

FELISA MANGUIAT, COMPLAINANT, VS. ATTY. TIRSO L. MANGUIAT, RESPONDENT.

Adm. Case No. 880. October 31, 1974

Ponente: MAKALINTAL, C.J.

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MAKALINTAL, C.J.:

Respondent Tirso L. Manguiat is charged with malpractice for having allegedly demanded and actually collected from complainant Felisa Manguiat attorney's fees for legal services that should have been gratuitously rendered, since the respondent acted in his capacity as a government-employed legal officer of the Department of Social Welfare of the City of Manila.

Sometime in 1966 the services of the respondent in said capacity were sought and obtained by the complainant to assist the latter's niece in prosecuting a case of falsification then pending before the Fiscal's Office in Lucena City, Quezon. According to the complainant, the said criminal case thereafter dragged in the Fiscal's Office for more than 10 months due to the respondent's inaction. In the meantime the complainant, allegedly upon the respondent's demand, had been giving the latter varying sums of money on different occasions allegedly as payment for his services.

The same criminal case was eventually filed in court on May 9, 1967.[1] It did not, however, come up for trial until more than a year later, on August 8, 1968. At the initial hearing of the case the respondent, as private prosecutor, failed to appear and this non-appearance, according to the complainant, resulted in the remanding of the case to the Fiscal's Office for reinvestigation,[2] which delayed anew its early termination. The complainant views the respondent's non-appearance at the August 8, 1968 hearing as intentional, doing it "for his own private interest," forgetting "his moral duty and the oath he had read and uttered before the Supreme Court after he passed the Bar."

In support of her main complaint regarding the respondent's alleged illegal collection of attorney's fees, the complainant attached to her letter-complaint several handwritten messages from the respondent, as well as a list of itemized amounts totalling P1,260.00 signed by the respondent, evidently intended to show that the respondent had indeed charged and received the amounts so claimed. In view of the pertinence of these handwritten messages of the respondent, they are hereunder quoted for easy reference.

The note, dated "August 2," reads:

"Ka Isay,

Kung maari ho sana ay makahiram ng mga P200.00 dahil nasa ospital lamang and Mrs. ko. Labis hong dinurugo at marahil ho ay matatagalan doon.

Isa pa ho ay hindi na maari pang humarap sa hukuman sa ngayon nang hindi bayad ang professional fee for at least one full year. Seventy (five) (P75.00) Pesos na ho iyon.

Kayo na sana ang bahalang tumulong sa akin.

Salamat ho,"

A couple of short messages, one dated March 11, 1967 and the other April 14, 1967, state:

"March 11, 1967

Ka Isay,

Kayo na muna ang bahalang magpaluwag sa akin ngayon dahil ako lamang ay apat na araw na aalis gawa iyon lamang ng ating asunto ay maiiwanan lamang ng kaunti ang pamilya.

Makikipaglibing ako kay Ka Jasmin Ona at makabili man lamang ng korona.

Mga 200 hundred ho lamang."

"April 14, 1967

Ka Isay,

Bagama's labis akong nahihiya sainyo ay wala na naman akong maaring matakbuhan pang ibang maaring makatulong sa ngayon kundi kayo.

Ang nakuha ko hong huli sa inyo ay hindi naibayad sa dapat pagbayaran dahil nakuha ang isa ng ating mga katulong. 'security?'

Ako ho sana ay hihiram muna ng TWO HUNDRED FIFTY (P250.00) na pantakip sa compromiso. Ito ho ay bilang 'vale.'

Salamat po;"

Another message, dated March 27, 1968, has all the earmarks of a demand for payment as counsel. It contains a simplified statement as to how the total amount of P1,000.00 was to be paid. Thus:

"March 27, 1968

Ka Isay,

Ito na ho ang kwenta para sa lahat.

(1) Hanggang makulong ang lahat ng nasasakdal sa CFI; at

(2) Mapawalang bisa ang kasal

P300.00-ngayong araw na ito

150.00-April 15, 1968

150.00-May 15, 1968

400.00-Pagkatapos ng case.

Total: P1,000.00

Tulungan lamang ninyo akong mapunan ngayong araw na ito ang P300.00 na idadown ko sa mga 'law books' na ididiliber para sa aking private library na nagkakahalaga ng P1,200.00.

Salamat po,"

In his answer dated July 1, 1969, the respondent, after extensively relating what he considered significant aspects of the criminal case he handled in Lucena City in behalf of complainant's niece, flatly denied having charged or collected unauthorized attorney's fees from the complainant. If ever he asked money from her, he said, it was "not

in the form of legal fees or remuneration, but as debts."

On July 10, 1969 the complainant's letter-complaint and the respondent's answer thereto were referred to the Solicitor General "for investigation, report and recommendation." The latter's conclusions read:

"8. Respondent had illegally charged attorney's fees for his legal services, not being in private law practice; and considering that he could not charge therefor as legal officer of the Department of Social Welfare. Respondent's acts, furthermore, violate the Revised Civil Service Rules (Secs. 12, 19, Rule XVIII);

9. Further hereto, in the criminal case for falsification of public documents which the Manguiats filed (Crim. Case No. 16108, People vs. Bonifacio Vergara, Jr., et al.,) before the Court of First Instance of Quezon, Lucena City . . ., respondent, who was private prosecutor, negligently failed to appear at the hearing on August 9,[3]1968, resulting in the remanding of the case to the Fiscal's office for reinvestigation. Neither did respondent file a proper motion to withdraw as such counsel;"

The Solicitor General formally recommends that this Court either disbar or suspend the respondent from the practice of law on the ground that his actuations as above indicated constitute deceit or breach of the lawyer's oath, or is otherwise indicative of unprofessional conduct.

