

## EN BANC

[ A.C. No. 5473, January 23, 2018 ]

**GENE M. DOMINGO, COMPLAINANT, V. ATTY. ANASTACIO E. REVILLA, JR., RESPONDENT.**

### DECISION

#### PER CURIAM:

A disbarred lawyer who is found to have committed an offense that constitutes another ground prior to his eventual disbarment may be heavily fined therefor. The Court does not lose its exclusive jurisdiction over his other disbarable act or actuation committed while he was still a member of the Law Profession.

#### The Case

Before this Court is the complaint for disbarment instituted by Gene Domingo (complainant) against Atty. Anastacio E. Revilla, Jr. (respondent),<sup>[1]</sup> alleging that the latter deliberately and feloniously induced and persuaded the former into releasing almost half a million pesos on the false pretense of having performed and accomplished legal services for him.

#### Antecedents

The complainant is an American citizen of Filipino descent. During a visit to the Philippines in 2000, he sought the services of a lawyer to handle the cases to be filed against his cousin Melchor Arruiza and to work on the settlement of the estate of his late mother Judith Arruiza.<sup>[2]</sup> In April 2000, petitioner met respondent, a lawyer recommended by a friend. Petitioner informed respondent about his need for the services of a lawyer for the rescission of Melchor Arruiza's adoption and for the settlement of his mother's estate.<sup>[3]</sup>

The complainant alleged that the respondent represented to him that he would take on the cases in behalf of the law firm of Agabin Verzola Hermoso Layaoen & De Castro, where he worked as an associate. He assured petitioner that the law firm was able and willing to act as his legal counsel in the cases he intended to institute against his adopted brother, and to undertake the transfer of his mother's properties to his and his children's names.<sup>[4]</sup> Trusting the representations of respondent, the complainant agreed to engage respondent and his law firm, and paid the initial amount of P80,000.00.

Being based in the United States of America, the complainant maintained constant communication with respondent often through electronic mail (e-mail) and sometimes by telephone to get updates on the cases. The complainant alleged that based on his correspondences with respondent, the latter made several misrepresentations, as follows:

- [a)] He [had] filed the annulment of adoption of Melchor Arruiza in Abra, stating that the hearing would commence by the end of May 2000; and that the trial had been brought to completion;
- [b)] He was processing the transfer of the titles of the properties [in the names of petitioner and his children;]
- [c)] He processed the cancellation of the adverse claim of Melchor Arruiza annotated on the two titles of the properties, claiming that he was there at the Land Registration Authority in Quezon City for the final approval of the cancellation;
- [d)] He was processing the payment of taxes and other fees on the properties to be transferred, including capital gains tax, transfer tax, registration fees and documentary stamp tax;
- [e)] That he was negotiating with the Bureau of Internal Revenue to reduce the tax from P80,000.00 to P10,000.00;
- [f)] That the new titles in the names of petitioner's children would be ready by July 20, 2000;
- [g)] That the new titles in the children's names were issued;
- [h)] That Melchor Arruiza opposed the cancellation of the adoption, and boasted that he knew many big time politicians in Abra who would help him;
- [i)] That the Judge x x x handling the case for the cancellation of the adoption [would] rule in petitioner's favor only if he would give to the Judge 10% of the value of the property in Better Living Subdivision, Parañaque City;
- [j)] That the Judge agreed on x x x P200,000.00 but he (respondent) needed an additional P50,000.00 "for the boys" in the Court of Appeals and the Supreme Court;
- [k)] That the Judge [already wrote] a decision in petitioner's favor, but [for his protection insisted upon a *kaliwaan* of the copy of the decision and the payment;]
- [l)] That the Judge received the money and [already promulgated the] decision in petitioner's favor;
- [m)] That said decision was appealed to the Court of Appeals and eventually to the Supreme Court where respondent was working doubly hard to influence [a favourable] outcome;
- [n)] That the Supreme Court had to meet en banc on the decision of the Abra Regional Trial Court (RTC) Judge in

petitioner's favor; and

[o)] That in consideration of all the above transactions, he (respondent) needed money [totalling] P433,002.61 [as payment to the Judge, BIR and related agencies, actual expenses and legal fees], [but requested] the payment in staggered amounts and on different dates.<sup>[5]</sup>

Based on the respondent's representation as to how justice was achieved in the Philippines, the complainant was constrained to give to the respondent the requested amounts in the belief that he had no choice.<sup>[6]</sup> The complainant would repeatedly request the original or at the very least copies of the decisions and the titles by e-mail, facsimile (fax) or courier service, but respondent repeatedly failed to comply with the requests, giving various reasons or excuses. The respondent even volunteered to meet with the complainant in the United States of America to personally deliver the promised documents. The respondent never went to the United States of America to meet with the complainant. He also did not turn over the requested documents to the latter. Even worse, the respondent ultimately tried to avoid the complainant by cutting off communications between them.

