

SECOND DIVISION

[A.C. No. 9832, September 04, 2017]

LOLITA R. MARTIN, COMPLAINANT, VS. ATTY. JESUS M. DELA CRUZ, RESPONDENT.

RESOLUTION

PERLAS-BERNABE, J.:

This administrative case stemmed from a letter-complaint^[1] dated February 10, 2013 filed by complainant Lolita R. Martin (complainant) against respondent Atty. Jesus M. Dela Cruz (respondent) for the latter's failure to return the acceptance fee in the amount of P60,000.00 he received from complainant, despite several demands.

The Facts

Complainant alleged that sometime in 2012, she engaged respondent's legal services in relation to several pending cases she filed before the following agencies: (a) the Professional Regulation Commission; (b) the Office of the City Prosecutor of Quezon City (OCP-QC); and (c) the Housing and Land Use Regulatory Board.^[2] After giving photocopies of the cases' files, complainant paid respondent P60,000.00 as acceptance fee, evidenced by the Official Receipt^[3] dated August 23, 2012.^[4]

From December 21, 2012 to February 6, 2013, complainant repeatedly went to respondent's office to inquire on the status of the cases, but respondent was not there.^[5] Thus, complainant wrote several letters^[6] to him requesting the return of the money she paid as acceptance fee due to respondent's failure to take any action on her cases. He even failed to appear in the hearing for preliminary investigation before the OCP-QC on January 16, 2013, causing it to be reset on February 20, 2013.^[7] Respondent also refused to answer any of her calls.^[8]

After several months, respondent finally contacted complainant, and told her not to worry as he would still handle the other cases, particularly the *Estafa* case pending before the OCP-QC. However, respondent still failed to attend the scheduled preliminary investigation. Aggrieved, complainant went to respondent's office, but the latter only answered "[k]asi alam ko alas dose ng hapon ang hearing."^[9] Angered by his response, complainant reiterated her demand for the return of the acceptance fee, but the latter refused.^[10] Thus, she wrote letter-complaints for respondent's disbarment to the Office of the Ombudsman, as well as to the Presidential Action Center of the Office of the President, which were indorsed to the Court.^[11]

On June 17, 2013, the Court issued a Resolution ^[12] requiring respondent to

comment on the letter-complaint, but he failed to comply.^[13]

On January 13, 2014, the Court dispensed with respondent's comment and, instead, referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.^[14]

On June 2, 2014, the IBP conducted a mandatory conference, but only complainant appeared. On even date, it issued an Order^[15] directing the parties to file their position papers within ten (10) days, to which only complainant complied.^[16]

The IBP's Report and Recommendation

In the Report and Recommendation^[17] dated August 18, 2014, the Investigating Commissioner (IC) recommended that respondent be suspended from the practice of law for a period of one (1) year and ordered to return to complainant the amount of P60,000.00 he received as acceptance fee with twelve percent (12%) interest per annum.^[18]

The IC held that respondent violated Rule 1.01, Canon 1, Rule 16.01, Canon 16, and Rules 18.03 and 18.04, Canon 18 of the Code of Professional Responsibility (CPR) due to his failure to: (a) render any legal service despite his engagement and receipt of P60,000.00 as acceptance fee; (b) appear in two (2) preliminary investigation hearings before the OCP-QC; and (c) return the money complainant paid him despite written and verbal demands.^[19] The IC also found respondent liable for willful disobedience to the Court's lawful orders for his failure to file his comment to the letter-complaint, as well as to the IBP's processes when he failed to file a mandatory conference brief, to appear during the mandatory conference hearing, and to file his position paper.^[20]

In a Resolution^[21] dated February 20, 2015, the IBP Board of Governors adopted and approved the IC's Report and Recommendation.

On October 29, 2015, respondent filed his motion for reconsideration,^[22] explaining that he was not aware of the administrative case against him, as he was out of the country for most of the period from 2013 to 2015,^[23] and that the notices of the IBP proceedings were sent to the IBP-QC, rather than to his office address in Scout Borromeo, QC, and that the staff in the former office did not apprise him about the notices.^[24]

Respondent averred that, during their first meeting, he and complainant only discussed six (6) administrative cases, which did not include the pending criminal investigation case before the OCP-QC.^[25] Nevertheless, respondent admitted that complainant had asked him to attend an on-going investigation in the prosecutor's office, for which he requested for the case documents, which were, however, not given to him.^[26] He insisted that complainant informed him that the hearing was at two o'clock in the afternoon, which was the reason why he instructed complainant to give him the documents before noon on that date so he can go over them during lunch break.^[27]

While he opined that the acceptance fee is not refundable since he already prepared pleadings for complainant, he also manifested that he will nonetheless comply with the order to return the money to complainant but requested that he be allowed to pay in installments within three (3) months.^[28]

The IBP denied his motion in a Resolution^[29] dated September 23, 2016.

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable for violating the CPR.

The Court's Ruling

The Court agrees with the IBP's findings insofar as it found respondent administratively liable for violating Rules 18.03 and 18.04, Canon 18 of the CPR.

A judicious review of the records shows that complainant secured respondent's legal services for several cases and paid P60,000.00 as acceptance fee. However, respondent failed to perform legal services on any of these cases, and upon demand, refused to return the acceptance fee paid by complainant. He also failed to respond to complainant's letters and calls inquiring on the status of said cases. These acts indubitably constitute violations of Rules 18.03 and 18.04, Canon 18 of the CPR, which respectively read:

CANON 18 — A lawyer shall serve his client with competence and diligence.

Rule 18.03 — A lawyer shall not neglect a legal matter entrusted to him and his negligence in connection therewith shall render him liable.

Rule 18.04 — 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.

Under these provisions, a lawyer is duty-bound to competently and diligently serve his client once the former takes up the latter's cause. The lawyer owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him. Hence, his neglect of a legal matter entrusted to him amounts to inexcusable negligence for which he must be administratively liable,^[30] as in this case. The Court finds no credence to respondent's defense that he prepared pleadings for complainant given that he failed to provide any proof to substantiate his claim.

The Court, however, does not find respondent liable for violating Rule 16.01, Canon 16 of the CPR, which mandates lawyers to "account for all money or property collected or received for or from the client." Consistent with this duty, respondent accounted for his receipt of P60,000.00 as acceptance fee from complainant when he issued the Official Receipt dated August 23, 2012.^[31] He also cannot be held liable for failure to account complainant's alleged payment of P2,500.00 as research fee for lack of proof that such amount was paid to respondent.

Anent the penalty, in similar cases wherein lawyers were found to have neglected