

THIRD DIVISION

[Adm. Case No. 99-634, June 10, 2002]

DOMINADOR P. BURBE, COMPLAINANT, VS. ATTY. ALBERTO C. MAGULTA, RESPONDENT.

DECISION

PANGANIBAN, J.:

After agreeing to take up the cause of a client, a lawyer owes fidelity to both cause and client, even if the client never paid any fee for the attorney-client relationship. Lawyering is not a business; it is a profession in which duty to public service, not money, is the primary consideration.

The Case

Before us is a Complaint for the disbarment or suspension or any other disciplinary action against Atty. Alberto C. Magulta. Filed by Dominador P. Burbe with the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) on June 14, 1999, the Complaint is accompanied by a Sworn Statement alleging the following:

"x x x

x x x

x x x

"That in connection with my business, I was introduced to Atty. Alberto C. Magulta, sometime in September, 1998, in his office at the Respicio, Magulta and Adan Law Offices at 21-B Otero Building, Juan de la Cruz St., Davao City, who agreed to legally represent me in a money claim and possible civil case against certain parties for breach of contract;

"That consequent to such agreement, Atty. Alberto C. Magulta prepared for me the demand letter and some other legal papers, for which services I have accordingly paid; inasmuch, however, that I failed to secure a settlement of the dispute, Atty. Magulta suggested that I file the necessary complaint, which he subsequently drafted, copy of which is attached as Annex A, the filing fee whereof will require the amount of Twenty Five Thousand Pesos (P25,000.00);

"That having the need to legally recover from the parties to be sued I, on January 4, 1999, deposited the amount of P25,000.00 to Atty. Alberto C. Magulta, copy of the Receipt attached as Annex B, upon the instruction that I needed the case filed immediately;

"That a week later, I was informed by Atty. Alberto C. Magulta that the complaint had already been filed in court, and that I should receive notice of its progress;

"That in the months that followed, I waited for such notice from the court or from Atty. Magulta but there seemed to be no progress in my case, such that I frequented his office to inquire, and he would repeatedly tell me just to wait;

"That I had grown impatient on the case, considering that I am told to wait [every time] I asked; and in my last visit to Atty. Magulta last May 25, 1999, he said that the court personnel had not yet acted on my case and, for my satisfaction, he even brought me to the Hall of Justice Building at Ecoland, Davao City, at about 4:00 p.m., where he left me at the Office of the City Prosecutor at the ground floor of the building and told to wait while he personally follows up the processes with the Clerk of Court; whereupon, within the hour, he came back and told me that the Clerk of Court was absent on that day;

"That sensing I was being given the run-around by Atty. Magulta, I decided to go to the Office of the Clerk of Court with my draft of Atty. Magulta's complaint to personally verify the progress of my case, and there told that there was no record at all of a case filed by Atty. Alberto C. Magulta on my behalf, copy of the Certification dated May 27, 1999, attached as Annex C;

"That feeling disgusted by the way I was lied to and treated, I confronted Atty. Alberto C. Magulta at his office the following day, May 28, 1999, where he continued to lie to with the excuse that the delay was being caused by the court personnel, and only when shown the certification did he admit that he has not at all filed the complaint because he had spent the money for the filing fee for his own purpose; and to appease my feelings, he offered to reimburse me by issuing two (2) checks, postdated June 1 and June 5, 1999, in the amounts of P12,000.00 and P8,000.00, respectively, copies of which are attached as Annexes D and E;

"That for the inconvenience, treatment and deception I was made to suffer, I wish to complain Atty. Alberto C. Magulta for misrepresentation, dishonesty and oppressive conduct;"

x x x

x x x

x x x.^[1]

On August 6, 1999, pursuant to the July 22, 1999 Order of the IBP Commission on Bar Discipline,^[2] respondent filed his Answer^[3] vehemently denying the allegations of complainant "for being totally outrageous and baseless." The latter had allegedly been introduced as a *kumpadre* of one of the former's law partners. After their meeting, complainant requested him to draft a demand letter against Regwill Industries, Inc. -- a service for which the former never paid. After Mr. Said Sayre, one of the business partners of complainant, replied to this letter, the latter requested that another demand letter -- this time addressed to the former -- be drafted by respondent, who reluctantly agreed to do so. Without informing the lawyer, complainant asked the process server of the former's law office to deliver the letter to the addressee.

Aside from attending to the Regwill case which had required a three-hour meeting,

respondent drafted a complaint (which was only for the purpose of compelling the owner to settle the case) and prepared a compromise agreement. He was also requested by complainant to do the following:

1. Write a demand letter addressed to Mr. Nelson Tan
2. Write a demand letter addressed to ALC Corporation
3. Draft a complaint against ALC Corporation
4. Research on the Mandaue City property claimed by complainant's wife

All of these respondent did, but he was never paid for his services by complainant.

Respondent likewise said that without telling him why, complainant later on withdrew all the files pertinent to the Regwill case. However, when no settlement was reached, the latter instructed him to draft a complaint for breach of contract. Respondent, whose services had never been paid by complainant until this time, told the latter about his acceptance and legal fees. When told that these fees amounted to P187,742 because the Regwill claim was almost P4 million, complainant promised to pay on installment basis.

On January 4, 1999, complainant gave the amount of P25,000 to respondent's secretary and told her that it was for the filing fee of the Regwill case. When informed of the payment, the lawyer immediately called the attention of complainant, informing the latter of the need to pay the acceptance and filing fees before the complaint could be filed. Complainant was told that the amount he had paid was a deposit for the acceptance fee, and that he should give the filing fee later.

Sometime in February 1999, complainant told respondent to suspend for the meantime the filing of the complaint because the former might be paid by another company, the First Oriental Property Ventures, Inc., which had offered to buy a parcel of land owned by Regwill Industries. The negotiations went on for two months, but the parties never arrived at any agreement.

Sometime in May 1999, complainant again relayed to respondent his interest in filing the complaint. Respondent reminded him once more of the acceptance fee. In response, complainant proposed that the complaint be filed first before payment of respondent's acceptance and legal fees. When respondent refused, complainant demanded the return of the P25,000. The lawyer returned the amount using his own personal checks because their law office was undergoing extensive renovation at the time, and their office personnel were not reporting regularly. Respondent's checks were accepted and encashed by complainant.

Respondent averred that he never inconvenienced, mistreated or deceived complainant, and if anyone had been shortchanged by the undesirable events, it was he.

The IBP's Recommendation

In its Report and Recommendation dated March 8, 2000, the Commission on Bar