

MICHELLE YAP, COMPLAINANT, VS. ATTY. GRACE C. BURI, RESPONDENT.

A.C. No. 11156 [Formerly CBD Case No. 12-3680]. March 19, 2018

Ponente: PERALTA, J.

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PERALTA, J.:

The instant case stemmed from the complaint of Michelle Yap against respondent Atty. Grace C. Buri for refusing to pay her monetary obligation and for filing a criminal case of Estafa against her based on false accusations.

The factual backdrop of the case is as follows:

Complainant Michelle Yap was the vendor in a contract of sale of a condominium unit, while Atty. Grace C. Buri, Yap's close friend and her daughter's godmother, was the vendee. Buri made an offer to purchase the property but asked for the reduction of the price from P1,500,000.00 to P1,200,000.00. After consulting with her husband, Yap agreed. Of the total amount of purchase price of P1,200,000.00, P200,000.00 remains unpaid. Buri insisted that she would just pay the balance on installment starting in January 2011, but without specifying the amount to be paid on each installment. Because she trusted the respondent, Yap gave Buri the full and immediate possession of the condominium unit upon completion of the P1,000,000.00 despite the outstanding balance and even without the necessary Deed of Absolute Sale. However, when Yap finally asked for the balance in January 2011, Buri said she would pay it on a monthly installment of P5,000.00 until fully paid. When Yap disagreed, Buri said she would just cancel the sale. Thereafter, Buri also started threatening her through text messages, and then later on filed a case for estafa against her.

Buri alleged in the criminal case that when she found out that the sale of the condominium unit was made without the consent of Yap's husband, Yap cancelled the sale and promised to return the amount of P1,000,000.00 initially paid. Despite several demands, however, she failed and refused to return the money. Thus, Buri was constrained to file a case for estafa against Yap. Said case was later dismissed.

Yap then filed an administrative complaint against Buri for the alleged false accusations against her.

When ordered to submit her answer, Buri failed to comply. She did not even appear during the mandatory conference. Thus, the mandatory conference was terminated and the parties were simply required to submit their respective position papers. However, only Yap complied with said order.

On July 2, 2014, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) recommended Buri's suspension to wit:[1]

WHEREFORE, in view of all the foregoing, undersigned Commissioner recommends to impose the penalty of suspension from the practice of law for a period of three (3) months upon the respondent, Atty. Grace C. Buri, and for her to pay the complainant the amount of PhP200,000.00 upon execution by complainant and spouse of the Deed of Absolute Sale of the condominium unit subject of the sale between the parties.

On January 31, 2015, the IBP Board of Governors issued Resolution No. XXI-2015-062,[2] which adopted the

foregoing recommendation but with modification, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A," finding Respondent's violation of Canon 1 of the Code of Professional Responsibility. Hence, Atty. Grace C. Buri is hereby SUSPENDED from the practice of law for one (1) year. The order to pay P200,000.00 is deleted without prejudice to the filing of proper action by Complainant in Court.

The Court's Ruling

The Court finds no sufficient reason to overturn the findings and recommendation of the IBP that Buri must be disciplined accordingly.

Here, instead of paying Yap the remaining balance of the purchase price of the condominium unit, Buri opted to simply threaten her and file a criminal case against her. Obviously, this strategy was to intimidate Yap and prevent her from collecting the remaining P200,000.00. When given a chance to defend herself, Buri chose to stay silent and even refused to file an answer, attend the hearing, or to submit her position paper, despite due notice. Hence, Yap's version of the facts stands and remains uncontroverted.

Buri's unwarranted tenacity simply shows, not only her lack of responsibility, but also her lack of interest in clearing her name, which, as pronounced in case law, is indicative of an implied admission of the charges levelled against her.[3]

Buri's persistent refusal to pay her obligation despite frequent demands clearly reflects her lack of integrity and moral soundness; she took advantage of her knowledge of the law and clearly resorted to threats and intimidation in order to get away with what she wanted, constituting a gross violation of professional ethics and a betrayal of public confidence in the legal profession.[4]

Buri indubitably swept aside the Lawyer's Oath that enjoins her to support the Constitution and obey the laws. She forgot that she must not wittingly or willingly promote or sue any groundless, false or unlawful suit nor give aid nor consent to the same. She also took for granted the express commands of the Code of Professional Responsibility (CPR), specifically Rule 1.01 of Canon 1 and Rule 7.03 of Canon 7 of the CPR.

Canon 1 and Rule 1.01 of the CPR provide:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 -A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

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While Canon 7 and Rule 7.03 of the CPR state:

CANON 7 - A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION AND SUPPORT THE ACTIVITIES OF THE INTEGRATED BAR.

