MARIA ANGALAN, NENA ANGALAN, DIONICIO ANGALAN, MAGDALENA ANGALAN, FRANCISCA ANGALAN, INIS ANGALAN, ROSALINO ANGALAN, AND JOSEFINA ANGALAN ALL OF WHOM ARE HEIRS OF ANGALAN SAMAL ...

A.C. No. 7181. February 06, 2009

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PER CURIAM:

This is a complaint filed by Maria, Nena, Dionicio, Magdalena, Francisca, Inis, Rosalino, and Josefina Angalan (complainants) against Atty. Leonido C. Delante (respondent) for gross violation of the Code of Professional Responsibility.

Complainants are the heirs of Angalan Samal (Angalan) and Sanaan Samal (Sanaan). Complainants allege that they are illiterate and belong to the Samal Tribe. Angalan, Sanaan, and complainants owned a 9.102-hectare parcel of land in Barrio San Jose, Kaputian, Island Garden City of Samal, Davao del Norte. The property was covered by Original Certificate of Title (OCT) No. P-11499.[1]

On 15 April 1971, Angalan and complainants borrowed P15,000 from Navarro R. Eustaquio and Arabella P. Eustaquio (Spouses Eustaquio). To secure the loan, Angalan and complainants mortgaged 8.102 hectares of the 9.102-hectare property and surrendered OCT No. P-11499 to the Spouses Eustaquio. The Spouses Eustaquio prepared a document[2] and asked Angalan and complainants to sign it. Angalan and complainants affixed their thumb marks on the document.

When complainants tried to pay the loan and recover OCT No. P-11499 from the Spouses Eustaquio, the Spouses Eustaquio refused. Complainants learned that the document which the Spouses Eustaquio prepared, and which complainants signed, was a deed of absolute sale and not a real estate mortgage. They also learned that Navarro R. Eustaquio (Navarro) had transferred the title over the 8.102-property to his name -- OCT No. P-11499 was canceled and Transfer Certificate of Title (TCT) No. T-9926[3] in the name of Navarro was issued.

Complainants engaged the services of respondent for the purpose of recovering their property. In a receipt[4] dated 18 November 1970, respondent acknowledged receipt of P1,200 from Francisca Angalan and her husband, Macario Capul (Capul), representing the full payment of his professional fees: "Received from Mr. MACARIO CAPUL and FRANCISCA RAFAEL CAPUL the sum of ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) representing full payment of professional services in regard to recovery of Original Certificate of Title No. P-11499 in the name of Angalan (Samal)."

Respondent filed a complaint[5] dated 13 April 1976 with the then Court of First Instance (CFI), now Regional Trial Court (RTC), Judicial Region XVI, Tagum, Davao stating that:

> - x x x Angalan Samal and his children x x x are the original patentees of a certain parcel of land, situated in Ombay, Samal, Davao, covered under Original Certificate of Title No. P-11499, of the Registry of Deeds of Davao, having acquired the same under HP-No. 65310, pursuant to the provisions of the Homestead Laws of

> the Public Land Law (C.A. 141);
>
> - x x x [O]n April 15, 1971, the herein original patentees x x x sold and conveyed said parcel of land covered by the aforesaid title to the herein defendants for the sum of FIFTEEN THOUSAND PESOS (P15,000.00) x x x;
>
> - x x x [U]nder the provisions of the Public Land Law, particularly Section 119 thereof and even on the face of the title of said property now under the name of the defendants x x x the herein plaintiffs have the right to repurchase said property within a period of five (5) years from the date of the conveyance;
>
> x x x x
>
> - [A]s a matter of right under the law, the herein plaintiffs are entitled to the produce of the property at least beginning April 8, 1976;
>
> x x x x
>
> - [B]y reason of unwarranted refusal on the part of the defendants to reconvey the property to plaintiffs, the latter have been constrained to engage, and in fact have engaged, the services of counsel x x x[6]

Complainants and the Spouses Eustaquio entered into an amicable settlement. In the amicable settlement[7] dated 3 September 1977, the parties stated that:

> - x x x [T]he plaintiffs have offered to the defendant[s] the sum of P30,000.00 as repurchase price which the defendant[s accept];
>
> - x x x [U]pon the signing hereof, the plaintiffs shall pay the defendant[s] the sum of P15,000.00 and for this purpose hereby authorize the defendants to collect the same from the Clerk of Court which amount had been deposited with this Honorable Court; Likewise, upon signing hereof the Deed of Reconveyance shall be immediately executed and delivered by the defendants to plaintiff[s];
>
> - x x x [W]hile the balance of P15,000.00 has not been paid, the defendant[s] shall continue to possess, and if necessary to gather the produce of the property, however, upon receipt of the defendant[s] of the balance of P15,000.00, said defendants together with [their] agent and/or worker, Alfredo Rabadon shall clear the area and turnover the same within fifteen (15) days from receipt [of] said balance.[8]

In a Decision[9] dated 30 September 1977, the CFI approved the amicable settlement.

