

## **EN BANC**

**[ A.C. No. 12881, February 09, 2021 ]**

**NORMA NICOLAS, COMPLAINANT, VS. ATTY. JOSE LAKI,  
RESPONDENT.**

### **DECISION**

#### **PER CURIAM:**

##### **Antecedents**

By Complaint-Affidavit<sup>[1]</sup> filed before the Integrated Bar of the Philippines (IBP) on June 20, 2007, complainant Norma Nicolas sought the disbarment of respondent Atty. Jose Laki for violation of Canon 1, Rule 1.01 and 1.02; Canon 10, Rule 10.01; Canon 15, Rule 15.06; Canon 16, Rule 16.01 and 16.03; and Canon 18, Rule 18.03, all of the Code of Professional Responsibility (CPR)<sup>[2]</sup> She essentially alleged:

In November 2005, she asked Atty. Adoracion Umipig to handle the nullity of marriage case of her brother Joseph Darag, a Filipino based in Japan. But since Atty. Umipig worked with the government, she referred the matter to her friends in private practice. Respondent, an old friend and former officemate of hers, volunteered to handle the case.<sup>[3]</sup>

Respondent informed her he would be filing the case in Balanga, Bataan where he had successfully handled and completed a similar petition in only three (3) months. He charged a fee of P130,000.00 and assured her the annulment proceedings would be finished by the first week of April 2006.<sup>[4]</sup>

About a month later, respondent fetched Atty. Umipig in Manila and met with her (complainant) in Mabalacat City, Pampanga. There, she gave respondent the initial payment of P100,000.00 which was discounted to P95,000.00. Atty. Umipig was present when the payment was made.<sup>[5]</sup>

In March 2006, respondent requested additional payment and reassured her that the case was almost finished. Thus, she had Atty. Umipig deposit P20,000.00 to the bank account of respondent's mother.<sup>[6]</sup>

In April 2006, respondent told her and Atty. Umipig that Judge Vianzon who was presiding over the case was on leave. He nevertheless guaranteed that the case was almost done. But after the holy week, she could no longer contact respondent. Atty. Umipig, too, tried to contact him, but to no avail.<sup>[7]</sup>

Atty. Umipig was eventually able to locate respondent but the latter simply made excuses. He claimed that Judge Vianzon was hesitant to issue a favorable decision but he managed to convince the judge to do it anyway. According to him, the sheriff

was already serving copies of the decision to the National Statistics Office and the Local Civil Registrar in Nueva Ecija where Joseph's marriage took place.<sup>[8]</sup> Thereafter, respondent became elusive once again.<sup>[9]</sup>

In November 2006, she went to Balanga, Bataan to check on the status of Joseph's annulment case but discovered that no case was ever filed by respondent. She thus sought Atty. Umipig's help to compel respondent to return the money she had paid. Eventually, they were able to contact respondent who promised to return the money he received. But he never made good his promise. He, too, ignored the demand letter she sent him.<sup>[10]</sup>

Hence, she now seeks respondent's disbarment for the latter's misrepresentations, deceitful conduct, and misappropriation of money entrusted him, in violation of the CPR.

Respondent failed to refute the charges against him.

**First.** Respondent failed to file any answer despite seeking an extension to file one until August 16, 2007. About a decade later, when he was given a fresh period of fifteen (15) days or until May 9, 2017 within which to file an answer, he squandered the opportunity anew.<sup>[11]</sup>

**Second.** On respondent's manifestation-request, the investigating commissioner issued Order dated November 8, 2017, giving respondent ten (10) days to file his position paper. He failed to comply yet again.<sup>[12]</sup>

**Finally.** Respondent failed to attend the clarificatory hearing on May 4, 2018 where Atty. Umipig testified against him.<sup>[13]</sup>

### **IBP Report and Recommendation**

By Report and Recommendation<sup>[14]</sup> dated April 3, 2019, Commissioner Nelly Annegret R. Puno-Yambot found respondent guilty of violating Canon 1, Rule 1.01; Canon 11; Canon 15, Rule 15.06;<sup>[15]</sup> Canon 16, Rules 16.01 and 16.03; and Canon 18, Rule 18.03, warranting his disbarment, thus:

WHEREFORE in view thereof, it is respectfully recommended that respondent Jose N. Laki be DISBARRED from the practice of law. The Commission likewise recommends that respondent be ordered to pay the complainant twenty (P20,000.00) with legal interest of six percent (6%) per annum.

Respectfully submitted.

Preliminarily, Commissioner Puno-Yambot noted that respondent already got disbarred in ***Kenneth R. Mariano v. Atty. Jose N. Laki***<sup>[16]</sup> for reasons similar to those complained of in the present case. Thus, Commissioner Puno-Yambot recommended respondent's disbarment anew, if only to caution this Court against granting respondent's plea for judicial clemency, if at all he would ask for it.<sup>[17]</sup>

By Resolution dated June 17, 2019, the IBP Board of Governors adopted Commissioner Puno-Yambot's recommendation although it deleted the order to reimburse P20,000.00 to complainant and imposed a P20,000.00 fine, *viz.*:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, **with modification**, to impose upon Respondent the penalty of **DISBARMENT** and for failure to comply with the various orders and requirements of the Commission, a **FINE of P20,000.00** plus application of legal interest thereto until fully paid.

On July 28, 2020, the IBP elevated the entire records for the Court's consideration since the IBP Resolution was merely recommendatory in nature and does not attain finality without the Court's final act.

### **Ruling**

The Court adopts the factual findings of the IBP but modifies the recommended penalty.

