

EN BANC

[A.C. No. 8494, October 05, 2016]

**SPOUSES EMILIO AND ALICIA JACINTO, COMPLAINANTS, VS.
ATTY. EMELIE P. BANGOT, JR., RESPONDENT.**

DECISION

BERSAMIN, J.:

A lawyer shall observe candor, honesty and fairness in dealing with his clients, and shall only charge fair and reasonable fees for his legal services. He should not excessively estimate the value of his professional services. In drawing up the terms of his professional engagement, he should not practice deceit. The clients are entitled to rescind the written agreement on his professional fees if the terms thereof contravened the true agreement of the parties.

Antecedents

This administrative case stems from the complaint brought on December 8, 2009 by the Spouses Emilio and Alicia Jacinto, then 81 and 76 years of age, respectively, against Atty. Emelie P. Bangot, Jr. for the latter's unjust and dishonest treatment of them as his clients. They hereby seek that he be sanctioned for his actuations.^[1]

The complainants averred that a private survey team had conducted a survey of Cad. 237 Lot No. 1351 on October 10-11, 2008 pursuant to the order of the Regional Trial Court, Branch 39, in Cagayan de Oro City in connection with the reconstitution of the lost certificate of title of said lot by the owners; that after conducting the perimeter survey, the survey team had tried to enter the premises owned by them but they had prevented the team from doing so because their premises had already been segregated by virtue of the issuance of Original Certificate of Title No. P-3387; that their land covered by OCT No. P-3387 had already been subdivided into nine lots; that the survey team had then desisted from proceeding with their survey of their land but had nonetheless informed them that they would return another time for the survey; and that this had forced them to consult a lawyer on the legal remedies to prevent the intrusion on their property.^[2]

The complainants further averred that they had then consulted with the respondent, briefing him on their concern, and delivering to him the documents pertinent to their land; that after scrutinizing the documents, he had told them that he would be initiating a case for *certiorari* in their behalf to nullify the order for the reconstitution of the lost title covering Cad. 237 Lot No. 1351; that he had then insinuated that one of their lots would be his attorney's fees; and that they had not initially agreed to the insinuation because the lots had already been allocated to each of their seven children, but they had ultimately consented to giving him only a portion of Lot No. 37926-H with an area of 250 square meters n.^[3]

It appears that soon after the respondent unilaterally prepared the document so-called *Memorandum of Agreement* (MOA), to wit:

MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS:

I, ATTY. EMELIE P. BANGOT, JR., of legal age, married and a resident of Lot 13, Block 1, Xavier Heights Subd., Upper Balulang, Cagayan de Oro City, hereinafter referred as the FIRST PARTY; and

WE, SPOUSES EMILIO JACINTO AND ALICIA JACINTO, both legal age, and residents of Cagayan de Oro City, herein referred as the SECOND PARTY;

WITNESSETH:

1. That the FIRST PARTY shall be the counsel/lawyer of the SECOND PARTY, regarding their parcel of land formerly covered by Original Certificate of Title No. P-3387 with an area of 4,138 sq. m., located at Kauswagan, Cagayan de Oro City, presently subdivided into 8 lots with individual certificate of titles (sic);
2. That the First Party shall get 300 sq. m., from Lot No. 37925-G covered by TCT No. 121708
3. That this agreement shall take effect immediately upon the signing of the parties (sic) cannot be revoked, amended or modified by the Second Party without the consent of the First Party.^[4]

The complainants recalled that on October 17, 2008 the respondent requested them to proceed to his law office. What thereafter transpired and that led to the signing of the MOA were set forth in their complaint, as follows:

On October 17, 2008, my wife received a phone call from the office of Atty. Bangot directing us to go to his office to sign documents they have prepared. The phone call was relayed to me by my wife so we immediately proceeded to his office arriving thereat at exactly 4:00 PM. The daughter of Atty. Bangot handed to us two sets of documents for our signatures. Because of full trust to Atty. Bangot, we did not bother reading the contents of the documents. Per instruction, we brought the papers to their friend lawyer for notarization and after the notarization returned to the office where we were given our personal file, without reading every detail of the documents.

Upon arriving at our residence, I read the contents of the Memorandum of Agreement (MOA). Said MOA was not signed by Atty. Bangot and did not bear the signature of witnesses. I was surprised to know that the terms of the (MOA) did not reflect the true intentions being contemplated in our previous discussions. Contrary to what I have told him, a different area which is 37925-G under TCT No. 121708 was written. I already told him that my other lots including the lot written in the MOA could no

longer be disposed of because these lots were already committed to each of my children. The lot area was also increased from 250 sq. m. to 300 sq. m. Because of this situation, I called my wife and children and told them about the problem. My daughter whose share was involved reacted badly and she was hurt because she will then be deprived of her place to live in, in the future. We continued our discussion and we decided to see Atty. Bangot to have the MOA be revoked because we felt that we were deceived, Atty. Bangot took advantage of our old age, thus breaking the trust and confidence the client[']s and lawyer should uphold at all times in the exercise of one's profession.

As a gesture of acknowledging his efforts, we offered to pay him in cash, fair enough for the services he had rendered to us. However, he refused to revoke the MOA because accordingly, he would consult his wife which finally did not materialize because his wife was not amenable which in effect showed that they have vested interest on the property and they are bent on taking the property at any cause. He even challenged us to file an appropriate case in court against him rather than agree with our pleading for payment of cash. Likewise, he refused our offer to pay his services in cash alleging that he already filed a Manifestation in court and claimed that our possession would not be disturbed and that he will be filing a case for *Certiorari* as promised.

