

JUTTA KRURSEL, COMPLAINANT, VS. ATTY. LORENZA A. ABION, RESPONDENT.

A.C. No. 5951. July 12, 2016

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PER CURIAM:

In a verified Complaint,[1] filed on January 23, 2003, complainant Jutta Krursel, a German national, charges respondent Atty. Lorenza A. Abion with forgery, swindling, and falsification of a public document. She asks that respondent be disbarred.[2]

Complainant alleges that she engaged the services of respondent to assist her in filing a case against Robinsons Savings Bank - Ermita Branch and its officers, in relation to the bank's illegal withholding/blocking of her account.[3]

In March 2002, respondent filed, on complainant's behalf, a complaint against Robinsons Savings Bank and its officers before the Monetary Board I of the Bangko Sentral ng Pilipinas for "Conducting Business in an Unsafe and Unsound Manner in violation of Republic Act No. 8791[.]"[4]

Without complainant's knowledge, respondent withdrew the complaint with prejudice through a letter[5] dated April 15, 2002 addressed to the Monetary Board. Complainant claims that respondent forged her signature and that of a certain William Randeli Coleman (Coleman) in the letter.[6] She adds that she never authorized nor acceded to respondent's withdrawal of the complaint.[7]

Complainant was further surprised to discover two (2) Special Powers of Attorney dated March 7, 2002[8] and March 24, 2002,[9] which appear to have her and Coleman's signature as principals. The documents constituted respondent as

their attorney-in-fact to represent, to receive, sign in their behalf, all papers, checks, accounts receivables, wired remittances, and their legal and extra legal efforts to retrieve and unblock the peso and dollar savings accounts opened up with the Robinsons Savings Bank at its branch office at Ermita, Manila, in order for her to withdraw and to encash all their accounts, receivables, checks, savings, remittances.[10]

Again, complainant claims that the signatures were forged.[11] She denies ever having executed a special power of attorney for respondent.[12]

Complainant further alleges that on March 24, 2002, respondent filed before this Court a Complaint for "Writ of Preliminary Prohibitive and Mandatory Injunction with Damages[.]"[13] For such services, respondent demanded and received the following amounts on May 7, 2002:

Php 225,000.00 - For filing fee to the Supreme Court

Php 55,000.00 - For Sheriff's Service Fee

Php 50,000.00 - For Atty. Soriano, Clerk of Court, to expedite matters

Php 330,000.00 - Total[14] (Emphasis in the original)

Respondent failed to account for these amounts despite complainant's demands for a receipt.[15] Complainant's demand letter[16] dated June 24, 2002 for accounting and receipts was attached to the Complaint as Annex E.

Instead of providing a receipt for the amounts received, respondent allegedly presented complainant a document purporting to be an Order[17] dated May 10, 2002 from this Court's First Division, resolving the case' in complainant's favor. The Order was purportedly signed by Atty. Virginia; R. Soriano, "Division Clerk of the First Division of the Supreme Court." [18] Complainant sought the advice of Atty. Abelardo L. Aportadera, Jr., who, in turn, wrote to Atty. Virginia Ancheta-Soriano (Atty. Soriano) on July 30, 2002[19] inquiring about the supposed Order.[20] Atty. Soriano replied[21] denying the signature as hers. She stated that the Order did not even follow this Court's format, and that, on the contrary, the case had been dismissed.[22]

Finally, complainant alleges that in April 2002, while she was sick and in the hospital, respondent asked for complainant's German passport to secure its renewal from the German Embassy.[23] For this service, respondent asked for the total amount of P440,000.00 to cover the following expenses:

May 20, 2002 - Php 40,000.00 - For Processing of Travel Papers
May 27, 2002 - Php 50,000.00 - For Additional Fee for the Travel Papers
June 3, 2002 - Php 350,000.00 - For the release of Travel Papers
as required by Atty. O. Dizon, BID
Php 450,000.00 [sic][24] (Emphasis in the original)

These sums were allegedly not properly accounted for despite complainant's demand.[25] Respondent eventually presented a purportedly renewed German passport, which complainant rejected because it was obviously fake.[26] Complainant later found out that her original German passport was in the possession of Robinsons Savings Bank.[27]

Complainant avers that respondent's malicious acts warrant her removal from the roster of lawyers.[28] She adds that she and Coleman filed before the Office of the City Prosecutor of Quezon City a criminal Complaint[29] against respondent for the unlawful acts committed against them.[30]

In the Resolution[31] dated February 24, 2003, this Court required respondent to file her comment.

