

EN BANC

[A.C. No. 11317, August 23, 2016]

ETHELENE W. SAN JUAN, COMPLAINANT, VS. ATTY. FREDDIE A. VENIDA, RESPONDENT.

DECISION

PER CURIAM:

Before this Court is an administrative complaint filed by Ethelene W. San Juan (Ethelene) against respondent Atty. Freddie A. Venida (Atty. Venida) for violation of the Lawyer's Oath and the Code of Professional Responsibility.

Sometime in 2007, Ethelene required the services of a lawyer to handle the petition for the declaration of nullity of her marriage that she was considering to file. Ethelene's mother referred her to Atty. Venida, whom she engaged to file the case on her behalf. Atty. Venida agreed to handle the case for a consideration of Twenty-Five Thousand Pesos (P25,000) by way of acceptance, filing, and docket fees. Atty. Venida personally collected the P25,000 from Ethelene's house on April 22, 2007, and required her to sign a verification to be attached to the petition.^[1]

The following day, Atty. Venida required an additional Four Thousand Pesos (P4,000) for the fees of the sheriff or process server in order to serve the summons. Ethelene paid the said amount on April 24, 2007, as evidenced by an Acknowledgment Receipt^[2] dated April 22, 2007. Atty. Venida assured Ethelene that he will file the petition with the Regional Trial Court of Makati City (Makati RTC) as soon as possible.

After a month, Ethelene's mother called Atty. Venida to inquire if the case had already been filed, and the latter answered in the affirmative. Based on Atty. Venida's assurances, Ethelene's mother contacted him again to confirm if a hearing of the case had already been scheduled. Atty. Venida told Ethelene's mother to wait and that he will inform them if a hearing had already been set. Ethelene's mother persisted on inquiring when a hearing on the petition will be scheduled, and Atty. Venida repeatedly answered that it normally takes time before a hearing is scheduled, and they would just have to wait.^[3]

In the meantime, Ethelene's mother asked for a copy of the petition that Atty. Venida filed in court. Upon examination of the copy of the petition that she received,^[4] Ethelene discovered that it was not stamped "Received" by the Makati RTC Office of the Clerk of Court (OCC). Ethelene contacted Atty. Venida to clarify this matter, and the latter informed her that only the draft copy was given to them and that the file copy of the petition, duly acknowledged by the OCC, was left in his office.^[5] Ethelene asked Atty. Venida for his office or residence address in order to secure a copy of the petition herself. However, Atty. Venida refused to reveal his address.

Beginning to suspect that something was amiss, Ethelene went to the OCC to verify and inquire about the status of the petition. To her great dismay and disappointment, the OCC informed her that no such petition was filed with its office.

[6] Ethelene contacted Atty. Venida to clarify the matter, but the latter merely avoided her and told her he was busy. When Atty. Venida finally agreed to meet with Ethelene and her mom, he did not show up. Ethelene tried to contact him again, but he never returned her calls.[7]

Thus, on August 8, 2007, Ethelene filed a complaint for disbarment against Atty. Venida with the Integrated Bar of the Philippines (IBP). Acting on the complaint, the Commission on Bar Discipline (CBD) issued a Notice of Mandatory Conference on February 13, 2014 directing Ethelene and Atty. Venida to appear before the CBD for mandatory conference on April 8, 2014 and to submit their respective Mandatory Conference Brief three days prior to the scheduled date. Both parties, however, failed to appear despite notice. Thus, the CBD submitted the case for resolution.

In its Report and Recommendation^[8] dated June 22, 2015, the CBD recommended the disbarment of Atty. Venida for exhibiting dubious character that affects the standing of lawyers. The CBD was convinced that Atty. Venida acted in bad faith, with a clear intent to deceive Ethelene when he furnished her a draft copy of the petition rather than a receiving copy to show that the petition had, indeed, been filed.

On June 30, 2015, the IBP Board of Governors issued Resolution No. XXI-2015-609, [9] adopting and approving the recommendation of the CBD. The Resolution reads:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation to be fully supported by the evidence on record and applicable laws, and considering Respondent's rude disposition denigrating the legal profession and insolent and conceited manner before the Commission on Bar Discipline, Atty. Freddie A. Venida is hereby DISBARRED from the practice of law and his name stricken off from the Roll of Attorneys.

Given the foregoing finding, the only remaining question that begs resolution is whether Atty. Venida is guilty of misappropriating the total amount of P29,000 that Ethelene entrusted to him for filing the petition for the annulment of the latter's marriage.

We sustain the findings of the IBP that Atty. Venida acted in bad faith and deceived Ethelene, in violation of his sworn duties under the Lawyer's Oath and Code of Professional Responsibility (Code).

Lawyers are duty-bound to exhibit fidelity to their client's cause and to be mindful of the trust and confidence reposed in them to diligently prosecute their clients' cases the moment they agreed to handle them, as is mandated of them under Canon 17 of the Code. They owe entire devotion to the interest of the client, warm zeal in the maintenance and the defense of the client's rights, and the exertion of their utmost learning and abilities to the end that nothing be taken or withheld from the client,

save by the rules of law legally applied.^[10] Atty. Venida grossly failed to fulfil this mandate.

The records definitively show that Atty. Venida was completely remiss and negligent in handling Ethelene's case, notwithstanding his receipt of the sum of Twenty-Nine Thousand Pesos (P29,000) from her by way of his acceptance and filing fees. Instead of filing the petition, Atty. Venida gave his client a runaround and led her to believe that the petition had already been filed. When pressed for updates, Atty. Venida evaded Ethelene and refused to return her calls. Worse, the fees remain unaccounted for, which were entrusted to him for the filing of the petition.

When a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for that particular purpose. And if he or she does not use the money for the intended purpose, the lawyer must immediately return the money to the client.^[11] Consequently, Atty. Venida is duty-bound to return the P29,000 given to him by Ethelene. Failure to do so is a breach of Rule 16.01 of the Code, which provides:

Rule 16.01 - A lawyer shall account for all money or property collected or received for or from the client.

Atty. Venida's agreement to handle Ethelene's case, cemented by his receipt of his legal fees, is an assurance and representation to his client that he would be diligent and competent in handling her case. This includes constantly updating her, on his volition, of the status of her case. Thus, his actuations are contrary to Canon 18, and its Rules 18.03 and 18.04, which state:

Canon 18 - A lawyer shall serve his client with competence and diligence;

x x x x

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 his client informed of the status of his case and shall respond within a reasonable time to the client's request for information. x x x

Moreover, Rule 1.01 of the Code states that "a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." Deceitful conduct involves moral turpitude and includes anything done contrary to justice, modesty or good morals. It is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen or to society in general, contrary to justice, honesty, modesty, or good morals.^[12] As pronounced by this Court in *Belleza v. Atty. Macasa*,^[13] a lawyer has the duty to deliver his client's funds or properties as they fall due or upon demand. His failure to return the client's money upon demand gives rise to the presumption that he has misappropriated it for his own use to the prejudice of and in violation of the trust reposed in him by the client. It is a gross violation of general morality as well as of professional ethics; it impairs public confidence in the legal profession and deserves punishment.^[14]

Atty. Venida's misappropriation of the funds, as well as avoidance to account for his