

**[ A.C. No. 5315, August 23, 2000 ]**

**MODESTO CUNANAN, COMPLAINANT, VS. ATTY. REX C.  
RIMORIN, RESPONDENT.**

**D E C I S I O N**

**DE LEON, JR., J.:**

The complainant Modesto Cunanan seeks the disbarment of respondent Atty. Rex C. Rimorin for allegedly embezzling funds which properly belong to the complainant.

The facts, as culled from the records, are as follows:

On or about August 2, 1997 complainant Cunanan, a retired U.S. citizen, engaged the professional services of respondent as a lawyer in the matter of settling his "overstaying alien status" (in the Philippines) with the Bureau of Immigration and Deportation (BID for brevity) so that he could attend to the funeral and burial needs of his son, Andrew Phillip Cunanan, in the United States. According to the complainant, he verbally agreed to pay the respondent a professional fee of P40,000.00 out of the P200,000.00 commitment of the ABS-CBN Broadcasting Corporation (ABS-CBN for brevity). Initially, however, complainant gave to the respondent the sum of P2,500.00 for his expenses.

It appears that an agreement was entered into between complainant Cunanan assisted by his counsel, respondent herein, and ABS-CBN represented by Noli de Castro, regarding the story of his son, Andrew Cunanan, who died on July 23, 1997 in the United States. In consideration for an exclusive interview with the complainant, ABS-CBN agreed to pay to complainant Cunanan, as goodwill money and assistance for his planned trip to the United States, the total amount of P200,000.00. For the first partial payment, Noli de Castro, acting in behalf of ABS-CBN, issued a check intended for complainant Cunanan but per their verbal arrangement, it was made payable to complainant's counsel, herein respondent Atty. Rex C. Rimorin, more specifically a PCIBank Check No. 0827808 dated July 28, 1997 in the amount of P100,000.00.<sup>[1]</sup> To complete the payment of the agreed price of the interview, ABS-CBN deposited the balance in the amount of P100,000.00 in the bank account of respondent Atty. Rimorin with the Far East Bank and Trust Company per deposit slip dated July 29, 1997.<sup>[2]</sup> The interview of the complainant by Noli de Castro of ABS-CBN was done in the law office of the respondent in Baguio City.

According to the Affidavit<sup>[3]</sup> executed by Noli de Castro of ABS-CBN, the two payments in the total amount of P200,000.00 were intended for complainant Cunanan although they were placed in the name of the respondent as lawyer for the complainant.

Complainant Cunanan testified that the balance of the P200,000.00 was intended for the payment to the BID of his penalty for overstaying, as an alien, in the amount of P120,000.00 and for his plane tickets and travelling expenses to the United States in the amount of P40,000.00.<sup>[4]</sup>

On the other hand, according to the Counter-Affidavit<sup>[5]</sup> executed on October 29, 1997 by respondent Rimorin, the complainant assured him, prior to the said interview conducted by ABS-CBN in his law office, that the amount to be given as consideration for the interview of complainant would be split between the two of them. He also claimed that he never received a check from complainant for P100,000.00 on August 2, 1997 or a check for P100,000.00 on August 4, 1997 as contained in the Affidavit-Complaint. He, however, admits that Noli de Castro, in behalf of ABS-CBN, indeed handed to him a check for P100,000.00 on July 26, 1997 and another amount of P100,000.00 was deposited in his (respondent's) bank account.

In a letter<sup>[6]</sup> dated August 8, 1997 sent by respondent to the complainant, the former advised the latter that "due to the rains there is no way of checking whether the check deposited by ABS-CBN has been cleared... I'll try my very best to produce the other P30,000.00 today and drive to Bulacan tomorrow for delivery." The complainant testified<sup>[7]</sup> that he indeed received the amount of P30,000.00 from respondent in Plaridel, Bulacan but after that, there was no more communication from respondent.

Hence, complainant Cunanan filed the present administrative case with the IBP Commission on Bar Discipline praying for the disbarment of the respondent for swindling him and for failing to render any accounting of the P200,000.00 which respondent received, in trust for the complainant, from ABS-CBN represented by Noli de Castro.

In his Answer, respondent states that the Affidavit-Complaint which Cunanan filed with the IBP Commission on Bar Discipline is exactly the same Affidavit-Complaint which he filed with the Office of the City Prosecutor of Baguio City on September 25, 1997 wherein complainant charged the respondent with Estafa. However, on December 5, 1997, the Office of the City Prosecutor issued a Resolution<sup>[8]</sup> dismissing the said Estafa case. Hence, respondent prays that the present administrative complaint against him be also dismissed.

In the nine (9) scheduled hearings of this administrative case before the IBP Commission on Bar Discipline, only complainant and/or his counsel appeared. Respondent did not appear despite due notice. Hence, complainant was allowed to present his evidence ex-parte. The records show that respondent was given all the opportunity to attend the scheduled hearings, present evidence and substantiate his defense. However, respondent failed to do so.

It is the finding of the IBP Commission on Bar Discipline that there is a need for an appropriate accounting of the P200,000.00 which respondent received in trust for his client, herein complainant, from the ABS-CBN represented by Noli de Castro, in accordance with Canon 16<sup>[9]</sup> and Rule 16.01<sup>[10]</sup> of the Code of Professional Responsibility.

We agree with the said finding of the IBP Commission on Bar Discipline that there is a need for an appropriate accounting. The highly fiduciary and confidential relation of attorney and client require that respondent lawyer should promptly account for the said funds which he received and held for the benefit of his client, the herein complainant. That is because those funds properly belong to the client. The client