

EN BANC

[A.C. No. 8380, November 20, 2009]

**ARELLANO UNIVERSITY, INC., COMPLAINANT, VS. ATTY.
LEOVIGILDO H. MIJARES III, RESPONDENT.**

D E C I S I O N

PER CURIAM:

This disbarment case is about the need for a lawyer to account for funds entrusted to him by his client.

The Facts and the Case

The facts are taken from the record of the case and the report and recommendation of the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP).

Sometime in January 2004, complainant Arellano University, Inc. (the University) engaged the services of respondent Leovigildo H. Mijares III, a member of the Bar, for securing a certificate of title covering a dried up portion of the Estero de San Miguel that the University had been occupying. The property was the subject of a Deed of Exchange dated October 1, 1958 between the City of Manila and the University.

In its complaint for disbarment against Mijares, the University alleged that it gave him all the documents he needed to accomplish his work. Later, Mijares asked the University for and was given P500,000.00 on top of his attorney's fees, supposedly to cover the expenses for "facilitation and processing." He in turn promised to give the money back in case he was unable to get the work done.

On July 5, 2004 Mijares informed the University that he already completed Phase I of the titling of the property, meaning that he succeeded in getting the Metro Manila Development Authority (MMDA) to approve it and that the documents had already been sent to the Department of Environment and Natural Resources (DENR). The University requested Mijares for copies of the MMDA approval but he unjustifiably failed to comply despite his client's repeated demands. Then he made himself scarce, prompting the University to withdraw all the cases it had entrusted to him and demand the return of the P500,000.00 it gave him.

On November 23, 2005 the University wrote Mijares by registered letter, formally terminating his services in the titling matter and demanding the return of the P500,000.00. But the letter could not be served because he changed office address without telling the University. Eventually, the University found his new address and served him its letter on January 2, 2006. Mijares personally received it yet he did not return the money asked of him.

In his answer to the complaint, Mijares alleged that he and the University agreed on a number of courses of action relating to the project assigned to him: first, get the University's application for a survey plan which the DENR-NCR approved for a "facilitation cost" of P500,000.00; second, get a favorable MMDA endorsement for a "facilitation cost" of another P500,000.00; and, third, the titling of the property by the Land Registration Authority for a "facilitation cost" of still another P500,000.00.

Mijares also alleged that the DENR-NCR Assistant Regional Director told him that he needed to get a favorable endorsement from MMDA and that the person to talk to about it was Undersecretary Cesar Lacuna. Mijares later met the latter through a common friend. At their meeting, Mijares and Lacuna allegedly agreed on what the latter would get for recommending approval of the application. Later, Mijares said, he gave the P500,000.00 to Lacuna through their common friend on Lacuna's instruction.

Mijares next alleged that, after he received the money, Lacuna told him that the University filed an identical application earlier on March 15, 2002. Mijares claimed that the University deliberately withheld this fact from him. Lacuna said that, because of the denial of that prior application, he would have difficulty recommending approval of the present application. It appeared that Lacuna endorsed the previous application to the Mayor of Manila on July 23, 2003 but the latter did not act on it.

Mijares finally alleged that he and Lacuna wanted to bypass the Mayor of Manila in the paper work but they were unable to arrive at a concrete plan. Mijares claimed that the University gave him only P45,000.00 as his fees and that it was with the University's conformity that he gave the P500,000.00 to Lacuna.

The IBP designated Atty. Dennis B. Funa as Commissioner to conduct a formal investigation of the complaint. Despite numerous settings, however, Mijares failed to appear before the Commissioner and adduce evidence in his defense.

On October 17, 2008 Commissioner Funa submitted his Report and Recommendation^[1] in the case to the Integrated Bar of the Philippines' Board of Governors. The Report said that the University did not authorize Mijares to give P500,000.00 to the then MMDA Deputy Chairman Cesar Lacuna; that Mijares had been unable to account for and return that money despite repeated demands; and that he admitted under oath having bribed a government official.

Commissioner Funa recommended a) that Mijares be held guilty of violating Rules 1.01 and 1.02, Canon 15, Rule 15.05, Canon 16, Rules 16.01 and 16.03, and Canon 18, Rule 18.04 of the Code of Professional Responsibility and meted out the penalty of disbarment; b) that he be ordered to return the P500,000.00 and all the pertinent documents to the University; and c) that Mijares' sworn statement that formed part of his Answer be endorsed to the Office of the Ombudsman for investigation and, if warranted, for prosecution with respect to his shady dealing with Deputy Chairman Lacuna.

On December 11, 2008 the IBP Board of Governors passed Resolution XVIII-2008-631, adopting and approving the Investigating Commissioner's recommendation but modifying the penalty from disbarment to indefinite suspension from the practice of law and ordering Mijares to return the P500,000.00 and all pertinent documents to