Complainants did not have the P30,000 repurchase price for the property. Respondent advanced the P30,000 and, in return, complainants allowed respondent to possess the property and gather its produce until he is paid. In a letter[10] dated 10 January 1979 and addressed to the barrio captain of Umbay, Samal, Davao del Norte, respondent stated that:

> This will inform you that the Heirs of Angalan Samal have already redeemed their property through me from Mr. Navarro Eustaquio since September, 1978. In my capacity as counsel of the Heirs of Angalan Samal and owner of the money in redeeming the property, I have authorized Mr. Macario Capol to take over the possession of the property together with the harvesting of the matured coconuts.

When complainants tried to repay the P30,000 repurchase price and recover the property from respondent, respondent refused. Complainants learned that respondent transferred the title of the property to his name -- TCT No. T-9926 was canceled and TCT No. T-57932[11] in the name of respondent was issued.

Complainants filed a complaint[12] dated 30 April 2004 with the RTC, Judicial Region XI, Branch 34, Davao City praying that (1) the deed of absolute sale prepared by the Spouses Eustaquio and signed by the complainants be declared void, (2) TCT No. T-57932 be declared void, and (3) respondent be made to pay damages. The case

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was docketed as Civil Case No. 57-2004. In his answer[13] dated 29 December 2004, respondent stated that:

> [In] 1971, ANGALAN (SAMAL) [now deceased) [sic] together with his son-in-law, MACARIO CAPUL, the latter being the town mate of herein defendant Delante in Danao, Cebu and who is married to the daughter of the late ANGALAN (SAMAL), came to herein defendant's office and sought for an advice to borrow money;
>
> x x x [T]he late ANGALAN (SAMAL) together with his children in company with MACARIO CAPUL, were directed by herein defendant to inform him why it was necessary for them to borrow money and for whatever [sic] purpose; after their story, herein defendant disagreed as to their justification in borrowing money which was for no other purpose except to have money on their own;
>
> x x x x
>
> It is preposterous for plaintiff[s] to claim that they had [sic] engaged the professional services of herein defendant to file an annulment case since plaintiffs never came back apparently ashamed when they were driven out, but worse they had [sic] never paid the herein defendant a single centavo for purposes of filing an annulment case against co-defendant NAVARRO EUSTAQUIO;
>
> x x x [T]he transfer of said property consisting of 8.102 hectares under the name of herein defendants was not tainted with any deceit but effected legally by virtue of a valid deed of sale executed by defendants' [sic] spouses EUSTAQUIO in favor of herein defendants.
>
> x x x x
>
> [T]he absolute deed of sale, [sic] dated 15 April 1971, executed by herein plaintiffs in favor of defendants EUSTAQUIO, speaks for itself. It is a sale of real property and NOT a mortgage.
>
> x x x x
>
> Contrary to the malicious and untruthful claim of the plaintiffs, the legal services of defendant Atty. LEONIDO DELANTE was never solicited by them. Plaintiffs only asked defendant from where they could borrow money, and after knowing that they just simply would [sic] like to borrow money without any concrete investments in mind to repay [sic] back [sic] any loan, defendant Atty. LEONIDO DELANTE drove them out of his office and told them to look for another person to help them;
>
> Defendant Atty. LEONIDO DELANTE later learned from MACARIO CAPUL, who is a friend and a town mate, and who is the husband of FRANCISCA ANGALAN CAPUL, that the plaintiffs had negotiated a sale with a certain NAVARRO EUSTAQUIO x x x;
>
> In September 1977, a former Filipino client of herein defendant DELANTE, who, and his family [sic] are now permanent residents of New York, was looking for a real property to build his retirement home, [sic] and he approached herein defendant, in which he was referred to defendant EUSTAQUIO [sic]; Upon visiting the property of defendant EUSTAQUIO, he was so impressed of the location of the property and decided to buy the same, hence left the money to herein defendant DELANTE and to buy [sic] said property under defendant's name, with the understanding to turn over said property to him, as soon as he and his family shall have returned to the country;
>
> x x x [S]ince herein defendant is not interested over the said property as his own, he waited for his client from New York to come home and to get his property but after 11 years, his client decided not to come back anymore to the Philippines, and directed herein defendant to register the Deed of Sale over the property to [sic] his name and directed herein defendant to refund his client.[14]

