report and recommendation.

It appears from the records that Solicitor Magdangal de Leon conducted his investigation in the absence of respondent because, according to a certain Mr. Ildefonso Bongalan who appeared for the respondent on said date and on previous dates, the respondent was sick. By reason of respondent's repeated absence every time this case was set and called for hearing with due notice to him and his repeated failure to submit a medical certificate to justify his absences, Solicitor de Leon allowed complainant to testify in support of his complaint in the presence of Mr. Bongalan, subject to the cross-examination by the respondent.

Subsequently, this case was transferred to the Integrated Bar of the Philippines ("IBP") where it was set for hearing several times by the Board of Governors to afford respondent Maglaya every opportunity to cross-examine the complainant and to adduce evidence in his own defense. However, despite having duly received notices of hearings, respondent failed to appear at those hearings.

In an order of the IBP Board of Governors dated 16 October 1992, respondent was warned that his failure to appear at the next scheduled hearing set on 11 December 1992, would result in this case being submitted for report and recommendation on the basis of the evidence so far presented by the complainant only.

On 11 December 1992, respondent's wife asked that the hearing be reset to 29 January 1993, because her husband was still sick. The request was granted but respondent nevertheless failed to appear at the requested date and since then has not taken any move to present any evidence on his own behalf.

In its Resolution dated 8 May 1993, the IBP Board of Governors held that the admissions of respondent contained in his Answer are conclusive upon him and warrant disciplinary action against him even without considering the unrefuted testimony of the complainant. These admissions of respondent Maglaya include, in particular, his admission that on 23 January 1980, he had received complainant's letter of 18 January 1980 demanding return of the P1,500.00 within five (5) days from receipt of that letter. Respondent did not deny that he has failed to return that sum of money up to the present. Respondent had also conceded in paragraph 10 of his Answer that "complainant has no cause of action except the return of P1,500.00 which respondent agreed to x x x." The IBP concluded that the admissions of respondent Maglaya coupled with the testimony of complainant Reyes more than substantially proved the charge against respondent. It also found that respondent lied when he agreed to return the P1,500.00 to the complainant, considering that up to the present he has failed to so return the P1,500.00.

The IBP Board of Governors recommended that respondent Atty. Maglaya be suspended from the practice of law for a period of one (1) year.

This Court is in full accord with the findings and recommendation of the IBP that respondent by his admissions has sufficiently demonstrated conduct showing his unfitness for the confidence and trust which characterize the attorney-client relationship. By his unexplained failure to return the amount of P1,500.00 demanded by complainant-client receipt of which he had acknowledged and which he had agreed to return at the earliest possible opportunity, he failed to live up to his duties as a lawyer. He has in particular disregarded Canon 16, Rule 16.03 of the Code of Professional Responsibility which requires that "a lawyer shall deliver the funds and property of his client when due or upon demand x x x." His inexcusable act of withholding money belonging to his client warrants the imposition of disciplinary sanction.

This Court also finds that respondent has not exercised the diligence required of lawyers in the handling of their clients' cases. He failed to act upon complainant's case for a period of more than three (3) months from the time the complete file of complainant against Angelica Offemaria was endorsed to him by Atty. Abando of the PC-CIS. To make matters worse, respondent failed to respond to complainant's inquiries regarding the status of his case, a duty which was incumbent upon him.

Considering the foregoing, the recommendation of the IBP that respondent be suspended from the practice of law for a period of one (1) year is approved.

WHEREFORE, the Court hereby SUSPENDS ATTY. LEOPOLDO T. MAGLAYA from the practice of law for a period of one (1) year from notice hereof, with a WARNING that a repetition of the same or any other misconduct will be dealt with more severely.

Let a copy of this Resolution be spread on the personal records of the respondent in the Bar Confidant's Office, Supreme Court of the Philippines, with copies thereof furnished to the Integrated Bar of the Philippines and duly circularized to all courts.

Romero, Melo, Vitug, and Francisco, JJ., concur.

[1] Complaint, pp. 1-4; Record, pp. 1-4.

[2] Answer, p. 1; Record, p. 19.

[3] Id., p. 2; Record, p. 20.

[4] Id., p. 3; Record, p. 21.

[5] Id., p. 1; Record, p. 19.

[6] Id., p. 2; Record, p. 20.

[7] Reply, p. 1; Record, p. 15.

[8] Id., p. 1; Record, p. 15.

[9] Id., p. 1; Record, p.15.

[10] Id., p. 2; Record, p. 16.

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