



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

VICKA MARIE D. ISALOS,
Complainant,

A.C. No. 11822

- versus -

ATTY. ANA LUZ B. CRISTAL,
Respondent.

Present:

CARPIO, *J.*, Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., * *JJ.*

Promulgated:

22 NOV 2017

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RESOLUTION

PERLAS-BERNABE, *J.*:

This administrative case arose from a verified complaint¹ for disbarment filed by complainant Vicka Marie D. Isalos (complainant) against respondent Atty. Ana Luz B. Cristal (respondent) for violation of Rule 1.01, Canon 1 and Rules 16.01, 16.02, and 16.03, Canon 16 of the Code of Professional Responsibility (CPR) arising from respondent's alleged failure to account for the money entrusted to her.

The Facts

Complainant alleged that she is the Director and Treasurer of C Five Holdings, Management & Consultancy, Inc. (C Five), a corporation duly organized and existing under the laws of the Philippines with principal office in Libis, Quezon City. Respondent was C Five's Corporate Secretary and

* On official leave.
¹ Dated September 11, 2014. *Rollo*, pp. 2-6.

Legal Counsel who handled its incorporation and registration with the Securities and Exchange Commission (SEC).²

Sometime in July 2011, when C Five was exploring investment options, respondent recommended the purchase of a resort in Laguna, with the assurances that the title covering the property was “clean” and the taxes were fully paid. Relying on respondent’s recommendation, C Five agreed to acquire the property and completed the payment of the purchase price.³

Respondent volunteered and was entrusted to facilitate the transfer and registration of the title of the property in C Five’s name. On September 5, 2011, complainant personally handed the sum of ₱1,200,000.00 to respondent at her office in Makati City, as evidenced by Official Receipt No. 1038⁴ of even date. The said amount was intended to cover the expenses for the documentation, preparation, and notarization of the Final Deed of Sale, as well as payment of capital gains tax, documentary stamp tax, and other fees relative to the sale and transfer of the property.⁵

More than a year thereafter, however, no title was transferred in C Five’s name. It was then discovered that the title covering the property is a Free Patent⁶ issued on August 13, 2009, rendering any sale, assignment, or transfer thereof within a period of five (5) years from issuance of the title null and void. Thus, formal demand⁷ was made upon respondent to return the ₱1,200,000.00 entrusted to her for the expenses which remained unheeded, prompting C Five to file a criminal complaint for *Estafa* before the Makati City Prosecutor’s Office, *i.e.*, NPS No. XV-05-INV-13D-1253,⁸ as well as the present case for disbarment before the Integrated Bar of the Philippines, *i.e.*, CBD Case No. 14-4321.

In defense,⁹ respondent claimed that she paid the Bureau of Internal Revenue (BIR) registration, Mayor’s Permit, business licenses, documentation, and other expenses using the money entrusted to her by complainant,¹⁰ as itemized in a Statement of Expenses¹¹ that she had prepared, and that she was ready to turn over the balance in the amount of ₱885,068.00. However, C Five refused to receive the said amount, insisting that the entire ₱1,200,000.00 should be returned.¹² Moreover, she pointed out that the criminal case for *Estafa* filed against her by C Five had already

² Id. at 2.

³ Id.

⁴ Id. at 7.

⁵ See id. at 2-3.

⁶ See *Katibayan ng Orihinal na Titulo* No. P-6403; id. at 8, including dorsal portion thereof.

⁷ Dated November 14, 2012. Id. at 9.

⁸ See id. at 3 and 54.

⁹ See Answer/Opposition dated February 16, 2015; id. at 38-42.

¹⁰ Id. at 39.

¹¹ Id. at 53.

