

LEONILA J. LICUANAN, COMPLAINANT, VS. ATTY. MANUEL L. MELO, RESPONDENT.

A.C. No. 2361. February 09, 1989

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PER CURIAM:

An affidavit-complaint, dated November 11, 1981, was filed by Leonila J. Licuanan with the Office of the Court Administrator on 5 February 1982 against respondent, Atty. Manuel L. Melo, for breach of professional ethics, alleging that respondent, who was her counsel in an ejectment case filed against her tenant, failed to remit to her the rentals collected by respondent on different dates over a twelve-month period, much less did he report to her the receipt of said amounts. It was only after approximately a year from actual receipt that respondent turned over his collections to complainant after the latter, through another counsel, acquired knowledge of the payment and had demanded the same.

In his Comment on the complaint, respondent admitted having received the payment of rentals from complainant's tenant, Aida Pineda, as alleged in the complaint, but explained that he kept this matter from the complainant for the purpose of surprising her with his success in collecting the rentals.

We forwarded the case to the Office of the Solicitor General, for investigation, report and recommendation. Hearings were conducted and the parties presented their respective evidence.

After investigation, the Solicitor General submitted the following Findings and Recommendations:

"Findings:

"The issue to be resolved is whether there was unreasonable delay on the part of the respondent in accounting for the funds collected by him for his former client, the Complainant herein, for which unprofessional conduct respondent should be disciplined.

"A lawyer, under his oath, pledges himself not to delay any man for money or malice and is bound to conduct himself with all good fidelity to his clients. Under paragraph 11 of the Canons of Legal Ethics, he is obligated to report promptly the money of client that has come to his possession and should not commingle it with his private property or use it for his personal purpose without his client's consent viz:

'Money of the client or other trust property coming into the possession of the lawyer should be reported promptly, and except with the client's knowledge and consent should not be commingled with his private property or be used by him.'

And paragraph 32 of the Canons of Legal Ethics further requires a lawyer to maintain a reputation for honesty and fidelity to private trust:

'x x x But above all, a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen.'

"In the instant case, respondent failed to observe his oath of office. It is undisputed that the relation of attorney and client existed between Licuanan and Melo at the time the incident in question took place. The records disclose

that on August 8, 1979, respondent, as Licuanan's attorney, obtained judgment in Licuanan's favor against Aida Pineda whereby the latter was directed by the City Court of Manila to pay Licuanan all her monthly rentals from October, 1978 and succeeding months thereafter.

"When several months had elapsed without them hearing a word from Pineda, respondent decided to send her a letter on February 4, 1980, demanding that she pays the monthly rental of her apartment otherwise he will be constrained to take the necessary legal action against her to protect the interest of his client (Exhibit 'A', p. 8, record) On February 11, 1980, Pineda yielded to the demand of Melo. She went to respondent's office and paid him P3,060.00 for which respondent gave her a receipt for the said amount representing her rental payments for October, 1978 to February, 1980 at the rate of P180.00 per month (Exh. 'B', p. 9, *ibid.*). At the end of March 31, 1980, Pineda again went back to respondent and paid the rentals of her apartment for the months of March and April, 1980 in the sum of P360.00 (Exh. 'C', p. 10, *ibid.*). Not only that, respondent again received from Pineda on June 30, 1980 rental payments covering the months of May, June and July, 1980 in the total sum of P540.00 (Exh. 'D', p. 11, *ibid.*). And, on September 29, 1980, he received and issued Pineda a receipt for P540.00 covering rental payments for the months of August, September and October, 1980. (Exh. 'E', *ibid.*). After four months had elapsed, or on January 23, 1981, he collected again from Pineda the total sum of P720.00 covering the months of October, November, December, 1980 and January 1981 (Exh. 'F', p. 12, *ibid.*).

"During the entire twelve-month period that respondent had been receiving the said rental payments of Pineda, he did not bother to inform or report to complainant about the said payments and instead unnecessarily retained the money. He allowed the money to accumulate for a year and kept complainant in the dark as to the progress of the case. He did not even attempt to tell her about the money that had come into his possession notwithstanding the fact that complainant used to call him and inquire regarding the case (pp. 14-15, *tsn.*, Sept. 10, 1985).

"It was only when Atty. Ponciano B. Jacinto, the new counsel retained by complainant, wrote respondent a letter on May 4, 1981, advising him to surrender the money to complainant that he accounted for it (Exh. 'H', p. 15, *ibid.*). but this was rather late because as early as April 27, 1981, complainant, not knowing that respondent had been receiving the rental payments of Pineda, instituted an administrative case against her (Aida Pineda) before the Chief of the Philippine Tuberculosis Society accusing her of 'moral turpitude' arising from her alleged failure to pay the rent of her apartment as ordered by the City Court of Manila in Civil Case No. 037276 and claiming that she has ignored and refused to pay her just obligation (Exh. 'G', p. 14, *ibid.*).

"This led therefore Pineda to bring an action against her (Licuanan) for damages before the then Court of First Instance of Manila, for she allegedly suffered mental anguish, besmirched reputation, wounded feelings and social humiliation arising from the unfounded administrative case Licuanan filed against her (Aida Pineda), since as borne out by the records, she had been paying her obligation religiously to the lawyer of Licuanan, herein respondent (pp. 48-52, record). Clearly, this unfortunate incident would not have happened had respondent been only true to his oath as a lawyer, i.e., to be honest and candid towards his client.

