

SPECIAL THIRD DIVISION

[A.C. NO. 5655, January 23, 2006]

VALERIANA U. DALISAY, COMPLAINANT, VS. ATTY. MELANIO MAURICIO, JR., RESPONDENT.

R E S O L U T I O N

SANDOVAL-GUTIERREZ, J.:

At bar is a motion for reconsideration of our Decision dated April 22, 2005 finding Atty. Melanio "Batas" Mauricio, Jr., respondent, guilty of malpractice and gross misconduct and imposing upon him the penalty of suspension from the practice of law for a period of six (6) months.

A brief revisit of facts is imperative, thus:

On October 13, 2001, Valeriana U. Dalisay, complainant, engaged respondent's services as counsel in Civil Case No. 00-044, entitled "*Lucio De Guzman, etc., complainants, v. Dalisay U. Valeriana, respondent,*" pending before the Municipal Trial Court, Branch 1, Binangonan, Rizal. Notwithstanding his receipt of documents and attorney's fees in the total amount of P56,000.00 from complainant, respondent never rendered legal services for her. As a result, she terminated the attorney-client relationship and demanded the return of her money and documents, but respondent refused.

On January 13, 2004, Investigating Commissioner Lydia A. Navarro of the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline, found that "**for the amount of P56,000.00 paid by the complainant x x x, no action had been taken nor any pleadings prepared by the respondent except his alleged conferences and opinions rendered when complainant frequented his law office.**" She recommended that respondent be required to refund the amount of P56,000.00 to the complainant, and surprisingly, that the complaint be dismissed.

On February 27, 2004, the IBP Board of Governors passed Resolution No. XVI-2004-121, adopting and approving in toto Commissioner Navarro's Report and Recommendation.

On April 22, 2005, we rendered the assailed Decision.

Incidentally, upon learning of our Decision, respondent went to the MTC, Branch I, Binangonan, Rizal to verify the status of Civil Case No. 00-044. There, he learned of the trial court's Decision dated December 6, 2001 holding that "the tax declarations and title" submitted by complainant "are not official records of the Municipal Assessor and the Registry of Deed." Thereupon, respondent filed a Sworn Affidavit Complaint ^[1] against complainant charging her with violations of Article 171 ^[2] and

172, [3] and/or Article 182 [4] of the Revised Penal Code. He alleged that complainant offered tampered evidence.

In this *motion for reconsideration*, respondent raises the following arguments:

First, complainant did not engage his services as counsel in Civil Case No. 00-044. She hired him for the purpose of filing two new petitions, a petition for declaration of nullity of title and a petition for review of a decree.

Second, Civil Case No. 00-044 was "considered submitted for decision" as early as August 6, 2001, or more than two months prior to October 13, 2001, the date he was engaged as counsel, hence, "he could not have done anything anymore" about it.

Third, complainant refused to provide him with documents related to the case, preventing him from doing his job.

And **fourth**, complainant offered tampered evidence in Civil Case No. 00-004, prompting him to file falsification cases against her.

In her opposition to the motion, complainant contends that: (1) respondent violated the principle of confidentiality between a lawyer and his client when he filed falsification charges against her; (2) respondent should have returned her money; (3) respondent should have verified the authenticity of her documents earlier if he really believed that they are falsified; and (4) his refusal to return her money despite this Court's directive constitutes contempt.

We deny respondent's motion for reconsideration.

It is axiomatic that no lawyer is obliged to act either as adviser or advocate for every person who may wish to become his client. He has the right to decline employment. But once he accepts money from a client, an attorney-client relationship is established, giving rise to the duty of fidelity to the client's cause. [5] From then on, he is expected to be mindful of the trust and confidence reposed in him. He must serve the client with competence and diligence, and champion the latter's cause with wholehearted devotion. [6]

Respondent assumed such obligations when he received the amount of P56,000.00 from complainant and agreed to handle Civil Case No. 00-044. Unfortunately, he had been remiss in the performance of his duties. As we have ruled earlier, **"there is nothing in the records to show that he (respondent) entered his appearance as counsel of record for complainant in Civil Case No. 00-044."** Neither is there any evidence nor pleading submitted to show that he initiated new petitions.

With ingenuity, respondent now claims that **"complainant did not engage his services for Civil Case No. 00-044"** but, instead, she engaged him for the filing of two new petitions. This is obviously a last-ditch attempt to evade culpability. Respondent knows very well that if he can successfully disassociate himself as complainant's counsel in Civil Case No.00-044, he cannot be held guilty of any dereliction of duties.

But respondent's current assertion came too late in the day. He is already bound by his previous statements. In his Verified Comment on the Affidavit-Complaint, [7] he categorically stated that complainant engaged his services in Civil Case No. 00-044, originally handled by Atty. Oliver Lozano, thus:

4.a. Complainant was referred to the Respondent by Atty. Oliver Lozano.

4.b. The referral intrigued Respondent no end, simply because Atty. Oliver Lozano is a bright lawyer and is very much capable of handling Civil Case No. 00-044.

4.c. Respondent-out of respect from Atty. Oliver Lozano – did not inquire the reason for the referral. But he was made to understand that he was being referred because Atty. Oliver Lozano believed that Respondent would be in a better position to prosecute and/or defend the Complainant in Civil Case No. 00-044.

x x x x x x

5.c. Complainant went to the law office of Respondent on October 13, 2001 and demanded that he provides her with free legal service.

x x x x x x

5.e. Respondent, however, told Complainant that the case (Civil Case No. 00-044) would not entitle her to a free legal service and advised her to just re-engage the services of Atty. Oliver Lozano.

5.f. Undaunted, Complainant asked Respondent to assess her case and how she and her lawyer should go prosecuting and/or defending her position therein.

5.g. Honestly believing that Complainant was no longer represented by counsel in Civil Case No. 00-044 at that time, Respondent gave his professional opinion on the factual and legal matters surrounding the said case.

5.h. Apparently impressed with the opinion of the Respondent, Complainant became even more adamant in asking the former to represent her in Civil Case No. 00-044.

5.i. Respondent then told Complainant that she would be charged as a regular client is she insists in retaining his services.

5.j. It was at this juncture that Complainant asked Respondent about his fees.

5.k. After re-assessing Civil Case No. 00-044, Respondent told Complainant that he will have to charge her with an acceptance