



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPOUSES NICASIO AND A.C. No. 5440
DONELITA SAN PEDRO,
Complainants,

Present:

CARPIO, J., *Chairperson*,
DEL CASTILLO,
VILLARAMA, JR.,*
MENDOZA, and
LEONEN, JJ.

-versus-

ATTY. ISAGANI A. MENDOZA,
Respondent.

Promulgated:

DEC 10 2014 *Atty. Isagani A. Mendoza*

X-----X

RESOLUTION

LEONEN, J.:

For resolution is a complaint for disbarment filed by Spouses Nicasio and Donelita San Pedro (complainants) against Atty. Isagani A. Mendoza (respondent).¹ This case involves a determination of whether respondent violated his duty to hold in trust all moneys and properties of the client; his duty to account for all funds and property collected or received for or from the client; and his duty to deliver the funds and property of the client when due or upon demand under the Code of Professional Responsibility.

The facts are summarized as follows:

* Designated acting member per Special Order No. 1888 dated November 28, 2014.
¹ Rollo, pp. 1-3.

On or about November 21, 1996, complainants engaged the services of respondent to facilitate the transfer of title to property, in the name of Isabel Azcarraga Marcaida, to complainants.²

Complainants then gave respondent a check for ₱68,250.00 for the payment of transfer taxes.³ They also gave respondent a check for ₱13,800.00 for respondent's professional fee.⁴

Respondent failed to produce the title despite complainants' repeated follow-ups.⁵

Several letters were sent by respondent explaining the delay in the transfer of title.⁶ However, respondent still failed to produce the title.

Complainants subsequently referred the case to the barangay.⁷ Respondent refused to return the amount complainants gave for the transfer taxes.⁸ Complainants were then issued a certificate to file action.⁹ They also sent a letter demanding the refund of the money intended for the transfer taxes.¹⁰ Respondent still did not return the money.

On May 8, 2000, respondent sent another letter to complainants. He promised to settle the transfer of the land title.¹¹ However, respondent reneged on this promise.¹² Complainants were then forced to obtain a loan from Philippine American Life and General Insurance Company to secure the transfer of the title to the property in their names.¹³

Respondent contested the allegations of complainants. According to him, it was complainants who caused the three-year delay in the transfer of title to complainants' names. Complainants were not able to furnish respondent several important documents: (a) original copy of the deed of extrajudicial petition; (b) affidavit of publication with the clippings of the published item in a newspaper of general circulation; and (c) a barangay certificate from the barangay where the property is located as required by the Bureau of Internal Revenue.¹⁴

² Id. at 1. IBP Investigating Commissioner's report and recommendation dated July 8, 2008, p. 2.

³ Id.

⁴ Id. at 2.

⁵ Id.

⁶ Id.

⁷ Id.

⁸ Id.

⁹ Id.

¹⁰ Id.

¹¹ Id.

¹² Id.

¹³ Id.

¹⁴ Id. at 20.

In addition, respondent argued that complainants paid him the measly sum of ₱13,800.00 despite all the work he did for them, including facilitating the sale of the property. These involved “being-pulled from the office four or five times to discuss . . . the details of the transaction [with the sellers]; going twice to the Regional Trial Court of Biñan, Laguna[,] Branch 24, to expedite the . . . issuance of a [n]ew owner’s duplicate copy of the title; going twice to the office of the Register of Deeds for Calamba, Laguna to make verification and submit the court [o]rder; [and facilitating the] preparation and notarization of the Deed of Absolute Sale.”¹⁵

Respondent also claimed that retention of the money is justified owing to his receivables from complainants for the services he rendered in various cases:

- 1) In the case of Spouses Nicasio and Donelita San Pedro versus Severo Basbas, for Forcible Entry, docketed as Civil Case No. 2004 in the Metropolitan Trial Court of Santa Rosa, Laguna. This case was dismissed by the Honorable Court for alleged lack of jurisdiction, the issue of possession being intertwined with that of ownership;
- 2) In the case of Spouses Nicasio and Donelita San Pedro versus Severo Basbas for Accion Publiciana docketed as Civil Case No. B-5386 raffled to the Regional Trial Court of Biñan, Laguna[,] Branch 25;
- 3) In Civil Case No. B-4503 entitled Basbas versus Spouses Nicasio and Donelita San Pedro et al., for nullity of title, [r]econveyance with prayer for issuance of writ of preliminary injunction directed specifically to herein complainant. This case was assigned to the Regional Trial Court of San Pedro, Laguna[,] Respondent, for and in behalf of herein complainant, submitted an [a]nswer and [o]pposition to the prayer for issuance of the injunction, which was favorably acted upon. Consequently[,] the case was dismissed by the Court[;]
- 4) In Civil Case No. B-688 entitled Basbas versus Spouses Nicasio and Donelita San Pedro et al., for [r]e-partition and [r]econveyance, which was raffled to the Regional Trial Court of Biñan, Laguna, Branch 24[;] [and]
- 5) Likewise, respondent represented herein complainant in [an] ESTafa case they [filed] against Greg Ramos and Benjamin Corsino, which case, as per reliable source, was discontinued by complainant after the civil aspect of the same was amicably settled.¹⁶

Respondent further alleged that complainants challenged him to prove his worth as a lawyer by doing away with the requirements and expediting the cancellation of the Marcaidas’ title.¹⁷

¹⁵ Id. at 19.