Complainants filed a complaint[15] dated 28 December 2005 with the Court charging respondent with gross violation of the Code of Professional Responsibility. In a Resolution[16] dated 3 July 2006, the Court required respondent to comment on the complaint and, in a Resolution[17] dated 4 December 2006, the Court referred the

case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

In a Notice dated 14 March 2007, Commissioner Salvador B. Hababag (Commissioner Hababag) directed complainants and respondent to appear before the IBP for a mandatory conference. The parties failed to appear at the mandatory conference. In an Order dated 16 May 2007, Commissioner Hababag directed the parties to submit their position papers.

In a motion dated 4 April 2007 and filed with the RTC, respondent and complainants prayed that Civil Case No. 57-2004 be dismissed. Complainants filed with the Court a motion to withdraw the complaint for disbarment dated 4 April 2007 and an affidavit of desistance dated April 2007.

In his position paper dated 2 July 2007, respondent stated that (1) Angalan and Capul went to his office in 1971 to seek advice about borrowing money; (2) his client from New York bought the property from the Spouses Eustaquio; and (3) complainants executed a motion to withdraw the complaint for disbarment and an affidavit of desistance.

In a Report dated 15 October 2007, Commissioner Hababag found that respondent violated the Code of Professional Responsibility:

> The issue to resolve is whether or not respondent committed grave violation of [the] Code of Professional Responsibility when he bought the property of his client[s] without their knowledge, consent and against their will?
>
> Weighing evidence presented by both parties, respondent should be punished for his unprofessional and distasteful acts.
>
> x x x x
>
> His vain attempt to salvage his malicious acts was too flimsy to gain belief and acceptance. It is unbelievable that a buyer would entrust his money intended for payment of a property but allowed that said property be registered under the name of another, specifically his lawyer, simply runs counter to ordinary human nature. (Emphasis supplied)

Commissioner Hababag recommended that respondent be suspended from the practice of law for six months.

In a Resolution dated 22 November 2007, the IBP Board of Governors (Board) adopted and approved the Report with modification. The Board increased respondent's suspension from six months to one year.

Pursuant to Section 12(b), Rule 139-B of the Rules of Court,[18] the Board forwarded the case to the Court for final action.

The Court sustains the findings of the IBP.

Complainants and respondent presented two different sets of facts. According to complainants, they engaged the services of respondent for the purpose of recovering their property from the Spouses Eustaquio. In violation of the trust and confidence they reposed in him, respondent transferred the title over the property to his name. According to respondent, complainants did not engage his services. His client from New York was the one who bought the property from the Spouses Eustaquio.

After a careful review of the records, the Court gives credence to complainants' version of the facts.

Respondent's credibility is highly questionable. In his answer dated 29 December 2004 and filed with the CFI and in his position paper dated 2 July 2007 and filed with the IBP, respondent alleged that Angalan and Capul went to his office in 1971 to seek advice about borrowing money. According to respondent, complainants did not engage

his services. In his answer, respondent stated that:

> It is preposterous for [complainants] to claim that they had [sic] engaged the professional services of herein defendant to file an annulment case since [complainants] never came back apparently ashamed when they were driven out x x x;
>
> x x x x
>
> Contrary to the malicious and untruthful claim of [complainants], the legal services of defendant Atty. LEONIDO DELANTE was never solicited by them. Plaintiffs only asked defendant from where they could borrow money, and after knowing that they just simply would like to borrow money without any concrete investments in mind to repay back [sic] any loan, defendant Atty. LEONIDO DELANTE drove them out of his office and told them to look for another person to help them;
>
> Defendant Atty. LEONIDO DELANTE later learned from MACARIO CAPUL x x x that the plaintiffs had negotiated a sale with a certain NAVARRO EUSTAQUIO.[19](Emphasis supplied)

