DAVID L. ALMENDAREZ, JR., COMPLAINANT, VS. ATTY. MINERVO T. LANGIT, RESPONDENT.

A.C. NO. 7057. July 25, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

On 5 May 2004, David L. Almendarez, Jr. ("complainant") filed this complaint-affidavit[1] before the Integrated Bar of the Philippines (IBP), seeking the disbarment of Atty. Minervo T. Langit ("respondent") for acts unbecoming a lawyer.

The facts are undisputed:

Complainant, as attorney-in-fact of his mother Pura Lioanag Vda. de Almendarez, was the plaintiff in an ejectment case before the Municipal Trial Court of Dagupan City, Branch 2 ("trial court"). Respondent served as complainant's counsel. While the case was pending, defendant Roger Bumanlag ("Bumanlag") deposited monthly rentals for the property in dispute to the Branch Clerk of Court.

On 3 February 1994, the trial court rendered a decision in the ejectment case based on a compromise agreement executed by complainant and Bumanlag. On 18 December 1995, the trial court issued an alias writ of execution for the satisfaction of the decision. A court order[2] dated 2 March 2000 granted the Omnibus Motion for Execution and Withdrawal of Deposited Rentals filed by respondent as complainant's counsel. Respondent filed a second motion for withdrawal of deposited rentals, which the trial court also granted on 16 March 2000.

Sometime in May 2003, complainant learned that respondent was able to withdraw the rentals deposited by Bumanlag. Felicidad Daroy ("Daroy"), Officer-in-Charge Clerk of Court, confirmed this to complainant who received from Daroy copies of the two withdrawal slips drawn from the trial court's savings account. One slip dated 10 March 2000 was for P28,000,[3] and another slip dated 19 April 2000 was for P227,000.[4] Thus, respondent received a total of P255,000, as evidenced by two receipts[5] signed by him. The withdrawals were made through Daroy's authorized representative Antonia Macaraeg, but Daroy personally delivered the money to respondent. Respondent did not inform complainant of these transactions.

Complainant, through his new counsel Atty. Miguel D. Larida, sent respondent on 30 June 2003 a final demand letter for the accounting and return of the P255,000.[6] Respondent failed to reply.

Hence, complainant filed this case for disbarment against respondent for failing to account for complainant's funds. Complainant further accuses respondent of neglecting to pursue the implementation of the writ of execution issued in the ejectment case.

On 12 May 2004, IBP Director for Bar Discipline Rogelio A. Vinluan ("IBP Director Vinluan") ordered respondent to submit his Answer to the complaint. Respondent did not file an answer despite receipt of the

notice.[7]

On 4 October 2004, IBP Investigating Commissioner Caesar R. Dulay ("IBP Commissioner Dulay") notified the parties to appear before him for a mandatory conference on 15 November 2004, later reset to 17 January 2005. Only complainant appeared at the conference, prompting IBP Commissioner Dulay to order the conference terminated and to declare that respondent had waived his right to participate in the proceedings. IBP Commissioner Dulay directed the parties to file their respective position papers. Complainant submitted his position paper on 22 March 2005. Again, respondent took no action.

Findings and Recommendation of the IBP

On 8 June 2005, IBP Commissioner Dulay submitted his Report and Recommendation ("Report")[8] with the finding that respondent failed to account for money he held in trust for complainant. The Report considered complainant's evidence "clear and convincing" enough to justify disciplinary action against respondent for violation of Rule 16.01 of the Code of Professional Responsibility. IBP Commissioner Dulay recommended that respondent be declared guilty of gross misconduct and suspended for one year, aside from being ordered to render an accounting of the money he had received.

In a Resolution[9] dated 17 December 2005, the IBP Board of Governors approved the Report, with the modification that the penalty of suspension be increased to two years.

The Court's Ruling

We sustain the findings of the IBP.

Respondent committed a flagrant violation of his oath when he received the sum of money representing the monthly rentals intended for his client, without accounting for and returning such sum to its rightful owner. Respondent received the money in his capacity as counsel for complainant. Therefore, respondent held the money in trust for complainant. The Code of Professional Responsibility ("Code") states:

> CANON 16 - A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.
>
> Rule 16.01-A lawyer shall account for all money or property collected or received for or from the client.
>
> Rule 16.03-A lawyer shall deliver the funds and property to his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

Respondent should have immediately notified complainant of the trial court's approval of the motion to withdraw the deposited rentals. Upon release of the funds to him, respondent could have collected any lien which he had over them in connection with his legal services, provided he gave prompt notice to complainant. A lawyer is not entitled to unilaterally appropriate his client's money for himself by the mere fact that the client owes him attorney's fees.[10] In this case, respondent did not even seek to prove the existence of any lien, or any other right that he had to retain the money.

