

## EN BANC

[ A.C. No. 12475, March 26, 2019 ]

**ROSALIE P. DOMINGO, COMPLAINANT, VS. ATTY. JORGE C. SACDALAN, RESPONDENT.**

### DECISION

#### PER CURIAM:

This is a Complaint<sup>[1]</sup> filed by Rosalie P. Domingo (*complainant*) against Atty. Jorge C. Sacdalan (*respondent*) before the Integrated Bar of the Philippines (*IBP*) Commission on Bar Discipline (*Commission*) for violations of the Code of Professional Responsibility (*Code*). Complainant prays that disciplinary action be taken against respondent and to return the amount of P140,000.00.

Complainant alleged that she engaged the services of respondent to recover possession of a parcel of land from illegal settlers. The subject land is co-owned by complainant with her sister, and is located at Binangonan, Rizal. According to complainant, she gave respondent an acceptance fee of P75,000.00, wherein P50,000.00 was paid on June 10, 2016; while the remaining P25,000.00 was paid on June 27, 2016. She further claimed that on July 12, 2016, she gave respondent another P50,000.00 as deposit to cover the expenses related to the expected litigation. After barangay conciliation proceedings failed, complainant instructed respondent to file the appropriate case in court.

On August 16, 2016, respondent sent an Email<sup>[2]</sup> to complainant seeking to borrow another P200,000.00 in the form of a cash advance, which would allegedly be charged against his appearance fees and other fees. He claimed that he was borrowing money for his wife's hospitalization. Complainant agreed to respondent's request for cash advance and gave him P100,000.00 out of compassion.

After granting the request, complainant inquired regarding the status of her case. Respondent sent her a copy of the purported Complaint For Ejectment<sup>[3]</sup> filed in the Municipal Trial Court of Binangonan, Rizal (*MTC*). The said complaint had a receiving stamp, with a handwritten note that it was received by the MTC. It also had a handwritten docket number of Civil Case No. 2016-036.

However, respondent did not give any updates to complainant regarding the case filed. Thus, she inquired directly with the MTC on the status of her case. To her surprise, she was informed that there was no such complaint for ejectment filed with the MTC.

Consequently, complainant confronted respondent about the purported ejectment complaint. The latter explained that the non-filing of the complaint was due to the mistake of his office staff. Respondent assured her that the complaint would be filed.

A complaint for ejectment was eventually filed in the MTC, docketed as Civil Case No. 16-022. However, in an Order<sup>[4]</sup> dated October 10, 2016, the MTC dismissed the case for lack of jurisdiction. It explained that the complaint did not comply with the jurisdictional requirements for ejectment as it neither alleged the requisites under forcible entry nor unlawful detainer.

As complainant was completely dissatisfied with the services of respondent, she sent an Email<sup>[5]</sup> dated October 20, 2016, stating that she was terminating their legal engagement. Complainant also demanded respondent to return the deposit of P50,000.00 and the cash advance of P100,000.00.

Complainant engaged the services of another lawyer, Atty. Luis Martin V. Tan, to communicate with respondent. The latter initially agreed to return the P100,000.00 cash advance by November 30, 2016, and, eventually, the P50,000.00 deposit. However, respondent still reneged on his obligations.

Complainant sent another Demand Letter<sup>[6]</sup> to respondent to comply with his obligations but it was unheeded. Thus, she filed this instant administrative complaint alleging that respondent violated the provisions of the Code for presenting a fake ejectment complaint and for non-payment of the money he borrowed.

Initially, complainant only sought for the return of P40,000.00 from the deposit. However, in her Position Paper,<sup>[7]</sup> she demanded for the return of the entire P50,000.00 because respondent never proved that he actually incurred any expense chargeable against the said deposit. Complainant also sought for the return of the P100,000.00 because it constituted as a loan, which respondent had not paid.

