

PIA MARIE B. GO, COMPLAINANT, VS. ATTY. GRACE C. BURI, RESPONDENT.*A.C. No. 12296. December 04, 2018*

Ponente: PERLAS-BERNABE, J.

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For the Court's resolution is a verified complaint[1] dated December 15, 2015 filed before the Integrated Bar of the Philippines - Commission on Bar Discipline (IBP-CBD) by complainant Pia Marie B. Go (complainant) against respondent Atty. Grace C. Buri (respondent) praying that the latter be subjected to disciplinary actions for her alleged unprofessional conduct.

The Facts

Complainant alleged that sometime in September 2012, she engaged the services of respondent to handle the annulment of her marriage with her husband. In connection therewith, she paid[2] respondent on January 17, 2013 the amount of P150,000.00 representing the latter's "package engagement fee" and professional services. Shortly thereafter, complainant was informed that a petition for annulment was already filed before the Regional Trial Court of Muntinlupa (RTC), albeit no copy of the petition was furnished to her despite her request. However, in February 2013, complainant asked respondent to "hold" her case as she had to deal with various personal problems, to which the latter responded by "withdrawing" the petition supposedly filed before the RTC.[3]

It was only in February 2015 that complainant decided to push through with the annulment, thus, she tried contacting respondent, but to no avail. After a few weeks and with the help of a lawyer friend, complainant was finally able to get in touch with respondent and tell her to push through with the annulment case. Thereafter, respondent asked complainant for another P38,000.00 purportedly for the re-filing 'of the case, which complainant reluctantly remitted to her. Later on, complainant repeatedly demanded respondent to furnish her copies of the original and the re-filed petition for annulment and to issue receipts for the money she remitted, but respondent failed or refused to do so. Becoming suspicious of respondent's actions, petitioner went to the Office of the Clerk of Court of the RTC and discovered that there was no petition for annulment filed by respondent on her behalf.[4] This prompted complainant to confront respondent, to which the latter responded by promising to file the petition. However, respondent continuously failed to file the same, resulting in complainant losing trust in her and subsequently demanding that she return complainant's money. Respondent promised to return only half of the money, which she still failed to do despite complainant's repeated demands. Hence, complainant was constrained to file the instant complaint.[5]

Eventually, the IBP-CBD required the parties to attend the Mandatory Conference and submit their respective mandatory conference briefs, to which only complainant complied. In view of the foregoing, the IBP-CBD deemed respondent's continued failure to appear before it and comply with its directives to be a waiver on her part to participate in the proceedings.[6]

The IBP's Report and Recommendation

In a Report and Recommendation[7] dated January 30, 2017, the Investigating Commissioner found respondent administratively liable, and accordingly, recommended that she be suspended from the practice of law for a period of one (1) year, and that complainant should claim and collect the amount she remitted to respondent through an independent action, civil or criminal, as the case may be.[8]

The Investigating Commissioner found that the totality of respondent's acts - namely, failing to file the contracted petition for annulment of marriage and to re-file the same after collecting money for the supposed re-filing fee, receiving the full payment of her professional fees for legal services not rendered, and committing a series of lies and misrepresentations in the handling of complainant's case - is anathema to Canon 18 of the Code of Professional Responsibility (CPR), for which she must be administratively sanctioned. In this regard, the Investigating Commissioner opined that the efforts made by the IBP-CBD in furnishing respondent copies of orders and notices via registered mail to her office and both her Metro Manila and provincial addresses, engender the belief that respondent knew of the filing of an administrative case against her but simply chose to ignore the same, as a ploy and scheme to evade sanctions in the future by invoking lack of notice and due process.[9]

In a Resolution[10] dated November 29, 2017, the IBP Board of Governors adopted the Investigating Commissioner's report and recommendation, with the following modifications: (a) increasing the recommended period of suspension to two (2) years; (b) ordering the return of the amount of P188,000.00 to complainant; and (c) imposing on respondent a fine of P5,000.00 for refusing to comply with the IBP-CBD's order to file an answer despite due notice.[11]

The Issue Before the Court

The essential issue in this case is whether or not respondent should be administratively sanctioned for the acts complained of.

The Court's Ruling

Records show that sometime in September 2012, complainant secured respondent's services in order to assist her in filing a petition for the annulment of her marriage, and in connection therewith, paid the latter a total of P188,000.00. However, and despite respondent's assurances that the case had already been filed before the RTC, complainant later on found out through the Certification[12] issued by the RTC that no annulment case was ever filed by respondent on her behalf. Such neglect of a legal matter entrusted to respondent constitutes a flagrant violation of Rule 18.03, Canon 18 of the CPR, which reads:

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.

Case law exhorts that once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable,[13] as respondent in this case.

Moreover, records further show that respondent misrepresented to complainant that she filed the first petition for annulment in early 2013, withdrew the same after complainant told her to do so, and filed the second petition in 2015. However, no such case was filed. This act is a violation of Rule 1.01, Canon 1 and Canon 15 of the CPR, which read:

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

CANON 15 - A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

As officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing. Clearly, respondent fell short of such standard when she committed the afore-described acts of misrepresentation and deception against complainant. Respondent's acts are not only unacceptable, disgraceful, and dishonorable to the legal profession; they also reveal basic moral flaws that make her unfit to practice law.[14]

Furthermore, respondent also violated Rule 16.01 and Rule 16.03, Canon 16 of the CPR when she failed to return to complainant the total amount of P188,000.00 representing her legal fees despite numerous demands from the latter, viz.:

CANON 16 - A lawyer shall hold in trust all moneys and properties of his client that may come into his possession.

