

EN BANC

[**A.C. No. 6788 (FORMERLY CBD 382), August 23, 2007**]

**DIANA RAMOS, COMPLAINANT, VS. ATTY. JOSE R. IMBANG,
RESPONDENT.**

RESOLUTION

PER CURIAM:

This is a complaint for disbarment or suspension^[1] against Atty. Jose R. Imbang for multiple violations of the Code of Professional Responsibility.

The Complaint

In 1992, the complainant Diana Ramos sought the assistance of respondent Atty. Jose R. Imbang in filing civil and criminal actions against the spouses Roque and Elenita Jovellanos.^[2] She gave respondent P8,500 as attorney's fees but the latter issued a receipt for P5,000 only.^[3]

The complainant tried to attend the scheduled hearings of her cases against the Jovellanoses. Oddly, respondent never allowed her to enter the courtroom and always told her to wait outside. He would then come out after several hours to inform her that the hearing had been cancelled and rescheduled.^[4] This happened six times and for each "appearance" in court, respondent charged her P350.

After six consecutive postponements, the complainant became suspicious. She personally inquired about the status of her cases in the trial courts of Biñan and San Pedro, Laguna. She was shocked to learn that respondent never filed any case against the Jovellanoses and that he was in fact employed in the Public Attorney's Office (PAO).^[5]

RESPONDENT'S DEFENSE

According to respondent, the complainant knew that he was in the government service from the very start. In fact, he first met the complainant when he was still a district attorney in the Citizen's Legal Assistance Office (predecessor of PAO) of Biñan, Laguna and was assigned as counsel for the complainant's daughter.^[6]

In 1992, the complainant requested him to help her file an action for damages against the Jovellanoses.^[7] Because he was with the PAO and aware that the complainant was not an indigent, he declined.^[8] Nevertheless, he advised the complainant to consult Atty. Tim Ungson, a relative who was a private practitioner.^[9] Atty. Ungson, however, did not accept the complainant's case as she was unable

to come up with the acceptance fee agreed upon.^[10] Notwithstanding Atty. Ungson's refusal, the complainant allegedly remained adamant. She insisted on suing the Jovellanoses. Afraid that she "might spend" the cash on hand, the complainant asked respondent to keep the P5,000 while she raised the balance of Atty. Ungson's acceptance fee.^[11]

A year later, the complainant requested respondent to issue an antedated receipt because one of her daughters asked her to account for the P5,000 she had previously given the respondent for safekeeping.^[12] Because the complainant was a friend, he agreed and issued a receipt dated July 15, 1992.^[13]

On April 15, 1994, respondent resigned from the PAO.^[14] A few months later or in September 1994, the complainant again asked respondent to assist her in suing the Jovellanoses. Inasmuch as he was now a private practitioner, respondent agreed to prepare the complaint. However, he was unable to finalize it as he lost contact with the complainant.^[15]

Recommendation of the IBP

Acting on the complaint, the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) where the complaint was filed, received evidence from the parties. On November 22, 2004, the CBD submitted its report and recommendation to the IBP Board of Governors.^[16]

The CBD noted that the receipt^[17] was issued on July 15, 1992 when respondent was still with the PAO.^[18] It also noted that respondent described the complainant as a shrewd businesswoman and that respondent was a seasoned trial lawyer. For these reasons, the complainant would not have accepted a spurious receipt nor would respondent have issued one. The CBD rejected respondent's claim that he issued the receipt to accommodate a friend's request.^[19] It found respondent guilty of violating the prohibitions on government lawyers from accepting private cases and receiving lawyer's fees other than their salaries.^[20] The CBD concluded that respondent violated the following provisions of the Code of Professional Responsibility:

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

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

Rule 18.01. A lawyer should not undertake a legal service which he knows or should know that he is not qualified to render. However, he may render such service if, with the consent of his client, he can obtain as collaborating counsel a lawyer who is competent on the matter.

Thus, it recommended respondent's suspension from the practice of law for three years and ordered him to immediately return to the complainant the amount of P5,000 which was substantiated by the receipt.^[21]

The IBP Board of Governors adopted and approved the findings of the CBD that respondent violated Rules 1.01, 16.01 and 18.01 of the Code of Professional Responsibility. It, however, modified the CBD's recommendation with regard to the restitution of P5,000 by imposing interest at the legal rate, reckoned from 1995 or, in case of respondent's failure to return the total amount, an additional suspension of six months.^[22]

The Court's Ruling

We adopt the findings of the IBP with modifications.

Lawyers are expected to conduct themselves with honesty and integrity.^[23] More specifically, lawyers in government service are expected to be more conscientious of their actuations as they are subject to public scrutiny. They are not only members of the bar but also public servants who owe utmost fidelity to public service.^[24]

Government employees are expected to devote themselves completely to public service. For this reason, the private practice of profession is prohibited. Section 7(b) (2) of the Code of Ethical Standards for Public Officials and Employees provides:

Section 7. Prohibited Acts and Transactions. -- In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following constitute prohibited acts and transactions of any public official and employee and are hereby declared unlawful:

xxx xxx xxx

(b) Outside employment and other activities related thereto, public officials and employees during their incumbency shall not:

xxx xxx xxx

(1) Engage in the private practice of profession unless authorized by the Constitution or law, provided that such practice will not conflict with their official function.^[25]

Thus, lawyers in government service cannot handle private cases for they are expected to devote themselves full-time to the work of their respective offices.

In this instance, respondent received P5,000 from the complainant and issued a receipt on July 15, 1992 while he was still connected with the PAO. Acceptance of money from a client establishes an attorney-client relationship.^[26] Respondent's admission that he accepted money from the complainant and the receipt confirmed the presence of an attorney-client relationship between him and the complainant. Moreover, the receipt showed that he accepted the complainant's case while he was still a government lawyer. Respondent clearly violated the prohibition on private practice of profession.

Aggravating respondent's wrongdoing was his receipt of attorney's fees. The PAO was created for the purpose of providing free legal assistance to indigent litigants.