On May 3, 2017, the IBP Commission required respondent to file his answer. However, on July 10, 2017, respondent filed a Motion for Extension of Time to File Answer.<sup>[8]</sup>

Several months passed but respondent still failed to file his answer. Thus, on November 16, 2017, even without respondent's answer, the IBP Commission set the case for mandatory conference on December 11, 2017. During the said conference, only the counsel of complainant appeared.

On December 14, 2017, respondent filed a Motion to Admit (Herein Attached Answer and Mandatory Conference Brief) with Manifestation.<sup>[9]</sup> In his Answer,<sup>[10]</sup> respondent admitted the allegations in the complaint that he received an acceptance fee of P75,000.00 and a deposit for legal expenses in the amount of P50,000.00. He also admitted that he borrowed P100,000.00 from complainant but that it was not a loan; rather, it was a cash advance to be deducted from the appearance fees and other service fees in the handling of cases. He also asserted that the said amount is fully protected by the nature of the cases, which he is handling.

On the alleged fake receiving copy of the complaint, respondent averred that he relied in good faith in the representations of his messenger and claimed that it was an honest mistake. He added that when he learned of the non-filing of the complaint, he immediately confronted his messenger and filed the complaint in court. Respondent, however, admitted that the case was dismissed for lack of jurisdiction.

With respect to his failure to update his client regarding the status of her case, he explained that it was due to the distance of the parties and erratic internet services. Thus, he failed to get in touch with complainant to give case updates.

The IBP Commission required both parties to submit their position papers. However, only complainant filed her position paper.

### *Report and Recommendation*

In its Report and Recommendation<sup>[11]</sup> dated March 8, 2018, the IBP Commission found that respondent violated the Code and recommended a penalty of suspension from the practice of law for two (2) years. It observed that respondent cannot blame his messenger because he should have known that the receiving copy of the complaint for ejectment was fake because of the questionable hand-written docket number and receiving stamp. The IBP Commission highlighted that respondent gave a shallow excuse of erratic internet service for his failure to give case updates. It opined that respondent indeed received P50,000.00 as deposit even though he had not rendered substantial legal service; that he borrowed P100,000.00 from his client; and that he failed to pay his monetary obligations. It likewise emphasized that respondent failed to comply with the orders of the IBP Commission.

In its Resolution<sup>[12]</sup> dated June 28, 2018, the IBP Board of Governors (*Board*) adopted with modification the penalty recommended against respondent to suspension from the practice of law for a period of two (2) years; and to pay a fine of P5,000.00 for disobeying the orders of the IBP Commission.

### **The Court's Ruling**

The Court adopts the findings of the IBP Commission but modifies the recommended penalty of the IBP Board.

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.<sup>[13]</sup> The proper evidentiary threshold in disciplinary or disbarment cases is substantial evidence.<sup>[14]</sup> It is defined as "that amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion."<sup>[15]</sup>

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.<sup>[16]</sup>

Rule 16.04 of the Code states that a lawyer shall not borrow money from his client unless the client's interest are fully protected by the nature of the case or by independent advice. The rule against borrowing of money by a lawyer from his client is intended to prevent the lawyer from taking advantage of his influence over his

client.<sup>[17]</sup>

On the other hand, Rule 18.04 of the Code states that a lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information. It is the lawyer's duty to keep his client constantly updated on the developments of his case as it is crucial in maintaining the latter's confidence.<sup>[18]</sup>

In this case, the Court finds that respondent violated Rule 1.01, Rules 16.04, and 18.04 of the Code based on the substantial evidence presented by complainant.

#### *Fake complaint for ejectment*

As properly found by the IBP Commission, respondent was tasked by complainant to file a complaint for ejectment before the court. To show his compliance, he furnished her with the alleged receiving copy of the complaint for ejectment filed before the MTC. However, it was discovered by complainant that no such complaint was actually filed. When confronted, respondent admitted the fake receiving copy but blamed his messenger for such wrongdoing.