Rule 16.01 - A lawyer shall account for all money or property collected or received for or from the client.

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

It bears stressing that the relationship between a lawyer and his client is highly fiduciary and prescribes on a lawyer a great fidelity and good faith. The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his client. Thus, a lawyer's failure to return upon demand the funds held by him on behalf of his client, as in this case, gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. This act is a gross violation of general morality, as well as of professional ethics.[15]

In sum, respondent's acts of neglecting her client's affairs, failing to return the latter's money and/or property despite demand, and at the same time, committing acts of misrepresentation against her client, constitute professional misconduct for which she must be held administratively liable. In this regard, jurisprudence provides that in instances where the lawyer commits similar acts against their respective clients, the Court imposed upon them the penalty of suspension from the practice of law for a period of two (2) years. In *Jinon v. Jiz*,[16] the Court suspended the erring lawyer for such period for his failure to return the amount his client gave him for his legal services which he never performed. Also, in *Agot v. Rivera*,[17] the Court suspended the erring lawyer for the same period for his: (a) failure to handle the legal matter entrusted to him and to return the legal fees in connection therewith; and (b) misrepresentation that he was an immigration lawyer, when in truth, he was not. Hence, it is only proper that respondent be meted the same penalty, as recommended by the IBP Board of Governors.

Furthermore, the Court sustains the IBP Board of Governor's recommendation ordering respondent to return the amount of P188,000.00 she received from complainant as legal fees. It is well to note that while the Court has previously held that disciplinary proceedings should only revolve around the determination of the respondent-lawyer's administrative and not his civil liability, it must be clarified that this rule remains applicable only to claimed liabilities which are purely civil in nature - for instance, when the claim involves moneys received by the lawyer from his client in a transaction separate and distinct and not intrinsically linked to his professional engagement.[18] Hence, since respondent received the aforesaid amount as part of her legal fees, the Court finds

the return thereof to be in order.

Finally, the Court likewise sustains the imposition of a fine in the amount of P5,000.00 for respondent's failure to comply with the IBP-CBD's order to file an answer despite due notice.[19]

WHEREFORE, respondent Atty. Grace C. Buri is found guilty of violating Rule 1.01 of Canon 1, Canon 15, Rules 16.01 and 16.03 of Canon 16, and Rule 18.03 of Canon 18 of the Code of Professional Responsibility. Accordingly, she is hereby **SUSPENDED** from the practice of law for a period of two (2) years, effective immediately upon her receipt of this Decision. She is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely. She is likewise **ORDERED** to pay a fine in the amount of P5,000.00 for failure to comply with the directives of the Integrated Bar of the Philippines Commission on Bar Discipline.

Further, respondent is **ORDERED** to return to complainant Pia Marie B. Go the legal fees she received from the latter in the aggregate amount of P188,000.00 within ninety (90) days from the finality of this Decision. Failure to comply with this directive will warrant the imposition of a more severe penalty.

Finally, she is **DIRECTED** to report to this Court the date of her receipt of this Decision to enable it to determine when her suspension from the practice of law shall take effect.

Let copies of this Decision be furnished to: (1) the Office of the Bar Confidant to be appended to respondent's personal record as an attorney; (2) the Integrated Bar of the Philippines for its information and guidance; and (3) the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Bersamin, C. J., Carpio, (Senior Associate Justice), Peralta, Del Castillo, Leonen, Jardeleza, Caguioa, Tijam, A. Reyes, Jr., Gesmundo, J. Reyes, Jr., and Hernando, JJ., concur.
Carandang, J., on leave.

[1] Rollo, pp. 2-8.

[2] See undated Contract/Agreement; id. at 9.

[3] See id. at 2-3. See also id. at 67-68.

[4] See Certification dated December 1, 2015 signed by Clerk of Court V Atty. Charmaine C. Apolinario--Jimenez and verified by Raffle Officer Avelino Laverne F. Demetria; id. at 11.

[5] See id. at 3-7. See also id. at 68-70.

[6] See id. at 72-73.

[7] Id. at 67-78. Penned by Commissioner Rogelio N. Wong.

[8] See id. at 78.

[9] See id. at 73-78.

[10] See Notice of Resolution in CBD Case No. 16-4861 signed by Assistant National Secretary Doroteo B. Aguila; id. at 64-66.

[11] Id. at 65.

[12] Id. at 11.

[13] *Dongga-as v. Cruz-Angeles*, 792 Phil. 611, 619 (2016), citing *Spouses Lopez v. Limos*, 780 Phil. 113, 120 (2016).

[14] See *id.* at 622; citation omitted.

[15] *Id.* at 620; citation omitted.

[16] 705 Phil. 321 (2013).

[17] 740 Phil. 393 (2014).

[18] *Dongga-as v. Cruz-Angeles*, *supra* note 13, at 624; citation omitted.

[19] In numerous cases, fines in various amounts have been imposed on erring lawyers who have failed to file their comments despite due notice. (See *Velasco v. Doroin*, 582 Phil. 1 [2008]; *Spouses Bautista v. Cefra*, 702 Phil. 203 [2013]; *Bunagan-Bansig v. Celera*, 724 Phil. 141 [2014]; *Enriquez v. Lavadia, Jr.*, A.C. No. 5686, June 16, 2015; and *United Coconut Planters Bank v. Noel*; A.C. No. 3951, June 19, 2018.)

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