

OCA CIRCULAR NO. 65-2003, May 29, 2003

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TO:

THE COURT OF APPEALS, SANDIGANBAYAN COURT OF TAX APPEALS, REGIONAL TRIAL COURTS SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS THE OFFICE OF THE STATE PROSECUTOR, PUBLIC DEFENDERS OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES

SUBJECT :

SUSPENSION FROM THE PRACTICE OF LAW OF ATTY. ROBERT CALVADORES

For the information and guidance of all concerned, quoted hereunder is the decision of the Court's First Division in Administrative Case No. 5841 entitled "Emily Sencio vs. Atty. Robert Calvadores" dated January 20, 2003, to wit:

"In a verified complaint[1] for disbarment filed with the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) dated 18 November 1999, complainant Emily Sencio charged respondent Atty. Robert Calvadores with violation of the lawyer's oath, malpractice and gross misconduct.

Complainant Sencio alleged that sometime in 1997 her eldest son, Herbert Sencio, died in a vehicular accident. She was referred by her mother-in-law to respondent Calvadores to prosecute the civil aspect of the case. On 19 May 1998 she initially gave the respondent the amount of P1,500.00 and promised to pay the attorney's fees later.

On 20 August 1998, after having accumulated enough funds, the complainant paid the respondent the amount of P12,000 as attorney's fees and for other expenses relating to the case. The payment was duly acknowledged by the respondent.[2]

From the time on, complainant Sencio regularly contacted the respondent to update herself of the status of the case. The respondent kept on assuring her that everything would be alright. Finally, however, complainant discovered that the respondent, did not file any case, a fact which the respondent admitted. The latter promised to return to the complainant the money he had received from her.

The complainant returned several times to respondent's house and even patiently waited for him outside his house to get back her money. The respondent, however, did not return to her the money. He still did not file the case in court either.

x x x

Needless to state, a lawyer-client relationship existed between the respondent and the complainant. As such, the respondent, under Canon 17 of the Code of Professional Responsibility, owed fidelity to the caused of Ms client. Once a lawyer agrees to handle a case, he should undertake the task with dedication and care; less than

that, he is not true to his oath as a lawyer.[8] In failing to file the case he undertook to handle, the respondent violated Canon 18 of the Code of Professional Responsibility, specifically Rule 18.03 thereof, which provides that 'a lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.'

Likewise, in not returning the money to the complainant after a demand therefor was made following his failure to file the case, the respondent violated Canon 16 of the Code of Professional Responsibility, particularly Rule 16.03 thereof, which requires that a lawyer shall deliver the funds and property of Ms client upon demand. It is settled that the unjustified withholding of money belonging to Ms client warrants the imposition of disciplinary action.[9]

We also frown upon the attitude of the respondent :in not answering the complaint and in deliberately disregarding the orders and notices of the IBP on many occasions. TMs attitude showed a character or disposition which stains the nobility of the legal profession. He chose not to appear at the scheduled hearings despite due notice and the warnings. Section 30 Rule 138 of the Rules of Court specifically provides:

Section 30. Attorney to be heard before removal or suspension.- No attorney shall be removed or suspended from the practice of his profession, until he has full opportunity upon reasonable notice to answer the charges against him to produce witness in Ms behalf, and to be heard by himself or counsel. But if upon reasonable notice he fails to appear and answer the accusations, the court may proceed to determine the matter ex parte.

x x x

In view of the foregoing, the recommendation of the IBP to suspend the respondent and to return the amount of Twelve Thousand Pesos (P 12,000) to the complainant is affirmed, with the modification that the penalty of suspension from the practice of law is hereby increased to six (6) months and that the return of the P 12,000 should be done within thirty (30) days from notice, with legal interest.

WHEREFORE, respondent ATTY. ROBERT CALVADORE is hereby SUSPENDED from the practice of law for a period of six (6) months effective immediately, and ordered to return to Emily Sencio, within thirty (30) days from notice of this Resolution, the amount of Twelve Thousand Pesos (P12.000) with interest at 12% per annum from the date of the promulgation of this Resolution until its return. The respondent is further warned that a commission of the same or similar act in the future shall be dealt with more severely."

May 29, 2003. Untitled Document

PRESBITERO J. VELASCO, JR.

Court Administrator

[1]Rollo, 1-4.

[2] Annex "A" of the Complaint, Rollo, 5.

[8]Legarda vs.Court of Appeals, 195 SCRA, 418 428 (1991)

[9] Reyes vs. Maglaya, 243 SCRA 214, 219 (1995)

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