

FIRST DIVISION

[A.C. No. 6738, August 12, 2015]

GABRIELA CORONEL, PETITIONER, VS. ATTY. NELSON A. CUNANAN, RESPONDENT.

D E C I S I O N

BERSAMIN, J.:

A lawyer who proposes to his client a recourse or remedy that is contrary to law, public policy, public order and public morals, or that lessens the public confidence in the legal system is guilty of gross misconduct, and should be suspended from the practice of law, or even disbarred.

Antecedents

On May 17, 2005, the complainant initiated this disbarment case against Atty. Nelson A. Cunanan, alleging that he had advised and convinced her to engage him for the transfer of Original Certificate of Title No. 9616 and Transfer Certificate of Title No. T-72074, which were both registered in the name of their deceased grandparents, to her name and to the names of her co-heirs by direct registration with the Office of the Register of Deeds in violation of the proper legal procedure; that following the engagement, he had received from her the amount of P70,000.00 for the payment of the transfer and other fees, and had misappropriated the same; and that he had not returned the money and the owner's duplicate copy of Transfer Certificate of Title No. T-72074.^[1]

The Court ordered the respondent to comment on the complaint on July 11, 2005,^[2] but he complied only on March 7, 2006.^[3] In turn, the complainant submitted her reply on March 20, 2006.^[4]

Proceedings before the IBP

On July 31, 2006, the Court referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.^[5]

On February 21, 2007, the IBP Commission on Bar Discipline set the mandatory conference on April 11, 2007, and notified the parties thereof.^[6] At the hearing, the parties defined the issues upon which they would submit their position papers. The complainant stated the issue to be whether or not the actions of the respondent constituted malpractice, deceit or gross misconduct. The respondent defined the issue to be whether or not he had acted in a deceitful manner or committed any misconduct by entering into the contract of legal services with the complainant based on terms mutually agreed upon between them. Only the complainant submitted her verified position paper.^[7]

On February 20, 2008, the complainant requested the early resolution of her complaint.^[8] On September 1, 2009, however, she submitted an affidavit of desistance,^[9] whereby she stated that she had meanwhile made amends with the respondent, and that the disbarment complaint had been due to a misunderstanding between them. A few days later, the parties also submitted their *Joint Motion To Dismiss* dated September 15, 2009,^[10] which the Court referred to the IBP on November 18, 2009.^[11]

On May 14, 2011, the IBP Board of Governors issued its resolution adopting and approving, with modification, the report and recommendation of the Investigating Commissioner finding the respondent guilty of malpractice and negligence; recommending his suspension from the practice of law for six months; and requiring his return of the P70,000.00 to the complainant.^[12]

On August 8, 2011, the respondent filed a *Motion for Reconsideration*,^[13] citing the affidavit of desistance executed by the complainant and their *Joint Motion to Dismiss*. The IBP Board of Governors denied the *Motion for Reconsideration* on December 15, 2012.^[14]

Report and Recommendation of the IBP

The report of the Investigating Commissioner recited the following summary of the factual antecedents, to wit:

Complainant recounts that sometime in October 2003, she engaged the services Respondent to transfer to her name and her co-heirs the parcels of land covered under TCT No. T-72074 and OCT. No. 9616, which certificates of title are both registered under the name of Complainant's deceased grandparents. Respondent advised Complainant that for the registration of TCT. No. T-72074, the transfer may be effected by two means namely: first, by way of "ordinary procedure"; and second, by way of "direct registration". Ordinary procedure involves transfer by way of execution of Deed of Extrajudicial Settlement, publication, payment of capital gains tax, etc., and registration with the Register of Deeds. Transfer by this means will cost Complainant an estimate of Php56,000.00 with the amount of Php50,000.00 more or less to be spent for the payment of taxes. Transfer by this means may take a period of at least five (5) months. Direct registration, on the other hand, involves preparing documents upon advise of the Register of Deeds and will involve an estimated cost to be negotiated with the officials or employees of the Register of Deeds to a flat amount of Php50,000.00. Transfer by this means will take only one (1) month or less. As for the transfer of OCT No. 9616, Respondent advised Complainant of the filing of a petition for issuance of Owner's Duplicate Copy and thereafter, to proceed with the transfer in the same manner as that outlined in the transfer of TCT. No. T-72074.

It appears that Complainant and Respondent agreed on the direct registration approach because sometime thereafter, Respondent billed Complainant with the following fees: Php50,000.00 as package deal for

the direct transfer of title for TCT. No. T-72074; another Php50,000 as package deal for the transfer of title for OCT No. 9616; Php5,000 for litigation expenses for issuance of duplicate copy of OCT 9616 and another Php15,000 as professional fees, to which Complainant agreed.

On October 28, 2003, Complainant paid Respondent Php70,000.00 pesos [sic].

According to Complainant, she thereafter tried to contact Respondent but the latter cannot be contacted. Thus, she was constrained to write Respondent a letter dated March 5, 2004 asking the latter to contact her.

Subsequently, Respondent sent to Complainant an Extra-judicial Settlement Agreement. Complainant had it signed and sent back to Respondent. Thereafter, Respondent asked Complainant for the owner's duplicate copy of TCT. No. T-72074, which complainant, likewise, sent to Respondent.

Afterwards, Complainant heard nothing from Respondent. When her request for a call from Respondent was not heeded, Complainant wrote Respondent demanding that the amount of Php70,000 which she paid to Respondent be returned to her as well as the owner's duplicate copy of TCT. No. 72074. When Respondent refused, Complainant filed the instant disbarment case charging the former with deceit, malpractice and gross misconduct.

In his Comment, Respondent admitted most of the allegations of Complainant. However, he denied that there was deceit on his part insisting that he clearly outlined to Complainant the available procedures for the transfer of title and afforded Complainant the opportunity to think about the options. He claimed that there was nothing illicit in suggesting the direct registration scheme as the same was advised to him by the officials and employees of the Register of Deeds upon his inquiry thereto. Respondent further argued that he was in constant communication with Complainant and that he processed the transaction for the transfer of registration but that the transfer could not be effected because the documents were inadequate and due, also, to the fact that several officials and employees of the Register of Deeds with whom he was transacting were transferred to other offices due to a revamp in the said office. Respondent added that he continued with the processing of the transfer and that he submitted the matter anew for the approval of the new officials of the Register of Deeds. However, the new officers have not yet approved the same.^[15]

Ruling of the Court

We **AFFIRM** the findings and recommendations of the IBP.

A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.^[16] He shall not engage in unlawful, dishonest, immoral or deceitful conduct;^[17] or counsel or abet activities aimed at a defiance of