DIANA RAMOS, COMPLAINANT, VS. ATTY. JOSE R. IMBANG, RESPONDENT.

A.C. No. 6788 (FORMERLY CBD 382). August 23, 2007

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PER CURIAM:

This is a complaint for disbarment or suspension[1] against Atty. Jose R. Imbang for multiple violations of the Code of Professional Responsibility.

The Complaint

In 1992, the complainant Diana Ramos sought the assistance of respondent Atty. Jose R. Imbang in filing civil and criminal actions against the spouses Roque and Elenita Jovellanos.[2] She gave respondent P8,500 as attorney's fees but the latter issued a receipt for P5,000 only.[3]

The complainant tried to attend the scheduled hearings of her cases against the Jovellanoses. Oddly, respondent never allowed her to enter the courtroom and always told her to wait outside. He would then come out after several hours to inform her that the hearing had been cancelled and rescheduled.[4] This happened six times and for each "appearance" in court, respondent charged her P350.

After six consecutive postponements, the complainant became suspicious. She personally inquired about the status of her cases in the trial courts of Biñan and San Pedro, Laguna. She was shocked to learn that respondent never filed any case against the Jovellanoses and that he was in fact employed in the Public Attorney's Office (PAO).[5]

RESPONDENT'S DEFENSE

According to respondent, the complainant knew that he was in the government service from the very start. In fact, he first met the complainant when he was still a district attorney in the Citizen's Legal Assistance Office (predecessor of PAO) of Biñan, Laguna and was assigned as counsel for the complainant's daughter.[6]

In 1992, the complainant requested him to help her file an action for damages against the Jovellanoses.[7] Because he was with the PAO and aware that the complainant was not an indigent, he declined.[8] Nevertheless, he advised the complainant to consult Atty. Tim Ungson, a relative who was a private practitioner.[9] Atty. Ungson, however, did not accept the complainant's case as she was unable to come up with the acceptance fee agreed upon.[10] Notwithstanding Atty. Ungson's refusal, the complainant allegedly remained adamant. She insisted on suing the Jovellanoses. Afraid that she "might spend" the cash on hand, the complainant asked respondent to keep the P5,000 while she raised the balance of Atty. Ungson's acceptance fee.[11]

A year later, the complainant requested respondent to issue an antedated receipt because one of her daughters asked her to account for the P5,000 she had previously given the respondent for safekeeping.[12] Because the complainant was a friend, he agreed and issued a receipt dated July 15, 1992.[13]

On April 15, 1994, respondent resigned from the PAO.[14] A few months later or in September 1994, the

complainant again asked respondent to assist her in suing the Jovellanoses. Inasmuch as he was now a private practitioner, respondent agreed to prepare the complaint. However, he was unable to finalize it as he lost contact with the complainant.[15]

Recommendation of the IBP

Acting on the complaint, the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) where the complaint was filed, received evidence from the parties. On November 22, 2004, the CBD submitted its report and recommendation to the IBP Board of Governors.[16]

The CBD noted that the receipt[17] was issued on July 15, 1992 when respondent was still with the PAO.[18] It also noted that respondent described the complainant as a shrewd businesswoman and that respondent was a seasoned trial lawyer. For these reasons, the complainant would not have accepted a spurious receipt nor would respondent have issued one. The CBD rejected respondent's claim that he issued the receipt to accommodate a friend's request.[19] It found respondent guilty of violating the prohibitions on government lawyers from accepting private cases and receiving lawyer's fees other than their salaries.[20] The CBD concluded that respondent 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.
>
> Rule 16.01. A lawyer shall account for all money or property collected or received for or from a client.
>
> Rule 18.01. A lawyer should not undertake a legal service which he knows or should know that he is not qualified to render. However, he may render such service if, with the consent of his client, he can obtain as collaborating counsel a lawyer who is competent on the matter.

Thus, it recommended respondent's suspension from the practice of law for three years and ordered him to immediately return to the complainant the amount of P5,000 which was substantiated by the receipt.[21]

The IBP Board of Governors adopted and approved the findings of the CBD that respondent violated Rules 1.01, 16.01 and 18.01 of the Code of Professional Responsibility. It, however, modified the CBD's recommendation with regard to the restitution of P5,000 by imposing interest at the legal rate, reckoned from 1995 or, in case of respondent's failure to return the total amount, an additional suspension of six months.[22]

The Court's Ruling

We adopt the findings of the IBP with modifications.

