

EN BANC

[A.C. No. 5182, August 12, 2004]

**SUSANA DE GUZMAN BUADO AND NENA LISING,
COMPLAINANTS, VS. ATTY. EUFRACIO T. LAYAG, RESPONDENT.**

RESOLUTION

PER CURIAM:

The instant case arose from a verified **Letter-Complaint**^[1] for malpractice filed with this Court on December 9, 1999, against respondent Atty. Eufracio T. Layag by Susana de Guzman Buado and Nena Lising. The complaint stated that de Guzman Buado and Lising had instituted a criminal action for estafa^[2] against Atty. Layag with the Office of the City Prosecutor of Caloocan City and that the City Prosecutor had resolved that there was prima facie evidence to justify the filing in court of informations for two (2) counts of estafa against Atty. Layag.^[3] Accordingly, two cases for estafa, docketed as Criminal Cases Nos. C-58087 and C-58088 were filed with the Regional Trial Court (RTC) of Caloocan City, Branch 124.^[4]

In our **Resolution** of January 31, 2000, we directed that Atty. Layag be furnished a copy of the complaint for his comment.

In his **Comment** dated April 11, 2000, Atty. Layag denied committing any malpractice, saying that he merely complied with the wishes of his client, the late Rosita de Guzman, to deliver any money judgment in Civil Case No. C-14265 before the RTC of Caloocan City, Branch 121, to her attorney-in-fact, one Marie Paz P. Gonzales. Respondent prayed that the complaint be dismissed for want of merit.

Thereafter, this Court resolved on July 10, 2000 to refer the matter to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.^[5]

As culled from the report and recommendation^[6] dated September 25, 2003 of the IBP Investigating Commissioner, Atty. Milagros V. San Juan, the facts in this case are as follows:

Herein complainant Lising and her sister, Rosita de Guzman (mother of herein complainant Susana de Guzman Buado), were the plaintiffs in Civil Case No. C-14265, entitled *Rosita de Guzman, et al., v. Inland Trailways, Inc.*, which was decided by the RTC of Caloocan City, Branch 121, in favor of the plaintiffs on May 16, 1991. Both Lising and de Guzman were represented in said case by herein respondent, Atty. Layag. The losing party, Inland Trailways, Inc., appealed the trial court's judgment to the Court of Appeals, said appeal being docketed as CA-G.R. CV No. 34012.

In its decision dated January 5, 1995, the appellate court affirmed the judgment of the trial court. However, on July 3, 1993, or while CA-G.R. CV No. 34012 was pending before the appellate court, de Guzman died.

Pursuant to the judgment against it, Inland Trailways, Inc., issued the following checks: (1) Traders Royal Bank Check No. 0000790549 dated February 15, 1996 for P15,000 payable to Atty. Layag; (2) Traders Royal Bank Check No. 0000790548 dated March 8, 1996 in the amount of P30,180 payable to Lising; and (3) Traders Royal Bank Check No. 0000790547 dated March 8, 1996 for the sum of P49,000 payable to de Guzman who had by then already passed away. The aforementioned checks were received by respondent lawyer from Pablo Gernale, Jr., the deputy sheriff of the RTC in February 1996. Atty. Layag did not inform Lising and the heirs of de Guzman about the checks. Instead he gave the checks to one Marie Paz Gonzales for encashment on the strength of a Special Power of Attorney, purportedly executed by de Guzman constituting Gonzales as her attorney-in-fact. The Special Power of Attorney supposedly authorized Gonzales, among others, to encash, indorse, and/or deposit any check or bill of exchange received in settlement of Civil Case No. C-14265.

It was only in February 1998 that Lising and de Guzman Buado, while checking the status of Civil Case No. C-14265, found that judgment had been rendered in the said case and that the losing party had paid the damages awarded by issuing checks which were received by their counsel, Atty. Layag, two years earlier. De Guzman Buado and Lising then made demands upon Atty. Layag to give them the proceeds of the checks, but to no avail. Marie Paz Gonzales eventually gave Lising P10,000. No further amounts were remitted to either Lising or de Guzman Buado despite demands by them.