¹² Id. at 40.

been dismissed¹³ for lack of probable cause.¹⁴ As such, she prayed that the disbarment case against her be likewise dismissed for lack of merit.¹⁵

The IBP's Report and Recommendation

After due proceedings, the Commission on Bar Discipline of the IBP (CBD-IBP) issued a Report and Recommendation¹⁶ dated June 29, 2015, finding respondent administratively liable and thereby, recommending her suspension from the legal profession for a period of three (3) years.¹⁷ The CBD-IBP found that respondent actually received the amount of ₱1,200,000.00 from complainant, which amount was intended to cover the expenses and payment of taxes for the sale and transfer of the property to C Five's name. Likewise, it was undisputed that despite demands from the company to return the said amount, respondent failed to do so. Worse, she offered a Statement of Expenses with "feigned expenditures" in an attempt to prove that a portion of the money had already been spent. Thus, the CBD-IBP concluded that there was dishonesty on the part of respondent and accordingly, recommended the penalty of suspension.¹⁸

In a Resolution¹⁹ dated June 30, 2015, the IBP Board of Governors resolved to adopt and approve *with modification* the CBD-IBP's Report and Recommendation dated June 29, 2015, meting upon respondent the penalty of suspension from the practice of law for one (1) year and directing the return of the amount of ₱1,200,000.00 to complainant.

In respondent's motion for reconsideration,²⁰ she maintained that there was no intention on her part to retain the money and that she was willing to return the amount of ₱885,068.00, as shown in her Statement of Expenses, which she claimed was accompanied by corresponding receipts. Moreover, she averred that on September 30, 2015, in order to buy peace, she delivered the amount of ₱1,200,000.00 to Atty. Anselmo Sinjian III, counsel for complainant,²¹ as evidenced by an Acknowledgment Receipt²² of even date. As a consequence, complainant filed a Withdrawal of Complaint for Disbarment²³ before the IBP.

¹³ See Resolution dated September 11, 2013 issued by Assistant City Prosecutor Leilia R. Llanes; id. at 54-56.

¹⁴ Id. at 40.

¹⁵ Id.

¹⁶ Id. at 139-140. Penned by Commissioner Eduardo R. Robles.

¹⁷ Id. at 140.

¹⁸ See id. at 139-140.

¹⁹ See Notice of Resolution in Resolution No. XXI-2015-627 issued by National Secretary Nasser A. Marohomsalic; id. at 138, including dorsal portion.

²⁰ Id. at 141-147.

²¹ Id. at 144-145.

²² Id. at 152.

²³ Dated October 6, 2015. Id. at 153-154.

In a Resolution²⁴ dated January 26, 2017, the IBP denied respondent's motion for reconsideration.

The Issue Before the Court

The sole issue for the Court's consideration is whether or not grounds exist to hold respondent administratively liable.

The Court's Ruling

After a punctilious review of the records, the Court concurs with the findings and conclusions of the IBP that respondent should be held administratively liable in this case.

The practice of law is considered a privilege bestowed by the State on those who possess and continue to possess the legal qualifications for the profession. As such, lawyers are expected to maintain at all times a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform their four-fold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms embodied in the Code.²⁵ "Lawyers may, thus, be disciplined for any conduct that is wanting of the above standards whether in their professional or in their private capacity."²⁶

The CPR, particularly Rules 16.01 and 16.03 of Canon 16, provides:

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 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand. x x x.

²⁴ See Notice of Resolution in Resolution No. XXII-2017-721 issued by Assistant National Secretary Camille Bianca M. Gatmaitan-Santos; *id.* at 160-161.

²⁵ See *Molina v. Magat*, 687 Phil. 1, 5 (2012).

²⁶ *Tumbokon v. Pefianco*, 692 Phil. 202, 207 (2012).

Money entrusted to a lawyer for a specific purpose, such as for the processing of transfer of land title, but not used for the purpose, should be immediately returned.²⁷ A lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed to him by his client. Such act is a gross violation of general morality, as well as of professional ethics. It impairs public confidence in the legal profession and deserves punishment.²⁸

In this case, it is indubitable that respondent received the amount of ₱1,200,000.00 from complainant to be used to cover the expenses for the transfer of title of the subject property under C Five's name. Respondent admitted having received the same, but claimed that she had spent a portion of it for various expenses, such as documentation, permits, and licenses, among others, as evidenced by the Statement of Expenses with attached receipts. However, it has been established that the registration of the property in C Five's name could not have materialized, as the subject property was covered by a Free Patent issued on August 13, 2009 which, consequently, bars it from being sold, assigned, or transferred within a period of five (5) years therefrom. Thus, and as the CBD-IBP had aptly opined,²⁹ there was no longer any reason for respondent to retain the money. Furthermore, the expenditures enumerated in the Statement of Expenses, except for the documentation and notarization fees for which no receipts were attached, do not relate to the purposes for which the money was given, *i.e.*, the documentation and registration of the subject property. As such, even if official receipts had been duly attached for the other purposes – which, the Court notes, respondent failed to do despite the opportunity given – the expenditures are not legitimate ones. Hence, the Court finds respondent to have violated the above-cited rules, to the detriment and prejudice of complainant.