"Thus, we find it hard to believe respondent's defense that he kept the money of complainant for a year merely because he wanted to surprise her with his success in collecting the rental payments from Pineda. On the contrary, it is very much discernible that he did not surrender immediately the money to complainant because he was using it for his own benefit. Common sense dictates that by unnecessarily withholding the money of complainant for such length of time, respondent deprived her of the use of the same. It is therefore too credulous to believe his explanation, which is flimsy and incredible. Respondent's actuation casts doubt on his honesty and integrity. He must know that the 'highly fiduciary' and 'confidential relation' of attorney and client requires that the attorney should promptly account for all funds and property received or held by him for the client's benefit, and failure to do so constitutes professional misconduct, as succinctly held by the Honorable Supreme Court in the case of

Fermina Leqaspi Daroy, et. al., vs. Atty. Ramon Chaves Leqaspi, Adm. Case No. 936, July 25, 1975, 65 SCRA 304, to wit:

'A lawyer, under his oath, pledges himself not to delay any man far money or malice and is bound to conduct himself with all good fidelity to his clients. He is obligated to report promptly the money of his clients that has come into his possession. He should not commingle it with his private property or use it for his personal purposes without his client's consent. He should maintain a reputation for honesty and fidelity to private trust (Pars. 11 and 32, Canons of Legal Ethics).

Money collected by a lawyer in pursuance of a judgment in favor of his clients is held in trust and must be immediately turned over to them (Aya vs. Bigonia, 57 Phil. 8, 11).

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A lawyer may be disbarred for any deceit, malpractice or other gross misconduct in his office as attorney or for any violation of the lawyer's oath (Ibid., sec. 27).

The relation between an attorney and his client is highly fiduciary in its nature and of a very delicate, exacting and confidential in character, requiring a high degree of fidelity and good faith (7 Am. Jur. 2d 105). In view of that special relationship, 'lawyers are bound to promptly account for money or property received by them on behalf of their clients and failure to do so constitutes professional misconduct. The fact that a lawyer has a lien for fees on money in his hands collected for his clients does not relieve him from the duty of promptly accounting for the funds received. (Italics supplied).'

"In fine, we are convinced that respondent is guilty of breach of trust reposed in him by his client. Not only has he degraded himself but as an unfaithful lawyer he has besmirched the fair name of an honorable profession (In re Paraiso, 41 Phil. 24, 25; In re David, 84 Phil. 627; Manaloto vs. Reyes, Adm. Case No. 503, October 29, 1965, 15 SCRA 131). By his deceitful conduct, he placed his client in jeopardy by becoming a defendant in a damage suit; thus, instead of being a help to his client, he became the cause of her misery. He, therefore, deserves a severe punishment for it. (Aya vs. Bigornia, 57 Phil. 8, 11; In re Bamberger, April 17, 1924, 49 Phil. 962; Daroy, et al., vs. Atty. Ramon Chaves Legaspi, supra.)

"Clearly, respondent is guilty of professional misconduct in the discharge of his duty as a lawyer.

RECOMMENDATION

"WHEREFORE, we respectfully recommend that respondent be suspended from the practice of law for a period of not less than one (1) year, and that he be strongly admonished to strictly and faithfully observe his duties to his clients." (pp. 78-85, Rollo)

We find the foregoing findings well considered and adopt the same but differ with the recommendation.

The actuations of respondent in retaining for his personal benefit over a one-year period, the amount of P5,220.00 received by him on behalf of his client, the complainant herein, depriving her of its use, and withholding information on the same despite inquiries made by her, is glaringly a breach of the Lawyer's Oath to which he swore observance, and an evident transgression of the Canons of Professional Ethics, particularly:

"11. DEALING WITH TRUST PROPERTY

"The lawyer should refrain from any action whereby for his personal benefit or gain he abuses or takes advantage of the confidence reposed in him by his client.

"Money of the client or collected for the client of other trust property coming into the possession of the lawyer should be reported and accounted for promptly, and should not under any circumstance be commingled with

his own or be used by him."[*]

Indeed, by his professional misconduct, respondent has breached the trust reposed in him by his client. He has shown himself unfit for the confidence and trust which should characterize an attorney-client relationship and the practice of law. By reason thereof complainant was compelled to file a groundless suit against her tenant for non-payment of rentals thereby exposing her to jeopardy by becoming a defendant in a damage suit filed by said tenant against her. By force of circumstances, complainant was further compelled to engage the services of another counsel in order to recover the amount rightfully due her but which respondent had unjustifiedly withheld from her.

Respondent's unprofessional actuations considered, we are constrained to find him guilty of deceit, malpractice and gross misconduct in office. He has displayed lack of honesty and good moral character. He has violated his oath not to delay any man for money or malice, besmirched the name of an honorable profession and has proven himself unworthy of the trust reposed in him by law as an officer of the Court. He deserves the severest punishment.

WHEREFORE, consistent with the crying need to maintain the high traditions and standards of the legal profession and to preserve undiminished public faith in attorneys-at-law, the Court Resolved to DISBAR respondent, Atty. Manuel L. Melo, from the practice of law. His name is hereby ordered stricken from the Roll of Attorneys.

Copies of this Resolution shall be circulated to all Courts of the country and spread on the personal record of respondent Atty. Manuel L. Melo.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Gutierrez, Jr., J., no part was on leave during the deliberations.

[*] Substantially reiterated in Rules 16.01, 16.02 and 16.03 of the Code of Professional Responsibility promulgated by the Supreme Court on 21 June 1988.

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