

LEILANI JACOLBIA, COMPLAINANT, VS. ATTY. JIMMY R. PANGANIBAN, RESPONDENT.

A.C. No. 12627. February 18, 2020

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is an administrative complaint[1] filed on August 26, 2016 by complainant Leilani Jacolbia (complainant) before the Committee on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP), against respondent Atty. Jimmy R. Panganiban (respondent), charging the latter with violation of the Code of Professional Responsibility (CPR).

The Facts

It was averred that sometime in 2004, complainant engaged the services of respondent to facilitate the transfer and registration of a title covering an agricultural land with an area of 9,076 square meters, situated in Barangay Quisao, Pililla, Rizal.[2] In connection therewith, she paid respondent the amount of P244,865.00 as legal fees, inclusive of all other necessary expenses, and turned over all the relevant documents, including the original copy of Original Certificate of Title (OCT) No. M-3772.[3]

However, several years had passed without respondent taking any action in transferring and registering the title to the property.[4] Thus, on May 16, 2013, complainant sent a demand letter[5] requiring respondent to return all pertinent documents, including OCT No. M-3772, and refund the amount she paid him,[6] but to no avail.[7] This prompted complainant to file the instant administrative complaint against respondent before the IBP-CBD.

On September 26, 2016, the IBP-CBD issued an Order[8] requiring respondent to submit his answer to the complaint and furnish complainant with a copy thereof within fifteen (15) days from receipt, with a warning that failure to do so will render him in default and the case shall be heard *ex parte*.

On April 5, 2017, the IBP-CBD issued a Notice of Mandatory Conference[9] notifying the parties to appear for mandatory conference on May 24, 2017, with a warning that non-appearance by the parties shall be deemed a waiver of their right to participate in further proceedings. However, despite due notice, respondent failed to appear at the scheduled mandatory conference and file his answer to the complaint. Thus, the mandatory conference was terminated and the parties were required to file their respective position papers within ten (10) days from receipt of the Order.[10]

On July 12, 2017, respondent filed a motion to reset the mandatory conference and to hold in abeyance the filing of his position paper,[11] which was denied in an Order[12] dated August 15, 2017. Subsequently, respondent failed to file his position paper.[13]

The IBP's Report and Recommendation

In a Report[14] dated February 10, 2018, the Investigating Commissioner found respondent to have violated the

Lawyer's Oath and the CPR, and accordingly, recommended his suspension from the practice of law for one (1) year at the discretion of the Board of Governors, with a warning that repetition of similar conduct in the future will warrant a more severe penalty.[15] The Investigating Commissioner opined that respondent fell short of the diligence required of a lawyer entrusted with a case, considering that he failed to carry complainant's case to its conclusion. Moreover, respondent's failure to return complainant's money despite demands and his false promises to pay manifested his willful and intentional refusal to perform his duty in accordance with his lawyer's oath. Finally, the Investigating Commissioner considered respondent's failure to file his answer and position paper as a separate offense meriting sanctions.[16]

In a Resolution[17] dated May 19, 2018, the IBP Board of Governors adopted the Investigating Commissioner's recommendation, with modification increasing the recommended penalty of suspension from the practice of law from one (1) year to three (3) years and imposing a fine in the amount of P15,000.00 for repeatedly ignoring the orders and processes of the IBP-CBD. It likewise directed the IBP-CBD to prepare an extended resolution explaining the Board of Governor's action.[18]

In an Extended Resolution[19] dated December 11, 2018, the Investigating Commissioner stressed that respondent's acts of: (a) obtaining money for his legal services but failing to render the same; (b) failing to return complainant's money and relevant documents despite demands; and (c) failing to appear before the IBP-CBD and submit his answer, mandatory conference brief, and position paper, violated the CPR, particularly Canons 1, 2, 7, 17, and 18 thereof.[20] Thus, the Investigating Commissioner explained that the IBP Board of Governors' recommendation to increase the penalty from one (1) year to three (3) years was justified, considering the following aggravating circumstances: (a) respondent's acts were tainted with bad faith; (b) lack of remorse; and (c) failure to file answer and attend the mandatory conference. Moreover, the imposition of a fine in the amount of P15,000.00 was warranted, since respondent repeatedly ignored the orders and processes of the IBP-CBD.[21]

The Issue Before the Court

The essential issue for the Court's resolution is whether or not respondent should be administratively sanctioned for the acts complained of.

The Court's Ruling

The Court concurs and affirms the findings and recommendation of the IBP Board of Governors.

It is well to stress that every lawyer owes fidelity to the causes and concerns of his clients. He must be ever mindful of the trust and confidence reposed in him by his clients. His duty to safeguard the clients' interests commences from his engagement as such, and lasts until his effective release by the clients. During that time, he is expected to take every reasonable step and exercise ordinary care as his clients' interests may require.[22] In furtherance thereto, Canons 2, 17, 18, and Rule 18.03 of the CPR provide:

CANON 2 - A lawyer shall make his legal services available in an efficient and convenient manner compatible with the independence, integrity and effectiveness of the profession.

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.

In this case, records reveal that sometime in 2004, complainant engaged the services of respondent for the

processing of the transfer and registration of a land title, and in connection therewith, paid the latter the amount of P244,865.00. However, twelve (12) years had passed until the filing of the administrative complaint without respondent having rendered the services he had assumed. Such neglect of a legal matter entrusted to him by complainant constitutes flagrant violations of the above-mentioned tenets of the CPR. It is settled 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,[23] as in this case.

