

CELINA F. ANDRADA, COMPLAINANT, VS. ATTY. RODRIGO CERA, RESPONDENT.

A.C. No. 10187 [Formerly CBD Case No. 11-3053]. July 22, 2015

Ponente: BRION, J.

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BRION, J.:

This administrative case stemmed from an affidavit-complaint[1] filed by Celina F. Andrada (complainant) against Atty. Rodrigo Cera (respondent) for allegedly engaging in unlawful, dishonest, immoral, and deceitful conduct in violation of the Lawyer's Code of Professional Responsibility (CPR).

Antecedents

Sometime in late 2009, the complainant hired the respondent to represent her in an annulment of marriage case pending before the Regional Trial Court (RTC), Branch 59, Baguio City.

In order to file the annulment case, the complainant needed to submit National Statistics Office (NSO) copies of her children's birth certificates — documents which could not be obtained from the NSO because of her husband's failure to completely accomplish the certificates resulting in the non-registration of the births of their two children, Juliane Lourdes and Jose Sebastian. The complainant gave the respondent the amount of three thousand pesos (P3,000.00) to process the registration and issuance of her children's birth certificates with the NSO. The complainant also gave the respondent, through a friend, the amount of ten thousand pesos (P10,000.00) as advance payment for the hiring of a psychologist and/or the conduct of psychologist tests for herself and her children.

In July 2010 when the complainant herself followed up with the NSO the release of her children's birth certificates she was asked to present the corresponding receipt for her request. Knowing that the respondent had the receipt, the complainant called him up but she failed to get even the receipt number because the respondent allegedly did not have it in his possession at that time. However, the respondent reassured the complainant that the necessary payment had been made for the processing of the birth certificates.

The complainant repeatedly asked the respondent for the NSO receipt, but the latter would always give an excuse not to turn the receipt over to her. This prompted the complainant to request confirmation of payment from the NSO. She found out that the respondent never paid nor filed applications for birth certificates.

On May 29, 2011, the complainant, through her father Freddie J. Farres, wrote a demand letter[2] to the respondent for the surrender of the NSO receipt and the return of the P10,000.00 that was supposedly for the administration of the psychological tests, within two (2) days from receipt of the letter. The respondent received the demand letter on May 30, 2011.

On June 7, 2011, after the respondent refused to heed the complainant's demands, the complainant filed the present administrative complaint[3] against him before the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD). The complainant alleged that the respondent's deceitful, irresponsible, and unprofessional conduct in handling her case — his failure to file the necessary application with the NSO for the issuance of her

children's birth certificates, and to provide for a psychologist to administer psychological tests on herself and her children, as well as his tardiness or absence during hearings — resulted in the unwarranted delay of her case and forced her to file anew an annulment case against her husband.

The IBP-CBD called the case for mandatory conference where the complainant and her counsel appeared. However, despite due notice, the respondent failed to appear at the conference; he also failed to submit an answer to the affidavit-complaint.

In April 2012, the respondent returned to the complainant the amount of seventeen thousand two hundred and eighty pesos (P17,280.00), pursuant to a compromise agreement^[4] that the parties entered into in exchange for the dismissal of the criminal case for estafa filed by the complainant against the respondent. As part of the settlement, the respondent agreed to secure the birth certificates of the complainant's children, an obligation which the respondent has not yet fulfilled up to the present.

IBP's Recommendation

In a report and recommendation^[5] dated November 21, 2012, IBP Investigating Commissioner Eldrid C. Antiquiera found that the respondent had engaged in unlawful, dishonest, immoral, and deceitful conduct against his client's interest in violation of Canon 1 of the CPR. The Investigating Commissioner also found the respondent guilty of misappropriating the funds entrusted to him by his client and of failing to account for and to return his client's money upon demand, in violation of Canon 16 of the CPR. Commissioner Antiquiera recommended the imposition of three (3) years suspension from the practice of law.

In Resolution No. XX-2013-233 dated March 20, 2013, the IBP Board of Governors adopted and approved Commissioner Antiquiera's findings of administrative liability but modified the recommended penalty of suspension from three (3) years to one (1) year.^[6]

Our Ruling

We sustain the IBP Board of Governors' findings of administrative liability, as well as its recommended penalty of one (1) year suspension from the practice of law.

When a lawyer takes a case, he covenants that he will exercise due diligence in protecting his client's rights. Failure to exercise that degree of vigilance and attention expected of a good father of a family makes the lawyer unworthy of the trust reposed by his client, and makes him answerable not just to his client but also to the legal profession, the courts, and society.^[7]

It is apparent that the respondent did not exert any effort on his client's case and completely reneged on the obligations due his client. The respondent lied to the complainant that he had made the necessary application and payment with the NSO for the issuance of the birth certificates of the complainant's children. Despite the complainant's repeated requests, the respondent failed to comply with their agreement to provide a psychologist to administer the necessary psychological tests, thus causing further delay in the proceedings of the complainant's annulment case.

Clearly, these actions show the respondent's negligence and lack of zeal in handling the complainant's case, for which he should be made administratively liable. He violated not only Rule 1.01 of Canon 1 of the CPR, which prohibits a lawyer from engaging in unlawful, dishonest, immoral or deceitful conduct, but also Rule 18.03 of Canon 18 of the same Code, which provides that "a lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable."

Moreover, the respondent failed to live up to his duties as a lawyer when he unlawfully withheld the

complainant's money. The money given to the respondent was never used for its intended purposes, as could be gleaned from the NSO's non-issuance of birth certificates[8] of the complainant's children, and by the non-administration of psychological tests on the complainant and her children. These omissions confirm the presumption that the respondent misappropriated the funds of his client, in violation of Canon 16 of the CPR that holds a lawyer in trust of all moneys and properties of his client that may come into his possession. The respondent, likewise, violated Rule 16.03[9] of Canon 16 (which provides that "a lawyer shall deliver the funds and property of his client when due or upon demand") when he failed to return the complainant's money upon demand. We note that it was only after a year that the respondent, under threat of a criminal case filed against him, returned the complainant's money. The respondent's restitution cannot serve to mitigate his administrative liability as he returned the complainant's money not voluntarily but for fear of possible criminal liability.

WHEREFORE, respondent Atty. Rodrigo Cera is hereby **SUSPENDED** from the practice of law for **ONE (1) YEAR**. He is **WARNED** that a repetition of the same or similar act shall be dealt with more severely.

Let copies of this Resolution be furnished the Office of the Bar Confidant to be entered into the respondent's personal record. Copies shall likewise be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

SO ORDERED.

Carpio (Chairperson), Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] Rollo, pp. 2-5.

[2] Id. at 9.

[3] Supra note 1.

[4] Rollo, p. 72.

[5] Id. at 116-118.

[6] Id. at 115.

[7] Valeriana Dalisay v. Atty. Melanio Mauricio Jr., A.C. No. 5655, April 22, 2005, 456 SCRA 508 514.

[8] Rollo, pp. 7-8.

[9] Rule 16.03 - A lawyer shall deliver the funds and property of his client when due or upon demand.

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