The Court is not impressed. Angalan and complainants went to respondent's office not to seek advice about borrowing money but to engage his services for the purpose of recovering their property. This is obvious. First, after Angalan and complainants went to respondent's office, respondent filed a complaint with the CFI praying that the Spouses Eustaquio reconvey the property to Angalan and complainants. Second, in the complaint, respondent stated that, "by reason of unwarranted refusal on the part of the defendants to reconvey the property to plaintiffs, the latter have been constrained to engage, and in fact have engaged, the services of counsel." Third, respondent issued a receipt to complainants stating that he "RECEIVED from Mr. MACARIO CAPUL and FRANCISCA RAFAEL CAPUL the sum of ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) representing full payment of professional services in regard to the recovery of Original Certificate of Title No. P-11499 in the name of Angalan (Samal)." Fourth, in respondent's letter dated 10 January 1979 and addressed to the barrio captain of Umbay, Samal, Davao del Norte, he stated that he was the lawyer of complainants:

> This will inform you that the Heirs of Angalan Samal have already redeemed their property through me from Mr. Navarro Eustaquio since September, 1978. In my capacity as counsel of the Heirs of Angalan Samal and owner of the money in redeeming the property, I have authorized Mr. Macario Capol to take over the possession of the property together with the harvesting of the matured coconuts.[20]

These clearly show that complainants engaged the services of respondent.

In his answer, respondent alleged that complainants did not pay him his professional fees (which, according to him, they did not engage). He stated that, "[complainants] had never paid the herein defendant a single centavo for purposes of filing an annulment case against x x x NAVARRO EUSTAQUIO."

The Court is not impressed. Complainants fully paid respondent his professional fees. This is obvious. In a receipt dated 18 November 1970, respondent stated that he "RECEIVED from Mr. MACARIO CAPUL and FRANCISCA RAFAEL CAPUL the sum of ONE THOUSAND TWO HUNDRED PESOS (P1,200.00) representing full payment of professional services in regard to the recovery of Original Certificate of Title No. P-11499 in the name of Angalan (Samal)." This clearly shows that complainants paid respondent his professional fees.

In his answer and position paper, respondent alleged that his client from New York bought the property from the Spouses Eustaquio:

> [I]n September 1977, a former Filipino client of herein respondent, who, and his family [sic] are now permanent residents of New York, was looking for a real property to build his retirement home, and he

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> approached herein respondent, in which [sic] he was referred to Navarro Eustaquio; and upon visiting the property of Navarro Eustaquio, he was impressed of [sic] the location of the property and decided to buy the same, hence left the money to herein respondent and to buy [sic] said property under respondent's name, with the understanding to turn over said property to him, as soon as he and his family shall have returned to the country;
>
> x x x [S]ince herein respondent was not interested over the said property as his own, he waited for his client from New York to come home and to get his property but after 11 years, his client decided not to come back anymore to the Philippines, and directed herein respondent to register the Deed of Sale over the property under his name and directed herein respondent to refund his client.[21]

The Court is not impressed. Complainants repurchased the property from the Spouses Eustaquio. This is obvious. First, complainants and the Spouses Eustaquio entered into an amicable settlement stating that complainants would repurchase the property from the Spouses Eustaquio:

> - x x x [T]he plaintiffs have offered to the defendant[s] the sum of P30,000.00 as repurchase price which the defendant[s accept];
>
> - x x x [U]pon the signing hereof, the plaintiffs shall pay the defendant[s] the sum of P15,000.00 and for this purpose hereby authorize the defendants to collect the same from the Clerk of Court which amount had been deposited with this Honorable Court; Likewise, upon signing hereof the Deed of Reconveyance shall be immediately executed and delivered by the defendants to plaintiff[s];
>
> - x x x [W]hile the balance of P15,000.00 has not been paid, the defendant[s] shall continue to possess, and if necessary to gather the produce of the property, however, upon receipt of the defendant[s] of the balance of P15,000.00, said defendants together with [their] agent and/or worker, Alfredo Rabadon shall clear the area and turnover the same within fifteen (15) days from receipt [of] said balance.[22] (Emphasis supplied)

Second, in his letter to the barrio captain, respondent stated that complainants repurchased the property from the Spouses Eustaquio:

> This will inform you that the Heirs of Angalan Samal have already redeemed their property through me from Mr. Navarro Eustaquio since September, 1978. In my capacity as counsel of the Heirs of Angalan Samal and owner of the money in redeeming the property, I have authorized Mr. Macario Capol to take over the possession of the property together with the harvesting of the matured coconuts.[23](Emphasis supplied)

These clearly show that complainants repurchased the property from the Spouses Eustaquio.

