

EN BANC

[A.C. No. 11058, September 01, 2020]

**RITA P. COSTENOBLE, COMPLAINANT, VS. ATTY. JOSE L.
ALVAREZ, JR., RESPONDENT.**

R E S O L U T I O N

LOPEZ, J.:

This is a complaint filed by Rita P. Costenoble (Costenoble) against Atty. Jose L. Alvarez, Jr. (Atty. Alvarez, Jr.) for committing fraudulent acts.^[1] Costenoble narrated that, on June 15, 2011, she hired Atty. Alvarez, Jr. to register two parcels of land. She gave Atty. Alvarez, Jr. a check for P115,000.00 to cover fees and expenses.^[2]

She also entrusted Atty. Alvarez, Jr. with the certificates of title of her real properties.^[3] In turn, Atty. Alvarez, Jr. issued an acknowledgment receipt, and assured Costenoble that the transfer of titles will be completed by September 2011.^[4]

After several months, Costenoble tried to contact Atty. Alvarez, Jr., but failed. In a visit to Atty. Alvarez, Jr.'s office, Costenoble was able to talk to Atty. Jose Alvarez, Sr., who assured her that he will take care of her case in behalf of his son. However, when Costenoble's secretary inquired with Atty. Alvarez, Sr., the latter got angry and said, "*saan ako magnanakaw ng [P] 115,000.00 [?]*"^[5] Thereafter, Costenoble sought assistance from the Office of the Barangay in San Vicente, San Pedro, Laguna, however Atty. Alvarez, Jr. never appeared despite notice.^[6] On October 9, 2012, Costenoble sent Atty. Alvarez, Jr. a demand letter, asking for the return of the certificates of title and the sum of P115,000.00 previously paid to him.^[7]

In the proceedings before the Integrated Bar of the Philippines (IBP) -Commission on Bar Discipline, Costenoble sought for the disbarment of Atty. Alvarez, Jr. for his dishonest and fraudulent acts, and unprofessional conduct.^[8] After filing a motion for extension, Atty. Alvarez, Jr. failed to file his verified answer and position paper.^[9] Thus, the case was submitted for resolution. The investigating commissioner rendered his Report and Recommendation,^[10] dated August 19, 2014, recommending Atty. Alvarez, Jr.'s suspension from the practice of law for one year. The IBP Board of Governors then issued Resolution No. XXI-2014-910 dated December 13, 2014 adopting and approving the commissioner's report and recommendation, with modification in that Atty. Alvarez, Jr.'s period of suspension was increased to three years.^[11] Thereafter, the records of the case were transmitted to the Court for final action.^[12]

We adopt the findings and recommendation of the IBP that Atty. Alvarez, Jr. is administratively liable for neglect of duty, and failure to return the money and

documents given to him by Costenoble.

We cannot overemphasize that the practice of law is a profession. It is a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character.^[13] When a lawyer agrees to act as a counsel, he guarantees that he will exercise that reasonable degree of care and skill demanded by the character of the business he undertakes to do, to protect the clients' interests, and take all steps or do all acts necessary therefor.^[14] He is duty-bound to exert best efforts and serve his client with utmost diligence and competence.^[15] This obligation is borne by the fiduciary relationship between a lawyer and his client that prescribes a great fidelity upon the lawyer.^[16] Accordingly, lawyers are required to maintain, at all times, a high standard of legal proficiency, and to devote their full attention, skill, and competence to their cases, regardless of their importance, and whether they accept them for a fee or for free.^[17]

A lawyer's neglect of a legal matter entrusted to him/her constitutes inexcusable negligence for which he must be held administratively liable.^[18] From the perspective of ethics in the legal profession, a lawyer's lethargy in carrying out his duties is both unprofessional and unethical.^[19] It betrays his avowed fidelity and renders him unworthy of the client's trust and confidence. Ingrained in this professional duty is the obligation of the lawyer to hold in trust and account all moneys and properties of his client that may come into his possession. 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 money for his own. Such act is a gross violation of general morality as well as of professional ethics.^[20]

In this case, the legal service of Atty. Alvarez, Jr. was engaged by Costenoble for the purpose of registering her properties. Atty. Alvarez, Jr. received pertinent documents and a check worth P115,000.00 for fees and expenses as evidenced by an acknowledgement receipt. However, Atty. Alvarez, Jr. failed to perform his engagement to register the properties of Costenoble. Despite repeated follow-ups by Costenoble, Atty. Alvarez, Jr. did not respond and even refused to meet with her. Atty. Alvarez, Jr. neglected to perform his duties and failed to return Costenoble's money including the documents he received despite demand. These acts of Atty. Alvarez, Jr. constitute a clear violation of Canon 16, Rule 16.01 and 16.03, Canon 17, and Canon 18, Rule 18.03 of the Code of Professional Responsibility (CPR), to wit:

CANON 16 — A lawyer shall hold in trust all moneys and properties of his client that may come into his profession.

Rule 16.01 — A lawyer shall account for all money or property collected or received for or from the client.

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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.

