

CELIA ARROYO-POSIDIO, COMPLAINANT, VS. ATTY. JEREMIAS R. VITAN, RESPONDENT.

A.C. NO. 6051. April 02, 2007

Ponente: YNARES-SANTIAGO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-6051/>

YNARES-SANTIAGO, J.:

In a verified complaint[1] dated June 14, 2002, complainant Celia Arroyo-Posidio prayed for the disbarment of respondent Atty. Jeremias R. Viton on account of deceit, fraud, dishonesty and commission of acts in violation of the lawyer's oath.

Complainant alleged that she engaged the services of respondent in Special Proceeding No. C-525, entitled "Testate Estate of deceased Nicolasa S. de Guzman Arroyo," filed before the Regional Trial Court of Caloocan City. Complainant paid respondent legal fees in the amount of P20,000.00. However, on June 6, 1990, respondent withdrew his appearance as counsel in the said case, thus complainant engaged the services of another lawyer.

Sometime in August 1996, respondent contacted complainant and showed her documents consisting of tax declarations of properties purportedly forming part of the estate of Nicolasa S. de Guzman-Arroyo, but were not included in the Inventory of Properties for distribution in Special Proceeding No. C-525. He convinced complainant to file another case to recover her share in the alleged undeclared properties and demanded P100,000.00 as legal fees therefor. After several months, however, respondent failed to institute any action. Complainant decided to forego the filing of the case and asked for the return of the P100,000.00, but respondent refused despite repeated demands.

Consequently, complainant filed an action for sum of money and damages against respondent before Branch 81, Metropolitan Trial Court, Valenzuela City which was docketed as Civil Case No. 7130. On March 31, 1999, the trial court rendered a decision, the dispositive portion of which states:

WHEREEFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendant ordering the latter to:

- To pay plaintiff the sum of P100,000.00 with interest at the rate of 12% per annum from September 7, 1996 until the same is fully paid and/or satisfied;
- To pay plaintiff the amount of P8,000.00 as and for attorney's fees; and
- To pay the cost of suit.[2]

Respondent appealed to the Regional Trial Court which affirmed[3] the Metropolitan Trial Court decision in toto. Thus, complainant filed a Motion for Issuance of a Writ of Execution which was granted on March 19, 2001.[4]

To satisfy the judgment against him, respondent issued Prudential Bank check number 0338742[5] dated May 31, 2001 in the amount of P120,000.00 in favor of complainant. However, upon presentment for payment, the check was dishonored for the reason: ACCOUNT CLOSED. Despite a written notice of dishonor and demand[6] dated

September 3, 2001, respondent refused to honor his obligation. Hence, this administrative complaint charging respondent with deceit, fraud, dishonesty and commission of acts in violation of the lawyer's oath.

Respondent denied complainant's allegations. He admitted having received the amount of P100,000.00 but claimed that the same was partial payment for his services in Special Proceeding Case No. C-525. Further, he alleged that he had already paid complainant the amount of P150,000.00 as evidenced by a Receipt & Quitclaim[7] dated August 10, 2000.

On March 1, 2004, the case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. On January 15, 2006, the Investigating Commissioner submitted his Report[8] finding respondent guilty of violating the lawyer's oath and the Code of Professional Responsibility in defrauding his client and issuing a check without sufficient funds to cover the same. Thus —

4.3 x x x

Noteworthy is the factual finding of the court that Complainant had already paid respondent the amount of P20,000.00 for services he had rendered in Special Proceeding case No. C-525. Thus, Respondent's claim that the P100,000.00 given to him by Complainant allegedly for payment of his legal services in the Special Proceeding is not correct. The MTC decision likewise found that Respondent requested payment of the P100,000.00 in consideration for his representing Complainant in the additional claims to be filed against the estate of Nicolasa S. de Guzman Arroyo. Respondent, however, failed to file the claims. Hence, complainant demanded the return of the P100,000.00. The MTC decision has already become final and executory as evidenced by a copy of the Order of Writ of Execution issued by the Court.

4.4 x x x

4.5 As already pointed out, the RTC had rendered a decision affirming in toto the decision of the MTC that the P100,000.00 given by Complainant to Respondent is not for the payment of his previous services rendered in the Special Proceeding case No. C-525 but rather as payment for filing of an additional claim from the estate of the late Nicolasa S. de Guzman Arroyo. It is clear that there is identity of parties in the civil case for recovery of sum of money and damages and in the administrative case for disbarment filed by herein Complainant. Thus, while the causes of action are different in the two cases, there is conclusiveness on the factual circumstances surrounding Complainant's delivery of the P100,000.00 to Respondent. Respondent[s] bare assertion that his receipt of the P100,000.00 was for payment of legal services previously rendered in the Special Proceeding case No. C-525 does not hold water and cannot overturn the factual conclusions reached by the MTC in its decision.