Copies of the February 24, 2003 Resolution were subsequently served on respondent's various addresses. However, these were returned unserved with the notations "Unclaimed," "Party Moved Out," "Moved Out," and "Party in Manila." [32] This Court requested the assistance of the National Bureau of Investigation, but respondent could still not be found.[33]

In the Resolution[34] dated October 10, 2011, this Court referred the case to the Integrated Bar of the Philippines for investigation, report, and recommendation.

On March 14, 2012, the Commission on Bar Discipline of the Integrated Bar of the Philippines directed both parties to appear for mandatory conference.[35] However, copies of the Notice of Mandatory Conference were returned unserved as both parties were stated to have "moved out." [36]

Hence, in the Order[37] dated April 24, 2012, the Commission on Bar Discipline deemed the case submitted for resolution on the basis of the Complaint (with attachments) filed before this Court.

In his Report and Recommendation[38] dated July 6, 2013, Investigating Commissioner Peter Irving C. Corvera recommended that respondent be disbarred for fabricating and forging Special Powers of Attorney and an order from this Court, coupled with her exaction of money from complainant without receipt or accounting despite demands.[39] These acts are in culpable violation of Canon 1; Rule 1.01; Canon 16, Rule 16.01; and Canon 17 of

the Code of Professional Responsibility.[40]

In the Resolution[41] dated October 10, 2014, the Integrated Bar of the Philippines Board of Governors adopted and approved the findings and recommendations of the Investigating Commissioner. Respondent did not file a motion for reconsideration or any other subsequent pleading.

On October 13, 2015, the Board of Governors transmitted its Resolution to this Court for final action under Rule 139-B of the Rules of Court.[42]

The issue for resolution is whether respondent should be disbarred for committing forgery, falsification, and swindling.

I

At the outset, we cannot ignore this Court's several attempts to serve a copy of the February 24, 2003 Resolution (requiring respondent to file a comment on the Complaint for disbarment) on respondent at her address on record and at the different addresses provided by complainant and the Integrated Bar of the Philippines, only to be returned unserved. On June 1, 2011, this Court requested the assistance of the National Bureau of Investigation to locate respondent, but to no avail.[43] All these circumstances reveal that either respondent was disinterested in contesting the charges against her or she was deliberately eluding the service of this Court's Resolutions to evade the consequences of her actions.

Respondent's willful behavior has effectively hindered this Court's process service and unduly prolonged this case. This evasive attitude is unbecoming of a lawyer, an officer of the court who swore to "obey the laws as well as the legal orders of the duly constituted authorities." [44]

In *Stemmerick v. Mas*, [45] this Court held that proper notice of the disbarment proceedings was given to the respondent lawyer who abandoned his law office after committing the embezzlement against his client. Thus:

Respondent should not be allowed to benefit from his disappearing act. He can neither defeat this Court's jurisdiction over him as a member of the bar nor evade administrative liability by the mere ruse of concealing his whereabouts. Thus, service of the complaint and other orders and processes on respondent's office was sufficient notice to him.

Indeed, since he himself rendered the service of notice on him impossible, the notice requirement cannot apply to him and he is thus considered to have waived it. The law does not require that the impossible be done. *Nemo tenetur ad impossibile*. The law obliges no one to perform an impossibility. Laws and rules must be interpreted in a way that they are in accordance with logic, common sense, reason and practicality.

In this connection, lawyers must update their records with the IBP by informing the IBP National Office or their respective chapters of any change in office or residential address and other contact details. In case such change is not duly updated, service of notice on the office or residential address appearing in the records of the IBP National Office shall constitute sufficient notice to a lawyer for purposes of administrative proceedings against him. [46] (Citations omitted)

Here, respondent's apparent disregard of the judicial process cannot be tolerated. Under the circumstances, respondent is deemed to have waived her right to present her evidence for she cannot use her disappearance as a shield against any liability she may have incurred.

Respondent's evasive attitude is tantamount to "a willful disobedience of any lawful order of a superior court," [47] which alone is a ground for disbarment or suspension.