The Court cannot accept the flimsy excuse of respondent. A plain reading of the first page of the purported complaint readily shows that it was not properly filed. The words "MTC" and the date were only handwritten in the portion of the received stamp. Also, the docket number of the alleged complaint was merely handwritten. As highlighted by the IBP, these are not the standard operating procedures in filing a complaint in court.

As a lawyer, respondent should have noticed these irregularities before furnishing his client with the copy of the said complaint. Further, respondent did not give any concrete detail on the consequences incurred by his messenger; whether appropriate criminal or disciplinary charges were instituted against him for faking the said receiving copy. In any case, respondent cannot "pass the buck" to his messenger and escape liability because he has a sworn duty to observe due diligence and honesty in dealing with his client.

By delivering a fake receiving copy of the complaint to his client, thereby deceiving the latter in filing the case, respondent participated in deceitful conduct towards his client in violation of Rule 1.01 of the Code. As a lawyer, respondent was proscribed from engaging in unlawful, dishonest, immoral or deceitful conduct in his dealings with others, especially clients whom he should serve with competence and diligence.

<sup>[19]</sup>

While respondent eventually filed a complaint for ejectment before the MTC, docketed as Civil Case No. 16-022, it was swiftly dismissed because the jurisdictional requisites were not stated in the complaint. Again, this shows respondent's gross carelessness in advancing the cause of his client.

#### *Respondent borrowed money from his client; return of the amounts*

Aside from furnishing his client with a fake complaint, respondent also admitted that he borrowed money from complainant. As found by the IBP Commission, respondent

borrowed P100,000.00 from complainant, as evidenced by his email. Respondent claims that the amount was merely a cash advance on his legal fees. However, even when his legal services were terminated and there was no more basis for the cash advance, he never returned said amount.

Respondent's argument - that the borrowed amount was fully protected by the nature of the case or by independent advice - deserves scant consideration. Aside from this bare allegation, respondent did not provide any detail or justification regarding such protections surrounding the loan that he secured from his client.

It must be underscored that borrowing money from a client is prohibited under Rule 16.04. A lawyer's act of asking a client for a loan, as what respondent did, is very unethical. It comes within those acts considered as abuse of client's confidence. The canon presumes that the client is disadvantaged by the lawyer's ability to use all the legal maneuverings to renege on his or her obligation.<sup>[20]</sup> Unless the client's interests are fully protected, a lawyer must never borrow money from his or her client.

Further, respondent obtained the amount of P50,000.00 from complainant as deposit for his legal fees, on top of the P75,000.00 he received as his acceptance fee. However, as discussed above, respondent did not perform any substantial legal service for complainant because he simply furnished her with a fake complaint. Even when the actual complaint was filed in court, it was immediately dismissed for lack of jurisdiction. Thus, respondent should not have received the said amount from complainant because he did not render any significant service in the furtherance of his client's case.

Worse, when complainant sought to recover the amounts of P50,000.00, as deposit, and P100,000.00, as cash advance, from respondent, it fell on deaf ears. Respondent initially gave an assurance that he would eventually pay complainant but it did not materialize. Even assuming that respondent borrowed the P100,000.00 for a genuine purpose of financing his wife's hospitalization, it neither justifies his non-observance of the high moral standards required from a member of the legal profession nor extinguishes his obligation to repay his client promptly and fully. Indeed, respondent's misdealing towards his client is manifest and obvious.

That being said, the Court has consistently held that deliberate failure to pay just debts constitutes gross misconduct, for which a lawyer may be sanctioned. Lawyers are instruments for the administration of justice and vanguards of our legal system. They are expected to maintain not only legal proficiency, but also a high standard of morality, honesty, integrity and fair dealing so that the people's faith and confidence in the judicial system is ensured. They must, at all times, faithfully perform their duties to society, to the bar, the courts and to their clients, which include prompt payment of financial obligations.<sup>[21]</sup>

*Respondent did not regularly update his client*

After borrowing money from his client, respondent did not update his client anymore regarding the status of her case. It was only when complainant actually verified with the MTC that she confirmed the fake complaint for ejectment.