TRINIDAD H. CAMARA, COMPLAINANT, VS. ATTY. OSCAR AMANDY REYES, RESPONDENT.

A.C. No. 6121. July 31, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

Before us is a Letter-Complaint[1] filed by complainant Trinidad H. Camara against respondent Atty. Oscar Amandy Reyes.

Sometime in 2003, complainant hired the services of respondent to handle her case. As partial acceptance fee, respondent received from complainant P50,000.00 evidenced by a receipt[2] placed on his calling card. Respondent, however, took no steps to protect complainant's interest. As no service was rendered by respondent, complainant asked that he return the amount given him so that she could use it in repairing her house. Respondent offered that he would take charge of repairing the house. Yet, he again failed to fulfill his promise, which prompted the complainant to reiterate her demand for the return of the money.[3] As respondent failed to give back the amount demanded, complainant initiated the instant case.

In his Answer, respondent prayed that the case be closed and terminated, simply because the matter has already been resolved by all the parties concerned. He added that complainant went to his office and explained that she signed the letter-complaint not knowing that it was against respondent, as she was made to believe that it was a complaint against her neighbor.[4]

Complainant and respondent failed to attend the mandatory conference; and to submit their respective position papers.

On February 19, 2007, we referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.[5]

In his Report and Recommendation, IBP Commissioner Salvador B. Hababag made the following findings:

> There is proof that respondent receipted the amount of Php50,000.00 in his own handwriting. Even his calling card was given to the complainants.
>
> Canon 16, Rule 16.01 provides that a lawyer shall account for all money or property collected or received for or from the client.
>
> Canon 18, Rule 18.03 provides that a lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.
>
> Canon 18, Rule 18.04 provides that a lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to client's request for information.
>
> Using the above yardsticks, clearly the respondent is liable and failed to live [up] to [the] above mentioned standards.

> While it is true that complainant Trinidad Camara allegedly executed an affidavit, the same will not save the respondent.
>
> As a general rule, disbarment proceeding shall not be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of the charges or failure of the complainant to prosecute unless the Court motu proprio determines that there is no compelling reason to continue with the disbarment or suspension proceedings against the respondent.
>
> We reiterate that the respondent did not traverse the charges against him. He simply wanted this case to be closed and terminated allegedly because he and Mrs. Camara had already resolved their problem and the latter's son, who also signed the letter-complaint as attorney-in-fact has no authority to do so.
>
> WHEREFORE, premises considered, it [is] most respectfully recommended that the respondent be suspended for six (6) months from the active practice of law.[6]

In its Resolution No. XVIII-2008-522, the IBP Board of Governors adopted and approved the report and recommendation of the investigating Commissioner, thus:

> RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution a[s] Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for respondent's violation of Canon 16, Rule 16.01, Canon 18, Rule 18.03 and 18.04 of the Code of Professional Responsibility, Atty. Oscar Amandy Reyes is hereby SUSPENDED from the practice of law for six (6) months.

We agree with the foregoing recommendation.

The Court notes that despite the opportunity accorded to respondent to refute the charges against him, he failed to do so or even offer a valid explanation.[7] It is incumbent upon respondent to meet the issue and overcome the evidence against him. He must show proof that he still maintains that degree of morality and integrity which at all times is expected of him. These, respondent miserably failed to do.[8]

The record is bereft of any evidence to show that respondent has presented any countervailing evidence to dispute the charges against him. In his answer, he did not even deny complainant's allegations. He only prayed that the case be closed and terminated, simply because the problem with complainant had already been resolved.

The alleged compromise between complainant and respondent is not enough to exonerate the latter from the present disciplinary case. A case of suspension or disbarment may proceed regardless of the interest or lack of interest of the complainant. What matters is whether, on the basis of the facts borne out by the record, the charge of negligence has been duly proved.[9]

Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare, and for the purpose of preserving courts of justice from the official ministration of persons unfit to practice in them. The attorney is called to answer to the court for his conduct as an officer of the court. The complainant is in no sense a party, and has generally no interest in the outcome of the case.[10] This is also the reason why this Court may investigate charges against lawyers regardless of complainant's standing.[11]

