

THIRD DIVISION

[**A.C. NO. 5808 [formerly A.C. CBD No. 99-622],
May 04, 2005]**

**OSCAR M. ESPIRITU, COMPLAINANT, VS. ATTY. JAIME C. ULEP,
RESPONDENT.**

RESOLUTION

CORONA, J.:

In a letter^[1] addressed to the president of the Integrated Bar of the Philippines (IBP), Nueva Ecija Chapter, complainant Oscar M. Espiritu sought assistance to enable him to talk to respondent Atty. Jaime C. Ulep who had allegedly been avoiding him for more than a year. He wanted a meeting with respondent lawyer for the following reasons:

(1) respondent failed to turn-over to his client, Mr. Ricardo Maon, the amount of P50,000 given to him by complainant on December 22, 1997 as settlement of Civil Case No. 1028, Municipal Trial Court (MTC), Rizal, Nueva Ecija, and

(2) respondent refused to give complainant the amount of P30,000 plus interest and expenses as balance for a deed of absolute sale dated December 22, 1997 which the respondent brokered and notarized.

On April 5, 1999, the IBP Commission on Bar Discipline (CBD), through Commissioner J.V. Bautista invited respondent to a meeting at IBP Cabanatuan to determine whether an amicable settlement of the impending complaint could be reached.^[2]

Due to respondent's failure to appear in the meeting, the IBP Nueva Ecija Chapter formally endorsed the verified letter-complaint to the IBP - CBD on April 19, 1999.

In an order^[3] dated May 28, 1999, the IBP-CBD ordered respondent to file his answer to the complaint pursuant to Rule 139-B, Sec. 6 of the Rules of Court.^[4]

Respondent complied with the order by filing an affidavit which turned out to be the same affidavit he submitted to the Provincial Prosecutor's Office for the preliminary investigation of the estafa case filed against him involving the same subject matter. We quote:

COUNTER-AFFIDAVIT

I, Atty. Jaime C. Ulep, of legal age, married, and a resident of and with postal address at Rizal, Nueva Ecija, after having been duly sworn, in accordance with law, depose and state:

1. The case should be dismissed because the same has no elements of estafa;
2. The truth of the matter is that, at the time the Deed of Sale of that agricultural land was prepared, Mr. ESPIRITU admitted for the first time that the owner's copy of the Title was lost but the petition for the issuance of the owner's copy was being prepared;
3. In order to please Mr. ESPIRITU and not to hamper the transaction and, at the same time protect the interest of the clients (Buyers), Mr. ESPIRITU agreed to hold the amount of fifty thousand pesos (P50,000.00) in trust to be given to him after giving to me the Owner's Copy;
4. Afterwards, his niece kept coming to my office to ask for money in order, according to her, to facilitate the issuance of the Title. On November 3, 1998, his niece demanded and received the amount of five thousand pesos (P5,000.00) from me. In other words, the total amount demanded and received from me (out of the P50,000.00) was twenty five thousand (P25,000.00), as of November 3, 1998. (A copy of the receipt with a note "Balance Twenty Five Thousand only (P25,000.00) was written.);
5. After that date, no word was received by the undersigned from Mr. ESPIRITU whether the owner's copy was issued;
6. I am obligated to give the amount of Twenty Five Thousand Pesos (P25,000.00), provided that he will give to me the genuine owner's copy of the Title;
7. In view thereof, the case should be dismissed because this is a clear case of specific performance and not Estafa.

Atty. Jaime C. Ulep
Affiant^[5]

In the cover letter^[6] of the counter-affidavit, respondent lawyer sought a formal hearing on the administrative case.

Consequently, notice of hearing^[7] was served upon the parties to appear before the Commission on August 13, 1999.

Both parties failed to appear on the scheduled hearing. On record, however, is a letter request^[8] earlier filed by respondent to cancel the scheduled hearing due to a prior engagement. He also asked for a transfer of venue from Pasig City to Cabanatuan City. The Commission did not immediately act on this request pending complainant's conformity.

In the next scheduled hearing, only complainant appeared although respondent had been duly notified of the hearing as evidenced by the registry receipt card. In the order^[9] dated September 17, 1999 the Commission denied the request for transfer

of venue because of complainant's protestation.

Over the vehement objection of the complainant, respondent was given a last chance by the Commission to appear in a hearing reset to October 29, 1999. It warned that a motion for postponement would no longer be entertained. In case respondent still failed to appear, the Commission was going to receive the complainant's evidence *ex-parte* and deem the case submitted for resolution.

In a letter^[10] dated October 28, 1999, respondent once again requested a cancellation of the hearing, alleging that he was undergoing "eye treatment."

The hearing was reset to November 19, 1999; again respondent failed to appear. The Commission, once again exercising leniency, afforded respondent "one last chance" to appear before it on January 21, 2000, with another warning of an *ex-parte* reception of evidence.^[11]

In a letter^[12] dated January 18, 2000, respondent again requested a cancellation. He explained that he had to appear before the MTC of Talavera, Nueva Ecija on the same date "in connection with a criminal case."

Considering that respondent failed to appear successively in all the scheduled hearings of the case, the Commission proceeded to conduct a hearing on January 21, 2000. Complainant was allowed to submit and offer his evidence against the respondent *ex-parte*, consisting of the following:

Exhibit "A" – Complainant's verified letter-request dated March 15, 1999;

Exhibit "B" – Certification by Atty. Jaime C. Ulep dated December 22, 1997 that he had in his possession the amount of P50,000 as consideration for the settlement of Civil Case No. 1028;

Exhibit "C" – Promissory note issued by Atty. Jaime C. Ulep dated December 22, 1997 for the amount of P30,000;

Exhibit "D" – Deed of Absolute Sale executed by Oscar M. Espiritu dated December 22, 1997;

Exhibit "E" – Letter of Ricardo Maon dated March 9, 1999 addressed to the Tanggapan ng Punong Barangay of Barangay Bicos, Rizal, Nueva Ecija that he has not received any amount from Atty. Jaime C. Ulep for the settlement of Civil Case No. 1028; and

Exhibit "F" – Decision of the MTC of Rizal, Nueva Ecija in Civil Case No. 1028 incorporating the compromise agreement between Oscar Espiritu and Ricardo Maon.

After the pieces of evidence were marked, the case was submitted for decision.^[13]

On December 29, 2000 Investigating Commissioner J.V. Bautista submitted his report and recommendation^[14] to the IBP Board of Governors. He found respondent lawyer guilty of violating Canon 16 of the Code of Professional Responsibility when