Respondent's story about the client from New York is unbelievable. Respondent did not give any detail or proof to substantiate his story -- the name of the alleged client, an affidavit of the alleged client, the old passport of the alleged client showing immigration stamps, or any form of correspondence between him and the alleged client. The Court agrees with the observation of Commissioner Hababag that respondent's "vain attempt to salvage his malicious acts [is] too flimsy to gain belief and acceptance."

In his position paper, respondent alleged that complainants executed a motion to withdraw the complaint for disbarment and an affidavit of desistance. This is immaterial. Section 5, Rule 139-B of the Rules of Court states that, "No investigation shall be interrupted or terminated by reason of the desistance, settlement, compromise, restitution, withdrawal of charges, or failure of the complainant to prosecute the same."

Respondent violated Canons 16 and 17 of the Code of Professional Responsibility. Canon 16 states that lawyers shall hold in trust all properties of their clients that may come into their possession. Respondent should have held in trust TCT No. T-9926 and returned the property to complainants upon demand.[24]Instead of holding in trust the property of complainants, respondent (1) transferred the title of the property to his name, (2) refused to return

the property to complainants, and (3) referred to complainants' charges as malicious and untruthful.

Canon 17 states that lawyers shall be mindful of the trust and confidence reposed in them. Respondent should have been mindful of the trust and confidence complainants reposed in him. Complainants allege that they are illiterate and that the Spouses Eustaquio took advantage of them. Complainants engaged the services of respondent in the hope that he would help them recover their property. Instead of protecting the interests of complainants, respondent took advantage of complainants and transferred the title of the property to his name.

Considering the depravity of respondent's offense, the Court finds the recommended penalty too light. Violation of Canons 16 and 17 constitutes gross misconduct.[25]Section 27, Rule 138 of the Rules of Court states that a member of the bar may be disbarred or suspended from his office as attorney by the Court for gross misconduct. In Hernandez v. Go,[26] the Court disbarred a lawyer for transferring the titles over the properties of his client to his name without the knowledge of his client. In Hernandez, the Court held that:

> Considering the depravity of respondent's offense, we find the penalty recommended by the IBP too light. It bears reiterating that a lawyer who takes advantage of his client's financial plight to acquire the latter's properties for his own benefit is destructive of the confidence of the public in the fidelity, honesty, and integrity of the legal profession. Thus, for violation of Canon 16 and Canon 17 of the Code of Professional Responsibility, which constitutes gross misconduct, and consistent with the need to maintain the high standards of the Bar and thus preserve the faith of the public in the legal profession, respondent deserves the ultimate penalty, that of expulsion from the esteemed brotherhood of lawyers.[27]

A person who takes the 8.102-hectare property of his illiterate clients and who is incapable of telling the truth is unfit to be a lawyer.

WHEREFORE, the Court finds Atty. Leonido C. Delante GUILTY of violating Canons 16 and 17 of the Code of Professional Responsibility. Accordingly, the Court DISBARS him from the practice of law and ORDERS that his name be stricken from the Roll of Attorneys.

Let copies of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts all over the country. Let a copy of this Decision likewise be attached to the personal records of respondent.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, and Peralta, JJ., concur.

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[1] Rollo (Vol. I), pp. 11-12.

[2] Id. at 13-16.

[3] Id. at 17.

[4] Id. at 18.

[5]Id. (Vol. II) at 57-60.

[6] Id.

[7] Id. at 69-70.

[8] Id. at 69.

[9] Id. at 71-73.

[10] Id. (Vol. I) at 19.

[11] Id. (Vol. II) at 74.

[12] Id. at 76-83.

[13] Id. at 84-95.

[14] Id. at 85-89.

[15] Id. (Vol. I) at 1-10.

[16] Id. at 22.

[17] Id. at 89.

[18] Section 12(b), Rule 139-B of the Rules of Court provides:

If the Board, by the vote of the majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.

[19] Rollo (Vol. II), pp. 86, 88.

[20] See note 10.

[21] Rollo (Vol. II), p. 89.

[22] Id. at 69.

[23] See note 10.

[24] Rule 16.03 of the Code of Professional Responsibility states that, "A lawyer shall deliver the funds and property of his client when due or upon demand."

[25] Hernandez v. Go, A.C. No. 1526, 31 January 2005, 450 SCRA 1.

[26] Id.

[27] Id. at 10-11.

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