After the parties presented their oral and documentary evidence before the IBP Commissioner, the matter was deemed submitted for resolution. On September 25, 2003, the IBP Investigating Commissioner made the following recommendations:

It is submitted that respondent has betrayed the trust of her (sic) clients. It is recommended that respondent be suspended from the practice of law for the maximum period allowed under the law and that he be ordered to turn over to the Complainants the amounts he received in behalf of the complainants Susana de Guzman Buado and Nena Lising.

Respectfully submitted.^[7]

The IBP Investigating Commissioner, in her recommendation, found that in giving the checks to a party not entitled to them, Atty. Layag disregarded the rights and interests of his clients in violation of Canons 15,^[8] 16,^[9] and 17^[10] of the Code of Professional Responsibility.

On the **Special Power of Attorney**^[11] purportedly executed by Rosita de Guzman in favor of Marie Paz Gonzales, the Investigating Commissioner held that even assuming *arguendo* that there was indeed a Special Power of Attorney, it nonetheless had no force and effect after the death of Rosita de Guzman. Hence, any authority she had conferred upon Gonzales was already extinguished. According to the IBP Investigating Commissioner, since respondent represented de Guzman in Civil Case No. C-14265, upon her death, respondent had the obligation to preserve

whatever benefits accrued to the decedent on behalf of and for the benefit of her lawful heirs.

On October 25, 2003, the IBP Board of Governors passed its resolution on the case, affirming with modification the recommendation by the Investigating Commissioner, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, **with modification**, and considering that Respondent has betrayed the trust of her (sic) clients in violation of Canon 15, 16 and 17 of the Code of Professional Responsibility, Atty. Eufracio T. Layag is hereby **DISBARRED** and **Ordered** to turn over immediately to the Complainants the amounts received in their behalf.^[12]

Respondent then moved for reconsideration of the foregoing resolution before this Court. In view of the recommended penalty of disbarment, the Court *En Banc* accepted the respondent's motion for our consideration.

Placed in issue are: (1) the sufficiency of the evidence to prove the respondent's liability for violation of the Code of Professional Responsibility; and (2) the propriety of the recommended penalty.

After careful scrutiny of the proceedings conducted by the IBP Investigating Commissioner, we find that the factual findings made in her report and recommendation are well supported by the evidence on record. Respondent Atty. Layag does not deny receiving the checks in question, but he claimed he turned over said checks to Marie Paz Gonzales, pursuant to the alleged Special Power of Attorney executed by Rosita de Guzman in favor of Gonzales, authorizing the latter to encash, indorse, or deposit any check received as a result of the judgment in Civil Case No. C-14265. Respondent contended that in so doing, he was being true to the wishes and desires of his client, the late Rosita de Guzman.

The respondent's arguments fail to persuade us. As a lawyer, with more than thirty (30) years in practice, respondent is charged with knowledge of the law. He should know that it was error for him to rely on a Special Power of Attorney after the death of the principal, Rosita de Guzman. As pointed out by the IBP Investigating Commissioner, even assuming there was a Special Power of Attorney, although respondent could not produce a copy nor prove its existence, when de Guzman died that document ceased to be operative. This is clear from Article 1919^[13] of the Civil Code. While there are instances, as provided in Article 1930, ^[14] where the agency is not extinguished by the death of the principal, the instant case does not fall under the exceptions. Clearly, at the time Atty. Layag received and turned over the checks corresponding to the award of damages in Civil Case No. C-14265 in February 1996, there was no longer any valid Special Power of Attorney. Again, as pointed out by the IBP Investigating Commissioner, respondent's duty when the award of damages was made, was to preserve and deliver the amount received to the heirs of his client, de Guzman, and not to any other person.