

## FIRST DIVISION

[ A.C. No. 10672, March 18, 2015 ]

**EDUARDO A. MAGLENTE,\* COMPLAINANT, VS. ATTY. DELFIN R. AGCAOILI, JR., RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Before the Court is an administrative complaint<sup>[1]</sup> dated May 9, 2006 filed by complainant Eduardo A. Maglente (complainant), before the Integrated Bar of the Philippines (IBP), against respondent Atty. Delfin R. Agcaoili, Jr. (respondent), praying that the latter be directed to return the amount of P48,000.00 that he received from the former.

#### The Facts

Complainant, as President of "*Samahan ng mga Maralitang Taga Ma. Corazon III, Incorporated*" (*Samahan*), alleged that he engaged the services of respondent for the purpose of filing a case in order to determine the true owner of the land being occupied by the members of *Samahan*.<sup>[2]</sup> In connection therewith, he gave respondent the aggregate amount of P48,000.00 intended to cover the filing fees for the action to be instituted, as evidenced by a written acknowledgment executed by respondent himself.<sup>[3]</sup> Despite the payment, respondent failed to file an action in court. When confronted, respondent explained that the money given to him was not enough to fully pay for the filing fees in court.<sup>[4]</sup> Thus, complainant asked for the return of the money, but respondent claimed to have spent the same and even demanded more money.<sup>[5]</sup> Complainant further alleged that when he persisted in seeking restitution of the aforesaid sum, respondent told him to shut up because it was not his money in the first place.<sup>[6]</sup> Hence, complainant filed this administrative complaint seeking the return of the full amount he had paid to respondent.

In his defense,<sup>[7]</sup> respondent denied spending complainant's money, explaining that he had already prepared the initiatory pleading and was poised to file the same, when he discovered through the Clerk of Court of the Regional Trial Court of Antipolo City that the filing fee was quite costly. This prompted him to immediately relay such information to complainant who undertook to raise the amount needed. While waiting, however, the instant administrative case was filed against him.<sup>[8]</sup>

#### The IBP's Report and Recommendation

In a Report and Recommendation<sup>[9]</sup> dated October 3, 2012, the IBP Investigating Commissioner found respondent guilty of violating Rule 16.01 of the Code of Professional Responsibility (CPR), and accordingly, recommended that he be: (a)

meted with the penalty of Censure, with a warning that a repetition of the same will be met with a stiffer penalty; and (b) directed to account for or return the amount of P48,000.00 to complainant.<sup>[10]</sup>

The Investigating Commissioner found that respondent clearly received the amount of P48,000.00 from complainant, which was intended to answer for the filing fees of a case he was supposed to file for the *Samahan*, but which he failed to do so.<sup>[11]</sup> In this relation, the Investigating Commissioner observed that had respondent prepared the complaint and performed research works, as he claimed, then he could have kept a reasonable amount for his effort under the doctrine of *quantum meruit*, but unfortunately, he could not present any proof in this respect.<sup>[12]</sup>

In a Resolution<sup>[13]</sup> dated May 11, 2013, the IBP Board of Governors adopted and approved the aforesaid Report and Recommendation, with modification increasing the recommended penalty from Censure to suspension from the practice of law for a period of three (3) months. Aggrieved, respondent moved for reconsideration<sup>[14]</sup> which was, however, denied in a Resolution<sup>[15]</sup> dated May 3, 2014.

### **The Issue Before the Court**

The essential issue in this case is whether or not respondent should be held administratively liable for the acts complained of.

### **The Court's Ruling**

After a judicious perusal of the records, the Court concurs with the findings of the IBP, except as to the penalty to be imposed upon respondent.

It must be stressed that once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion, whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him.<sup>[16]</sup> Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable for violating Rule 18.03, Canon 18 of the CPR,<sup>[17]</sup> which reads:

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.

In the instant case, it is undisputed that complainant engaged the services of respondent for the purpose of filing a case in court, and in connection therewith, gave the amount of P48,000.00 to answer for the filing fees. Despite the foregoing, respondent failed to comply with his undertaking and offered the flimsy excuse that

the money he received from complainant was not enough to fully pay the filing fees.

Furthermore, respondent also violated Rules 16.01 and 16.03, Canon 16 of the CPR when he failed to refund the amount of P48,000.00 that complainant gave him despite repeated demands, viz.:

CANON 16 – A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.

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

x x x x

Rule 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand. x x x.

Verily, 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 the intended purpose. Consequently, if the money was not used accordingly, the same must be immediately returned to the client.<sup>[18]</sup> A lawyer's failure to return the money to his client despite numerous demands is a violation of the trust reposed on him and is indicative of his lack of integrity,<sup>[19]</sup> as in this case.

Clearly, respondent failed to exercise such skill, care, and diligence as men of the legal profession commonly possess and exercise in such matters of professional employment,<sup>[20]</sup> and hence, must be disciplined accordingly.

Having established respondent's administrative liability, the Court now determines the proper penalty to be imposed.

Jurisprudence provides that in similar cases where lawyers neglected their clients' affairs and, at the same time, failed to return the latter's money and/or property despite demand, the Court meted out the penalty of suspension from the practice of law. In *Segovia-Ribaya v. Lawsin*,<sup>[21]</sup> the Court suspended the lawyer for a period of one (1) year for his failure to perform his undertaking under his retainership agreement with his client and to return the money given to him by the latter.<sup>[22]</sup> Similarly, in *Meneses v. Macalino*,<sup>[23]</sup> the same penalty was imposed on a lawyer who failed to render any legal service to his client as well as to return the money he received for such purpose.<sup>[24]</sup> In view of the foregoing, the Court finds it appropriate that respondent be meted with the penalty of suspension from the practice of law for a period of one (1) year.

Finally, the Court sustains the directive for respondent to account for or return the amount of P48,000.00 to complainant. It is well to note that "while the Court has previously held that disciplinary proceedings should only revolve around the determination of the respondent-lawyer's administrative and not his civil liability, it must be clarified that this rule remains applicable only to claimed liabilities which are purely civil in nature – for instance, when the claim involves moneys received by