¹⁶ Id. at 21–22.

¹⁷ Id. at 20.

The present administrative case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.¹⁸ The parties were then called to a mandatory conference before the IBP Commission on Bar Discipline.¹⁹ They were required to submit their position papers.²⁰ Respondent did not submit his position paper.²¹

On July 8, 2008, the Investigating Commissioner, Atty. Salvador B. Hababag, submitted his findings and recommendation. The Investigating Commissioner found that respondent violated Canon 16, Rules 16.01²² and 16.03²³ of the Code of Professional Responsibility.

The Investigating Commissioner found that both checks issued to respondent were encashed despite respondent's failure to facilitate the release of the title in the name of complainants.²⁴ Complainants had to obtain a loan to facilitate the transfer of title in their names.²⁵

Moreover, respondent admitted his liability in his letters to complainants.²⁶ Complainant Nicasio San Pedro's affidavit of desistance is immaterial.²⁷

The Investigating Commissioner recommended the disciplinary action of "censure and warning," hence:

WHEREFORE, premises considered, it is most respectfully recommended that the disciplinary sanction of CENSURE and WARNING be given the respondent with the admonition that he be extremely careful of his acts to forego severe penalty in the future.²⁸

In the Notice of Resolution No. XVIII-2008-399 dated August 14, 2008, the IBP Board of Governors adopted with modification the findings of the Investigating Commissioner. It held:

¹⁸ Id. at 15–16.

¹⁹ Id. at 29.

²⁰ Id. at 31. IBP Investigating Commissioner's report and recommendation dated July 8, 2008, p. 2.

²¹ Id.

²² Canon 16, Rule 16.01 - A lawyer shall account for all money or property collected or received for or from the client.

²³ Canon 16, Rule 16.03 - A lawyer shall deliver the funds and property of 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.

²⁴ *Rollo*, pp. 40–41. IBP Investigating Commissioner's report and recommendation dated July 8, 2008, pp. 4–5.

²⁵ Id.

²⁶ Id. at 41. IBP Investigating Commissioner's report and recommendation dated July 8, 2008, p. 5.

²⁷ Id.

²⁸ Id.

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex “A”; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for Respondent’s violation of Canon 16, [Rule] 16.01 and Rule 16.03 of the Code of Professional Responsibility when he failed to effect the transfer of property despite encashment of the two checks, Atty. Isagani A. Mendoza is hereby **SUSPENDED** from the practice of law for three (3) months and **Ordered to Return** the amount of Sixty Eight Thousand Two Hundred Fifty (₱68,250.00) Pesos to complainants within thirty days from receipt of notice.²⁹ (Emphasis, italics, and underscoring in the original)*

On November 14, 2008, respondent filed his motion for reconsideration.³⁰ The IBP Board of Governors denied respondent’s motion in the Notice of Resolution No. XX-2013-839 dated June 22, 2013:

*RESOLVED to unanimously DENY Respondent’s Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XVIII-2008-399 dated August 14, 2008 is hereby **AFFIRMED**.³¹ (Emphasis and italics in the original)*

On December 11, 2013, this court resolved to note the following: (a) Notice of Resolution No. XVIII-2008-399 dated August 14, 2008 of the IBP Board of Governors; (b) Notice of Resolution No. XX-2013-839 dated June 22, 2013 of the IBP Board of Governors; and (c) IBP’s letter dated October 7, 2013 transmitting the documents pertaining to the case.³²

In the manifestation and motion dated October 25, 2013, respondent requested for a formal hearing, reasoning that he “wants to exercise his right to confront his accusers [to] cross[-]examine them and that of their witness.”³³ The manifestation and motion was denied by this court in the resolution dated September 22, 2014.³⁴

The main issue in this case is whether respondent is guilty of violating Canon 16 of the Code of Professional Responsibility for failing to hold in trust the money of his clients.

After considering the parties’ arguments and the records of this case,

²⁹ Id. at 54.

³⁰ Id. at 42-44.

³¹ Id. at 52.

³² Id. at 60.

³³ Id. at 64.

³⁴ Id. at 68.

this court resolves to adopt and approve the Notice of Resolution No. XX-2013-839 dated June 22, 2013 of the IBP Board of Governors.

It has been said that “[t]he practice of law is a privilege bestowed on lawyers who meet the high standards of legal proficiency and morality. Any conduct that shows a violation of the norms and values of the legal profession exposes the lawyer to administrative liability.”³⁵

An examination of the records reveals that respondent violated the Code of Professional Responsibility.