The respondent cannot effectively deny that he did charge and obviously was able to collect from the complainant various sums in consideration of his legal services in the pending criminal case in Lucena City. His handwritten message dated March 27, 1968 is too clear to be capable of any other rational explanation: it speaks of a fixed amount of P1,000.00, the complete payment of which was to depend upon the termination of the criminal case referred to therein, obviously the one where the respondent's services as legal officer of the Department of Social Welfare of the City of Manila were made available. Unlike his other handwritten notes, which were couched in more equivocal terms, like "magpaluwag" (to take care of someone's needs in the meantime) and "hihiram" (will borrow), the May 27, 1968 message was a simple bill (kwenta), with a demand for downpayment, without any promise or obligation on the part of the respondent to return the same.

But while We find the respondent guilty of having charged and collected attorney's fees which were unauthorized in view of the fact that he was then acting in his official capacity as a government-employed legal officer of the Department of Social Welfare of the City of Manila, We are not prepared to consider his actuations of such gravity as to call for the imposition of the extreme penalty of disbarment.

From the tenor of the basic letter-complaint, what was mainly complained against was the respondent's apparent indifference in prosecuting the case for which his services had been sought, despite the complainant's liberality in attending to his demand for varying sums as payment for his efforts. There is no competent evidence that this indifference, even assuming it to be true, was intended to cause damage or did cause damage to the complainant's niece, the interested party in the criminal case. In fact, in relation to the respondent's non--appearance at the initial hearing of the said case, which allegedly caused the case to be remanded to the Fiscal's Office for reinvestigation, the Assistant Provincial Fiscal himself practically absolved the respondent in the former's 3rd Indorsement dated September 19, 1968.

Regarding the reason for his non-appearance, the respondent claimed that several days prior to the scheduled date of hearing, he had already "sent word to his clients to look for another lawyer who could possibly and temporarily take his place as private prosecutor pending settlement of some questions with his office – the Legal Aid Office, Department of Social Welfare, Manila – about his appearances in courts, outside the City of Manila, which was allegedly beyond his authority to do so." On the other hand, according to the complainant, the respondent told her that his failure to attend the hearing was due to an accident on his way to Lucena City. The evidence in this

respect, one way or the other, is scanty and inconclusive.

But We do find that the respondent's conduct in charging fees for professional services which were supposed to be rendered gratuitously and in obtaining from his client other sums in the guise of loans or accommodations to tide him over some alleged financial difficulties, does not measure up to the strict ethical norms required of members of the Bar. His fault in this case is aggravated by two considerations: (1) his assignment to handle the case of the complainant's niece in his capacity as legal officer of the Department of Social Welfare of the City of Manila was premised on the assumption that the client was indigent and therefore could not afford to pay attorney's fees; and (2) the respondent showed himself to be less than candid with this Court when in the oral hearing of this case he continued insisting that he did not charge such fees, despite the clear and unequivocal proof furnished by his letter to the complainant dated March 27, 1968, setting a time-table of payments depending upon the various stages of the case he was handling.

WHEREFORE, this Court imposes upon the respondent the administrative penalty of suspension from the practice of law for a period of three (3) months, effective upon receipt of this resolution. Let copy hereof be spread upon the respondent's record in the Roll of Attorneys, and the different courts informed of this resolution by the Judicial Consultant.

Castro, Teehankee, Makasiar, and Esguerra, JJ., concur.
Munoz Palma, J., took no part.

[1] The complainant related in her verified letter-complaint dated May 26, 1969 that the case was filed only after she had brought the matter to the attention of the First Lady, who referred it to the Department of Justice for appropriate action.

[2] The complainant's statement in this regard appears not to be so accurate. The pertinent portions of the 3rd indorsement dated September 19, 1968, signed by Asst. Provincial Fiscal C.D. Cabral, commenting on herein complainant's letter expressing surprise why the case was returned to the Fiscal's Office for reinvestigation (a photostat copy of which indorsement was attached to the complainant's letter-complaint), are self-explanatory, to wit:

"xxx xxx xxx

That Criminal Case No. 16108 was set for trial last August 8, 1968, wherein Atty. Tirso Manguiat, Private Prosecutor, failed to appear is correct: to say though that 'the case instead of transferring the date of trial was returned back again to the fiscal's office for reinvestigation' is not wholly correct as the case has in fact been scheduled for hearing on December 4, 1968 at 2:00 o'clock P.M. and December 8, 1968, at 8:30 o'clock in the morning in an Order dated August 8, 1968, x x x.

Said Order likewise explained why the case was returned to the office of the Provincial Fiscal . . . Parenthically (sic), the reinvestigation the Court ordered pursuant to which the undersigned conducted was in so far as only four of the ten accused are concerned, x x x"

[3] Should be August 8.

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