

SECOND DIVISION

[A.C. No. 10697, March 25, 2019]

**LARRY C. SEVILLA, COMPLAINANT, V. ATTY. MARCELO C. MILLO,
RESPONDENT.**

D E C I S I O N

PERLAS-BERNABE, J.:

Before the Court is an administrative complaint^[1] filed on November 14, 2014 by complainant Larry C. Sevilla (complainant), before the Office of the Bar Confidant,^[2] against respondent Atty. Marcelo C. Millo (respondent), charging the latter of harassment, misconduct, obstruction of justice and ignorance of the law.

The Facts

Complainant alleged that he is the publisher of Pampango Footprints (Pampango), a provincial newspaper circulated in Tarlac Province.^[3] Sometime in April 2014, he issued a statement of account^[4] in the amount of P33,120.00 to Spouses Avelino and Melendrina Manalo (Sps. Manalo) as fee for the publication of the notice of auction sale relative to Sps. Manalo's petition for foreclosure of mortgage, which was published in three (3) consecutive issues of Pampango.^[5] Claiming that the publication fee was "exorbitant and shocking," respondent, as Sps. Manalo's counsel, refused to settle the account, threatened complainant that he would petition for the disqualification of Pampango, and thereafter, wrote an undated letter^[6] to the Executive Judge of the Regional Trial Court of Tarlac City in furtherance of such threat.^[7] Consequently, complainant filed this administrative complaint against respondent.

During the pendency of this complaint, Sps. Manalo negotiated for a discount of fifty percent (50%), to which complainant agreed. Yet, respondent intervened and forbade his clients to pay. For this reason, complainant called respondent, but instead of explaining his side, respondent shouted, "I am busy I don't want to talk to you!" and banged his cellphone.^[8]

For his part,^[9] respondent denied administrative liability, averring that he merely acted on behalf of his clients, who found the fee "exorbitant and shocking."^[10] He also claimed that after the Executive Judge advised them to just settle the matter with complainant, he withdrew as Sps. Manalo's counsel to give way to the said settlement.^[11] Finally, he maintained that complainant's non-issuance of an affidavit of publication and non-submission of copies of the issues where the notice of auction sale was printed caused the non-completion of the foreclosure proceedings.^[12]

In a Resolution^[13] dated July 4, 2016, the Court referred the administrative case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

The IBP's Report and Recommendation

In a Report^[14] dated May 4, 2017, the Investigating Commissioner found respondent administratively liable for violation of Rule 1.04,^[15] Canon 1 of the Code of Professional Responsibility (CPR), and accordingly, recommended the penalty of reprimand or one (1)-month suspension.^[16]

The Investigating Commissioner found that the matter simply involves a misunderstanding in the collection of publication fee which could have easily been settled if respondent did not prevent the settlement. In this relation, the Investigating Commissioner pointed out that Sps. Manalo had already successfully negotiated for a settlement, but the same did not push through because of respondent.^[17] Further, the Investigating Commissioner noted that the respondent's claim of withdrawal as Sps. Manalo's counsel was belied by complainant's allegation that respondent intervened and forbade his clients to pay, which respondent did not deny.^[18]

In a Resolution^[19] dated February 22, 2018, the IBP Board of Governors adopted the Investigating Commissioner's Report, with modification lowering the recommended penalty of suspension from the practice of law for a period of one (1) month to mere reprimand.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not respondent should be administratively sanctioned for the acts complained of.

The Court's Ruling

The Court concurs and affirms the findings of the IBP Board of Governors with modification as to the penalty.

It is well to stress that lawyers owe fidelity to the cause of their clients and are expected to serve the latter with competence and diligence. Consequently, lawyers are entitled to employ every honorable means to defend the cause of their clients and secure what is due them.^[20] However, professional rules set limits on a lawyer's zeal and hedge it with necessary restrictions and qualifications.^[21] In this regard, Canon 1 of the CPR provides that lawyers "shall uphold the Constitution, obey the laws of the land and promote respect for law and of legal processes." In furtherance thereto, Rule 1.04 of the CPR mandates lawyers to "encourage [their] clients to avoid, end, or settle a controversy if it will admit of a fair settlement."

Guided by the foregoing, the Court agrees with the findings of the Investigating Commissioner, as affirmed by the IBP Board of Governors, that respondent indeed fell short of what is expected of him, despite his avowed duties as officer of the court. Records reveal that respondent did not endeavor to initiate the settlement of the publication fee being charged by complainant. Disagreeing with the statement of account, respondent chose not to pay and immediately referred the matter to the Executive Judge, instead of negotiating and discussing the matter with complainant.