

## FIRST DIVISION

[ A.C. No. 5841, January 20, 2003 ]

**EMILY SENCIO, COMPLAINANT, VS. ATTY. ROBERT CALVADORES  
RESPONDENT.**

### RESOLUTION

**DAVIDE JR., C.J.:**

In a verified complaint<sup>[1]</sup> for disbarment filed with the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) dated 18 November 1999, complainant Emily Sencio charged respondent Atty. Robert Calvadores with violation of the lawyer's oath, malpractice and gross misconduct.

Complainant Sencio alleged that sometime in 1997 her eldest son, Herbert Sencio, died in a vehicular accident. She was referred by her mother-in-law to respondent Calvadores to prosecute the civil aspect of the case. On 19 May 1998 she initially gave the respondent the amount of P1,500 and promised to pay the attorney's fees later.

On 20 August 1998, after having accumulated enough funds, the complainant paid the respondent the amount of P12,000 as attorney's fees and for other expenses relating to the case. The payment was duly acknowledged by the respondent.<sup>[2]</sup>

From that time on, complainant Sencio regularly contacted the respondent to update herself of the status of the case. The respondent kept on assuring her that everything would be alright. Finally, however, complainant discovered that the respondent did not file any case, a fact which the respondent admitted. The latter promised to return to the complainant the money he had received from her.

The complainant returned several times to respondent's house and even patiently waited for him outside his house to get back her money. The respondent, however, did not return to her the money. He still did not file the case in court either.

In its Order<sup>[3]</sup> of 19 November 1999, the Commission on Bar Discipline, through Commissioner Victor C. Fernandez, required the respondent to submit his answer to the complaint and reminded him that if he failed to answer, he would be considered in default and the case would be heard *ex-parte*.

Notwithstanding his receipt of the Order, as evidenced by the registry return card, the respondent did not file any answer to the complaint. He was then given notice to appear at the hearing on 29 May 2001.

In the initial hearing on 29 May 2001, the respondent did not appear. The hearing was reset to 16 July 2001. The respondent was warned that if he would fail to appear on that date, the evidence for the complainant would be received; the case

would be deemed submitted for decision; and he would have to face the consequences of his non-appearance and disrespectful attitude towards the Commission on Bar Discipline.<sup>[4]</sup>

When the case was called for hearing on 16 July 2001, the respondent did not appear despite due notice. Fortunately for him, the counsel for the complainant was not available for the presentation of evidence. The hearing was reset to 7 September 2001, and the respondent was directed to be present at such hearing.<sup>[5]</sup> The Commission reiterated the warning in its Order of 29 May 2001. But, on that date the respondent failed again to appear.<sup>[6]</sup> The hearing was then reset to 24 October 2001 but was later cancelled and reset to 14 December 2001.<sup>[7]</sup>

Again, despite due notice, the respondent did not appear for the hearing on 14 December 2001. Commissioner Wilfredo E.J. E. Reyes, who took charge of the investigation, received the evidence for the complainant. In his Report and Recommendation, he found the respondent guilty of the violation of Canons 16, 17 and 18 of the Code of Professional Responsibility, and recommended that the respondent be suspended from the practice of law for a period of three (3) months and be ordered to return to the complainant the amount of P12,000.

In its Resolution No. XV-2002-410 dated 3 August 2002, the Board of Governors of the IBP adopted the Report and Recommendation of Commissioner Reyes.

We agree with the findings and conclusion of the Commission, as approved and adopted by the Board of Governors of the IBP. The breach of respondent's sworn duty as a lawyer and of the ethical standards he was strictly to honor and observe has been sufficiently established.

Needless to state, a lawyer-client relationship existed between the respondent and the complainant. As such, the respondent, under Canon 17 of the Code of Professional Responsibility, owed fidelity to the cause of his client. Once a lawyer agrees to handle a case, he should undertake the task with dedication and care; less than that, he is not true to his oath as a lawyer.<sup>[8]</sup> In failing to file the case he undertook to handle, the respondent violated Canon 18 of the Code of Professional Responsibility, specifically Rule 18.03 thereof, which provides that "a lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable."

Likewise, in not returning the money to the complainant after a demand therefor was made following his failure to file the case, the respondent violated Canon 16 of the Code of Professional Responsibility, particularly Rule 16.03 thereof, which requires that "a lawyer shall deliver the funds and property of his client upon demand." It is settled that the unjustified withholding of money belonging to his client warrants the imposition of disciplinary action.<sup>[9]</sup>

We also frown upon the attitude of the respondent in not answering the complaint and in deliberately disregarding the orders and notices of the IBP on many occasions. This attitude showed a character or disposition which stains the nobility of the legal profession. He chose not to appear at the scheduled hearings despite due notice and the warnings. Section 30, Rule 138 of the Rules of Court specifically provides: