

SECOND DIVISION

[Adm. Case No. 5162, March 20, 2003]

**EMILIANO COURT TOWNHOUSES HOMEOWNERS ASSOCIATION,
COMPLAINANT, VS. ATTY. MICHAEL DIONEDA, RESPONDENT.**

DECISION

BELLOSILLO, J.:

A LAWYER OWES FIDELITY to the cause of his client mindful always of the trust and confidence reposed in him.^[1] An attorney-at-law must serve his client with competence and diligence at all times,^[2] and never neglect a legal matter entrusted to him,^[3] for it is his sworn duty to delay no man for money or malice and to conduct himself in a proper manner not just to his client, but also to the court, the legal profession and society at large.

This is an administrative complaint for disbarment filed by the EMILIANO COURT TOWNHOUSES HOMEOWNERS ASSOCIATION (ECTHA) against ATTY. MICHAEL DIONEDA.

On 29 September 1997 ECTHA and respondent Dioneda entered into a *Retainer's Agreement* wherein respondent lawyer agreed to handle the case of the complainant against LVF Realty, Mr. Tinsay and BPI Family Savings Bank by way of filing a *Complaint-in-Intervention* in the Regional Trial Court of Valenzuela, Metro Manila, docketed as Civil Case No. 4890-V-96, for ₱20,000.00 as attorney's fees and ₱1,000.00 as appearance fee per hearing.^[4] It was further agreed that respondent lawyer would update the complaint and work on the development of the case.^[5]

In its Complaint ECTHA alleged that Atty. Dioneda, after receiving the amount of ₱20,000.00, did nothing for the development of the case and to update the complaint on the status of ECTHA's intended *Complaint-in-Intervention*. Due to the insistence of the members of the Association, Mr. Fernando Garcia, ECTHA President, was compelled to check the records of the case in the Regional Trial Court of Valenzuela, Branch 75, and secured a certification from the Branch Clerk of Court dated 5 July 1999 that there was no motion for intervention filed in the case.^[6]

On behalf of ECTHA Mr. Garcia repeatedly made oral demands for respondent to return the amount of ₱20,000.00 because he did not do anything to protect the rights and interests of the Association. Respondent Dioneda only made oral promises to pay, and in August 1999 he could no longer be contacted and the personnel in his office simply made excuses to Mr. Garcia.^[7]

Through Mr. Garcia ECTHA referred the matter to Atty. Antonio L. Umali, who contacted respondent by telephone. Still, no response was made by respondent. On 18 August 1999 a letter dated 17 August 1999 was sent to Dioneda, but again there

was no response.^[8]

In his *Comment* filed before this Court, respondent Dioneda admitted that he and ECTHA entered into a *Retainer's Agreement*; however, he averred that the *Agreement* did not cover only the *Complaint-in-Intervention* as adverted to by the complainant. It also included the case before the Housing and Land Use Regulatory Board (HLURB) that the complainant filed against the developer of Emiliano Court Townhouses who refused to release to the members of the ECTHA their respective *Deeds of Sale*.

At the time his legal services were engaged, Atty. Dioneda alleged that there was already a decision in favor of the complainant. Thereafter, respondent entered his appearance and filed a *Motion for Execution* with the HLURB. According to respondent Mr. Garcia would go with him and follow up the issuance of the *Writ of Execution* with the HLURB National Office. Respondent Dioneda further alleged that he wanted to pursue the *Writ of Execution* since he would attach it to the *Complaint-in-Intervention*, and that this was explained to the members of ECTHA. Respondent claimed that there was delay in the filing of the *Complaint-in-Intervention* because there was delay in the issuance by the HLURB of the *Writ of Execution*.

Respondent further averred that Mr. Garcia would call him at his residence and "spew invectives" at him. There would be no day that Mr. Garcia would not call respondent and hurl expletives at him and his parents. Respondent denied the allegation that ECTHA had made several demands on him and that he promised to pay sometime August 1999.