Canon 16 of the Code of Professional Responsibility 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 16.02 – A lawyer shall keep the funds of each client separate and apart from his own and those of others kept by him.

Rule 16.03 – A lawyer shall deliver the funds and property of 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.

Rule 16.04 – A lawyer shall not borrow money from his client unless the client’s interests are fully protected by the nature of the case or by independent advice. Neither shall a lawyer lend money to a client except, when in the interest of justice, he has to advance necessary expenses in a legal matter he is handling for the client.

Similarly, Rule 138, Section 25 of the Rules of Court provides:

Section 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.

³⁵ *Barandon, Jr. v. Ferrer, Sr.*, A.C. No. 5768, March 26, 2010, 616 SCRA 529, 535 [Per J. Abad, Second Division], citing *Garcia v. Bala*, 512 Phil. 487, 490 (2005) [Per J. Panganiban, Third Division].

A lawyer's duty under Canon 16 of the Code of Professional Responsibility is clear:

The fiduciary nature of the relationship between counsel and client imposes on a lawyer the duty to account for the money or property collected or received for or from the client[,] [thus] . . . [w]hen a lawyer collects or receives money from his client for a particular purpose (such as for filing fees, registration fees, transportation and office expenses), *he should promptly account to the client how the money was spent. If he does not use the money for its intended purpose, he must immediately return it to the client.* His failure either to render an accounting or to return the money (if the intended purpose of the money does not materialize) constitutes a blatant disregard of Rule 16.01 of the Code of Professional Responsibility.

[The lawyer's] failure to return the client's money upon demand gives rise to the presumption that he has misappropriated it for his own use to the prejudice of and in violation of the trust reposed in him by the client.³⁶ (Emphasis supplied)

Respondent admitted that there were delays in the transfer of title of property to complainants' name. He continuously assured complainants that he would still fulfill his duty. However, after three (3) years and several demands from complainants, respondent failed to accomplish the task given to him and even refused to return the money. Complainants' alleged failure to provide the necessary documents to effect the transfer does not justify his violation of his duty under the Code of Professional Responsibility.

Respondent's assertion of a valid lawyer's lien is also untenable. A valid retaining lien has the following elements:

An attorney's retaining lien is fully recognized if the presence of the following elements concur: (1) lawyer-client relationship; (2) lawful possession of the client's funds, documents and papers; and (3) unsatisfied claim for attorney's fees. Further, the attorney's retaining lien is a general lien for the balance of the account between the attorney and his client, and applies to the documents and funds of the client which may come into the attorney's possession in the course of his employment.³⁷

Respondent did not satisfy all the elements of a valid retaining lien. He did not present evidence as to an unsatisfied claim for attorney's fees. The enumeration of cases he worked on for complainants remains unsubstantiated. When there is no unsatisfied claim for attorney's fees, lawyers cannot validly retain their client's funds or properties.³⁸

³⁶ *Belleza v. Macasa*, 611 Phil. 179, 190 (2009) [Per Curiam, En Banc].

³⁷ *Miranda v. Carpio*, A.C. No. 6281, September 26, 2011, 658 SCRA 197, 205 [Per J. Peralta, Third Division], *citing Ampil v. Hon. Agrava*, 145 Phil. 297, 303 (1970) [Per J. Teehankee, En Banc].


³⁸ *See Miranda v. Carpio*, A.C. No. 6281, September 26, 2011, 658 SCRA 197 [Per J. Peralta, Third Division].

Furthermore, assuming that respondent had proven all the requisites for a valid retaining lien, he cannot appropriate for himself his client's funds without the proper accounting and notice to the client. The rule is that when there is "a disagreement, or when the client disputes the amount claimed by the lawyer . . . the lawyer should not arbitrarily apply the funds in his possession to the payment of his fees. . . ." ³⁹


We also note that despite complainant Nicasio San Pedro's affidavit of desistance dated March 14, 2008, both complainants signed their comment to respondent's motion for reconsideration and prayed that the motion be dismissed for lack of merit. ⁴⁰

WHEREFORE, respondent Atty. Isagani A. Mendoza is **SUSPENDED** from the practice of law for three (3) months. He is also ordered to **RETURN** to complainants the amount of ₱68,250.00 with 6% legal interest from the date of finality of this judgment until full payment. Respondent is further **DIRECTED** to submit to this court proof of payment of the amount within 10 days from payment. Let a copy of this resolution be entered in respondent Atty. Isagani A. Mendoza's personal record with the Office of the Bar Confidant, and a copy be served to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all the courts in the land.

SO ORDERED.


MARVIC M.V. F. LEONEN
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson


MARIANO C. DEL CASTILLO
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

³⁹ *J.K. Mercado and Sons Agricultural Enterprises, Inc. v. De Vera*, 375 Phil. 766, 773 [Per J. Vitug, Third Division].

⁴⁰ *Rollo*, pp. 47-48.


JOSE CATRAL MENDOZA
Associate Justice