When respondent accepted the amount of P50,000.00 from complainant, it was understood that he agreed to take up the latter's case, and that an attorney-client relationship between them was established. From then on, it was expected that he would serve his client, herein complainant, with competence, and attend to her cause with fidelity, care and devotion.[12]

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The act of receiving money as acceptance fee for legal services in handling complainant's case and subsequently failing to render such services is a clear violation of Canon 18 of the Code of Professional Responsibility, which provides that a lawyer shall serve his client with competence and diligence.[13] Specifically, Rule 18.03 states:

> A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

A member of the legal profession owes his client entire devotion to the latter's genuine interest, and warm zeal in the maintenance and defense of his rights. An attorney is expected to exert his best efforts and ability to preserve his client's cause, for the unwavering loyalty displayed to his client, likewise, serves the ends of justice. Verily, the entrusted privilege to practice law carries with it the corresponding duties, not only to the client, but also to the court, to the bar and to the public.[14]

The fiduciary duty of a lawyer and advocate is what places the law profession in a unique position of trust and confidence, and distinguishes it from any other calling. Once this trust and confidence is betrayed, the faith of the people, not only in the individual lawyer but also in the legal profession as a whole, is eroded. To this end, all members of the bar are strictly required at all times to maintain the highest degree of public confidence in the fidelity, honesty and integrity of their profession.[15]

The factual antecedents in Reyes v. Vitan[16] and Sencio v. Atty. Calvadores[17] bear a striking similarity to the present case. In Reyes, complainant engaged the services of respondent lawyer for the purpose of filing the appropriate complaint or charges against the former's sister-in-law and the latter's niece. After receiving the amount of P17,000.00, respondent did not take any action on complainant's case. In Sencio, complainant therein, likewise, engaged the services of Atty. Calvadores to prosecute the civil aspect of the case in relation to the death of her son in a vehicular accident. The total amount of P12,000.00 was duly acknowledged and received by respondent as attorney's fees. Despite repeated assurances by respondent, complainant discovered that the former had not filed any case on her behalf.

In both cases, we suspended the respondent lawyers for a period of six (6) months. Thus, we impose the same penalty on respondent herein, as recommended by the IBP Board of Governors.

WHEREFORE, Resolution No. XVIII-2008-522 of the IBP Board of Governors is AFFIRMED. Accordingly, Atty. Oscar Amandy Reyes is hereby SUSPENDED for a period of SIX (6) MONTHS from the practice of law.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as an attorney, the Integrated Bar of the Philippines, and all courts in the country for their information and guidance.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

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[1] Rollo, pp. 4-7.

[2] Id. at 13.

[3] Id. at 12.

[4] Id. at 15.

[5] Id. at 27.

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[6] Citations omitted; Report and Recommendation of the IBP Commissioner, p. 3.

[7] Dayan Sta. Ana Christian Neighborhood Association, Inc. v. Espiritu, A.C. No. 5542, July 20, 2006, 495 SCRA 420, 429; Rangwani v. Dino, A.C. No. 5454, November 23, 2004, 443 SCRA 408, 415.

[8] Dayan Sta. Ana Christian Neighborhood Association, Inc. v. Espiritu, supra; Rangwani v. Dino, supra..

[9] Soriano v. Reyes, A.C. No. 4676, May 4, 2006, 489 SCRA 328, 338-339; Cojuangco, Jr. v. Palma, A.C. No. 2474, June 30, 2005, 462 SCRA 310, 318.

[10] Soriano v. Reyes, supra; Cojuangco, Jr. v. Palma, .supra.

[11] Cojuangco, Jr. v. Palma, supra.

[12] Reyes v. Vitan, A.C. No. 5835, April 15, 2005, 456 SCRA 87, 90.

[13] Reyes v. Vitan, supra; Sencio v. Atty. Calvadores, 443 Phil. 490, 494 (2003).

[14] Reyes v. Vitan, supra.

[15] Dayan Sta. Ana Christian Neighborhood Association, Inc. v. Espiritu, supra note 7; Rangwani v. Dino, supra note 7, at 419.

[16] A.C. No. 5835, April 15, 2005, 456 SCRA 87.

[17] 443 Phil. 490 (2003).

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