

EN BANC

[A.C. No. 12768, June 23, 2020]

**FELICITAS H. BONDOC, REPRESENTED BY CONRAD H. BAUTISTA,
COMPLAINANT, VS. ATTY. MARLOW L. LICUDINE, RESPONDENT.**

DECISION

GESMUNDO, J.:

This is a Complaint^[1] filed before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline (*Commission*) against Atty. Marlow L. Licudine (*respondent*) for violations of the Code of Professional Responsibility (*Code*), the Lawyer's Oath, and Rule 138 of the Rules of Court.

The Antecedents

Sometime in 2015, Felicitas H. Bondoc (*complainant*), a resident of Alberta, Canada, was looking for a lawyer in the Philippines to handle the civil case for annulment of marriage that she was going to file against her husband, Benjamin Bondoc. A common friend then introduced complainant to respondent, a practicing lawyer in Baguio City.^[2]

On October 1, 2015, complainant and respondent agreed on their legal engagement wherein respondent shall file the civil case for annulment on behalf of complainant.^[3] The following day, complainant, through her representative, Maurice G. Deslauriers (*Deslauriers*), deposited to respondent's bank account the amount of 2,000.00 Canadian Dollars (CAD\$) as initial down payment for the legal fees in the civil case.^[4]

Several months passed but complainant did not receive any update regarding the civil case that respondent was supposed to file, despite the payment of the legal fees. Moreover, she discovered that respondent divulged her personal information. Due to respondent's inaction in the civil case and the unwarranted disclosure incident, complainant decided to terminate respondent's engagement as counsel.^[5]

From February 28 to March 8, 2016, complainant was briefly in the Philippines. During that time, she talked to respondent. According to complainant, respondent said that he already spent the money she gave him but they verbally agreed that he would return half of the amount received within the last week of March 2016. Respondent, however, did not explain where he used the money.

Accordingly, on March 7, 2016, complainant sent a Demand Letter^[6] to respondent, requesting for an accounting of fees and the refund of the legal fees she had paid within thirty (30) days from receipt. The said letter was duly received by respondent.^[7]

Almost two (2) months thereafter, complainant did not receive any feedback from respondent again. Thus, she sent a Second and Final Demand Letter^[8] to respondent, reiterating the request for accounting and the return of the legal fees. Again, the letter was received by respondent.^[9]

Over a month thereafter, or in July 2016, respondent still had not complied with her demands. Thus, complainant, through her son Conrad H. Bautista (*Conrad*), sent text messages to respondent to follow-up on the return of the legal fees and to deposit the same to Conrad's bank account. Respondent replied that Conrad should present an authorization from complainant before he would transact with Conrad.^[10]

On July 18, 2016, Conrad sent respondent the Special Authorization signed by complainant and duly sworn to before the Philippine Consulate General in Calgary, Alberta, Canada, authorizing Conrad to transact with respondent.^[11] This was duly received by respondent.^[12]

After a series of follow-ups, respondent informed Conrad that the fund will probably be ready by August 15, 2016. However, when the said date came, respondent still did not return the demanded legal fees. On August 29, 2016, respondent said that his law office was still completing the legal fees to be refunded to complainant.^[13]

For almost two (2) months, or from August 30, 2016 to October 3, 2016, Conrad sent text messages to respondent requesting the return of the legal fees to no avail. On October 3, 2016, respondent simply replied that his office was waiting for remittances.^[14]

On October 18, 2016, respondent sent a message to Conrad that their collections in the law office were still not enough but he will be returning the agreed legal fees of complainant by the last week of October.^[15] However, on the last day of October 2016, respondent did not respond to Conrad. Thereafter, respondent was never heard of again. Thus, complainant filed this instant administrative case against respondent.

In his Answer,^[16] which was belatedly filed before the Commission, respondent countered that sometime in August 2015, complainant was referred to him because she wanted to annul her existing marriage. According to respondent, complainant wanted to avail of the annulment in the Vicariate of Baguio City because it was faster than court proceedings. Respondent advised complainant that he will research on the matter as he was not familiar with Church-instituted annulments;^[17] that in October 2015, complainant called respondent and told her she will be availing of his services to file an annulment case in the Philippines;^[18] and that complainant sent the agreed acceptance fee of P60,000.00 (CAD\$ 2,000.00), through her representative Deslauriers, and her legal documents. Respondent claimed that Deslauriers is the live-in partner of complainant in Canada. Sometime in December 2015, respondent received a call from complainant that he allegedly divulged some of her personal information. He denied such accusation but it made a rift between the respondent and complainant. The latter then stated that she would look for another lawyer for the filing of the nullity of her marriage.^[19] Respondent advised

complainant that he will not be refunding the acceptance fee she paid because it was already used to prepare the petition for annulment. Respondent also claimed that in March 2016, complainant confirmed that she was not anymore engaging his legal services and that she begged for the recovery of her legal payment.^[20]

Respondent further asserted that in June 2016, he received a call from Conrad but he was hesitant to talk to him because he doubted whether Conrad was truly complainant's son. Nevertheless, respondent admitted that he was constantly messaged by Conrad and he informed him that he would be returning half of the legal fees of complainant by the last week of October. However, on October 19 to 20, 2016, typhoon Lawin hit Northern Luzon and he had to go to Kalinga. Respondent claims that before he left, he endorsed the reimbursement of the P30,000.00 legal fees of complainant with his law office. On May 27, 2017, he received a copy of this administrative complaint. Upon reviewing their records, respondent was surprised that the envelope containing the money due to complainant was still in their law office. Respondent acknowledged his inadvertence and that he is willing to tender the reimbursement of complainant's money as soon as possible.^[21]

On September 4, 2017, the Commission issued a Notice of Mandatory Conference/Hearing^[22] notifying the parties to appear on October 12, 2017 and requiring them to submit their respective conference briefs. On, the said date, only Conrad, complainant's authorized representative, appeared. Due to respondent's failure to appear before the Commission, the conference was terminated. The Commission issued an Order^[23] requiring the parties to file their respective position papers. Only complainant filed her position paper.

