

VALERIANA U. DALISAY, COMPLAINANT, VS. ATTY. MELANIO MAURICIO, JR., RESPONDENT.

A.C. NO. 5655. January 23, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-5655/>

SANDOVAL-GUTIERREZ, J.:

At bar is a motion for reconsideration of our Decision dated April 22, 2005 finding Atty. Melanio "Batas" Mauricio, Jr., respondent, guilty of malpractice and gross misconduct and imposing upon him the penalty of suspension from the practice of law for a period of six (6) months.

A brief revisit of facts is imperative, thus:

On October 13, 2001, Valeriana U. Dalisay, complainant, engaged respondent's services as counsel in Civil Case No. 00-044, entitled "Lucio De Guzman, etc., complainants, v. Dalisay U. Valeriana, respondent," pending before the Municipal Trial Court, Branch 1, Binangonan, Rizal. Notwithstanding his receipt of documents and attorney's fees in the total amount of P56,000.00 from complainant, respondent never rendered legal services for her. As a result, she terminated the attorney-client relationship and demanded the return of her money and documents, but respondent refused.

On January 13, 2004, Investigating Commissioner Lydia A. Navarro of the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline, found that "for the amount of P56,000.00 paid by the complainant x x x, no action had been taken nor any pleadings prepared by the respondent except his alleged conferences and opinions rendered when complainant frequented his law office." She recommended that respondent be required to refund the amount of P56,000.00 to the complainant, and surprisingly, that the complaint be dismissed.

On February 27, 2004, the IBP Board of Governors passed Resolution No. XVI-2004-121, adopting and approving in toto Commissioner Navarro's Report and Recommendation.

On April 22, 2005, we rendered the assailed Decision.

Incidentally, upon learning of our Decision, respondent went to the MTC, Branch I, Binangonan, Rizal to verify the status of Civil Case No. 00-044. There, he learned of the trial court's Decision dated December 6, 2001 holding that "the tax declarations and title" submitted by complainant "are not official records of the Municipal Assessor and the Registry of Deed." Thereupon, respondent filed a Sworn Affidavit Complaint [1] against complainant charging her with violations of Article 171 [2] and 172, [3] and/or Article 182 [4] of the Revised Penal Code. He alleged that complainant offered tampered evidence.

In this motion for reconsideration, respondent raises the following arguments:

First, complainant did not engage his services as counsel in Civil Case No. 00-044. She hired him for the purpose of filing two new petitions, a petition for declaration of nullity of title and a petition for review of a decree.

Second, Civil Case No. 00-044 was "considered submitted for decision" as early as August 6, 2001, or more than

two months prior to October 13, 2001, the date he was engaged as counsel, hence, "he could not have done anything anymore" about it.

Third, complainant refused to provide him with documents related to the case, preventing him from doing his job.

And fourth, complainant offered tampered evidence in Civil Case No. 00-004, prompting him to file falsification cases against her.

In her opposition to the motion, complainant contends that: (1) respondent violated the principle of confidentiality between a lawyer and his client when he filed falsification charges against her; (2) respondent should have returned her money; (3) respondent should have verified the authenticity of her documents earlier if he really believed that they are falsified; and (4) his refusal to return her money despite this Court's directive constitutes contempt.

We deny respondent's motion for reconsideration.

It is axiomatic that no lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. But once he accepts money from a client, an attorney-client relationship is established, giving rise to the duty of fidelity to the client's cause. [5] From then on, he is expected to be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted devotion.[6]

Respondent assumed such obligations when he received the amount of P56,000.00 from complainant and agreed to handle Civil Case No. 00-044. Unfortunately, he had been remiss in the performance of his duties. As we have ruled earlier, "there is nothing in the records to show that he (respondent) entered his appearance as counsel of record for complainant in Civil Case No. 00-044." Neither is there any evidence nor pleading submitted to show that he initiated new petitions.

With ingenuity, respondent now claims that "complainant did not engage his services for Civil Case No. 00-044" but, instead, she engaged him for the filing of two new petitions. This is obviously a last-ditch attempt to evade culpability. Respondent knows very well that if he can successfully disassociate himself as complainant's counsel in Civil Case No.00-044, he cannot be held guilty of any dereliction of duties.

But respondent's current assertion came too late in the day. He is already bound by his previous statements. In his Verified Comment on the Affidavit-Complaint, [7] he categorically stated that complainant engaged his services in Civil Case No. 00-044, originally handled by Atty. Oliver Lozano, thus:

4.a. Complainant was referred to the Respondent by Atty. Oliver Lozano.

4.b. The referral intrigued Respondent no end, simply because Atty. Oliver Lozano is a bright lawyer and is very much capable of handling Civil Case No. 00-044.

