

FIRST DIVISION

[A.C. NO. 6317, August 31, 2006]

LUZVIMINDA C. LIJAUCO, COMPLAINANT, VS. ATTY. ROGELIO P. TERRADO, RESPONDENT.

DECISION

YNARES-SANTIAGO, J.:

On February 13, 2004, an administrative complaint^[1] was filed by complainant Luzviminda C. Lijauco against respondent Atty. Rogelio P. Terrado for gross misconduct, malpractice and conduct unbecoming of an officer of the court when he neglected a legal matter entrusted to him despite receipt of payment representing attorney's fees.

According to the complainant, she engaged the services of respondent sometime in January 2001 for P70,000.00 to assist in recovering her deposit with Planters Development Bank, Buendia, Makati branch in the amount of P180,000.00 and the release of her foreclosed house and lot located in Calamba, Laguna. The property identified as Lot No. 408-C-2 and registered as TCT No. T-402119 in the name of said bank is the subject of a petition for the issuance of a writ of possession then pending before the Regional Trial Court of Binan, Laguna, Branch 24 docketed as LRC Case No. B-2610.

Complainant alleged that respondent failed to appear before the trial court in the hearing for the issuance of the Writ of Possession and did not protect her interests in the Compromise Agreement which she subsequently entered into to end LRC Case No. B-2610.^[2]

Respondent denied the accusations against him. He averred that the P70,000.00 he received from complainant was payment for legal services for the recovery of the deposit with Planters Development Bank and did not include LRC Case No. B-2610 pending before the Regional Trial Court of Biñan, Laguna.

The complaint was referred^[3] to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. On September 21, 2005, the Investigating Commissioner submitted his report finding respondent guilty of violating Rules 1.01 and 9.02 of the Code of Professional Responsibility which provide:

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

Rule 9.02 – A lawyer shall not divide or stipulate to divide a fee for legal services with persons not licensed to practice law, except:

a) Where there is a pre-existing agreement with a partner or associate that, upon the latter's death, money shall be paid over a reasonable period of time to his estate or to the persons specified in the agreement; or

b) Where a lawyer undertakes to complete unfinished legal business of a deceased lawyer; or

c) Where a lawyer or law firm includes non-lawyer employees in a retirement plan, even if the plan is based in whole or in part, on a profit-sharing arrangement.

In finding the respondent guilty of violating Rules 1.01 and 9.02 of the Code of Professional Responsibility, the Investigating Commissioner opined that:

In disbarment proceedings, the burden of proof rests upon the complainant. To be made the suspension or disbarment of a lawyer, the charge against him must be established by convincing proof. The record must disclose as free from doubt a case which compels the exercise by the Supreme Court of its disciplinary powers. The dubious character of the act done as well as of the motivation thereof must be clearly demonstrated. x x x.

In the instant scenario, despite the strong protestation of respondent that the Php70,000.00 legal fees is purely and solely for the recovery of the Php180,000.00 savings account of complainant subsequent acts and events say otherwise, to wit:

- 1.) The Php70,000.00 legal fees for the recovery of a Php180,000.00 savings deposit is too high;
- 2.) Respondent actively acted as complainant's lawyer to effectuate the compromise agreement.

By openly admitting he divided the Php70,000.00 to other individuals as commission/referral fees respondent violated Rule 9.02, Canon 9 of the Code of Professional Responsibility which provides that a lawyer shall not divide or stipulate to divide a fee for legal services with persons not licensed to practice law. Worst, by luring complainant to participate in a compromise agreement with a false and misleading assurance that complainant can still recover after Three (3) years her foreclosed property respondent violated Rule 1.01, Canon 1 of the Code of Professional Responsibility which says a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.^[4]

The Investigating Commissioner thus recommended:

WHEREFORE, finding respondent responsible for aforestated violations to protect the public and the legal profession from his kind, it is recommended that he be suspended for Six (6) months with a stern warning that similar acts in the future will be severely dealt with.^[5]

The IBP Board of Governors adopted the recommendation of the investigating commissioner.^[6]