

EVERDINA C. ANGELES, COMPLAINANT, VS. ATTY. WILFREDO B. LINA-AC, RESPONDENT.

A.C. No. 12063. January 08, 2019

Ponente: LEONEN, J.

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LEONEN, J.:

The practice of law is a privilege, and lawyers who fail to meet the strict standards of legal proficiency, morality, and integrity will have their names stricken out of the Roll of Attorneys.[1]

This resolves the Administrative Complaint[2] filed by Everdina C. Angeles (Angeles) against Atty. Wilfredo B. Lina-ac (Atty. Lina-ac) for his negligence in performing his duties as legal counsel, and for committing a fraudulent act to cover up his negligence.

Sometime in February 2010, Angeles engaged the services of Atty. Lina-ac to file a petition for the nullity of her marriage with her husband. She paid him his professional fee in several tranches, for a total of P50,000.00, which was paid by May 2010.[3]

Angeles repeatedly followed up with Atty. Lina-ac on the status of her case. In October 2010,[4] he sent her a copy of a Complaint,[5] which bore the "received" stamp of the Regional Trial Court Branch 11, Manolo Fortich, Bukidnon. The complaint was supposedly docketed as Civil Case No. 10-3-

Angeles brought up an error in the Complaint with Atty. Lina-ac, who promised to rectify it. Months passed, yet her counsel failed to provide her a copy of the corrected Complaint, despite her repeated follow-ups. Fed up with his excuses, Angeles verbally asked Atty. Lina-ac in the second week of May 2011 to return the P50,000.00 she paid him.[6]

On May 25, 2011, Angeles went to the Regional Trial Court to inquire about her case status, and was shocked to discover that there was no pending petition for the nullity of her marriage, and that the stamp used in the Complaint provided by Atty. Lina-ac was not official.[7] The Regional Trial Court certified[8] that there was no Civil Case No. 10-3-35 pending in its docket.

Angeles confronted Atty. Lina-ac about this, to which he admitted that he never filed her Complaint. He also promised to return the money she paid him.[9]

Despite their agreement to sever their attorney-client relationship, Atty. Lina-ac on June 16, 2011 filed a Complaint[10] before the Regional Trial Court for the nullity of Angeles' marriage. It was docketed as Civil Case No. II-06-79.

In its June 27, 2011 Order,[11] the Regional Trial Court directed Angeles to file the necessary motion to serve summons on her husband through publication. [12]

On June 29, 2011, Angeles sent Atty. Lina-ac a Demand Letter[13] for the immediate return of P110,000.00, representing all the money she paid him for the two (2) cases he was handling. She expressed her dismay at how

he swindled her and deliberately went against their agreement by filing the second Complaint without her consent. She then informed him that she would file the appropriate criminal and administrative cases against him.[14]

On July 6, 2011, Atty. Lina-ac sent Angeles a copy of the June 27, 2011 Order, and asked her to submit an affidavit with information on her husband's whereabouts.[15] He then filed a Motion for Extension of Time[16] to file the motion for service of summons through publication, which the Regional Trial Court granted in its July 22, 2011 Order.[17]

Angeles did not provide Atty. Lina-ac the requested affidavit; yet, on August 4, 2011, Atty. Lina-ac still filed a Motion with Leave of Court for Service of Summons through Publication.[18]

In its August 10, 2011 Order,[19] the Regional Trial Court denied the Motion for failure to attach Angeles' affidavit. Atty. Lina-ac then provided Angeles a copy of it.[20]

In its September 6, 2011 Order,[21] the Regional Trial Court dismissed the second Complaint for Angeles' failure to comply with the requirements of filing the Motion. Again, Atty. Lina-ac provided Angeles a copy of the Order.[22]

On May 17, 2012, Angeles filed before the Provincial Prosecutor a Complaint[23] for estafa against Atty. Lina-ac, and forwarded the same Complaint to the Integrated Bar of the Philippines Misamis Oriental Chapter.[24]

On May 30, 2012, Angeles sent Atty. Lina-ac another Demand Letter[25] for the return of her money, and threatened to file a disbarment proceeding against him.

On July 9, 2012, Atty. Lina-ac filed his Comment[26] before the Integrated Bar of the Philippines Misamis Oriental Chapter. He denied defrauding Angeles and claimed that he did not know who placed the fake stamp on the first Complaint. He further claimed that the first Complaint was just a draft, and that Angeles' sister-in-law requested for copy of it.[27]

Atty. Lina-ac also pointed out that he filed a petition for the nullity of Angeles' marriage, and that the petition was dismissed because Angeles failed to provide the necessary affidavit for the summons on her husband to be served through publication.[28]

On April 26, 2013, the Investigating Commissioner directed both parties to attend a mandatory conference on July 25, 2013 at the Integrated Bar of the Philippines Building in Pasig City.[29] Atty. Lina-ac, who was 72 years old,[30] moved for the postponement[31] of the mandatory conference because his condition of Type 2 Diabetes made it difficult for him to travel from Bukidnon to Pasig City.

