

EN BANC

[A.C. No. 7815, July 23, 2009]

DOLORES C. BELLEZA, COMPLAINANT, VS. ATTY. ALAN S. MACASA, RESPONDENT.

R E S O L U T I O N

PER CURIAM:

This treats of the complaint for disbarment filed by complainant Dolores C. Belleza against respondent Atty. Alan S. Macasa for unprofessional and unethical conduct in connection with the handling of a criminal case involving complainant's son.

On November 10, 2004, complainant went to see respondent on referral of their mutual friend, Joe Chua. Complainant wanted to avail of respondent's legal services in connection with the case of her son, Francis John Belleza, who was arrested by policemen of Bacolod City earlier that day for alleged violation of Republic Act (RA) 9165.^[1] Respondent agreed to handle the case for P30,000.

The following day, complainant made a partial payment of P15,000 to respondent thru their mutual friend Chua. On November 17, 2004, she gave him an additional P10,000. She paid the P5,000 balance on November 18, 2004. Both payments were also made thru Chua. On all three occasions, respondent did not issue any receipt.

On November 21, 2004, respondent received P18,000 from complainant for the purpose of posting a bond to secure the provisional liberty of her (complainant's) son. Again, respondent did not issue any receipt. When complainant went to the court the next day, she found out that respondent did not remit the amount to the court.

Complainant demanded the return of the P18,000 from respondent on several occasions but respondent ignored her. Moreover, respondent failed to act on the case of complainant's son and complainant was forced to avail of the services of the Public Attorney's Office for her son's defense.

Thereafter, complainant filed a verified complaint^[2] for disbarment against respondent in the Negros Occidental chapter of the Integrated Bar of the Philippines (IBP). Attached to the verified complaint was the affidavit^[3] of Chua which read:

I, JOE CHUA, of legal age, Filipino and resident of Purok Sawmill, Brgy. Bata, Bacolod City, after having been sworn to in accordance with law, hereby depose and state:

1. That I am the one who introduce[d] Mrs. Dolores C. Belleza [to] Atty. Alan Macasa when she looked for a lawyer to help her son in the case

that the latter is facing sometime [i]n [the] first week of November 2004;

2. That by reason of my mutual closeness to both of them, I am the one who facilitated the payment of Mrs. DOLORES C. BELLEZA to Atty. Alan Macasa;

3. That as far as I know, I received the following amount from Mrs. Dolores Belleza as payment for Atty. Alan Macasa:

<u>Date</u>	<u>Amount</u>
November 11, 2004	P15,000.00
A week after	10,000.00
November 18, 2004	5,000.00

4. That the above-mentioned amounts which I supposed as Attorney's Fees were immediately forwarded by me to Atty. [Macasa];

5. That I am executing this affidavit in order to attest to the truth of all the foregoing statements.

x x x x x x x x x^[4]

In a letter dated May 23, 2005,^[5] the IBP Negros Occidental chapter transmitted the complaint to the IBP's Commission on Bar Discipline (CBD).^[6]

In an order dated July 13, 2005,^[7] the CBD required respondent to submit his answer within 15 days from receipt thereof. Respondent, in an urgent motion for extension of time to file an answer dated August 10, 2005,^[8] simply brushed aside the complaint for being "baseless, groundless and malicious" without, however, offering any explanation. He also prayed that he be given until September 4, 2005 to submit his answer.

Respondent subsequently filed urgent motions^[9] for second and third extensions of time praying to be given until November 4, 2005 to submit his answer. He never did.

When both parties failed to attend the mandatory conference on April 19, 2006, they were ordered to submit their respective position papers.^[10]

In its report and recommendation dated October 2, 2007,^[11] the CBD ruled that respondent failed to rebut the charges against him. He never answered the complaint despite several chances to do so.

The CBD found respondent guilty of violation of Rule 1.01 of the Code of

Professional Responsibility which provides:

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral, or deceitful conduct.

It also found him guilty of violation of Rules 16.01 and 16.02 of the Code of Professional Responsibility:

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 others kept by him.

The CBD ruled that respondent lacked good moral character and that he was unfit and unworthy of the privileges conferred by law on him as a member of the bar. The CBD recommended a suspension of six months with a stern warning that repetition of similar acts would merit a more severe sanction. It also recommended that respondent be ordered to return to complainant the P18,000 intended for the provisional liberty of the complainant's son and the P30,000 attorney's fees.

The Board of Governors of the IBP adopted and approved the report and recommendation of the CBD with the modification that respondent be ordered to return to complainant only the amount of P30,000 which he received as attorney's fees.^[12]

We affirm the CBD's finding of guilt as affirmed by the IBP Board of Governors but we modify the IBP's recommendation as to the liability of respondent.

Respondent Disrespected Legal Processes

Respondent was given more than enough opportunity to answer the charges against him. Yet, he showed indifference to the orders of the CBD for him to answer and refute the accusations of professional misconduct against him. In doing so, he failed to observe Rule 12.03 of the Code of Professional Responsibility:

Rule 12.03 - A lawyer shall not, after obtaining extensions of time to file pleadings, memoranda or briefs, let the period lapse without submitting the same or offering an explanation for his failure to do so.

Respondent also ignored the CBD's directive for him to file his position paper. His propensity to flout the orders of the CBD showed his lack of concern and disrespect for the proceedings of the CBD. He disregarded the oath he took when he was accepted to the legal profession "to obey the laws and the legal orders of the duly constituted legal authorities." He displayed insolence not only to the CBD but also to this Court which is the source of the CBD's authority.

Respondent's unjustified disregard of the lawful orders of the CBD was not only irresponsible but also constituted utter disrespect for the judiciary and his fellow lawyers.^[13] His conduct was unbecoming of a lawyer who is called upon to obey court orders and processes and is expected to stand foremost in complying with court directives as an officer of the court.^[14] Respondent should have known that the orders of the CBD (as the investigating arm of the Court in administrative cases against lawyers) were not mere requests but directives which should have been complied with promptly and completely.^[15]

Respondent Grossly Neglected The Cause of His Client

Respondent undertook to defend the criminal case against complainant's son. Such undertaking imposed upon him the following duties:

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.

x x x x x x x x x

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

x x x x x x x x x

CANON 19 - A LAWYER SHALL REPRESENT HIS CLIENT WITH ZEAL
WITHIN THE BOUNDS OF THE LAW.

A lawyer who accepts the cause of a client commits to devote himself (particularly his time, knowledge, skills and effort) to such cause. He must be ever mindful of the trust and confidence reposed in him, constantly striving to be worthy thereof. Accordingly, he owes full devotion to the interest of his client, warm zeal in the maintenance and defense of his client's rights and the exertion of his utmost learning, skill and ability to ensure that nothing shall be taken or withheld from his client, save by the rules of law legally applied.^[16]

A lawyer who accepts professional employment from a client undertakes to serve his client with competence and diligence.^[17] He must conscientiously perform his duty arising from such relationship. He must bear in mind that by accepting a retainer, he impliedly makes the following representations: that he possesses the requisite degree of learning, skill and ability other lawyers similarly situated possess; that he will exert his best judgment in the prosecution or defense of the litigation entrusted