

THIRD DIVISION

[A.C. No. 5105, August 12, 1999]

FERNANDO SALONGA, COMPLAINANT, VS. ATTY. ISIDRO T. HILDAWA, RESPONDENT.

D E C I S I O N

VITUG, J.:

In an affidavit-complaint, dated 29 March 1996, Fernando Salonga, President of Sikap at Tiya Alabang Vendors Association, Inc. ("STAVA"), of Muntinlupa City, charged Atty. Isidro T. Hildawa with gross misconduct and/or deceit. Complainant averred that respondent lawyer was a retained counsel of STAVA for a number of years and, in December 1993, represented the association in Civil Cases No. 2406, No. 2413 and No. 2416, for ejectment against, respectively, Linda Del Rosario, Angelita Manuel and Francisco Vega, all stallholders at the Alabang market, before the Municipal Trial Court of Muntinlupa. The defendants deposited the accrued rentals with the court. On 14 November 1994, respondent lawyer filed a motion to withdraw the deposit; thus:

"JOINT MOTION TO WITHDRAW DEPOSIT

"Counsel for complainant, unto this Honorable Court, most respectfully manifest:

"1. That, defendants-appellants Linda del Rosario, Angelita Manuel and Francisco Vega made their deposit of accrued rentals on their stalls up to October 15, 1994, as follows:

a. Linda del Rosario -- P24,440.60

b. Angelita Manuel -- 46,436.60

c. Francisco Vega -- 33,666.60

Total -- P104,543.80

"2. That, plaintiff is entitled to such deposits made by the appellants in order to pay its obligation with the cooperative which granted the concession to the transient area for the plaintiff to operate;

"3. That, counsel for the appellants register no objection to such withdrawal as shown by his conformity to the herein motion.

"Wherefore, it is prayed of this Honorable Court that plaintiff be authorized to withdraw the corresponding amounts deposited by the defendants in the above-entitled cases.

"RESPECTFULLY SUBMITTED.

"November 14, 1994.

"MAKATI for Muntinlupa.

"HILDAWA & GOMEZ

#3484 Gen. Lucban St., cor. South

Superhighway, Makati, Metro Manila

By:

"(Sgd.) ISIDRO T. HILDAWA

PTR NO. 9428868 / 1-21-94 / Muntinlupa

IBP NO. 347727 / 5-06-94 / Makati

With My Conformity:

(Sgd.) Atty. PATRICIO L. BONCAYAO, JR.

2nd Flr. Cattleya Commercial

National Road, Alabang"^[1]

Respondent lawyer issued a receipt, dated 09 December 1994, that acknowledged his having received the withdrawn deposit of P104,543.80. Complainant alleged that STAVA was not informed of the filing of the motion nor did it authorize Atty. Hildawa to withdraw the amount. Despite repeated demands, respondent lawyer refused to turn over the withdrawn sum to STAVA. To make matters even worse, added the complainant, Atty. Hildawa appeared as counsel for Kilusang Bayan ng mga Magtitinda sa Pamilihang Bayan ng Muntinlupa ("KBMBPM"), an opponent of STAVA in Civil Case No. 95-192, for Injunction with Urgent Prayer for Restraining Order, before Branch 276 of the Regional Trial Court of Muntinlupa. Eventually, the RTC, acting on a motion to disqualify respondent in said case, directed, in its order of 26 December 1995, the latter "to withdraw from the case and avoid committing an unethical conduct."^[2]

In his answer to the complaint, Atty. Hildawa countered that complainant was fully aware of the withdrawal of the rental in arrears deposited by the defendants in the ejectment cases and that complainant, on several occasions, even accompanied him in following up the release of the money. He said he did not turn over the amount withdrawn to complainant since Salonga was then on leave; instead he handed over, on 10 December 1994, the sum to Dolores Javinar, the treasurer of the association, who issued the corresponding receipt therefor.

In his reply, Salonga disclaimed the supposed turn-over of the money to Javinar and the allegation that he was on leave of absence.

This Court referred the case to the Integrated Bar of the Philippines ("IBP") for investigation, report and recommendation.

In a resolution, dated 13 March 1998, the Commission on Bar Discipline, through Commissioner Renato G. Cunanan, found respondent guilty of violation of Canons 16 and 21 of the code of Professional Responsibility and recommended that he be suspended for one year from the practice of law. On 25 April 1998, the IBP Board of Governors, in its Resolution NO. XIII-98-72, resolved to adopt and approve the recommendation of the Investigating Commissioner.

Soon after receiving a copy of the above-numbered resolution, respondent reverted to IBP seeking a reconsideration of its resolution only to be thereupon informed that the case had already been forwarded to this Court. Respondent submitted to the Court a memorandum, dated 05 August 1998, asseverating that the findings of the Investigating Commissioner were contrary to the evidence on record. He cited the resolution of the STAVA Board of Trustees, dated 30 October 1994, that read:

"KATITIKAN NG PULONG
NG

BOARD OF TRUSTEES
NG

SIKAP AT TIYAGA ALABANG VENDORS
ASSOCIATION, INC.

Ginanap noong ika-30 ng Oktubre, 1994 sa
Tanggapan nito sa Alabang

Mga Dumalo:

President	-	Fernando Salonga
Executive Vice-Pres.	-	Tirso Sapar
VP Internal	-	Domingo Silava
VP Security	-	Leonardo Gumapos
Auditor	-	Undo Cipriano

Hindi Dumalo:

VP External	-	Aser Arevalo
Treasurer	-	Dolores Javinar