We proceed to address the charges raised in the Complaint.

II

Complainant claims that respondent forged her and Coleman's signatures in two (2) documents: first, in the Special Powers of Attorney dated March 7, 2002[48] and March 24, 2002;[49] and second, in respondents April 15, 2002 letter[50] withdrawing her complaint against Robinsons Savings Bank before the Monetary Board of the Bangko Sentral ng Pilipinas.

A comparison of the signature of complainant Jutta Krursel in her Complaint and Verification and Certification, on one hand, and her contested signature in the Special Power of Attorney dated March 7, 2002, on the other, visibly shows significant differences in the stroke, form, and general appearance of the two (2) signatures. The inevitable conclusion is that the two (2) signatures were not penned by one person. Similarly, complainant's contested signature under the Conforme portion in the April 15, 2002 letter of respondent clearly appears to have been forged.

Nonetheless, with respect to complainant's forged signature in Special Power of Attorney, we find no other evidence pointing to respondent as the author of the forgery. Jurisprudence[51] creates a presumption that a person who was in possession of, or made use of, or benefitted from the forged or falsified documents is the forger. However, in this case, the facts are insufficient for us to presume that respondent forged complainant's signature.

Although the Special Power of Attorney may have been executed in respondent's favor—as it authorized her to represent, receive, and sign papers, checks, remittances, accounts, and receivables on behalf of complainant—her appointment as attorney-in-fact was only in relation to complainant's "legal and extra-[]legal efforts to retrieve and unblock [complainant's] peso and dollar savings accounts with Robinsons Savings Bank, Ermita." [52]

The authority given was only in furtherance of complainant's employment of respondent's legal services. There was no allegation or proof that respondent benefitted from or used the falsified document.[53] Moreover, complainant had possession of the Special Power of Attorney, a copy of which was attached to her Complaint. In all likelihood, the Special Power of Attorney may not only have been known to complainant; she may have conformed to its preparation all along.

However, the same conclusion cannot be made with regard to complainant's forged signature in the April 15, 2002 letter. In the Verification[54] attached to the letter, respondent declared under oath that she caused the preparation of the letter of withdrawal of the complaint with prejudice. She declared under oath that she also caused the conforme of her clients after informing them of the facts, both as counsel and attorney-in-fact.

Thus, respondent committed serious acts of deceit in: (1) withdrawing the complaint with prejudice, without the knowledge and consent of complainant; and (2) forging complainant's signature or causing her signature to be forged in the April 15, 2002 letter, thus making it appear that complainant conformed to the withdrawal of the complaint.

In *Sebastian v. Calis*: [55]

Deception and other fraudulent acts by a lawyer are disgraceful and dishonorable. They reveal moral flaws in a lawyer. They are unacceptable practices. A lawyer's relationship with others should be characterized by the highest degree of good faith, fairness and candor. This is the essence of the lawyer's oath. The lawyer's oath is not mere facile words, drift and hollow, but a sacred trust that must be upheld and kept inviolable. The nature of the office of an attorney requires that he should be a person of good moral character. This requisite is not only a condition precedent to admission to the practice of law, its continued possession is also essential for remaining in the practice of law. We have sternly warned that any gross misconduct of a lawyer, whether in his professional or private capacity, puts his moral character in serious doubt as a member of the Bar, and renders

him unfit to continue in the practice of law.[56] (Citations omitted)

Respondent's deception constitutes a gross violation of professional ethics and a breach of her fiduciary duty to her client, subjecting her to disciplinary action.[57]

III

Furthermore, we agree with the Committee on Bar Discipline's finding that complainant has sufficiently proven her allegations regarding the falsified order.

The appearance of the purported May 10, 2002 Order[58] in G.R. No. 152946 is markedly different from the orders and resolutions of this Court. Indeed, it was later confirmed through the letter[59] issued by Atty. Soriano, Clerk of Court of the First Division, that there was no such order issued, that the signature there was not hers, and that the format did not follow this Court's format.

Complainant avers that she paid substantial amounts of money to respondent in relation to the filing of the complaint for injunction in G.R. No. 152946, though respondent did not issue any receipt or accounting despite her demands. Instead, respondent allegedly furnished complainant with the fabricated May 10, 2002 Order purportedly ruling in her favor. Complainant later found out that no such order existed. The case was already dismissed.