After receiving the demand letter of ECTHA respondent immediately called up the residence of Mr. Garcia and informed him that he could get the money and the records of the case at his office. However, respondent informed ECTHA that a portion of the amount to be returned would be deducted as a reasonable fee for the efforts exerted by him. According to respondent, no representative of the complainant showed up at his law office.

Respondent Dioneda denied the charge that he never attended to the case of the complainant and that he did nothing to protect the interest of its members. He asserted that there was no intention on his part to defraud them.

The matter was referred to the Integrated Bar of the Philippines for investigation. Hearings were set on at least five (5) separate dates. Despite due notice, respondent never attended the IBP administrative hearings. Thus the IBP Commission on Bar Discipline allowed the presentation of complainant's evidence *ex-parte* against respondent on the 14 December 2001 hearing.^[9]

On 13 February 2002 the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP), through the designated Commissioner, recommended that respondent be found guilty of violating the *Code of Professional Responsibility*, specifically Canons 17 and 18.^[10] The IBP held that the act of receiving professional fees and thereafter failing to render the corresponding legal service is a violation of the *Canons*. The penalty of three (3) months suspension from the practice of law and an order for Dioneda to return the amount of ₱20,000.00 to his client in the interest of justice were recommended. On 29 June 2002, Resolution No. XV-2002-

252 was passed by the IBP Board of Governors adopting and approving the report and recommendation of the Investigating Commissioner.

The sole issue in this case is whether Atty. Dioneda violated Canons 17 and 18 of the *Code of Professional Responsibility*. Admittedly respondent received the amount of ₱20,000.00 as acceptance fee for handling a case to be filed in behalf of ECTHA. Despite receipt of the aforementioned fee, respondent allegedly failed to render the corresponding legal services to the complainant.

We agree with the Report of IBP Commissioner Wilfredo E.J.E. Reyes as approved and adopted by the IBP Board of Governors.

The *Complaint-in-Intervention* was never filed and despite the pronouncement of respondent that he would return the attorney's fees to complainant, he never did. The issuance of the *Writ of Execution* in the HLURB should never have been a requirement imposed by respondent before a *Complaint-in-Intervention* could be filed.

Before the IBP Commission on Bar Discipline, respondent Dioneda did not attend a single hearing to defend himself. Despite due notice, he did not attend the hearings scheduled on 19 March, 9 May, 20 June, 8 August and 14 December 2001. The parties were ordered to submit their respective position papers in the Order of 9 May 2001 of the CBD-IBP. Respondent never complied with the Order.

Respondent's lamentable attitude towards his client's case is clearly evident from his apparent disinterest in his own case for disbarment. Dioneda never bothered to present evidence in his defense. He disregarded all notices sent to him by the IBP Commission on Bar Discipline, which were personally served at his office address. He never appeared before the Commission despite several opportunities to do so and explain his side.

It is reasonable to conclude that under the doctrine of *res ipsa loquitur*, respondent committed an infringement of ethical standards. The act of receiving money as acceptance fee for legal services in handling the case of complainant ECTHA against LVF Realty, Mr. Tinsay and BPI Family Bank and subsequently failing to render such service is a clear violation of Canons 17 and 18 of the *Code of Professional Responsibility*. Not only that. The acts of inexcusable negligence in legal matters entrusted to him and disloyalty to his client constitute major breaches of respondent's oath as a lawyer.^[11] These acts that are inimical to his client's interests render respondent liable.

A member of the legal profession owes his client entire devotion to his genuine interest, warm zeal in the maintenance and defense of his rights and the exertion of his utmost learning and ability.^[12] Public interest demands that an attorney exert his best efforts and ability to preserve his client's cause, for the unwavering loyalty displayed to his client likewise serves the ends of justice. Verily, the entrusted privilege to practice law carries with it the corresponding duties not only to the client but also to the court, to the bar and to the public. A lawyer's inability to properly discharge his duty to his client may also mean a violation of his correlative obligations to the court, to his profession and to the general public.