

**CONRADO CUSTODIO, SR. AND SANITA CUSTODIO, COMPLAINANTS,
VS. ATTORNEY IRENEO Z. ESTO, RESPONDENT.***Adm. Case No. 1113. February 22, 1978*

Ponente: FERNANDO, J.

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The ethics of the legal profession demands that a lawyer entrusted with funds coming from a third party should exercise the utmost care and prudence. He is subjected to strict accountability, and rightly so. It is expected of him that honesty and fair dealing should characterize his actuations. Failure to do so is a ground for disciplinary action. The administrative complaint in this case filed by Conrado Custodio, Sr. and his wife Sanita, against respondent Ireneo Z. Esto, a member of the Philippine Bar, alleged in brief that the latter representing the complainants in a prosecution for rape and abduction against Conrado Custodio, Jr. and one for trespass to dwelling against his father, the matter then pending before the City Fiscal's Office of Manila, obtained P1,000 from the Custodio spouses, with the promise that such charges would be dropped. That promise, so it is asserted, was not fulfilled. Neither was the money returned, even after demand. The administrative complaint characterized what was done by respondent as constituting "deceit, malpractice, or gross misconduct." [1] His suspension or disbarment is sought.

The answer denied any wrongdoing on his part, alleging that the Custodios knew "that the complaints in the City Fiscal's Office could not be dismissed because the alleged offended parties did not want to have an amicable settlement." [2] It was rather evasive, however, as to the return of the P1,000, the answer merely stating the following: "That respondent likewise denies the allegations contained in paragraph 10 of the complaint, the truth of the matter being that when respondent received the letter of demand, he was surprised to know why petitioners should seek legal assistance, and after he received such letter, it came to the mind of the respondent to go out from the gentlemen's agreement not to make the offer of compromise as evidence against the respondents in I.S. Nos. 72-10120 and 72-13398 and for which reason he sought the advice of the Investigating Fiscal about the matter and the latter advised the respondent that he can still use this incident as evidence against the petitioners in said criminal cases but to return the said amount to the petitioners herein; that further, the respondent withdrew the sum of P1,000.00 from his Bank Account, which was the very money he deposited on September 8, 1972, and brought it to the sala of Fiscal Santos on September 19, 1972 in order to return the same to the petitioners but they failed to appear during said hearing, and considering that the respondent received a copy of the letter complaint of the petitioners to the Solicitor General on September 20, 1972, the respondent deemed it wise to let the petitioners get the money from his office personally, as he was then apprehensive of carrying and risking the loss of a big sum of money; or else, subject the same to the disposal of the Investigating Fiscal or whatever resolution this Honorable Court may desire; * * *." [3]

The administrative complaint was then referred to the Office of the Solicitor General for investigation, report and recommendation. Such report was submitted by the then Acting Solicitor General, now Associate Justice of the Court of Appeals, Hugo Gutierrez, Jr. [4] on October 25, 1976.

This is its finding of facts: "There is no dispute that respondent Atty. Esto received the amount of P1,000.00 from complainants-spouses Conrado Custodio, Sr. and Sanita Custodio. There is likewise no dispute that the amount was paid to respondent for the purpose of settling the case of forcible abduction with rape lodged against Conrado Custodio, Jr. upon complaint of Concordia Favorito, and the case of trespass to dwelling filed against Conrado Custodio, Sr. upon complaint of Diosdado Favorito, both of which were then pending investigation at the Manila Fiscal's Office, with the complainants being represented therein by herein respondent Atty. Ireneo Z. Esto. When, according to the complainants, they handed the amount of P1,000.00 to respondent in the latter's office in the hope of settling the cases but without the presence of the Favoritos who were the complainants against them, they were fully aware that the projected settlement was not a certainty and therefore could fail, otherwise the payment would have been made to the Favoritos personally or at least in their presence and with their conformity. So that it was no surprise at all to the complainants that the expected settlement did not materialize." [5]

"The only issue," the Report continues, "is, whether respondent was recreant as a lawyer in not effecting the return of the money to the complainants soon after it was plain that the Favoritos were not amenable to the proposed settlement. Whereas, complainants aver that they sought repeatedly the respondent, albeit in vain, for the purpose of recovering the amount stated, respondent on the other hand, claims that he made several offers to return the sum to the complainants, but the latter rejected the same unless the charges filed against them by respondent's clients were dropped. Credibility therefore is involved. In resolving the same, we are inclined to give credence to respondent's version that the complainants refused to receive the money unless the cases against them (Custodios, Sr. and Jr.) were first dismissed. Respondent has manifested sincere desire to return the amount. If complainants were indeed willing to accept the same, this case would not have gone this far. Moreover, complainants did not rebut the evidence of the respondent that on several occasions, the latter tried to return the money to the former." [6]

There is in such report a fair and just appraisal of the conduct of respondent. It reads thus: "But respondent is not totally free from blame. Soon after the prospect of an amicable settlement had fizzled out, he should have exercised more prudence in effecting the return of the money. As his previous attempts to do so failed, he should have resorted to other avenues if only to have the amount restored to the complainants. It would have bailed him out of all suspicions of bad faith." [7]

It came as a surprise therefore when the recommendation was for respondent Esto to "be given a stern warning against any repetition of what was complained of herein." [8] That was all. This Court did not see it that way. It is much too light considering the infraction committed. Accordingly the case was set for hearing on January 20, 1978. Respondent Esto appeared in his own behalf. The complainants were represented by Miss Blesila Quintillan, a trial attorney of the Office of the Solicitor General. Thereafter, this Court resolved "to require the complainants to [submit] a manifestation within five (5) days from today as to whether or not the P1,000.00 has been returned to them." [9] On January 25, 1978, this Manifestation was submitted by Assistant Solicitor General Nathanael P. de Pano, Jr.: "[Come now] the undersigned counsel and in compliance with the instruction of this Honorable Court during the hearing of the above-entitled case, hereby respectfully manifest: That after the hearing of the above-entitled case on January 20, 1978, it was agreed upon by the parties that the payment of the amount of P1,000 by the respondent to the complainants as ordered by this Honorable Court, shall be coursed through the office of the undersigned Solicitor; That in compliance with said agreement, respondent deposited with the undersigned Solicitor today, January 25, 1978, the aforesaid sum of P1,000 to be delivered to the complainants; That up to this writing, the complainants have not claimed the aforesaid amount from the undersigned Solicitor although they are expected to appear anytime today to receive the same, as earlier agreed upon." [10]

In thus returning the amount, respondent member of the bar had taken an affirmative step in the direction of respectability. It can be said he had partially atoned for his undesirable conduct. It can further be said that he had come to realize that the rigorous ethics of the profession places a premium on honesty and condemns duplicitous conduct. This Court however feels that he had not fully expiated his offense. At the very least, a severe reprimand is indicated. It should serve as a warning against any member of the bar, who under analogous circumstances might be tempted to behave similarly. That is an eventuality to be avoided and guarded against.

WHEREFORE, Attorney Ireneo Z. Esto is severely reprimanded and admonished to exercise greater care and prudence in the future in his actuations as a member of the Philippine Bar. Let a copy of this resolution be spread on his record.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] Complaint, par. 11.

[2] Answer, par. 6.

[3] Ibid, par. 9.

[4] He was assisted by Assistant Solicitor General Nathanael de Pano, Jr. and Solicitor Jesus P. Mapanao.

[5] Report and Recommendation, 5-6.

[6] Ibid, 6.

[7] Ibid, 6-7.

[8] Ibid, 7.

[9] Resolution of January 20, 1978.

[10] Manifestation of the Solicitor General, 1.

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