Respondent's failure to turn over the money to complainant despite the latter's demands gives rise to the presumption that he had converted the money for his personal use and benefit. This is a gross violation of general morality as well as of professional ethics, impairing public confidence in the legal profession.[11] More specifically, it renders respondent liable not only for violating the Code but also for contempt, as stated in Section 25, Rule 138 of the Rules of Court:

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> SEC. 25. Unlawful retention of client's funds; contempt - When an attorney unjustly retains in his hands money of his client after it has been demanded he may be punished for contempt as an officer of the Court who has misbehaved in his official transactions; but proceedings under this section shall not be a bar to a criminal prosecution.

Additionally, respondent failed to observe Canon 17[12] of the Code, which obligates the lawyer to take up the cause of his client with entire zeal and devotion. It seems that after respondent received the withdrawn deposits, he never contacted complainant again. He did not pursue the implementation of the writ of execution issued in the ejectment case, to the prejudice of complainant. By his inaction, respondent violated the trust and confidence reposed in him. For in agreeing to be complainant's counsel, respondent undertook to take all steps necessary to safeguard complainant's interest in the case.

The misconduct of respondent is aggravated by his unjustified refusal to heed the orders of the IBP requiring him to file an answer to the complaint-affidavit and, afterwards, to appear at the mandatory conference. Although respondent did not appear at the conference, the IBP gave him another chance to defend himself through a position paper. Still, respondent ignored this directive, exhibiting a blatant disrespect for authority. Indeed, he is justly charged with conduct unbecoming a lawyer, for a lawyer is expected to uphold the law and promote respect for legal processes.[13] Further, a lawyer must observe and maintain respect not only to the courts, but also to judicial officers and other duly constituted authorities,[14] including the IBP. Under Rule 139-B of the Rules of Court, the Court has empowered the IBP to conduct proceedings for the disbarment, suspension, or discipline of attorneys.

The relation of attorney and client is highly fiduciary, requiring utmost good faith, loyalty, and fidelity on the part of the attorney. Respondent miserably failed in this regard. Instead, he demonstrated a lack of integrity, care, and devotion required by the legal profession from its members. Whenever a lawyer is no longer worthy of the trust and confidence of the public, this Court has the right and duty to withdraw his privilege as officer of the Court and member of the Bar.[15]

WHEREFORE, we find Atty. Minervo T. Langit GUILTY of violating Canons 1, 11, 16, and 17 of the Code of Professional Responsibility. We SUSPEND respondent from the practice of law for two years effective upon finality of this Decision. We ORDER respondent to RESTITUTE, within 30 days from finality of this Decision, complainant's P255,000, with interest at 12% per annum from 30 June 2003 until fully paid. We DIRECT respondent to submit to the Court proof of payment within 15 days from payment of the full amount.

Let copies of this Decision be furnished all courts, the Office of the Bar Confidant, as well as the Integrated Bar of the Philippines, for their notice and guidance.
SO ORDERED.

Panganiban, C.J., Puno, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Tinga, Chico-Nazario, Garcia, and Velasco, Jr., JJ., concur.
Azcuna, J., on leave.

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[1] Rollo, pp. 1-5.

[2] Id. at 12. Issued by trial court Presiding Judge Emma M. Torio.

[3] Id. at 6.

[4] Id. at 8.

[5] Id. at 7, 9.

[6] Id. at 10-11.

[7] Id. at 14.

[8] Dated 8 June 2005.

[9] Resolution No. XVII-2005-170.

[10] Schulz v. Flores, A.C. No. 4219, 8 December 2003, 417 SCRA 159.

[11] Espiritu v. Ulep, A.C. No. 5808, 4 May 2005, 458 SCRA 1, citing Daroy v. Legaspi, A.C. No. 936, 25 July 1975, 65 SCRA 304.

[12] 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.

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

[14] CANON 11 - A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

[15] Eustaquio. v. Rimorin, 447 Phil. 549 (2003), citing In Re: Almacen, 142 Phil. 353 (1970).

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