

## SECOND DIVISION

**[ A.C. No. 675, December 17, 1999 ]**

**ROSARIO MARQUEZ, COMPLAINANT, VS. ATTY. DIONISIO  
MENESES, JR., RESPONDENT.**

### DECISION

**MENDOZA, J.:**

This is a complaint<sup>[1]</sup> for misconduct and collection of unconscionable fees filed against Atty. Dionisio G. Meneses, Jr. by his client, Rosario Marquez, now deceased. The case was filed on July 6, 1965. After respondent filed his Answer<sup>[2]</sup> on October 20, 1965, the Court referred the case to the Office of the Solicitor General, which in turn indorsed the matter to the Office of the Provincial Fiscal of Albay for investigation, report and recommendation.

It appears that then Solicitor General Antonio P. Barredo filed his Report<sup>[3]</sup> on September 27, 1966 sustaining the findings of the Provincial Fiscal. Nothing more appears to have been done in this case except for the issuance of a resolution by the Court, dated November 21, 1966, noting the memorandum filed by respondent. Then, on November 4, 1998, respondent moved for the dismissal of the case, citing the lapse of considerable time since the complaint was filed and its supposed lack of merit. The case was then raffled and first reported to this Division of the Court on November 28, 1998. On December 14, 1998, the Second Division required the Office of the Solicitor General and the Office of the Provincial Fiscal of Albay to forward the records of this case to the Court within 30 days from receipt of notice. On February 2, 1999, the Provincial Prosecutor of Albay reported that there were no records pertaining to this case in his office.<sup>[4]</sup>

Meanwhile, copies of this Court's resolutions sent to complainant were returned with notation "unclaimed." In a letter dated June 9, 1999, respondent informed the Court that complainant died on December 31, 1985, as shown by the certificate of death issued by the Office of the Municipal Civil Registrar of Camalig, Albay.

With this explanation, we proceed to resolve this case. As already stated, the Solicitor General filed a report which upheld the following findings of the then Provincial Fiscal of Albay:

In May of 1963, complainant Rosario Marquez was introduced by Atty. Vicente Peralta to respondent Atty. Dionisio Meneses of Legaspi City, as a prospective client. Complainant retained the professional service of respondent to prosecute a claim of P210 against Ruth Igdanes and Delfin Igdanes in the Justice of the Peace Court of Camalig, Albay. The agreement was that complainant would pay a fee of P100.00 to respondent, whether the case was won or lost. The agreement, however, was merely oral. Thereafter, complainant advanced from time to time to

respondent various sums as fees, which totalled P75.00.

The complaint in Civil Case No. 82 for collection of a sum of money (P210.00) against the defendants Ruth Igdanes and Delfin Igdanes was filed on June 25, 1963 in the Justice of the Peace Court of Camalig, Albay (Exh. 1 - Respondent). The answer filed by defendants contained a counterclaim, and a reply and answer thereto was filed by respondent in behalf of his client, plaintiff Rosario Marquez (complainant herein), wherein the relief demanded, among other things, was that defendants "be ordered to pay plaintiff the amount of P100.00 as attorney's fees. . ." etc. (Exh 2 - Respondent). Decision was rendered by the court on December 27, 1963 in favor of the plaintiff and against defendants ordering the latter to pay the plaintiff P210.00 with legal interest from the filing of the complaint until fully paid, and P75.00 as attorney's fees (Exh. 3 - Respondent).

Sometime afterward, complainant, who was in Manila, received a letter from her brother in Camalig, Albay, saying that Ruth Igdanes, one of the defendants in Civil Case No. 82, had paid P75.00 to the sheriff as partial satisfaction of the judgment. She wrote to her brother asking him to collect the amount for her, but to give P25.00 to Atty. Meneses in payment of the balance of the latter's fee of P100.00. Her brother wrote back saying that the sheriff informed him that respondent had gotten all of the P75.00 as his fees. Complainant wrote to respondent twice asking him to send her P50.00 and to keep P25.00 for himself, but got no answer from him. When she returned to Albay she went to see respondent personally about the matter, but he refused to give her the P50.00 she was asking and contended that "that was their agreement."

Complainant's contention, in brief, is that she had been overcharged by respondent for as the agreed fee was P100.00, win or lose, and she had already paid P75.00 to respondent, the latter simply had the right, at most, to keep P25.00 out of the P75.00 he had gotten from the sheriff.

Complainant presented in evidence a letter dated April 22, 1963 she had written to Justice of the Peace Calixto Ajero of Camalig, Albay explaining how respondent had charged her an excess fee P50.00 and asking that he intercede in her behalf so that respondent may return the same to her (Exh. A).

On the other hand, respondent contended that his agreement with complainant was that he would be paid retainer fees in the amount of P100.00, and contingent fees equivalent to the amount of attorney's fees which may be awarded by the court. Since the court in Civil Case No. 82 awarded P75.00 as attorney's fees, he was entitled to keep the amount as his contingent fees. Complainant still owed him P25.00 since he had been paid only P75.00 for his retainer.

The Solicitor General recommends that, of the amount which he received from the sheriff, respondent be ordered to pay to complainant the sum of P50.00 because respondent's retainer fee is for P100.00 only and he had previously been paid P75.00. In addition, the Solicitor General recommends that respondent be suspended from the practice of law for at least six months for his breach of