

SECOND DIVISION

[A.C. No. 7337, September 29, 2014]

ROLANDO VIRAY, COMPLAINANT, VS. ATTY. EUGENIO T. SANICAS, RESPONDENT.

RESOLUTION

DEL CASTILLO, J.:

This is a verified Complaint for Disbarment/Gross Immoral Conduct^[1] filed with this Court on September 18, 2006 by complainant Rolando Viray (complainant) against respondent Atty. Eugenio T. Sanicas (respondent).

Factual Antecedents

Complainant alleges that he engaged the services of respondent relative to a labor case^[2] he filed against Ester Lopez and Teodoro Lopez III (spouses Lopez). On February 26, 2001, the Labor Arbiter ruled in favor of complainant and disposed of the case as follows:

WHEREFORE, premises considered, judgment is hereby rendered ordering respondents Ester Lopez and Teodoro Lopez III to pay complainant Rolando Viray of the following, to wit:

1. Backwages.....P146,726.67
2. Separation Pay.....24,000.00
3. Service Incentive Leave Pay.....1,538.46
4. Attorney's Fees.....17,226.51

or a total amount of One Hundred Eighty Nine Thousand Four Hundred Ninety One Pesos & 64/100 (P189,491.60) [sic] to be deposited with the Cashier of this Office, within ten (10) days from receipt hereof.

All other claims are hereby denied for lack of merit.

SO ORDERED.^[3]

Subsequently, an Alias Writ of Execution^[4] was issued relative to aforesaid decision. During the implementation of said writ, however, complainant discovered that respondent had already collected the total amount of P95,000.00 from spouses Lopez. Respondent received said amount in the following manner:

Date	Voucher No.	Amount	Purpose
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02/05/2004	7802	P 20,000.00	Attorney's fees
02/13/2004	7833	10,000.00	Partial payment for judgment
02/26/2004	7848	10,000.00	Partial payment for judgment
03/12/2004	7894	20,000.00	Partial payment for judgment
04/02/2004	7932	5,000.00	Partial payment for judgment
04/06/2004	7941	5,000.00	Partial payment for judgment
04/13/2004	7944	5,000.00	Partial payment for judgment
04/16/2004	7954	10,000.00	Partial payment for judgment
04/30/2004	7977	10,000.00	Partial payment for judgment
Total Amount:		P 95,000.00	

Complainant also discovered that respondent misrepresented to spouses Lopez that he is authorized to receive payments on his behalf, when in truth and in fact he is not. Consequently, complainant made several verbal demands to the respondent to remit to him the amount of P95,000.00, less his attorney's fees of P20,000.00. But respondent did not budge. Thus, complainant lodged a complaint before the Office of the *Punong Barangay* of Brgy. Felisa, Bacolod City. Respondent, however, ignored the summons to attend a conference before the barangay to resolve the issues.

In his Comment,^[5] respondent admits that he received P95,000.00 from spouses Lopez on installments, but denies that he was not authorized to accept it. He explains that complainant agreed to pay him additional attorney's fees equivalent to 25% of the total monetary award, on top of the attorney's fees that may be awarded by the labor tribunal, and to refund all expenses respondent incurred relative to the case. Thus, from the total award of P189,491.60, the sum of P17,226.57 representing respondent's professional fees has to be deducted, leaving a balance of P172,275.13.^[6] Then from said amount, complainant proposed that he will get P100,000.00 and the balance of P72,275.13 shall belong to respondent as and for his additional 25% attorney's fees and reimbursement for all expenses he incurred while handling the case. However, after receiving the amount of P95,000.00 and deducting therefrom the amounts of P20,000.00^[7] attorney's fees, P17,000.00 earlier given to complainant, and P2,000.00 paid to the sheriff, what was left to respondent was only P56,000.00. Respondent whines that this amount is way below the promised 25% attorney's fees and refund of expenses in the total amount of P72,275.13.

Respondent asserts that, in any event, complainant will still be receiving a sum greater than what he expects to receive. He avers that complainant is still entitled to receive from spouses Lopez the sum of P93,491.60. Adding the P17,000.00 respondent previously remitted to complainant, the latter will get a total amount of P110,491.60. This amount, according to respondent, exceeds the amount of P100,000.00 complainant agreed to and expected to receive.

IBP's Report and Recommendation

On February 26, 2007,^[8] we referred this case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. On January 31, 2011, the Investigating Commissioner issued his Report and Recommendation^[9] with the following recommendation:

In view of the foregoing, it is respectfully recommended that the respondent be meted the penalty of two (2) years suspension. Respondent is also ordered to return, in restitution all the amounts in his possession which are due to complainant, less his rightful attorney's fees.

^[10]

On October 28, 2011, the IBP Board of Governors adopted Resolution No. XX-2011-139,^[11] which approved the Report and Recommendation of the Investigating Commissioner suspending respondent from the practice of law for two years, but with the modification that respondent should restate the sum of P85,500.00^[12] to the complainant.

Issue

The essential issue in this case is whether the respondent is guilty of gross misconduct for his failure to promptly account to his client the funds received in the course of his professional engagement and return the same upon demand.

The Court's Ruling

"The Code of Professional Responsibility demands the utmost degree of fidelity and good faith in dealing with the moneys entrusted to lawyers because of their fiduciary relationship."^[13] Specifically, Rule 16.01 of the Code imposes upon the lawyer the duty to "account for all money or property collected or received for or from the client." Rule 16.03 thereof, on the other hand, mandates that "[a] lawyer shall deliver the funds x x x of his client when due or upon demand."

In this case, respondent on nine separate occasions from February 5, 2004 to April 30, 2004 received payments for attorney's fees and partial payments for monetary awards on behalf of complainant from spouses Lopez. But despite the number of times over close to three months he had been receiving payment, respondent neither informed the complainant of such fact nor rendered an accounting thereon. It was only when an Alias Writ of Execution was issued and being implemented when complainant discovered that spouses Lopez had already given respondent the total amount of P95,000.00 as partial payment for the monetary awards granted to him by the labor tribunal.

To make matters worse, respondent withheld and refused to deliver to the complainant said amount, which he merely received on behalf of his client, even after demand. Complainant brought the matter before the *barangay*, but respondent simply ignored the same. Such failure and inordinate refusal on the part