Rule 7.03 - A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor shall he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

The foregoing canons require of Buri, as a lawyer, an enduring high sense of responsibility and good fidelity in all her dealings and emphasize the high standard of honesty and fairness expected of her, not only in the practice of the legal profession, but in her personal dealings as well. A lawyer must conduct himself with great propriety, and

his behavior should be beyond reproach anywhere and at all times. For, as officers of the courts and keepers of the public's faith, they are burdened with the highest degree of social responsibility and are thus mandated to behave at all times in a manner consistent with truth and honor. Likewise, the oath that lawyers swear to impresses upon them the duty of exhibiting the highest degree of good faith, fairness and candor in their relationships with others. Thus, lawyers may be disciplined for any conduct, whether in their professional or in their private capacity, if such conduct renders them unfit to continue to be officers of the court.[5]

That Buri's act involved a private dealing with Yap is immaterial. Her being a lawyer calls for - whether she was acting as such or in a non- professional capacity - the obligation to exhibit good faith, fairness and candor in her relationship with others. There is no question that a lawyer could be disciplined not only for a malpractice in his profession, but also for any misconduct committed outside of his professional capacity. Buri's being a lawyer demands that she conduct herself as a person of the highest moral and professional integrity and probity in her dealings with others.[6]

The Court has repeatedly emphasized that the practice of law is imbued with public interest and that a lawyer owes substantial duties, not only to his client, but also to his brethren in the profession, to the courts, and to the public, and takes part in the administration of justice, one of the most important functions of the State, as an officer of the court. Accordingly, lawyers are bound to maintain, not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing.[7]

Time and again, the Court has stressed the settled principle that the practice of law is not a right but a privilege bestowed by the State on those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege. Membership in the bar is a privilege burdened with conditions. A high sense of morality, honesty, and fair dealing is expected and required of a member of the bar. The nature of the office of a lawyer requires that he shall be of good moral character. This qualification is not only a condition precedent to the admission to the legal profession, but its continued possession is essential to maintain one's good standing in the profession. Consequently, a lawyer can be deprived of his license for misconduct ascertained and declared by judgment of the Court after giving him the opportunity to be heard.[8]

Verily, Buri has fallen short of the high standard of morality, honesty, integrity, and fair dealing expected of her. On the contrary, she employed her knowledge and skill of the law in order to avoid fulfillment of her obligation, thereby unjustly enriching herself and inflicting serious damage on Yap. Her repeated failure to file her answer and position paper and to appear at the mandatory conference aggravate her misconduct. These demonstrate high degree of irresponsibility and lack of respect for the IBP and its proceedings. Her attitude severely stains the nobility of the legal profession.[9]

The Court sustains the modified recommendation of the IBP Board of Governors. The Court has held that the deliberate failure to pay just debts constitutes gross misconduct, for which a lawyer may be sanctioned with one (1) year-suspension from the practice of law.[10] The Court likewise upholds the deletion of the payment of the P200,000.00 since the same is not intrinsically linked to Buri's professional engagement. Disciplinary proceedings should only revolve around the determination of the respondent lawyer's administrative and not his civil liability. Thus, when the claimed liabilities are purely civil in nature, as when the claim involves money owed by the lawyer to his client in view of a separate and distinct transaction and not by virtue of a lawyer-client relationship, the same should be threshed out in a separate civil action.[11]

WHEREFORE, IN VIEW OF THE FOREGOING, the Court SUSPENDS Atty. Grace C. Buri from the practice of law for a period of one (1) year and WARNS her that a repetition of the same or similar offense shall be dealt with more severely.

Let copies of this decision be included in the personal records of Atty. Grace C. Buri and entered in her file in the Office of the Bar Confidant.

Let copies of this decision be disseminated to all lower courts by the Office of the Court Administrator, as well as to the Integrated Bar of the Philippines, for their information and guidance.

SO ORDERED.

Carpio,[*] Acting C. J., (Chairperson), Perlas-Bernabe, Caguioa, and Reyes, Jr., JJ., concur.

[*] Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

[1] Report and Recommendation submitted by Commissioner Felimon C. Abelita III dated July 2, 2014; rollo, pp. 38-39.

[2] Rollo, pp. 36-37.

[3] *Pitcher v. Atty. Gagat*, 719 Phil. 82, 93 (2013).

[4] *Rollon v. Atty. Naraval*, 493 Phil. 24, 31 (2005).

[5] *Ong v. Ally. Delos Santos*, 728 Phil. 332, 339 (2014).

[6] *Id.* at 340.

[7] *Tabang v. Atty. Gacott*, 713 Phil. 578, 593 (2013).

[8] *Eustaquio v. Atty. Rimorin*, 447 Phil. 549, 555 (2003).

[9] *Villanueva v. Atty. Gonzales*, 568 Phil. 379, 388 (2008).

[10] *Yuson v. Atty. Vitan*, 528 Phil. 939, 952 (2006).

[11] *Pitcher v. Atty. Gagat*, *supra* note 3, at 94.

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