To our surprise though, we came to know that the Manifestation filed by Atty. Bangot is not a preparatory pleading for *certiorari*. No way could it even stop the intrusion into our property. Basically, we were deceived by Atty. Bangot into believing that the Manifestation he filed would stop any legal disturbance on our property and the same is preparatory for *certiorari*.^[5]

Feeling aggrieved, the complainants decided to bring their complaint against the respondent.

On his part, the respondent denied the allegations of the complainants. He insisted that the complaint against him was a harassment tactic designed to intimidate him from seeking judicial remedies to settle their dispute on the validity of the MOA;^[6] that the MOA was valid; that the *Manifestation for Information* he had filed in court prevented the intrusion into the complainants' land; that the administrative complaint was designed to insure the derailment of his application for a judgeship position, and to cover up the negligence of the complainants' counsel as the plaintiffs in Civil Case No. 2008-302 (for annulment and/or rescission of agreement), which case was dismissed for failure to comply with the requirement for the prior barangay conciliation proceedings; and that they had voluntarily signed the MOA without intimidation, fraud or undue influence.^[7]

On August 23, 2010, the Court referred the complaint to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.^[8]

Findings and Recommendation of the IBP

In due course, IBP Commissioner Oliver A. Cachapero submitted his Report and

Recommendation^[9] finding the complaint against the respondent meritorious, and recommending that the respondent be suspended from the practice of law for one year for his unfair and injudicious treatment of the complainants as his clients.

In Resolution No. XX-2013-71,^[10] the IBP Board of Governors increased the duration of the respondent's recommended penalty to suspension from the practice of law for two years, viz.:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED AND APPROVED, **with modification**, 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 fully supported by the evidence on record and the applicable laws and rules and considering that Respondent breached his duty of candor and fairness to his client, Atty. Emelie P. Bangot, Jr. is hereby **SUSPENDED from the practice of law for two (2) years**.

Through its Resolution No. XXI-2014-315,^[11] the IBP Board of Governors denied the respondent's motion for reconsideration.

Issue

Did the respondent violate his ethical duties as a member of the Bar in his dealings with the complainants?

Ruling of the Court

We find and hold that the respondent grossly violated his Lawyer's Oath and his ethical duties as an attorney because he did not observe candor and fairness in his dealings with his clients.

The findings of IBP Commissioner Cachapero, which sufficiently described the violations of the respondent, provide an irrefutable insight into the gravity of the violations by the respondent, as follows:

The question to ask is, "Was the MOA fair to the parties and entered into by them in goodfaith?"

The undersigned resolves in the negative. To begin with, the conduct of Respondent had evinced an instinctive interest in the property of Complainants. He had the MOA executed at the same time he filed the Manifestation for Information before the court that was hearing LRC Case No. 98-010. Not only that, Respondent's proposal to have a MOA executed between him and the Complainant was meant to impress that his supposed attorney's fees would be paid on contingent basis, however, a perusal of the MOA indicates that the payment of Respondents' fee by way of a real property is being made immediately effective upon execution of the agreement.

As to the agreement of the Complainant and the Respondent, the undersigned gives full faith to the allegation of Complainant that the payment of Respondent's attorney's fees by way of a real property would

come from TCT No. 121709 and not T-121708. Complainants explained that the latter lot had already been committed to their seven (7) children especially because this lot is situated in a prime location thus they could not have picked the same over Lot No. 121709. The Respondent knew straightforwardly that lot 121708 was a better lot yet Respondent gave a different account of their agreement and took advantage of the frailty and advanced ages (sic) of his clients.

But, the most shocking of all, is the apparent inequity or disproportion between the amount of attorney's fees (*measured from the value of the property taken by Respondent*) and the effort or service already performed or still to be performed by him. The Complainants were not made parties to the LRC case or any other case and Respondent filed a mere two-paged Manifestation for Information in court which he did almost effortlessly. It is not clear how the court had reacted to the manifestation but Respondent did not follow it up with [any] other action. Despite the same, Respondent stuck to his tale that the Complainants had signed [the] MOA and despite his minimal representation of the Complainants in court, he held on to his idea that he had taken from his clients valid title to a million [pesos] worth of real estate in payment of his fees.

The undersigned does not see fairness and judiciousness to Respondent's treatment of his clients, 81 and 76 years old, respectively, and he need not add to his brief disquisition in this regard.^[12]

We adopt the findings and note the insights thus expressed.

We must, therefore, highlight the following reasons why the findings and insights should be sustained.

To determine the reasonableness of attorney's fees, the following factors as enumerated in Rule 20.1 of the *Code of Professional Responsibility* may serve as a guide, to wit: (a) the time spent and the extent of the services rendered or required; (b) the novelty and difficulty of the questions involved; (c) the importance of the subject matter; (d) the skill demanded; (e) the probability of losing other employment as a result of acceptance of the proffered case; (f) the customary charges for similar services and the schedule of fees of the IBP chapter to which he belongs; (g) the amount involved in the controversy and the benefits resulting to the client from the service; (h) the contingency or certainty of compensation; (i) the character of the employment, whether occasional or established; and j) the professional standing of the lawyer.

It was not disputed that only the filing of the two-paged *Manifestation for Information* constituted the respondent's rendition of professional services for the complainants. Although he did claim that the filing of the *Manifestation for Information* had prevented any intrusion on their property, thereby fulfilling his end of the contract,^[13] the worth of such minimal effort was exaggerated and disproportionate when taken in the context of the attorney's fees being Lot No. 37925-G with 300 square meters in area. The two-paged *Manifestation for Information* was not even the procedural precursor of the promised petition for *certiorari*. Moreover, he did not actually file the petition for *certiorari* as he had