In her Position Paper,^[24] complainant argued, among others, that respondent violated the Lawyer's Oath, Canon 1 and Rule 1.01 of the Code because he unlawfully withheld complainant's money even though he failed to file the required civil case and he was deceptive by giving false hope that the said funds should be returned. She also asserted that respondent violated Canon 16, and Rules 16.01, 16.02, and 16.03 of the Code because he failed to account for the money due to complainant, which raises the presumption of misappropriation. She further claimed that respondent violated Canon 21, and Rules 21.01 and 21.02 of the Code because he wrongfully divulged her personal information.

Report and Recommendation

In its Report and Recommendation^[25] dated January 13, 2018, the Commission found that respondent should have returned the money paid by complainant. Respondent's failure to return the client's money and giving false expectation of paying the same despite several demands violate the Lawyer's Oath and Canon 1 of the Code. The Commission recommended the penalty of suspension of one (1) year from the practice of law against respondent.

In its Resolution^[26] dated June 28, 2018, the IBP Board of Governors (*IBP Board*) adopted with modification the penalty recommended against respondent to suspension from the practice of law for a period of two (2) years; and payment of a fine of P5,000.00 for failure to file his position paper before the Commission.

Respondent filed a Motion for Reconsideration^[27] with the IBP arguing he did not file his position paper because he thought that his Answer was sufficient compliance; and that he was willing to return the money of complainant.

In its Resolution^[28] dated May 27, 2019, the IBP Board denied the motion for reconsideration and further modified the penalty recommended against respondent requiring that he return the amount of CAD\$2,000.00 due to complainant with the applicable interest from the time of demand in 2016.

The Court's Ruling

The Court adopts the findings of the Commission and the recommendation of the IBP Board with modifications.

Lawyers should always live up to the ethical standards of the legal profession as embodied in the Code. Public confidence in law and in lawyers may be eroded by the irresponsible and improper conduct of a member of the bar. Thus, every lawyer should act and comport himself in a manner that would promote public confidence in the integrity of the legal profession.^[29]

The Lawyer's Oath requires every lawyer to "delay no man for money or malice" and to act "according to the best of [his or her] knowledge and discretion, with all good fidelity as well to the courts as to [his or her] clients."^[30] A lawyer is duty-bound to serve his client with competence, and to attend to his client's cause with diligence, care and devotion. This is because a lawyer owes fidelity to his client's cause and must always be mindful of the trust and confidence reposed on him.^[31]

Canon 1 clearly mandates the obedience of every lawyer to laws and legal processes. A lawyer, to the best of his ability, is expected to respect and abide by the law, and thus, avoid any act or omission that is contrary to the same.^[32] Rule 1.01 of the Code states that a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct. It instructs that as officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing.^[33]

On the other hand, Canon 16, Rules 16.01, 16.02, and 16.03 of the Code require that a lawyer must duly account all the moneys and properties of his client, to wit:

CANON 16 — A lawyer shall hold in trust all moneys and properties of his client that may come into his possession.

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 of others kept by him.

Rule 16.03 — A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds

and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

In this case, the Court finds that respondent violated the Lawyer's Oath, Canons 1 and 16, and Rules 1.01, 16.01, 16.02, and 16.03 of the Code.

Failing to institute the civil case; failing to return the client's money

Respondent was engaged by complainant to file a civil case for annulment of marriage. Complainant paid him the amount of CAD\$2,000.00, which he duly acknowledged. However, respondent never performed his duty; he did not even file a petition for annulment of marriage in court. Due to respondent's inaction and complainant's loss of trust and confidence, she terminated his legal services. Notably, complainant only demanded that half of her legal fees be returned to her, even though respondent did not perform any of his legal duties. Complainant sent two Demand Letters^[34] to respondent, which was duly received by the latter, but these demands were unheeded.

Complainant's son, Conrad, consistently contacted respondent for the return of the legal fees. However, respondent was either unresponsive or busy making excuses. Respondent promised that he would return half of complainant's money but he never did. His explanation that he did not return complainant's money to Conrad because the latter's identity was questionable deserves scant consideration. Conrad presented a Special Authorization signed by complainant, which was duly sworn to before the Philippine Consulate General in Calgary, Alberta, Canada, authorizing him to transact with respondent. This authorization was furnished to respondent but he still failed to return complainant's money through Conrad.

Finally, respondent's flimsy justification that complainant's money was supposed to be returned to her but was inadvertently left in the case folder is absolutely irresponsible. Respondent had numerous instances and opportunities to return his client's money – through complainant while she was in the Philippines, through Conrad, or even during the Mandatory Conference before the Commission – but he glaringly failed to do so. It shows that from the very beginning, respondent did not have an ounce of eagerness to return his client's entrusted money. Indeed, respondent's misdealing towards his client is manifest and obvious.

Respondent's acts of failing to comply with his legal duty to file the civil case and failing to return his client's money violate the Lawyer's Oath, which mandates that no lawyer shall delay any man for money or malice. These acts also violate Canon 1 and Rule 1.01 of the Code because respondent employed devious conduct by manifestly delaying the return of complainant's money. Finally, respondent's failure to return his client's money violates Canon 16 and Rule 16.01, 16.02, and 16.03 of the Code, which requires that a lawyer must account for the client's money and promptly return the same.

Where a client gives money to his lawyer for a specific purpose, such as: to file an