Respondent's acts amount to deceit, malpractice, or gross misconduct in office as an attorney.[60] She violated her oath to "do no falsehood"[61] and to "conduct [her] self as a lawyer . . . with all good fidelity as well to the courts as to; [her] clients." [62] She also violated the following provisions of the Code of Professional Responsibility:

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

....

CANON 7. A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION AND SUPPORT THE ACTIVITIES OF THE INTEGRATED BAR.

....

Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

....

CANON 15. A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENT.

....

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

Respondent's transgressions are grave and serious. She abused her legal knowledge and training. She took undue

advantage of the trust reposed on her by her client. Her misconduct exhibits a brazen disregard of her duties as a lawyer. The advocate for justice became the perpetrator of injustice.

Aside from defrauding her client, respondent recklessly put Arty. Soriano's career in jeopardy by fabricating an order, thus making a mockery of the judicial system. That a lawyer is not merely a professional but also an officer of the court cannot be overemphasized. She owes the courts of justice and its judicial officers utmost respect.[63] Her conduct degrades the administration of justice and weakens the people's faith in the judicial system. She inexorably besmirched the entire legal profession.

In *Embido v. Pe, Jr.*, [64] Assistant Provincial Prosecutor Salvador Pe, Jr. was found guilty of violating Canon 7, Rule 7.03 and was meted the penalty of disbarment for falsifying a court decision "in a non-existent court proceeding." [65] Thus:

Gross immorality, conviction of a crime involving moral turpitude, or fraudulent transactions can justify a lawyer's disbarment or suspension from the practice of law. Specifically, the deliberate falsification of the court decision by the respondent was an act that reflected a high degree of moral turpitude on his part. Worse, the act made a mockery of the administration of justice in this country, given the purpose of the falsification, which was to mislead a foreign tribunal on the personal status of a person. He thereby became unworthy of continuing as a member of the Bar. [66] (Citations omitted)

Respondent's unethical and unscrupulous conduct proves her unworthy of the public's trust and confidence. She shamelessly transgressed all the things she swore to uphold, which makes her unfit to continue as a member of the bar. Hence, we find no hesitation in removing respondent from the Roll of Attorneys.

However, we find a dearth of evidence to support complainant's claim as to the amounts demanded and received by respondent, that is: (1) a total of P330,000.00 in relation to G.R. No. 152946; and (2) a total of P440,000.00 for the renewal of complainant's passport. The demand letter dated June 24, 2002, attached to the Complaint as Annex E, is not competent proof of the actual amounts paid to and received by respondent. The demand letter does not contain the date when the addressee received the letter; this produces doubt as to whether the demand letter was actually sent/delivered to respondent.

In administrative cases, it is the complainant who has the burden to prove, by substantial evidence, [67] the allegations in the complaint. [68]

WHEREFORE, this Court finds respondent Arty. Lorenza A. Abion GUILTY of gross misconduct in violation of the Lawyer's Oath and the Code of Professional Responsibility. She is hereby DISBARRED from the practice of law. The Office of the Bar Confidant is DIRECTED to remove the name of Lorenza A. Abion from the Roll of Attorneys.

This Resolution is without prejudice to any pending or contemplated proceedings to be initiated against respondent.

The Legal Office of the Office of the Court Administrator is DIRECTED to file the appropriate criminal charges against respondent for falsifying an order of this Court.

Let copies of this Resolution be furnished to the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for dissemination to all courts in the country.

This Resolution takes effect immediately.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Perez, Perlas-Bernabe, Leonen, Jardeleza, and Caguioa, JJ., concur.
Mendoza, and Reyes, JJ., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on July 12, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on September 9, 2016 at 10:15 a.m.

Very truly yours,

(SGD)

FELIPA G. BORLONGAN-ANAMA

Clerk of Court

[1] Rollo, pp. 1-9.

[2] Id. at 8.

[3] Id. at 2.

[4] Id.

[5] Id. at 12, Annex C.

[6] Id. at 3.

[7] Id.

[8] Id. at 10, Annex A.

[9] Id. at 11, Annex B.

[10] Id. at 2.

[11] Id.

[12] Id.

[13] Id. at 4. The case was docketed as G.R. No. 152946 and was entitled *Lingkod, Inc., et al. v. Robinsons Savings Bank*.