Respondent's assertion that the instant disbarment case should be dismissed, in view of the return of the full amount to complainant and the latter's withdrawal of the complaint against her is specious. Such are not ample grounds to completely exonerate the administrative liability of respondent. It is settled that a case of suspension or disbarment may proceed regardless of interest or lack of interest of the complainant,³⁰ the latter not being a direct party to the case, but a witness who brought the matter to the attention of the Court.³¹ A proceeding for suspension or disbarment is not a civil action where the complainant is a plaintiff and the respondent-lawyer is a defendant. Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely

²⁷ See *Dhaliwal vs. Dumaguing*, 692 Phil. 209, 213 (2012).

²⁸ *Id.* at 213, citing *Adrimisin v. Javier*, 532 Phil. 639, 645-646 (2006).

²⁹ See *rollo*, pp. 139-140.

³⁰ *Quiachon v. Ramos*, 735 Phil. 1, 6 (2014), citing *Rayos-Ombac v. Rayos*, 349 Phil. 7, 15 (1998).

³¹ *Ylaya v. Gacott*, 702 Phil. 390, 407 (2013).

for the public welfare, and for the purpose of preserving courts of justice from the official ministrations of persons unfit to practice. The attorney is called to answer to the court for his conduct as an officer of the court. "The complainant or the person who called the attention of the court to the attorney's alleged misconduct x x x has generally no interest in the outcome except as all good citizens may have in the proper administration of justice."³² The real question for determination in these proceedings is whether or not the attorney is still a fit person to be allowed the privileges of a member of the bar.³³

With regard to the proper penalty to be meted upon respondent, the Court has, in several similar cases, imposed the penalty of suspension for two (2) years against erring lawyers. In *Jinon v. Jiz*,³⁴ the Court suspended the lawyer for a period of two (2) years for his failure to return the amount his client gave him for his legal services, which he never performed. Similarly, in *Agot v. Rivera*,³⁵ the Court suspended respondent for the same period for his failure to handle the legal matter entrusted to him and to return the legal fees in connection therewith, among others. Considering, however, the return of the full amount of ₱1,200,000.00 to C Five, respondent is instead meted the penalty of suspension from the practice of law for one (1) year.

WHEREFORE, respondent Atty. Ana Luz B. Cristal is found guilty of violation of Rules 16.01 and 16.03, Canon 16 of the Code of Professional Responsibility. Accordingly, she is **SUSPENDED** from the practice of law for a period of one (1) year, and is **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

The suspension in the practice of law shall take effect immediately upon receipt by respondent. Respondent is **DIRECTED** to immediately file a Manifestation to the Court that her suspension has started, copy furnished all courts and quasi-judicial bodies where she has entered her appearance as counsel.

Let copies of this Resolution be furnished the Office of the Bar Confidant to be entered in respondent's personal records as a member of the Philippine Bar, the Integrated Bar of the Philippines for distribution to all its chapters, and the Office of the Court Administrator for circulation to all courts.

³² *Bautista v. Bernabe*, 517 Phil 236, 241 (2006).

³³ *Pena v. Aparicio*, 552 Phil. 512, 521 (2007), citing *In re Almacen*, 31 Phil. 562, 600-601 (1970).

³⁴ See 705 Phil. 321 (2013).

³⁵ See 740 Phil. 393 (2014).

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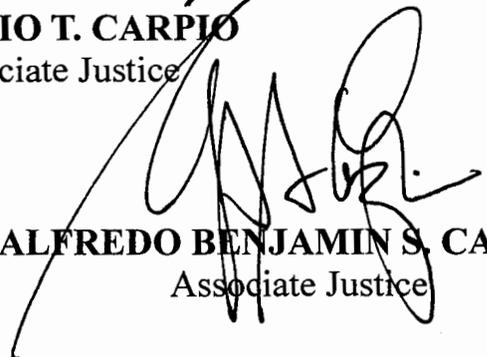
SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On Official Leave
ANDRES B. REYES, JR.
Associate Justice