

## EN BANC

[ A.C. No. 8000, August 05, 2014 ]

**CHAMELYN A. AGOT, COMPLAINANT, VS. ATTY. LUIS P. RIVERA,  
RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

For the Court's resolution is a Complaint-Affidavit<sup>[1]</sup> dated August 30, 2008 filed by complainant Chamelyn A. Agot (complainant) against respondent Atty. Luis P. Rivera (respondent), charging him of violating the Code of Professional Responsibility (CPR) and the lawyer's oath for misrepresentation, deceit, and failure to account for and return her money despite several demands.

#### The Facts

In her Complaint-Affidavit, complainant alleged that she was invited as maid of honor in her best friend's wedding on December 9, 2007 at the United States of America. To facilitate the issuance of her United States (US) visa, complainant sought the services of respondent who represented himself as an immigration lawyer. Thus, on November 17, 2007, they entered into a Contract of Legal Services (Contract),<sup>[2]</sup> whereby respondent undertook to facilitate and secure the release of a US immigrant visa in complainant's favor prior to the scheduled wedding. In consideration therefor, complainant paid respondent the amount of P350,000.00 as downpayment and undertook to pay the balance of P350,000.00 after the issuance of the US visa.<sup>[3]</sup> The parties likewise stipulated that should complainant's visa application be denied for any reason other than her absence on the day of the interview and/or for records of criminal conviction and/or any court-issued hold departure order, respondent is obligated to return the said downpayment.<sup>[4]</sup> However, respondent failed to perform his undertaking within the agreed period. Worse, complainant was not even scheduled for interview in the US Embassy. As the demand for refund of the downpayment was not heeded, complainant filed a criminal complaint for *estafa* and the instant administrative complaint against respondent.<sup>[5]</sup>

In his Comment<sup>[6]</sup> dated December 5, 2008, respondent claimed that his failure to comply with his obligation under the Contract was due to the false pretenses of a certain Rico Pineda (Pineda), who he had believed to be a consul for the US Embassy and to whom he delivered the amount given by the complainant. Respondent elaborated that he had a business relationship with Pineda on the matter of facilitating the issuance of US visas to his friends and family, including himself. He happened to disclose this to a certain Joseph Peralta, who in turn referred his friend, the complainant, whose previous US visa application had been denied, resulting in the execution of the Contract. Respondent claimed that Pineda

renege on his commitments and could no longer be located but, nonetheless, assumed the responsibility to return the said amount to complainant.<sup>[7]</sup> To buttress his claims, respondent attached pictures supposedly of his friends and family with Pineda as well as electronic mail messages (e-mails) purportedly coming from the latter.<sup>[8]</sup>

### **The IBP's Report and Recommendation**

In a Report and Recommendation<sup>[9]</sup> dated April 17, 2010, the Integrated Bar of the Philippines (IBP) Investigating Commissioner found respondent administratively liable, and accordingly, recommended that he be meted the penalty of suspension for a period of four (4) months, with a warning that a repetition of the same would invite a stiffer penalty.<sup>[10]</sup>

The Investigating Commissioner found respondent guilty of engaging in deceitful conduct for: (a) misrepresenting himself as an immigration lawyer; (b) failing to deliver the services he contracted; and (c) being remiss in returning complainant's downpayment of P350,000.00. The Investigating Commissioner did not lend credence to respondent's defense anent his purported transactions with Pineda considering that the latter's identity was not proven and in light of respondent's self-serving evidence, *i.e.*, photographs and e-mails, which were bereft of any probative value.<sup>[11]</sup>

In a Resolution dated December 14, 2012, the IBP Board of Governors unanimously adopted and approved the aforesaid report and recommendation with the modification increasing the period of suspension to six (6) months and ordering respondent to return the amount of P350,000.00<sup>[12]</sup> to complainant within thirty (30) days from receipt of notice, with legal interest from the date of demand.<sup>[13]</sup>

### **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**

After a judicious perusal of the records, the Court concurs with the IBP's findings, subject to the modification of the recommended penalty to be imposed upon respondent.

As officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing.<sup>[14]</sup> In this regard, Rule 1.01, Canon 1 of the CPR, provides:

CANON 1 – A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

In the instant case, respondent misrepresented himself as an immigration lawyer, which resulted to complainant seeking his assistance to facilitate the issuance of her US visa and paying him the amount of P350,000.00 as downpayment for his legal services. In truth, however, respondent has no specialization in immigration law but merely had a contact allegedly with Pineda, a purported US consul, who supposedly processes US visa applications for him. However, respondent failed to prove Pineda's identity considering that the photographs and e-mails he submitted were all self-serving and thus, as correctly observed by the Investigating Commissioner, bereft of any probative value and consequently cannot be given any credence. Undoubtedly, respondent's deception is not only unacceptable, disgraceful, and dishonorable to the legal profession; it reveals a basic moral flaw that makes him unfit to practice law.<sup>[15]</sup>

Corollary to such deception, respondent likewise failed to perform his obligations under the Contract, which is to facilitate and secure the issuance of a US visa in favor of complainant. This constitutes a flagrant violation of Rule 18.03, Canon 18 of the CPR, to wit:

**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.

Under Rule 18.03, Canon 18 of the CPR, 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,<sup>[17]</sup> as in this case.

Furthermore, respondent violated Rules 16.01 and 16.03, Canon 16 of the CPR when he failed to refund the amount of P350,000.00 that complainant paid him, 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.

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