

MARIA L. ALDANA, COMPLAINANT, VS. ATTORNEY FRANCISCO MENDOZA ABAD, RESPONDENT.*Adm. Case No. 90. April 28, 1956*

Ponente: PARAS, C.J.

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Maria L. Aldana filed a complaint for disbarment against Attys. Francisco M. Abad and Dominador Somera. In view of their failure to file an answer to the complaint within the period granted them, and upon motion of Atty. Francisco M. Abad, the Court referred the matter to the Solicitor General for investigation, report and recommendation. On January 30, 1954, the Solicitor General filed a formal complaint only against Atty. Francisco M. Abad, alleging in substance that the respondent agreed to take charge of collecting the retirement gratuity of Feliciano Aldana, deceased husband of Maria de Aldana, under the Osmeña Retirement Act No. 2589; that the respondent caused Maria de Aldana to execute in his favor a power of attorney to receive and sign the retirement check; that the respondent delivered to Maria de Aldana the sum of P696, out of which she paid to the respondent the sum of P50 as fee; that subsequently Maria de Aldana learned from other sources that the retirement gratuity collected by the respondent amounted to P4,000; that without notice to and previous conformity of Maria de Aldana, the respondent disposed of the said P4,000 in the following manner: P2,500 to the heirs of Feliciano Aldana by his first marriage; P696 to Maria de Aldana (in representation of the heirs of Feliciano Aldana by his second marriage) ; and P800 for expenses and fees of respondent; that the sum of P800 retained by the respondent as expenses and fees are excessive and unreasonable; that the acts of the respondent constitute abuse of the confidence reposed in him by Maria de Aldana. The Solicitor General prayed that proper disciplinary action be taken against the respondent; that the fee of respondent be fixed, considering that the laws of the United States and the Philippines allow only ten per cent; ,and that the respondent be ordered to return to the heirs of the deceased Feliciano Aldana the difference between P800 and the fee to be thus fixed by this Court. In his answer the respondent alleged in substance and effect that he acted in good faith in the matter, having divided the sum of P4,000 in the manner alleged by the Solicitor General, bearing in mind the interest of the heirs of the deceased Feliciano Aldana both by his first marriage and by his second marriage, the heirs of the first marriage being represented by Lt. Emiliano Aldana who was in a more solvent position and willing to make necessary adjustments should Maria de Aldana claim and be entitled to an amount more than P696; that the sum of P800 kept by the respondent¹ was not excessive, considering that he took many steps, went from one office to another, and made several trips from Pangasiñan to Manila, all because Maria de Aldana wanted to collect the gratuity as soon as possible.

All things considered, we held that while the disbursements made by the respondent might have been in good faith, because there are admittedly two sets of heirs and the sum of P800 kept by the respondent represented not only his fee but also his expenses, nevertheless the respondent should have informed his principal, Maria de Aldana, about the exact amount paid by the Government and consulted her before delivering to the heirs of Feliciano Aldana by his first marriage the sum of P2,500. In failing to observe that formality which seems to be elementary, but which is not so grave an omission as to warrant suspension or disbarment, the respondent merits

at least a reprimand.

It may be claimed on behalf of Maria de Aldana or the heirs of Feliciano Aldana by his second marriage that the sum of P696 is legally insufficient or out of proportion; the matter of adjustment may be threshed out by said heirs on the one hand and the heirs by the first marriage.

Wherefore, the respondent is hereby reprimanded, with the warning that a repetition of similar acts will be dealt with more severely.

Reyes, A., Jugo, Bautista Angelo, Concepcion and Reyes, J. B. L., JJ., concur.:

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