4.6 A lawyer may be suspended or disbarred for deceit or misrepresentation to the prejudice of or as a means to defraud his client. In the case of *Munar v. Flores*, the Supreme Court suspended an attorney who deceitfully defrauded a client of a sum of money allegedly representing cost of fees and other miscellaneous expenses for a suit to be filed but which promised suit he never filed nor did he return the amount despite demands. Failure on the part of the lawyer, upon demand, to return to his client the funds or property held by him on the latter's behalf gives rise to the presumption that he has appropriated the same for his own use to the prejudice of and in violation of the trust reposed in him by his client.

It is clear in this case that Complainant made demands for the return of the P100,000.00, but the same remained unanswered by Respondent. This prompted Complainant to file a civil case for collection of sum of money and damages. Worse, after the decision was rendered in favor of Complainant, and a writ of execution issued, Respondent issued a check purportedly to settle the case only to have the check bounce for insufficiency of funds. The conversion of the client's property is a gross violation of general morality as well as professional ethics, and deserves severe punishment. This conversion of client's property is a ground for disciplinary action and presupposes fraudulent intent on the part of the lawyer. In the case of *Manalato v.*

Reyes, the Supreme Court emphasized that fraudulent intent may be inferred from the lawyer's refusal to make restitution after demand. Such circumstance is present in this case.

x x x x

In view of the foregoing, this Commissioner respectfully recommends that a penalty ranging from suspension for a period of six (6) months to one (1) year at the discretion of the Board be imposed with warning that repetition of similar conduct in the future will warrant a more severe penalty.[9]

The IBP Board of Governors adopted the findings of the Investigating Commissioner but modified the penalty from suspension to reprimand[10] with stern warning that a similar misconduct will warrant a more severe penalty.

We agree with the findings of the IBP. However, we find that the penalty of reprimand is not commensurate to the gravity of wrong committed by respondent.

The ethics of the legal profession rightly enjoin every lawyer to act with the highest standards of truthfulness, fair play and nobility in the course of his practice of law.[11] Lawyers are prohibited from engaging in unlawful, dishonest, immoral or deceitful conduct[12] and are mandated to serve their clients with competence and diligence.[13] To this end, nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty, and integrity of the profession.[14]

Rule 16.01, Canon 16 of the Code of Professional Responsibility requires the lawyer to account for all money or property collected or received for or from his client. Where a client gives money to his lawyer for a specific purpose, such as to file an action, appeal an adverse judgment, consummate a settlement, or pay the purchase price of a parcel of land, the lawyer should, upon failure to take such step and spend the money for it, immediately return the money to his client.[15]

In the instant case, respondent received the amount of P100,000.00 as legal fees for filing additional claims against the estate of Nicolasa S. de Guzman Arroyo. However, he failed to institute an action, thus it was imperative that he immediately return the amount to complainant upon demand therefor. Having received payment for services which were not rendered, respondent was unjustified in keeping complainant's money. His obligation was to immediately return the said amount. His refusal to do so despite complainant's repeated demands constitutes a violation of his oath where he pledges not to delay any man for money and swears to conduct himself with good fidelity to his clients.

A 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.[16] A lawyer should be scrupulously careful in handling money entrusted to him in his professional capacity, because a high degree of fidelity and good faith on his part is exacted.[17] In *Barnachea v. Quiocho*,[18] the Court suspended a lawyer from the practice of law for one year for his failure to return client's funds which were given to him for the expenses for the transfer of title over real property and in payment for his legal services. The Court held:

A lawyer is obliged to hold in trust money or property of his client that may come to his possession. He is a trustee to said funds and property. He is to keep the funds of his client separate and apart from his own and those of others kept by him. Money entrusted to a lawyer for a specific purpose such as for the registration of a deed with the Register of Deeds and for expenses and fees for the transfer of title over real property under the name of his client if not utilized, must be returned immediately to his client upon demand therefor. The lawyer's failure to return the money of his client upon demand gave rise to a presumption that he has misappropriated said money in violation of the trust reposed on him. The conversion by a lawyer [of] funds entrusted to him by his client is a gross violation of professional ethics and a betrayal of public confidence in

the legal profession.[19] (Emphasis supplied)

Respondent must likewise be reminded that a lawyer should, at all times, comply with what the court lawfully requires.[20] It bears stressing that the judgment against him in Civil Case No. 7130 has long become final and executory. However, up to this date, he has failed to comply with the order to pay complainant the amount of P100,000.00 as well as interest and attorney's fees. His refusal to comply with the said order constitutes a willful disobedience to the court's lawful orders.