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CANON 17 — A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

CANON 18 —A lawyer shall serve his client with competence and diligence.

Rule 18.03 — A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

We stress that a lawyer ought not to neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable. Failure to exercise that degree of vigilance and attention expected of a good father of a family makes the lawyer unworthy of the trust reposed in him by his client and makes him answerable not just to his client but also to the legal profession, the court and society.^[21] The mere failure of the lawyer to perform the obligations due to his client is considered *per se* a violation of the lawyer's oath.^[22]

Indeed, a member of the Bar may be penalized, even disbarred or suspended from his office as an attorney for violation of the lawyer's oath and/or for breach of the ethics of the legal profession as embodied in the CPR.²³ The penalty to be meted to an erring lawyer rests on sound judicial discretion based on the surrounding facts. In cases of similar nature, this Court imposed penalties ranging from a reprimand to suspension of three months to two years, and even disbarment in aggravated cases.^[24]

In *Suarez v. Atty. Maravilla-Ona*,^[25] the erring lawyer was sanctioned with the ultimate penalty of disbarment. The Court held that Atty.

Maravilla-Ona was no longer worthy of the trust and confidence of her client and the public. It was found that, after collecting the full amount of professional and legal fees, she did not take a single step to process the registration of land title in the name of her client. When Atty. Maravilla-Ona was demanded to return the money, she issued a worthless check that subsequently bounced when presented for payment. Atty. Maravilla-Ona's misconduct was further aggravated by her unjustified refusal to obey orders of the IBP, and other disbarment complaints filed against her.

Meanwhile, in the following cases, the erring lawyers were suspended from the practice of law. In *Francia v. Atty. Sagario*,^[26] the latter agreed to handle the case for annulment of marriage of the complainant, and received P70,000.00 for his engagement. Six months passed but nothing was filed in court. Complainant asked Atty. Sagario to just return the amount she paid, but the latter refused; thus, complainant filed a small claims case against him. The case was adjudged in favor of complainant, yet Atty. Sagario still failed to pay. He was meted the penalty of

suspension from the practice of law for **two years**. In the more recent case of *Caballero v. Ally. Pilapil*,^[27] Atty. Pilapil was suspended from the practice of law for **two years** for neglect of the legal matter entrusted to her and failure to account the money given to her. Atty. Pilapil received ₱53,500.00 to cover payment of capital gains tax and real estate tax for the transfer of her clients' property in their name. However, the money was not used for the intended purpose, neither was it returned to the clients despite demand. Atty. Pilapil likewise did not return the original certificate of title and sketch plans entrusted to her. Similarly, in *Jinon v. Atty. Jiz*,^[28] the Court suspended Atty. Jiz from the practice of law for two years for his failure to facilitate the recovery of the land title of his client and to return the money he received from the latter for such purpose despite demand; and in *Rollon v. Atty. Naraval*,^[29] Atty. Naraval was suspended from the practice of law for **two years** for his failure to render any legal service in relation to the complainant's case despite receiving money from the latter and for refusing to return the money and documents he received.

In like manner, the Court, in *Aboy, Sr. v. Atty. Diocos*,^[30] *Villa v. Atty. Defensor-Velez*,^[31] *Sousa v. Atty. Tinampay*,^[32] respondent errant lawyers were meted the penalty of one year suspension from the practice of law for their negligence in performing their undertakings under their agreements with their clients. The lawyers were held administratively liable for failure to inform a client of the adverse decision within the period to appeal to give the client time to decide whether to seek appellate review,^[33] to file an answer on behalf of a client who was later on declared in default,^[34] to pay a loan extended by a client despite demand.^[35]

Here, the Investigating Commissioner recommended the penalty of suspension from the practice of law for one (1) year. The IBP Board of Governors increased the penalty to suspension from the practice of law for three (3) years. Considering that this is not the first time that Atty. Alvarez, Jr. has been held administratively liable, the Court adopts the IBP Board of Governors' recommendation to suspend Atty. Jose L. Alvarez, Jr. from the practice of law for three (3) years.^[36] In *Foronda v. Atty. Alvarez, Jr.*,^[37] he was suspended from the practice of law for six (6) months for issuing worthless checks and for his delay in filing a case on behalf of his client.

Disciplinary proceedings involve the determination of administrative liability, including those intrinsically linked to the lawyer's professional engagement, such as the payment of money received but not used for the given purpose.^[38] Here, respondent received ₱115,000.00 from complainant for the registration of several parcels of land. Since respondent failed to accomplish the registration, it is only proper and just that the amount complainant paid for such purpose be returned to her, with legal interest of six percent (6%) *per annum* from the date of receipt of this Resolution until full payment.^[39]

WHEREFORE, respondent Atty. Jose L. Alvarez, Jr. is hereby **SUSPENDED** from the practice of law for three (3) years. He is **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

Atty. Alvarez, Jr. is also **ORDERED** to return the full amount of ₱115,000.00 and the documents he received from the complainant, Rita P. Costenoble, within thirty (30) days from the finality of this Resolution. The amount of ₱115,000.00 shall earn legal