

## EN BANC

[ A.C. No. 4073, June 28, 2001 ]

**ARACELI SIPIN-NABOR, COMPLAINANT, VS. ATTY. BENJAMIN  
BATERINA Y FIGUERAS, RESPONDENT.**

### R E S O L U T I O N

**PARDO, J.:**

On March 10, 1993, Araceli Sipin-Nabor filed with the Supreme Court a complaint against Atty. Benjamin Bateria y Figueras<sup>[1]</sup> seeking his removal or suspension from the bar for betrayal of trust and grave misconduct.<sup>[2]</sup>

On August 16, 1993, we required respondent to file comment on the complaint filed against him.<sup>[3]</sup> Not having filed the comment, on August 21, 1996, the Court required respondent to show cause why he should not be disciplinarily dealt with for failure to file the required comment.<sup>[4]</sup> On April 30, 1997, the Court imposed a fine of P500.00 on respondent for failure to show cause and to file his comment and required him to file the comment within ten (10) days from notice.<sup>[5]</sup>

On March 3, 1998, the Court's Cashier certified that there was no payment made by Atty. Bateria in the amount of P500.00.<sup>[6]</sup> On October 19, 1998, the Court increased the fine to P1,000.00, and referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.<sup>[7]</sup>

On January 18, 1999, respondent remitted Postal Money Order No. B-8630436, amounting to P1,000.00, in payment of the fine imposed upon him.

On May 10, 2000, we received notice of a resolution from the IBP Board of Governors finding respondent guilty of violating Rule 18.03 of Canon 18 of the Code of Professional Responsibility and recommending his suspension from the practice of law for six (6) months, viz:

"RESOLUTION NO. XIV-00-185

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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, Respondent be

SUSPENDED from the practice of law for six (6) months for violation of Rule 18.03 of Canon 18 of the Code of Professional Responsibility and repeated failure to file his Comment/Answer to the complaint."<sup>[8]</sup>

In 1993, complainant, her brothers and sister engaged the services of Atty. Benjamin F. Bateria as their counsel as defendants in Civil Case No. 4195-V of the Regional Trial Court, Vigan, Ilocos Sur, for quieting of title and recovery of possession. Respondent filed with the trial court a "Motion to Extend Time" within which to file an Answer to the complaint. However, Atty. Bateria failed to file the answer to the complaint. Upon motion of the plaintiffs, the trial court declared defendants in default, and allowed the plaintiffs to present their evidence *ex parte*. On January 28, 1993, the trial court rendered a decision adverse to the complainant.

In her complaint,<sup>[9]</sup> complainant alleged that she paid respondent the amount of P2,000.00, demanded by him, for the purpose of filing an answer with counter-claim in the case referred to. Despite respondent's promise to file an answer to the complaint, he did not do so, notwithstanding that she was made to execute a verification on the pretext that respondent had prepared the answer.

On November 5, 1999, the IBP Commission on Bar Discipline ("CBD")<sup>[10]</sup> concluded that there was willful disobedience to the lawful orders of the Supreme Court by respondent Atty. Bateria warranting a six (6) months suspension from the practice of the legal profession.<sup>[11]</sup> The IBP approved the report and recommendations of CBD.<sup>[12]</sup>

We agree with the IBP Board of Governors that respondent was guilty of gross misconduct. However, the recommended penalty is not commensurate to the gravity of the wrong perpetrated.

It would indeed appear that Atty. Benjamin Bateria demanded P2,000.00 for the filing of an answer with counterclaim which he did not file in Civil Case No. 4195-V. Thus, respondent pocketed the amount. Respondent lawyer truly was negligent in handling the case. Moreover, his repeated failure to comply with the resolutions of the Court requiring him to comment on the complaint indicates a high degree of irresponsibility tantamount to willful disobedience to the lawful orders of the Supreme Court.

Respondent, by converting the money of his client to his own personal use without her consent and by deceiving the complainant into giving him the amount of P2,000.00 purportedly to be used for filing an answer with counterclaim, is undoubtedly guilty of deceit, malpractice and gross misconduct. By so doing, he betrayed the confidence reposed in him by his client. Not only did he degraded himself as an unfaithful lawyer, he has besmirched the fair name of an honorable profession.<sup>[13]</sup> "The conversion by a lawyer of funds entrusted to him is a gross violation of professional ethics and a betrayal of public confidence in the legal profession."<sup>[14]</sup>

This Court has been exacting in its demand for integrity and good moral character of