Given the respondent's evasion, the complainant decided to write the law firm of Agabin Verzola Hermoso Layaoen & De Castro to inform them of the fraudulent actions of the respondent.<sup>[7]</sup> The complainant was surprised to be informed by the law firm that he had never been its client.<sup>[8]</sup> The law firm also told him that the respondent had been forced to resign from the law office because of numerous complaints about his performance as a lawyer.<sup>[9]</sup>

Hence, the complainant terminated the services of the respondent for refusal to respond and to surrender the alleged documents in his possession. He engaged the services of another law firm to verify the status of the cases allegedly brought by respondent in petitioner's behalf. The new law firm secured a certification from the RTC of Abra to the effect that no case against Melchor Arruiza had been filed. The complainant also discovered that none of the representations of the respondent, as enumerated above, had come to pass because all of such representations were sham and intended to induce him to remit almost half a million pesos to the respondent.<sup>[10]</sup>

On July 24, 2001, the complainant filed his complaint for disbarment in this the Court accusing the respondent of committing acts in violation of Canons 1, 2, 13, 15 & 16 of the Code of Professional Responsibility.<sup>[11]</sup>

On August 22, 2001, the Court required the respondent to comment.<sup>[12]</sup>

In his comment dated October 21, 2001,<sup>[13]</sup> the respondent denied the accusations, and countered as follows:

a) Petitioner wanted to have the adoption of Melchor D. Arruiza by his late mother Judith D. Arruiza granted by the Municipal Circuit Trial Court (MCTC) of Dolores-San Juan in the Province of Abra annulled because he had not been informed about the adoption which affected his inheritance, particularly with respect to the two parcels of land located in Parañaque City. Petitioner related to respondent why he (petitioner) filed the action

for annulment of adoption in the RTC in Parañaque City, but Branch 258 of the RTC dismissed the petition on January 19, 2000 for lack of jurisdiction over the case;

b) Following the dismissal of the case, petitioner desperately wanted to revive it in the RTC in Abra. Petitioner also wanted the annotation of rights, title and interest of Melchor Arruiza as a legally adopted son of his late mother on the two titles cancelled, and to have the properties transferred in the names of petitioner's children;

c) Respondent explained to petitioner that it would be very hard to revive the case because the order of adoption issued on May 25, 1979 had long become final and executory;

d) It would also be inconvenient for petitioner to pursue the cancellation case considering that he was a permanent resident of the United States of America and the need for his personal presence at the RTC in Abra to testify against his adopted brother;

e) Respondent further told petitioner that his law firm at the time did not allow its members to handle personal cases, especially if the cases were filed in far flung provinces; and that the particular case of annulment of the judgment of adoption, being a special proceeding, would take years to finish inasmuch as the losing party would likely elevate the matter up to the Supreme Court and would be very costly in terms of expenses and attorney's fees;

f) Respondent claimed that petitioner still profusely pleaded with him to pursue the case no matter how much it would cost him, as long as his adopted brother was prevented from inheriting from the estate of his mother;

g) Respondent tried to talk some sense into petitioner, particularly that it was only just and fair that his adopted brother would inherit from their mother, but petitioner could not be swayed;

h) Even though respondent sensed the greediness, wickedness and scheming design of petitioner, he still accepted the engagement to handle the case of annulment of the judgment of adoption, as well as to have the annotations at the back of the titles cancelled and eventually have the properties transferred in the names of petitioner's children;

i) Respondent proposed that petitioner pay P500,000.00, more or less, as the total package of expenses and attorney's fees; petitioner agreed to the proposal and promised to remit the amount by installment upon his return to the United States of America, and to send the special power of attorney authorizing respondent to bring the case against Melchor Arruiza;

j) As a means of protecting the interest of petitioner, respondent offered to issue a check for P500,000.00 as a security for the amount to be remitted by petitioner from his United States of America account; his offer of the check was to give a sign of his good faith, because his

primary aim was to provide the best and effective legal services petitioner needed under the circumstances;

k) Respondent then prepared an affidavit of self-adjudication for petitioner respecting the two properties registered in the name of petitioner's late mother; he caused the publication of the affidavit in a tabloid;

l) Respondent informed petitioner that there was no way for him to win the annulment case unless he personally appeared and testified against his adopted brother, but petitioner said that he could not personally testify because he feared for his life due to Abra being an NPA-infested area;

m) On August 27, 2001, respondent went on and filed the complaint for annulment of the adoption in the RTC in Abra, docketed as Civil Case No. 1989, even without any firm assurance from petitioner that he would personally appear in court;

n) After the filing of the case, petitioner started making unreasonable demands, like having an immediate decision from the RTC in Abra in his favor, the cancellation of the adverse claim of his adopted brother on the titles of the properties, and transferring the titles in the names of petitioner's three children;

o) Respondent tried to explain to petitioner that his demands were impossible to meet because civil and special proceedings cases take years to finish inasmuch as the aggrieved parties would elevate the cases up to the Supreme Court; and that the cancellation of the adverse claim would depend on the outcome of the case they filed, but his refusal to appear and testify was still a problem;

p) Petitioner still adamantly insisted that respondent comply with his demands, or else he would sue him if he did not.<sup>[14]</sup>

On November 26, 2001, the Court referred the complaint for disbarment and the comment to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation or decision.<sup>[15]</sup>

The Commission on Bar Discipline (CBD) of the IBP conducted hearings. The case was then submitted for resolution after the complainant and the respondent submitted their manifestation and reply/counter manifestation, respectively.

### **The IBP's Report and Recommendation**

In a Report and Recommendation dated September 6, 2002,<sup>[16]</sup> the IBP-CBD found the respondent guilty of violating the Code of Professional Responsibility with respect to negligence in the performance of his duties towards his client, and recommended the penalty of reprimand with a stern warning that a repetition of the offense would warrant a more severe penalty. It ruled that the proceeding before it was basically a disciplinary proceeding; that it could only decide on the fitness of respondent to continue in the practice of law;<sup>[17]</sup> that it could not go beyond the sanctions that could be imposed under the *Rules of Court*; that it had the power to require the restitution of the client's money as part of the penalty; that it could only