Lawyers are particularly called upon to obey court orders and processes and are expected to stand foremost in complying with court directives being themselves officers of the court.[21] And while respondent issued a check in the amount of P120,000.00 in favor of complainant, purportedly to satisfy the judgment against him, the check was later dishonored for having been drawn against a closed account. Respondent never denied the issuance of the check or refuted complainant's allegations regarding the same. Neither did he question the veracity of complainant's evidence which consisted of the check itself.

Needless to say, the act of issuing a bouncing check further compounded respondent's infractions. Time and again, we have held that the act of a lawyer in issuing a check without sufficient funds to cover the same constitutes willful dishonesty and immoral conduct as to undermine the public confidence in law and lawyers.[22] Such conduct indicates the respondent's unfitness for the trust and confidence reposed on him, shows such lack of personal honesty and good moral character as to render him unworthy of public confidence and constitutes a ground for disciplinary action.[23]

It is clear from the foregoing that respondent fell short of the exacting moral and ethical standards imposed on members of the legal profession. Respondent's refusal to return complainant's money upon demand, his failure to comply with the lawful orders of the trial court, as well as the issuance of a bouncing check, reveal his failure to live up to his duties as a lawyer in consonance with the strictures of his oath and the Code of Professional Responsibility.

It cannot be overemphasized that membership in the legal profession is a privilege. Whenever it is made to appear that an attorney is no longer worthy of the trust and confidence of the public, it becomes not only the right but also the duty of this Court, which made him one of its officers and gave him the privilege of ministering within its Bar, to withdraw the privilege.[24]

The Court believes that a penalty of suspension is called for under the circumstances. In *Espiritu v. Cabredo IV*,[25] a lawyer was suspended for one year for failure to account for and return the amount of P51,161.00 to his client. In *Reyes v. Maglaya*,[26] a lawyer was suspended for one year for failure to return to his client the amount of P1,500.00 despite numerous demands. Likewise, in *Castillo v. Taguines*,[27] a lawyer was suspended for one year for failure to return to his client the amount of P500.00 and for issuing a bouncing check.

WHEREFORE, respondent Atty. Jeremias R. Vitan is **SUSPENDED** from the practice of law for a period of one (1) year effective from notice, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

Let copies of this Decision be entered in the record of the respondent in the Office of the Bar Confidant, and served on the Integrated Bar of the Philippines, as well as on the Court Administrator who shall circulate it to all the courts for their information and guidance.

SO ORDERED.

Austria-Martinez, Callejo, Sr., Chico-Nazario, and Nachura, JJ., concur.

- [1] Rollo, pp. 1-4.
- [2] Id. at 5.
- [3] Id.
- [4] Id. at 9.
- [5] Id. at 8.
- [6] Id. at 10-11.
- [7] Id. at 33.
- [8] Id. at 70-82. Penned by Investigating Commissioner Leland R. Villadolid, Jr.
- [9] Id. at 76-81.
- [10] Id. at 69.
- [11] Ong v. Unto, 426 Phil. 531, 540 (2002).
- [12] Rule 1.01, Canon I, Code of Professional Responsibility.
- [13] Canon 18, Code of Professional Responsibility.
- [14] Ducat, Jr. v. Villalon Jr., 392 Phil. 394, 402 (2000).
- [15] Schulz v. Flores, 462 Phil. 601, 612 (2003).
- [16] Villanueva v. Ishiwata, A.C. No. 5041, November 23, 2004, 443 SCRA 401, 405.
- [17] Navarro v. Meneses III, 349 Phil. 520, 527 (1998).
- [18] 447 Phil. 67 (2003).
- [19] Id. at 75.
- [20] Frias v. Lozada, A.C. No. 6656, December 13, 2005, 477 SCRA 393, 402.
- [21] Sibulo v. Ilagan, A.C. No. 4711, November 25, 2004, 444 SCRA 1, 7.
- [22] Barrios v. Martinez, A.C. No. 4585, November 12, 2004, 442 SCRA 324, 335.
- [23] Cuizon v. Macalino, Adm. Case No. 4334, July 7, 2004, 433 SCRA 479, 484.
- [24] Malhabour v. Atty. Sarmiento, A.C. No. 5417, March 31, 2006, 486 SCRA 1, 9.
- [25] 443 Phil. 24 (2003).
- [26] 313 Phil. 1 (1995).
- [27] 325 Phil. 1 (1996).

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.