Lawyers are expected to conduct themselves with honesty and integrity.[23] More specifically, lawyers in government service are expected to be more conscientious of their actuations as they are subject to public scrutiny. They are not only members of the bar but also public servants who owe utmost fidelity to public service.[24]

Government employees are expected to devote themselves completely to public service. For this reason, the private practice of profession is prohibited. Section 7(b)(2) of the Code of Ethical Standards for Public Officials and Employees provides:

> Section 7. Prohibited Acts and Transactions. -- In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following constitute prohibited acts and transactions of any public official and employee and are hereby declared unlawful:
>
> xxx xxx xxx
>
> (b) Outside employment and other activities related thereto, public officials and employees during their

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> incumbency shall not:
>
> xxx xxx xxx
>
> (1) Engage in the private practice of profession unless authorized by the Constitution or law, provided that such practice will not conflict with their official function.[25]

Thus, lawyers in government service cannot handle private cases for they are expected to devote themselves full-time to the work of their respective offices.

In this instance, respondent received P5,000 from the complainant and issued a receipt on July 15, 1992 while he was still connected with the PAO. Acceptance of money from a client establishes an attorney-client relationship.[26] Respondent's admission that he accepted money from the complainant and the receipt confirmed the presence of an attorney-client relationship between him and the complainant. Moreover, the receipt showed that he accepted the complainant's case while he was still a government lawyer. Respondent clearly violated the prohibition on private practice of profession.

Aggravating respondent's wrongdoing was his receipt of attorney's fees. The PAO was created for the purpose of providing free legal assistance to indigent litigants.[27] Section 14(3), Chapter 5, Title III, Book V of the Revised Administrative Code provides:

> Sec. 14. xxx
>
> The PAO shall be the principal law office of the Government in extending free legal assistance to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases.[28]

As a PAO lawyer, respondent should not have accepted attorney's fees from the complainant as this was inconsistent with the office's mission.[29] Respondent violated the prohibition against accepting legal fees other than his salary.

Canon 1 of the Code of Professional Responsibility provides:

> CANON 1. - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR THE LAW AND LEGAL PROCESSES.

Every lawyer is obligated to uphold the law.[30] This undertaking includes the observance of the above-mentioned prohibitions blatantly violated by respondent when he accepted the complainant's cases and received attorney's fees in consideration of his legal services. Consequently, respondent's acceptance of the cases was also a breach of Rule 18.01 of the Code of Professional Responsibility because the prohibition on the private practice of profession disqualified him from acting as the complainant's counsel.

Aside from disregarding the prohibitions against handling private cases and accepting attorney's fees, respondent also surreptitiously deceived the complainant. Not only did he fail to file a complaint against the Jovellanoses (which in the first place he should not have done), respondent also led the complainant to believe that he really filed an action against the Jovellanoses. He even made it appear that the cases were being tried and asked the complainant to pay his "appearance fees" for hearings that never took place. These acts constituted dishonesty, a violation of the lawyer's oath not to do any falsehood.[31]

Respondent's conduct in office fell short of the integrity and good moral character required of all lawyers, specially one occupying a public office. Lawyers in public office are expected not only to refrain from any act or omission which tend to lessen the trust and confidence of the citizenry in government but also uphold the dignity of the legal profession at all times and observe a high standard of honesty and fair dealing. A government lawyer

is a keeper of public faith and is burdened with a high degree of social responsibility, higher than his brethren in private practice.[32]

There is, however, insufficient basis to find respondent guilty of violating Rule 16.01 of the Code of Professional Responsibility. Respondent did not hold the money for the benefit of the complainant but accepted it as his attorney's fees. He neither held the amount in trust for the complainant (such as an amount delivered by the sheriff in satisfaction of a judgment obligation in favor of the client)[33] nor was it given to him for a specific purpose (such as amounts given for filing fees and bail bond).[34] Nevertheless, respondent should return the P5,000 as he, a government lawyer, was not entitled to attorney's fees and not allowed to accept them.[35]

WHEREFORE, Atty. Jose R. Imbang is found guilty of violating the lawyer's oath, Canon 1, Rule 1.01 and Canon 18, Rule 18.01 of the Code of Professional Responsibility. Accordingly, he is hereby DISBARRED from the practice of law and his name is ORDERED STRICKEN from the Roll of Attorneys. He is also ordered to return to complainant the amount of P5,000 with interest at the legal rate, reckoned from 1995, within 10 days from receipt of this resolution.