4.c. Respondent-out of respect from Atty. Oliver Lozano – did not inquire the reason for the referral. But he was made to understand that he was being referred because Atty. Oliver Lozano believed that Respondent would be in a better position to prosecute and/or defend the Complainant in Civil Case No. 00-044.

x x x x x

5.c. Complainant went to the law office of Respondent on October 13, 2001 and demanded that he provides her with free legal service.

x x x x x

5.e. Respondent, however, told Complainant that the case (Civil Case No. 00-044) would not entitle her to a

free legal service and advised her to just re-engage the services of Atty. Oliver Lozano.

5.f. Undaunted, Complainant asked Respondent to assess her case and how she and her lawyer should go prosecuting and/or defending her position therein.

5.g. Honestly believing that Complainant was no longer represented by counsel in Civil Case No. 00-044 at that time, Respondent gave his professional opinion on the factual and legal matters surrounding the said case.

5.h. Apparently impressed with the opinion of the Respondent, Complainant became even more adamant in asking the former to represent her in Civil Case No. 00-044.

5.i. Respondent then told Complainant that she would be charged as a regular client is she insists in retaining his services.

5.j. It was at this juncture that Complainant asked Respondent about his fees.

5.k. After re-assessing Civil Case No. 00-044, Respondent told Complainant that he will have to charge her with an acceptance fee of One Hundred Thousand Pesos (P100,000.00), aside from being charged for papers/pleadings that may have to be prepared and filed in court in connection with the aforesaid case.

x x x x x

5.n. A few days after, Respondent got a call from Atty. Oliver Lozano. The said Atty. Oliver Lozano interceded for and in behalf of Complainant and asked that the acceptance fee that Respondent was charging the Complainant be reduced.

x x x x x

5.r. Complainant then returned to the office of the Respondent on October 20, 2001. The latter then informed the former of his conversation with Atty. Oliver Lozano and his (respondent's) decision to reduce the acceptance fee.

5.s. Complainant was very grateful at the time, even shedding a tear or two simply because Respondent had agreed to handle her case at a greatly reduced acceptance fee.

Statements of similar tenor can also be found in respondent's Memorandum [8] filed with the IBP.

Undoubtedly, respondent's present version is a flagrant departure from his previous pleadings. This cannot be countenanced. A party should decide early what version he is going to advance. A change of theory in the latter stage of the proceedings is objectionable, not due to the strict application of procedural rules, but because it is contrary to the rules of fair play, justice and due process.[9] The present administrative case was resolved by the IBP on the basis of respondent's previous admission that complainant engaged his legal services in Civil Case No. 00-044. He cannot now unbind himself from such admission and its consequences. In fact, if anything at all has been achieved by respondent's inconsistent assertions, it is his dishonesty to this Court.

At any rate, assuming *arguendo* that complainant indeed engaged respondent's services in filing the two (2) new petitions, instead of Civil Case No. 00-044, still, his liability is unmistakable. There is nothing in the records to show that he filed any petition. The ethics of the profession demands that, in such a case, he should immediately return the filing fees to complainant. In *Pariñas v. Paguinto*, [10] we held that "a lawyer shall account for all money or property collected from the client. Money entrusted to a lawyer for a specific purpose, such as for filing fee, but not used for failure to file the case must immediately be returned to the client on demand." Per records, complainant made repeated demands, but respondent is yet to return the money.

Neither do we find merit in respondent's second argument. The fact that Civil Case No. 00-044 was already

"submitted for decision" does not justify his inaction. After agreeing to handle Civil Case No. 00-044, his duty is, first and foremost, to enter his appearance. Sadly, he failed to do this simple task. He should have returned complainant's money. Surely, he cannot expect to be paid for doing nothing.

In his third argument, respondent attempts to evade responsibility by shifting the blame to complainant. He claims that she refused to provide him with documents vital to the case. He further claims that he would be violating the Code of Professional Responsibility by handling a case without adequate preparation. This is preposterous. When a lawyer accepts a case, his acceptance is an implied representation that he possesses the requisite academic learning, skill and ability to handle the case. [11] As a lawyer, respondent knew where to obtain copies of the certificates of title. As a matter of fact, he admitted that his Law Office, on its own, managed to verify the authenticity of complainant's title. It bears reiterating that respondent did not take any action on the case despite having been paid for his services. This is tantamount to abandonment of his duties as a lawyer and taking undue advantage of his client.

Finally, in an ironic twist of fate, respondent became the accuser of complainant. In his fourth argument, respondent accuses her of offering falsified documentary evidence in Civil Case No. 00-004, prompting him to file falsification cases against her. He thus justifies his inability to render legal services to complainant.