The Investigating Commissioner canceled[32] the scheduled mandatory conference and reset[33] it to August 29, 2013. Atty. Lina-ac moved[34] to transfer the venue of the mandatory conference to the Integrated Bar of the Philippines Misamis Oriental/Cagayan De Oro chapter because of his ailment.

The mandatory conference was reset one last time. When both parties still failed to appear, the Investigating Commissioner terminated the mandatory conference, denied Atty. Lina-ac's motions to transfer venue, and directed the parties to submit their position papers.[35]

In his Position Paper,[36] Atty. Lina-ac denied that he swindled Angeles and emphasized that he fulfilled his duties as her counsel. On the other hand, Angeles failed to file her position paper.[37]

On January 29, 2014, the Investigating Commissioner recommended[38] that Atty. Lina-ac be suspended from the practice of law for one (1) year for his negligence and deceitful conduct.

In its September 27, 2014 Resolution,[39] the Integrated Bar of the Philippines Board of Governors modified the

Investigating Commissioner's recommendation by increasing the penalty of suspension to two (2) years and ordering Atty. Lina-ac to return P50,000.00 to Angeles:

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 ", and considering that Respondent was remiss of his obligation and even deceived Complainant in violation of Rule 18.03 of the Code of Professional Responsibility, Atty. Wilfreda B. Linaac is hereby SUSPENDED from the practice of law for two (2) years and Ordered to Return to Complainant the amount of Fifty Thousand (P50,000.00) Pesos.⁴⁰ (Emphasis in the original)

On April 29 2015, Atty. Lina-ac moved for reconsideration^[41] of the Resolution against him.

In its June 17, 2017 Resolution, the Board of Governors partially granted^[42] Atty. Lina-ac's Motion and downgraded the penalty of suspension to reprimand, in recognition of his belated filing of the petition for annulment.

This Court modifies the findings of the Board of Governors.

Upon pursuing his client's cause, respondent Atty. Lina-ac became duty bound to protect complainant Angeles' interests. The degree of service expected of him as an advocate was his "entire devotion to the interest of the client, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability[.]"^[43] The high degree of service required of a lawyer is brought about by the lawyer's fiduciary duty toward the client, with their relationship marked "with utmost trust and confidence."^[44]

The Code of Professional Responsibility likewise imposes an exacting standard and requires lawyers to serve their clients with competence, fidelity, and diligence:

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.

RULE 18.03 A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

RULE 18.04 A lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information.

Respondent fell short of the standard required of him as complainant's legal counsel when he failed to serve her with competence and diligence.

Complainant engaged respondent's services to secure a declaration nullifying her marriage with her husband. However, despite complainant's considerable efforts at coming up with the cash for respondent's professional fees, respondent did not reciprocate with similar diligence toward her case. Further, instead of filing an actual petition for the nullity of complainant's marriage, he attempted to hoodwink complainant by furnishing her a copy of a Complaint with a fraudulent received stamp from the Regional Trial Court. As the Investigating Commissioner found:

A painstaking review of the case shows that respondent was negligent enough in his obligation as counsel despite having received the amount of FIFTY THOUSAND (P50,000) PESOS from the complainant. He was remised (sic) in his obligation when he failed to file the petition for annulment of marriage despite the lapse of reasonable period of time. Worse, he deceived complainant by showing a copy of the petition with a stamp of the court in order to make her believe that it was already filed when in truth, there was no such case filed by

him. His belated filing of the petition in (sic) June 27, 2011 will not exculpate him from any administrative liability under Rule 18.03 of the CPR which states: "a lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable.[45] (Emphasis in the original)

Respondent's deceitful conduct violates Rule 1.01 of the Code of Professional Responsibility, which provides, "A lawyer shall not engage in unlawful, dishonest, immoral[,] or deceitful conduct."