As keenly observed by Commissioner Puno-Yambot, the present case mirrors the factual milieu of **Mariano** in all substantial aspects. A reproduction of the facts therein is *apropos*:<sup>[18]</sup>

On January 7, 2009, Mariano alleged that he approached Atty. Laki to engage his legal services for the filing of a petition for annulment of his marriage. Atty. Laki then informed him to prepare the amount of P160,000.00, representing a package deal for his professional fee, docket fee and expenses for the preparation and filing of the petition, subject to an advance payment of P50,000.00. Mariano expressed surprise over the huge amount that Atty. Laki was asking, thus, the latter assured him that he could secure a favorable decision even without Mariano's personal appearance since he will file the petition for annulment before the Regional Trial Court (RTC) of Tarlac which is presided by a "friendly judge" and is known to be receptive to annulment cases.

Believing in Atty. Laki's assurances, Mariano initially paid Atty. Laki the amount of P50,000.00, as evidenced by a receipt issued by Atty. Laki himself on January 7, 2009. Upon Atty. Laki's relentless follow-ups to pay the remaining balance, Mariano made the succeeding payments in the amounts of P40,000.00 and P60,000.00 on April 13, 2009 and August 2009, respectively, as evidenced by receipts issued by Atty. Laki.

For almost a year thereafter, Mariano followed up with Atty. Laki the status of the petition. He then discovered that the petition has yet to be filed. Atty. Laki told him that the Presiding Judge of the RTC-Tarlac where he allegedly filed the petition has been dismissed by the Supreme Court, thus, he decided to withdraw the case since he did not expect the new presiding judge to be "friendly."

Doubtful of Atty. Laki's allegations, Mariano attempted to get a copy of the petition but the former told him that he still has to locate the copy in his office. Mariano tried several times to get hold of a copy of the petition

but nevertheless failed, as it became very difficult to meet Atty. Laki. Mariano averred that he also tried calling Atty. Laki through his cellphone, but his calls were likewise rejected. These then prompted Mariano to instead demand the return of his money considering that it was apparent that Atty. Laki failed to fulfill his duty as lawyer to file the petition for annulment.

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The misconduct of Atty. Laki is further aggravated by Atty. Laki's non-chalant attitude on the proceedings before the IBP, as demonstrated by his repetitive disregard of the IBP's directives to file his comment on the complaint and appear during hearings. Atty. Laki, while astute in filing several motions for postponement of the mandatory conference, he never filed his answer to the complaint, despite several reminders and opportunities given by the IBP. He, likewise, offered no justification or any valid reason as to why he failed to submit his Answer.

Clearly, Atty. Laki's act of ignoring the IBP's directives is tantamount to an obstinate refusal to comply with the IBP's rules and procedures. This constitutes blatant disrespect for the IBP which amounts to conduct unbecoming lawyer. As an officer of the court, Atty. Laki is expected to know that said directives of the IBP, as the investigating arm of the Court in administrative cases against lawyers, is not a mere request but an order which should be complied with promptly and completely. As an officer of the court, it is a lawyer's duty to uphold the dignity and authority of the court. The highest form of respect for judicial authority is shown by a lawyer's obedience to court orders and processes.

In **Mariano**, respondent accepted money from his client as payment for handling the latter's case for nullity of marriage. But respondent failed to file any petition for his client. He, too, failed to return his client's money despite demand. Respondent's attitude during the IBP proceedings and his repeated disregard of its directives also did not escape the Court's attention. In view of the totality of respondent's infractions, the Court imposed the ultimate penalty of disbarment against him.

Indeed, the facts laid down in **Mariano** do not stray from the present case. Respondent did not change his pattern of behavior, only his victim. Hence, the Court shall deal with respondent in the present case with as much severity as it did in **Mariano**.

In **Mariano**, the Court found respondent guilty of violating Canon 1, Rule 1.01; Canon 11, Rule 11.04; and Canon 16, Rules 16.01 to 16.03 of the CPR, which ordain:

CANON 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

Rule 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

CANON 11 - A lawyer shall observe and maintain the respect due to the Courts and to judicial officers and should insist on similar conduct by others.

Rule 11.04 A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality to the case.

CANON 16- A lawyer shall hold in trust all moneys and properties of his client that may come into his possession.

Rule 16.01 A lawyer shall account for all money or property collected or received for or from the client.

Rule 16.02 - A lawyer shall keep the funds of each client separate and apart from his own and those of others kept by him.

Rule 16.03 A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

As held:<sup>[19]</sup>

In the instant case, it is clear that Atty. Laki violated his sworn duties under the CPR. Not only did he fail to file the petition for annulment of marriage despite receipt of the acceptance fee in the amount of P150,000.00, he also failed to account for the money he received. He also failed to keep his client abreast with the developments and status of the case as he actually never provided Mariano a copy of the petition despite demand. Worse, after receiving his acceptance fee, Atty. Laki also made it difficult for his client to contact him, as in fact Mariano felt that he was being avoided.

Having received payment for services which were not rendered, Atty. Laki was unjustified in keeping Mariano's money. His obligation was to immediately return the said amount. His refusal to do so despite repeated demands constitutes a violation of his oath where he pledges not to delay any man for money and swears to conduct himself with good fidelity to his clients. His failure to return the money, also gives rise to the presumption that he has misappropriated it for his own use to the prejudice of, and in violation of, the trust reposed in him by the client. It is a gross violation of general morality as well as of professional ethics, as it impairs public confidence in the legal profession.

It must be emphasized anew that the fiduciary nature of the relationship between the counsel and his client imposes on the lawyer the duty to account for the money or property collected or received for or from his client. When a lawyer collects or receives money from his client for a particular purpose, he should promptly account to the client how the