

## EN BANC

[ A.C. NO. 2591, September 08, 2006 ]

**LETICIA ADRIMISIN, COMPLAINANT, VS. ATTY. ROLANDO S. JAVIER, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

On 12 September 1983, Leticia Adrimisin ("complainant") filed a complaint-affidavit<sup>[1]</sup> with the Ministry of Justice seeking the disbarment of Atty. Rolando S. Javier ("respondent") for deceit and misrepresentation.

#### The Facts

Complainant alleges that on 12 July 1983, she was introduced by her cousin, Pablo Adrimisin, to respondent. She needed the help of a lawyer in having her son-in-law, Alfredo Monterde ("Monterde"), who was charged with the crime of qualified theft, released from the Caloocan City Jail. Complainant claims that respondent advised her to file a bail bond. Complainant informed respondent that her only money was P500. Complainant contends that respondent received the money, issued a receipt<sup>[2]</sup> and promised that Monterde would be released from jail the following day.

Complainant also alleges that respondent failed to keep his promise in having Monterde released. Complainant went to respondent's office several times but it seemed that respondent was avoiding her. Monterde was later released upon settlement of the case with his employer. Complainant claims that she demanded for the return of the P500 but respondent failed to return this amount.

Respondent did not file any comment or answer. He only appeared in the investigative hearings conducted by the Office of the Solicitor General ("OSG"). Respondent, in his testimony, claims he was not hired by complainant as legal counsel. Respondent alleges complainant only asked his help to secure a bail bond.<sup>[3]</sup> Respondent admits he received P500 for the bail bond and called up Carlos Alberto ("Alberto"), an insurance agent.<sup>[4]</sup> Respondent claims he gave the P500 to Alberto. However, the amount was not sufficient to pay for the bond.<sup>[5]</sup> Respondent denies that he promised to have Monterde released immediately.<sup>[6]</sup> Respondent claims he advised complainant to get back her money directly from Alberto.<sup>[7]</sup>

Alberto, the insurance agent, was presented during the hearing. He testified that on 20 July 1983, respondent came to him to secure a bail bond for qualified theft.<sup>[8]</sup> Alberto showed a copy of the personal bail bond dated 20 July 1983, issued by Philippine Phoenix Surety & Insurance, Inc. ("Philippine Phoenix Surety") with a

premium of P940 and costs of documentary stamps, notarial fees and clearances at P279 for a total of P1,219. [9] Alberto claimed he issued a genuine bond but it was not filed in court because complainant failed to pay the balance. [10] He also testified that Pablo Adrimisin asked for the refund of the P500 but the amount could not be refunded due to expenses already incurred and forfeiture of the remainder in favor of Alberto's office. [11]

The bail bond which was marked as Exhibit "1" contained a stamped "Limitation of Liability" clause. The clause states "Authorized limit of the bond shall not exceed P20,000 and it is not valid for theft and robbery cases." [12] The portion "Not valid for theft and robbery cases" was deleted with a marking pen but this cancellation was not signed or initialed. Alberto was asked why the cancellation was unsigned. Alberto replied that he had no knowledge on who made the stamp or the cancellation. [13] When asked if it is the policy of Philippine Phoenix Surety not to post personal bail bond with respect to theft and robbery cases, Alberto answered in the affirmative. [14]

Alberto also clarified that he is not connected with Philippine Phoenix Surety but he is an employee of the House of Bonds, which is the general agent of the former. [15]

Mr. Alfredo Brigoli ("Brigoli"), General Manager of the House of Bonds, was also presented as one of respondent's witnesses. Brigoli explained that he gives Alberto 5 sets of pre-signed bail bond forms. [16] However, in theft, robbery and drug cases, Alberto is required to seek his approval before the bond is issued.

Brigoli testified that it was Alberto's daughter who called him up for approval to issue a bond for qualified theft. [17] He informed Alberto's daughter to bring the original bond and its duplicate copies to his office in Intramuros for his signature, but the same was not done. [18] Due to the lack of his signature, Brigoli claimed that the bond has not been approved. [19] Brigoli also testified that since the bond was not forwarded to his office, the same was not recorded and the payment was not remitted.

### **The OSG's Report and Recommendation**

The OSG's Investigating Solicitor Antonio G. Castro heard the case and submitted a Report and Recommendation ("Report"). The OSG recommended that respondent be suspended from the practice of law for not less than one year. The Report reads:

The charge of deceit and misrepresentation against respondent has been sufficiently established. Respondent himself admits that he received from complainant the sum of P500.00 for the bail bond of complainant's son-in-law Alfredo Monterde; that he failed to secure Monterde's release from jail; and that he did not return the sum of P500.00 to complainant (pp. 9-20, tsn, March 14, 1985).

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Respondent's defense that he actually secured a bail bond for Monterde is

a mere afterthought. Firstly, complainant confided to him that she had no more money except P500.00. He would not, therefore, secure a bail bond with higher premium than P500.00.

Secondly, while he declared that the records of Monterde's case in the Regional Trial Court in Caloocan City, Branch XXV, sala of Judge Oscar Herrera showed that the recommended bail was P8,000.00 (pp. 8-9, tsn, March 14, 1985), the personal bail bond, marked as Exhibit "1", which was allegedly prepared, was for P9,400.00 (Exh. "1", p. 7, Folder of Exhs.).

Thirdly, respondent's witness, Alfredo Brigoli, the general manager of the AAF House of Bonds, admitted that Exhibit "1" was not finally approved. On cross-examination, he declared:

"Q. Have you signed that as finally approved?

A. No, sir. When they called up asking for my signature on the deleted portion of the bond, Mr. Alberto never came to my office.

Q. In other words that bond has not been finally approved.

A. Not finally approved because there is no signature yet." (p. 20, tsn, Sept. 30, 1985).

As held by this Honorable Court in *Royong v. Oblena*, 7 SCRA 859, 868-869 (1963), "The respondent's misconduct, although unrelated to his office, may constitute sufficient grounds for disbarment." And in *Quingwa v. Puno*, 19 SCRA 439, 445 (1967), it also held that, "Indeed, it is important that members of this ancient and learned profession of law must conform themselves in accordance with the highest standards of morality."

Specifically, for deceit and misrepresentation, respondent may be suspended or disbarred (*In re Paraiso*, 41 Phil. 24, 25 [1920]).<sup>[20]</sup>

### **The Court's Ruling**

The Court finds respondent liable for violation of Canon 16 and Rule 18.03 of the Code of Professional Responsibility ("Code"). The Code mandates every lawyer to hold in trust all moneys and properties of his client that may come into his possession.<sup>[21]</sup> Consequently, a lawyer should account for the money received from a client.<sup>[22]</sup> The Code also enjoins a lawyer not to neglect a legal matter entrusted to him,<sup>[23]</sup> and his negligence in connection therewith shall render him liable.

Respondent himself admitted the receipt of P500 from complainant as payment for the bail bond as shown in his testimony and in Exhibit "A". By his receipt of the amount, respondent agreed to take up complainant's cause and owed fidelity to complainant and her cause, even if complainant never paid any fee. Lawyering is not a business. It is a profession in which duty to public service, not money, is the primary consideration.<sup>[24]</sup>