Assuming that complainant indeed offered falsified documentary evidence in Civil Case No. 00-044, will it be sufficient to exonerate respondent? We believe not. First, Canon 19 outlines the procedure in dealing with clients who perpetrated fraud in the course of a legal proceeding. Consistent with its mandate that a lawyer shall represent his client with zeal and only within the bounds of the law, Rule 19.02 of the same Canon specifically provides:

Rule 19.02 – A lawyer who has received information that his clients has, in the course of the representation, perpetrated a fraud upon a person or tribunal, shall promptly call upon the client to rectify the same, and failing which he shall terminate the relationship with such client in accordance with the Rules of Court.

As a lawyer, respondent is expected to know this Rule. Instead of inaction, he should have confronted complainant and ask her to rectify her fraudulent representation. If complainant refuses, then he should terminate his relationship with her.

Understandably, respondent failed to follow the above-cited Rule. This is because there is no truth to his claim that he did not render legal service to complainant because she falsified the documentary evidence in Civil Case No.00-044. This brings us to the second reason why we cannot sustain his fourth argument. The pleadings show that he learned of the alleged falsification long after complainant had terminated their attorney-client relationship. It was a result of his active search for a justification of his negligence in Civil Case No. 00-044. As a matter of fact, he admitted that he verified the authenticity of complainant's title only after the "news of his suspension spread in the legal community." To our mind, there is absurdity in invoking subsequent knowledge of a fact as justification for an act or omission that is *fait accompli*.

Obviously, in filing falsification charges against complainant, respondent was motivated by vindictiveness.

In fine, let it be stressed that the authority of an attorney begins with his or her retainer. [12] It gives rise to a relationship between an attorney and a client that is highly fiduciary in nature and of a very delicate, exacting, and confidential character, requiring a high degree of fidelity and good faith. [13] If much is demanded from an attorney, it is because the entrusted privilege to practice law carries with it the correlative duties not only to the client but also to the court, to the bar, and to the public. A lawyer who performs his duty with diligence and candor not only protects the interest of his client; he also serves the ends of justice, does honor to the bar, and helps maintain the respect of the community to the legal profession. [14] Indeed, law is an exacting goddess

demanding of her votaries not only intellectual but also moral discipline.

WHEREFORE, we DENY respondent's motion for reconsideration. Our Decision dated April 22, 2005 is immediately executory. Respondent is directed to report immediately to the Office of the Bar Confidant his compliance with our Decision.

Let a copy of this Resolution be attached to his personal record and copies furnished the Integrated Bar of the Philippines and the Office of the Court Administrator for dissemination to all courts.

SO ORDERED.

Panganiban, C.J., (Chairperson), Corona, Carpio-Morales, and Garcia, JJ., concur.

[1] Dated May 4, 2005, Annex "J" of the Motion for Reconsideration.

[2] ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. – The penalty of prison mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position shall falsify a document by committing any of the following acts:

x x x x x

6. Making any alteration or intercalation in a genuine document which changes its meaning;

[3] ART. 172. Falsification by private individuals and use of falsified documents. – The penalty of prison correccional in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsification enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document;

x x x x x

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article, or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

[4] ART. 182. False testimony in civil cases. "Any person found guilty of false testimony in a civil case shall suffer the penalty of prison correccional in its minimum period and a fine not to exceed 6,000 pesos, if the amount in controversy shall exceed 5,000 pesos, and the penalty of arresto mayor in its maximum period to prison correccional in its minimum period and a fine not to exceed 1,000 pesos, if the amount in controversy shall not exceed said amount or cannot be estimated.

[5] *Pariñas v. Paguinto*, A.C. No. 6297, July 13, 2004, 434 SCRA 179. See also *Gamalinda v. Alcantara*, A.C. No. 3695, February 24, 1992, 206 SCRA 468.

[6] *Santiago v. Fojas*, A.C. No. 4103, September 7, 1995, 248 SCRA 68.

[7] *Rollo* at 20-28.

[8] *Id.* at 37-49.

[9] *Manila Electric Company v. Benamira*, G.R. No. 145271, July 14, 2005, 463 SCRA 331.

Indeed, it is a settled principle that higher courts are precluded from entertaining matters neither alleged in the pleadings nor raised during the proceeding below, but ventilated for the first time in a motion for reconsideration.

[10] Supra.

[11] See Parinas v. Paguinto, supra.

[12] 7 Am Jur 2d § 136, citing Stone v. Bank of Commerce, 174 US 412, 43 L Ed 1028, 19 S Ct 747.

[13] 7 Am Jur 2d § 137.

[14] Santiago v. Fojas, supra.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.