LUZVIMINDA C. LIJAUCO, COMPLAINANT, VS. ATTY. ROGELIO P. TERRADO, RESPONDENT.

A.C. NO. 6317. August 31, 2006

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

On February 13, 2004, an administrative complaint[1] was filed by complainant Luzviminda C. Lijauco against respondent Atty. Rogelio P. Terrado for gross misconduct, malpractice and conduct unbecoming of an officer of the court when he neglected a legal matter entrusted to him despite receipt of payment representing attorney's fees.

According to the complainant, she engaged the services of respondent sometime in January 2001 for P70,000.00 to assist in recovering her deposit with Planters Development Bank, Buendia, Makati branch in the amount of P180,000.00 and the release of her foreclosed house and lot located in Calamba, Laguna. The property identified as Lot No. 408-C-2 and registered as TCT No. T-402119 in the name of said bank is the subject of a petition for the issuance of a writ of possession then pending before the Regional Trial Court of Binan, Laguna, Branch 24 docketed as LRC Case No. B-2610.

Complainant alleged that respondent failed to appear before the trial court in the hearing for the issuance of the Writ of Possession and did not protect her interests in the Compromise Agreement which she subsequently entered into to end LRC Case No. B-2610.[2]

Respondent denied the accusations against him. He averred that the P70,000.00 he received from complainant was payment for legal services for the recovery of the deposit with Planters Development Bank and did not include LRC Case No. B-2610 pending before the Regional Trial Court of Biñan, Laguna.

The complaint was referred[3] to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. On September 21, 2005, the Investigating Commissioner submitted his report finding respondent guilty of violating Rules 1.01 and 9.02 of the Code of Professional Responsibility which provide:

> Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.
>
> Rule 9.02 – A lawyer shall not divide or stipulate to divide a fee for legal services with persons not licensed to practice law, except:
>
> a) Where there is a pre-existing agreement with a partner or associate that, upon the latter's death, money shall be paid over a reasonable period of time to his estate or to the persons specified in the agreement; or
>
> b) Where a lawyer undertakes to complete unfinished legal business of a deceased lawyer; or
>
> c) Where a lawyer or law firm includes non-lawyer employees in a retirement plan, even if the plan is based in whole or in part, on a profit-sharing arrangement.

In finding the respondent guilty of violating Rules 1.01 and 9.02 of the Code of Professional Responsibility, the

Investigating Commissioner opined that:

> In disbarment proceedings, the burden of proof rests upon the complainant. To be made the suspension or disbarment of a lawyer, the charge against him must be established by convincing proof. The record must disclose as free from doubt a case which compels the exercise by the Supreme Court of its disciplinary powers. The dubious character of the act done as well as of the motivation thereof must be clearly demonstrated. x x x.
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> In the instant scenario, despite the strong protestation of respondent that the Php70,000.00 legal fees is purely and solely for the recovery of the Php180,000.00 savings account of complainant subsequent acts and events say otherwise, to wit:
>
> 1.) The Php70,000.00 legal fees for the recovery of a Php180,000.00 savings deposit is too high;
> 2.) Respondent actively acted as complainant's lawyer to effectuate the compromise agreement.
>
> By openly admitting he divided the Php70,000.00 to other individuals as commission/referral fees respondent violated Rule 9.02, Canon 9 of the Code of Professional Responsibility which provides that a lawyer shall not divide or stipulate to divide a fee for legal services with persons not licensed to practice law. Worst, by luring complainant to participate in a compromise agreement with a false and misleading assurance that complainant can still recover after Three (3) years her foreclosed property respondent violated Rule 1.01, Canon 1 of the Code of Professional Responsibility which says a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.[4]

The Investigating Commissioner thus recommended:

> WHEREFORE, finding respondent responsible for aforestated violations to protect the public and the legal profession from his kind, it is recommended that he be suspended for Six (6) months with a stern warning that similar acts in the future will be severely dealt with.[5]

The IBP Board of Governors adopted the recommendation of the investigating commissioner.[6]

We agree with the findings of the IBP.

The practice of law is a privilege bestowed on those who show that they possessed and continue to possess the legal qualifications for it. Indeed, lawyers are expected to maintain at all times a high standard of legal proficiency and morality, including honesty, integrity and fair dealing. They must perform their fourfold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms of the legal profession as embodied in the Code of Professional Responsibility.[7]

Lawyers are prohibited from engaging in unlawful, dishonest, immoral or deceitful conduct[8] and are mandated to serve their clients with competence and diligence.[9] They shall not neglect a legal matter entrusted to them, and this negligence in connection therewith shall render them liable.[10]