Let a copy of this resolution be attached to the personal records of respondent in the Office of the Bar Confidant and notice of the same be served on the Integrated Bar of the Philippines and on the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Garcia, Velasco, Jr., Nachura, and Reyes, JJ., concur.
Chico-Nazario, J., no part.

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[1] Dated August 22, 1995.

[2] Rollo (Vol. I), p. 1.

[3]Id., pp. 1, 4.

[4] Id., p. 1.

[5] Id., pp. 1-2.

[6]Id., p. 11.

[7] Id.

[8] Id.

[9] Id.

[10]Id., pp. 11-12.

[11] Id., p. 12.

[12] Id.

[13] Id., p. 4.

[14] Id., p. 12.

[15] Id., p. 13.

[16] Report and Recommendation of the CBD penned by Commissioner Acerey C. Pacheco dated November 22, 2004. Rollo (Vol. III), p. 3-14.

[17] Id. (Vol. I), p. 4. The document contains the text below:

TO WHOM IT MAY CONCERN:

RECEIVED from Mrs. Diana Ramos the amount five thousand pesos (P5000.00) in connection with her case entitled "DIANA RAMOS vs. ROQUE & ELENITA JOVELLANOS for damages in the total amount of P150,000.00.

Pacita Complex, San Pedro, Laguna,
July 15, 1992.

(Sgd.) ATTY. JOSE R. IMBANG

Rec'd. original:
(signature illegible)

[18]Id. (Vol. III), p. 11.

[19] Id., p. 11-12.

[20] Id., p. 12.

[21] Id. (Vol. III), p. 14.

[22] Id., p. 2.

[23] De Guzman v. De Dios, A.C. No. 4943, 26 January 2001, 350 SCRA 320, 324.

[24] Vitrolio v. Dasig, A.C. No. 4984, 1 April 2003, 400 SCRA 172, 179.

[25]Compare with Revised Rules on Civil Service, Rule XVIII, Sec. 12. The section provides:

[N]o officer or employee shall engage directly in any private business, vocation or profession or be connected with any commercial, credit, agricultural or industrial undertaking without a written permission from the head of the Department.

See also Lorenzana v. Fajardo, A.C. No. 5712, 29 June 2004, 462 SCRA 1.

[26] Amaya v. Tecson, A.C. No. 5996, 7 February 2005, 450 SCRA 510, 515.

[27] Mandate of the PAO.

[28] See RA 9407, Sec. 2.

[29] The mission of the PAO is:

"To provide indigent litigants free access to courts, judicial and quasi-judicial agencies by rendering legal assistance in consonance with the constitutional mandate that 'free access to court shall not be denied by reason of poverty.'"

[30] Lawyer's Oath. See also RULES OF COURT, Rule 138, Sec. 20(a).

[31] Lawyer's Oath. See also CODE OF PROFESSIONAL RESPONSIBILITY, Canon 1, Rule 1.01.

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[32] Supra note 24 at 180.

[33]See Manalang v. Angeles, A.C. No. 1558, 10 March 2003, 398 SCRA 687.

[34] See Businos v. Ricafort, A.C. No. 4349, 22 December 1997, 283 SCRA 407.

[35] CIVIL CODE, Art. 2154. The article provides:

Art. 2154. If something is received when there is no right to demand it and it was unduly delivered through mistake, the obligation to return it arises.

Also CIVIL CODE, Art. 2159. The article provides:

Art. 2159. Whoever in bad faith accepts an undue payment shall pay legal interest if a sum of money is involved, or shall be liable for fruits received which should have been received if the thing produces fruits.

He shall furthermore be answerable for any loss or impairment of the thing from any cause, and for damages to the person who delivered the thing, until it is recovered.

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