[14] Id.

[15] Id.

- [16] Id. at 15, Annex E.
- [17] Id. at 18-19, Annex F.
- [18] Id. at 5.
- [19] Id. at 20, Annex G.
- [20] Id.
- [21] Id. at 21, Annex H.
- [22] Id. at 5 and 21.
- [23] Id. at 6.
- [24] Id.
- [25] Id.
- [26] Id. at 7.
- [27] Id.
- [28] Id.
- [29] Id. at 24-28, Annex J.
- [30] Id. at 7.
- [31] Id. at 29.
- [32] Id. at 112, Resolution dated June 1, 2011.
- [33] Id. at 114-115, Return of the National Bureau of Investigation.
- [34] Id. at 122.
- [35] Id. at 137.
- [36] Id. at 138, IBP Order dated April 24, 2012.
- [37] Id.
- [38] Id. at 144-151.
- [39] Id. at 149-150.
- [40] Id. at 149.
- [41] Id. at 143.
- [42] Id. at 142.
- [43] Id. at 112.
- [44] RULES OF COURT, Appendix of Forms, Form 28, Attorney's Oath.
- [45] 607 Phil. 89 (2009) [Per Curiam, En Banc].
- [46] Id. at 95-96.

[47] RULES OF COURT, Rule 13.8, sec. 27 provides:

SEC. 27. Attorneys removed or suspended by Supreme Court on what grounds. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice. (Emphasis supplied)

[48] Rollo, p. 10.

[49] *Id.* at 11.

[50] *Id.* at 12.

[51] See *PCGG v. Jacobi*, 689 Phil. 307, 344 (2012) [Per J. Brion, Second Division]; *Rural Bank of Silay, Inc. v. Pilla*, 403 Phil. 1, 8 (2001) [Per J. Kapunan, En Banc]; *Sarep v. Sandiganbayan*, 258 Phil. 229, 238 (1989) [Per J. Padilla, En Banc], as cited in *Maliwat v. Court of Appeals*, 326 Phil. 732, 749 (1996) [Per J. Padilla, First Division].

[52] Rollo, p. 10. The Special Power of Attorney dated March 7, 2002 constitutes respondent as attorney-in-fact to perform the following acts: "To represent me, to receive for me, to sign for me, all papers, checks, accounts receivables, wired remittances, in my legal and extra legal efforts to retrieve and unblock the peso and dollar savings accounts opened up with the Robinsons Savings Bank at its branch office at Robinsons, Ermita, Manila, in order for me to withdraw and to encash all my said accounts, receivables, checks, savings, remittances, including the accounts where I am a co-depositor with William Randell Coleman and Toresten Henschke" (*Id.*).

[53] *Cf. Rural Bank of Silay, Inc. v. Pilla*, 403 Phil. 1, 8 (2001) [Per J. Kapunan, En Banc].

[54] Rollo, p. 13.

[55] 372 Phil. 673 (1999) [Per Curiam, En Banc].

[56] *Id.* at 679.

[57] In *Luna v. Galarrita*, A.C. No. 10662, July 7, 2015 [Per J. Leonen, En Banc], the lawyer was suspended for settling the litigation without the client's consent and for refusing to turn over the settlement proceeds.

[58] Rollo, p. 18

[59] *Id.* at 21.

[60] See *Tan v. Diamante*, A.C. No. 7766, August 5, 2014, 732 SCRA 1, 9 [Per Curiam, En Banc].

[61] RULES OF COURT, Appendix of Forms, Form 28, Attorney's Oath.

[62] RULES OF COURT, Appendix of Forms, Form 28, Attorney's Oath.

[63] Code of Professional Responsibility, Canon 11.

[64] 720 Phil. 1 (2013) [Per J. Bersamin, En Banc].

[65] *Id.* at 9.

[66] *Id.* at 9-10.

[67] *Foster v. Agtang*, A.C. No. 10579, December 10, 2014, 744 SRA 242, 263 [Per Curiam, En Banc].

[68] See *Vitug v. Rongcal*, 532 Phil. 615, 631 (2006) [Per J. Tinga, Third Division] and *Spouses Boyboy v. Yabut, Jr.*, 449 Phil. 664, 666 (2003) [Per J. Bellosillo, Second Division].

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