Respondent's claim that the attorney's fee pertains only to the recovery of complainant's savings deposit from Planter's Development Bank cannot be sustained. Records show that he acted as complainant's counsel in the drafting of the compromise agreement between the latter and the bank relative to LRC Case No. B-2610. Respondent admitted that he explained the contents of the agreement to complainant before the latter affixed her signature. Moreover, the Investigating Commissioner observed that the fee of P70,000.00 for legal assistance in the recovery of the deposit amounting to P180,000.00 is unreasonable. A lawyer shall charge only fair and reasonable fees.[11]

Respondent's disregard for his client's interests is evident in the iniquitous stipulations in the compromise agreement where the complainant conceded the validity of the foreclosure of her property; that the redemption period has already expired thus consolidating ownership in the bank, and that she releases her claims against

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it.[12] As found by the Investigating Commissioner, complainant agreed to these concessions because respondent misled her to believe that she could still redeem the property after three years from the foreclosure. The duty of a lawyer to safeguard his client's interests commences from his retainer until his discharge from the case or the final disposition of the subject matter of litigation. Acceptance of money from a client establishes an attorney-client relationship and gives rise to the duty of fidelity to the client's cause. The canons of the legal profession require that once an attorney agrees to handle a case, he should undertake the task with zeal, care and utmost devotion.[13]

Respondent's admission[14] that he divided the legal fees with two other people as a referral fee does not release him from liability. A lawyer shall not divide or stipulate to divide a fee for legal services with persons not licensed to practice law, except in certain cases.[15]

Under Section 27, Rule 138 of the Rules of Court, a member of the Bar may be disbarred or suspended on the following grounds: 1) deceit; 2) malpractice, or other gross misconduct in office; 3) grossly immoral conduct; 4) conviction of a crime involving moral turpitude; 5) violation of the lawyer's oath; 6) willful disobedience to any lawful order of a superior court; and 7) willfully appearing as an attorney for a party without authority.

In Santos v. Lazaro[16] and Dalisay v. Mauricio, Jr.,[17] we held that Rule 18.03 of the Code of Professional Responsibility is a basic postulate in legal ethics. When a lawyer takes a client's cause, he covenants that he will exercise due diligence in protecting his rights. The failure to exercise that degree of vigilance and attention makes such lawyer unworthy of the trust reposed in him by his client and makes him answerable not just to his client but also to the legal profession, the courts and society.

A lawyer should give adequate attention, care and time to his client's case. Once he agrees to handle a case, he should undertake the task with dedication and care. If he fails in this duty, he is not true to his oath as a lawyer. Thus, a lawyer should accept only as much cases as he can efficiently handle in order to sufficiently protect his clients' interests. It is not enough that a lawyer possesses the qualification to handle the legal matter; he must also give adequate attention to his legal work. Utmost fidelity is demanded once counsel agrees to take the cudgels for his client's cause.[18]

In view of the foregoing, we find that suspension from the practice of law for six months is warranted. In addition, he is directed to return to complainant the amount he received by way of legal fees pursuant to existing jurisprudence.[19]

WHEREFORE, Atty. Rogelio P. Terrado is found GUILTY of violating Rules 1.01, 9.02, 18.02 and 20.01 of the Code of Professional Responsibility. He is SUSPENDED from the practice of law for six (6) months effective from notice, and STERNLY WARNED that any similar infraction will be dealt with more severely. He is further ordered to RETURN, within thirty (30) days from notice, the sum of P70,000.00 to complainant Luzviminda C. Lijauco and to submit to this Court proof of his compliance within three (3) days therefrom.

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

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez. Callejo, Sr. and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 2-4.

[2] Position Paper for Complainant, id. at 49.

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[3] Id. at 42.

[4] Id. at 106-107.

[5] Id, at 107.

[6] Id. at 102.

[7] Garcia v. Bala, A.C. No. 5039, November 25, 2005, 476 SCRA 85, 91.

[8] Rule 1.01.

[9] Canon 18.

[10] Rule 18.03.

[11] Canon 20.

[12] Rollo, pp. 37-39.

[13] Emiliano Court Townhouses Homeowners Association v. Dioneda, A.C. No. 5162, March 20, 2003, 399 SCRA 296, 303.

[14] Rollo, p. 90.

[15] Rule 9.02.

[16] 445 Phil. 1, 5 (2003).

[17] A.C. No. 5655, April 22, 2005, 456 SCRA 508, 514.

[18] Abiero v. Juanino A.C. No. 5302, February 18, 2005, 452 SCRA 1, 10.

[19] Garcia v. Bala, supra note 7 at 95-96; Ferrer v. Tebelin, A.C. No. 6590, June 27, 2005, 461 SCRA 207, 217; Macarilay v. Seriña, A.C. No. 6591, May 4, 2005, 458 SCRA 12, 26; Dalisay v. Mauricio, supra at 515-516.

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