Worse, even after their attorney-client relationship was severed, respondent filed a second Complaint in a blatant attempt to cover up his earlier negligence and thwart complainant's efforts to recover the money she paid him. Respondent's repeated duplicity toward complainant reflects his lack of integrity, and is a clear violation of the oath he took before becoming a lawyer, as correctly found by the Investigating Commissioner:

Very clearly, respondent violated his oath as he was not forthright and honest in his dealings with the complainant. He engaged in deceitful conduct by presenting a bogus complaint allegedly bearing the stamp of the court. Consequently, he must bear the consequence of his own wrongdoing.[46]

Del Mundo v. Atty. Capistrano[47] emphasized the exacting standards expected of law practitioners:

To stress, the practice of law is a privilege given to lawyers who meet the high standards of legal proficiency and morality, including honesty, integrity[,] and fair dealing. They must perform their fourfold duty to society, the legal profession, the courts[,] and their clients, in accordance with the values and norms of the legal profession as embodied in the Code of Professional Responsibility. Falling short of this standard, the Court will not hesitate to discipline an attorney lawyer by imposing an appropriate penalty based on the exercise of sound judicial discretion in consideration of the surrounding facts.[48] (Emphasis supplied, citations omitted)

This Court expects an officer of the court to strictly adhere to the "rigid standards of mental fitness, maintenance of the highest degree of morality[,] and faithful compliance with the rules of the legal profession[.]"[49] Undoubtedly, respondent lacks the essential requirements of "probity and moral fiber,"[50] which are needed for his continued membership in the legal profession.[51]

Nonetheless, this Court takes judicial notice that respondent will be about 78 years old by the time this Resolution is promulgated. In light of his advanced age, this Court deems it proper to temper justice with mercy and mete out a penalty of two (2) years of suspension instead of the ultimate penalty of disbarment. Ours is a court of law, but it is our humane compassion that strengthens us as an institution and cloaks us "with a mantle of respect and legitimacy." [52]

WHEREFORE, respondent Atty. Wilfreda B. Lina-ac is SUSPENDED from the practice of law for two (2) years. He is ORDERED to return to complainant Everdina C. Angeles the amount of Fifty Thousand Pesos (P50,000.00) with interest at the rate of six percent (6%) per annum from the date of promulgation of this Resolution until fully paid.[53] He is likewise DIRECTED to submit to this Court proof of payment of the amount within ten (10) days from payment.

Let copies of this Resolution be furnished to: (1) the Office of the Court Administrator, to disseminate it to all courts throughout the country for their information and guidance; (2) the Integrated Bar of the Philippines; and (3) the Office of the Bar Confidant, to append it to respondent's personal record as a member of the Bar.

SO ORDERED.

Carpio, Acting C.J., Peralta, Del Castillo, Perlas-Bernabe, Jardeleza, Caguioa, Gesmundo, J. Reyes, Jr., Hernando, and Carandang, JJ., concur.

Bersamin C.J.,[*] On official business.

A. Reyes, Jr.,^[**] On leave.

[*] On official business.

[**] On leave.

[1]Del Mundo v. Atty. Capistrano, 685 Phil. 687, 693 (2012) [Per J. Perlas-Bernabe, Third Division].

[2]Rollo, pp. 3-4. Id .

[3]Id. at 3.

[4]Id

[5]Id. at 8-10.

[6]Id. at 3-4.

[7]Id. at 4.

[8]Id. at 7.

[9]Id. at 6.

[10]Id. at 21-22.

[11]Id. at 13.

[12]Id.

[13]Id. at 6.

[14]Id.

[15]Id. at 30.

[16]Id. at 31.

[17]Id. at 32.

[18]Id. at 33.

[19]Id. at 34.

[20]Id. at 35.

[21]Id. at 36.

[22]Id. at 37.

[23]Id. at 3-4.

[24]Id . at 2.

[25]Id . at 5.

[26]Id. at 17-19.

[27]Id. at 19.

[28]Id. at 17-18.

[29]Id . at 39.

[30]Id . at 43.

[31]Id. at 42-43.

[32]Id. at 41.

[33]Id . at 46.

[34]Id. at 47-48.

[35]Id. at 53.

[36]Id. at 54-56.

[37]Id. at 79.

[38]Id. at 79-80.

[39]Id. at 78. The Resolution was docketed as Resolution No. XXI-2014-586 in CBD Case No. 12-3662.

[40]Id.

[41]Id. at 81-82.

[42]Id. at 86.

[43]CANONS Of PROfessional ETHICS, no. 15.

[44]Caranza Vda. de Saldivar v. Atty. Cabanes, Jr., 713 Phil. 530, 537 (2013) [Per J. Perlas-Bernabe Second Division].

[45]Rollo, p. 80.

[46]Id. at 80.

[47]685 Phil. 687 (2012) [Per J. Perlas-Bernabe, Third Division].

[48]Id. at 693.

[49]Bernardo v. Atty. Mejia, 558 Phil. 398, 402 (2007) [Per J. Naehura, En Bane].

[50]Plumpre v. Atty. Rivera, 792 Phil. 626, 632 (2016) [Per Curiam, En Bane].

[51]Id .

[52]J . Leonen, Dissenting Opinion in Narag v. Atty. Narag, 730 Phil. 1, 7 (2014) [Per Curiam, En Banc].

[53]Nacar v. Gallery Frames, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

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