Moreover, upon complainant's demand, respondent refused to return the amount of P244,865.00 he received as legal fees as well as all pertinent documents entrusted to him by complainant, including the original copy of OCT No. M-3772. Respondent did not even offer any justifiable reason for such continued refusal. Clearly, such act constitutes a violation of Canon 16 and Rules 16.01 and 16.03 of the CPR, which state:

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

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.[24]

To further aggravate respondent's administrative liability, the Court notes respondent's repeated disregard of the IBP-CBD's orders and proceedings. Records show that despite being required to do so, respondent failed to file his answer, mandatory conference brief, and position paper. He also failed to appear at the scheduled mandatory conference despite due notice. Instead, respondent merely filed a motion to reset the mandatory conference and to hold in abeyance the filing of his position paper, which caused undue delay in the resolution of the instant administrative case, in violation of Canons 11, 12, and Rule 12.04 of the CPR,[25] to wit:

CANON 11 - A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

CANON 12 - A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

Rule 12.04 - A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse court processes.

In this regard, it should be emphasized that as a member of the IBP, respondent is duty-bound to comply with all the IBP's lawful directives in deference to its authority over him.[26] Verily, his failure to comply with the orders of the IBP without justifiable reason manifests his disrespect of judicial authorities[27] for which he must be disciplined accordingly.

Anent the proper penalty to be imposed on respondent, the Court finds it appropriate to impose on him the penalty

of suspension from the practice of law for a period of three (3) years and a fine in the amount of P15,000.00, as recommended by the IBP Board of Governors. This is in line with the Court's ruling in similar cases. For instance, in *Spouses Lopez v. Limos*,^[28] the erring lawyer was suspended for three (3) years for violating Canon 11, Rule 12.04 of Canon 12, Rules 16.01 and 16.03 of Canon 16, and Rule 18.03 of Canon 18 of the CPR, among others. Likewise, in *Go v. Buri*,^[29] the erring lawyer was suspended for two (2) years for violating Canon 16 and Rule 18.03 of Canon 18 of the CPR, among others, and ordered to pay a fine for failure to comply with the IBP-CBD's order to file an answer despite due notice.

Finally, the Court notes that complainant paid respondent the tot.11 amount of P244,865.00 as legal fees, inclusive of all other expenses necessary to facilitate the transfer and registration of title. Consequently, respondent should return to complainant within ten (10) days from receipt of this Decision, the amount of P244,865.00 he received in connection therewith. The said amount shall earn an interest at the rate of six percent (6%) per annum, which shall accrue from the time of respondent's receipt of this Decision until full payment, in line with existing jurisprudence.^[30]

WHEREFORE, Atty. Jimmy R. Panganiban (respondent) is found administratively liable for violating Canons 2 and 11, Rule 12.04 of Canon 12, Rules 16.01 and 16.03 of Canon 16, Canon 17, and Rule 18.03 of Canon 18 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of three (3) years, effective immediately upon his receipt of this Decision, with a **STERN WARNING** that a repetition of the same or similar act will be dealt with more severely. He is likewise **ORDERED** to pay a fine in the amount of P15,000.00 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 Leilani Jacolbia within ten (10) days from receipt of this Decision, the amount of P244,865.00, which shall earn legal interest at the rate of six percent (6%) per annum from his receipt of this Decision until full payment. Respondent shall submit to the Court proof of restitution within ten (10) days from payment. Failure to comply with this directive shall warrant the imposition of a more severe penalty.

Finally, respondent is **DIRECTED** to report to this Court the date of his receipt of this Decision to enable it to determine when his 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.

Peralta, C. J., Leonen, Caguioa, A. Reyes, Jr., Gesmundo, J. Reyes, Jr., Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santos, and Gaerlan, JJ., concur.

[1] Rollo, pp. 1-4.

[2] *Id.* at 1-2.

[3] *Id.* at 2.

[4] *Id.* at 35.

[5] *Id.* at 10.

- [6] In the demand letter, complainant alleged that she paid respondent the amount of P235,000.00; see *id.*
- [7] See *id.* at 35.
- [8] *Id.* at 13.
- [9] *Id.* at 15.
- [10] *Id.* at 38.
- [11] *Id.* at 28.
- [12] *Id.* at 30.
- [13] See *id.* at 39.
- [14] *Id.* at 34-37. Signed by Commissioner Gilbert L. Macatangay.
- [15] *Id.* at 37.
- [16] See *id.* at 36.
- [17] See Notice of Resolution in CBD Case No. 16-5066 issued by National Secretary Patricia-Ann T. Progalidad; *id.* at 32-33.
- [18] *Id.* at 32.
- [19] *Id.* at 38-47. Signed by Commissioner Leland R. Villadolid, Jr.
- [20] See *id.* at 41-46.
- [21] *Id.* at 46-47.
- [22] See *Pesto v. Millo*, 706 Phil. 286, 292 (2013); citation omitted.
- [23] See *Go v. Buri*, A.C. No. 12296, December 4, 2018, citing *Dongga-as v. Cruz-Angeles*, 792 Phil. 611, 619 (2016).
- [24] See *id.*
- [25] See *Spouses Lopez v. Limos*, 780 Phil. 113, 122 (2016).
- [26] See *Vecino v. Ortiz, Jr.*, 579 Phil. 14, 16-17 (2008), citing *Toledo v. Abalos*, 374 Phil. 15, 18 (1999) and *Tomlin II v. Moya II*, 518 Phil. 325, 332 (2006).
- [27] See *Tomlin II v. Moya II*, *id.*
- [28] 780 Phil. 113 (2016).
- [29] A.C. No. 12296, December 4, 2018.
- [30] See *San Gabriel v. Sempio*, A.C. No. 12423, March 26, 2019.

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