THIRD DIVISION

[A.C. No. 10571, November 11, 2020]

ATTY. VIRGILIO A. SEVANDAL, COMPLAINANT, VS. ATTY. MELITA B. ADAME, RESPONDENT.

D E C I S I O N

DELOS SANTOS, J.:

The Facts

On September 6, 2011, complainant Atty. Virgilio A. Sevandal (Atty. Sevandal) filed with the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) a Complaint[1] dated September 5, 2011 for disbarment against respondent Atty. Melita B. Adame (Atty. Adame) in violation of Rules 8.02,[2] Canon 8 (encroaching upon the professional employment of another lawyer) and Rule 10.01,[3] Canon 10 (doing any falsehood) of the Code of Professional Responsibility (CPR).

Atty. Sevandal claimed that through a verbal agreement on February 2, 2011, Merlina Borja-Sevandal (Merlina) engaged his professional services to provide legal advice and assistance, as well as file court cases when necessary, to Merlina's claims with Fuyoh Shipping Co. (Fuyoh Shipping), Bandila Maritime Services, Inc. (Bandila Maritime), Social Security System (SSS), and other offices for whatever benefits she was entitled to as the surviving spouse of Master Camilo Verano Sevandal (Camilo). Camilo died on January 27, 2011 and was employed as a Ship Master by Fuyoh Shipping/Bandila Maritime at the time of his death. The aforementioned verbal agreement was substantiated by an Affidavit[4] dated December 7, 2011 executed by Josefina Verano Sevandal, Merlina's first cousin, attesting that she was in the meeting with Atty. Sevandal and Merlina on February 2, 2011 and witnessed the agreement of the parties on Atty. Sevandal's 10% contingent fee for handling Merlina's case.

On March 9, 2011, Atty. Sevandal and Merlina executed a Retainer Contract[5] with respect to the recovery of Merlina's share on the (1) conjugal partnership property, which she acquired during her marriage, and (2) legitime as heir and surviving spouse of Camilo. As compensation, Merlina promised to pay: (1) acceptance and success fees amounting to 10% of the prevailing market value of all real and/or personal property restored/vested in the possession of the client; (2) appearance fees; (3) hotel, travel and food expenses; and (4) cash advances of (a) P100,000.00 upon receipt by the client of the insurance proceeds from the employer/office concerned, and (b) P150,000.00 upon the filing of the complaint in the proper court. Further, it was expressly stated in the Retainer Contract that the contract covers the litigation at the level of the Regional Trial Court (RTC) only and that if there would be any appeal or petition before the appellate courts, a new retainer contract would be executed by the parties.

On April 25, 2011, Atty. Sevandal alleged that he executed an Addendum to Retainer Contract with Merlina stating that the client agreed to contract his services as legal counsel with respect to her claims for death and other monetary benefits as the legal wife of Camilo from the following offices/agencies: (1) Bandila Maritime; (2) Del Rosario Pandiphil, Inc. (DRPI); (3) Associated Maritime Officers' and Seamen's Union of the Philippines; (4) Overseas Workers Welfare Administration; (5) Employees' Compensation Commission; (6) SSS; and (7) other offices and/or agencies. Also, the client promised to pay an acceptance and success fee amounting to 20% of the total death/monetary benefits that the client may receive. Atty. Sevandal submitted an Affidavit dated December 2, 2011 executed by Analyn B. Dingal, secretary of Atty. Cris Paculanang who notarized the Addendum, stating that she handed the Addendum to client Merlina, in the presence of Atty. Sevandal.[6]

On April 26, 2011, Atty. Sevandal filed a claim for death and other benefits that Merlina may be lawfully entitled to with DRPI, the indemnity agent of Fuyoh Shipping and Bandila Maritime.[7]

Meanwhile, on May 3, 2011, Atty. Adame, in behalf of Merlina, filed a Complaint with the National Labor Relations Commission (NLRC)[8] against Fuyoh Shipping and Bandila Maritime for the payment of death benefits, sickness allowance, damages, and attorney's fees.[9]

On May 4, 2011, DRPI informed Atty. Sevandal that Merlina's claim for death benefits was discontinued due to the filing of the complaint by Atty. Adame with the NLRC. However, it was intimated that if the NLRC complaint would he withdrawn, the settlement of Merlina's claim would be resumed by DRPI and that in less than two (2) months, Merlina would receive a check covering the death benefits. Atty. Sevandal alleged that Merlina was amenable to the withdrawal of the NLRC complaint.[10]

On May 9, 2011, Atty. Sevandal filed with the NLRC a Manifestation Re: Withdrawal of Complaint (filed by Atty. Adame), as well as a Formal Entry of Appearance as counsel for Merlina. Atty. Sevandal attached a photocopy of the Addendum to Retainer Contract.[11]

On May 10, 2011, Atty. Sevandal was informed by DRPI that the settlement claim for death benefits would not be resumed since DRPI decided to enter its appearance at the mandatory conference called by the NLRC.[12]

On May 23, 2011, Atty. Sevandal entered his appearance as counsel for Merlina at the NLRC mandatory conference and a certain Atty. Ma. Bella Eviota (Atty. Eviota) entered her appearance, for and in the absence of Atty. Adame, as counsel for Merlina. Atty. Sevandal manifested his objection pursuant to Rule 8.02, Canon 8 of the CPR.[13]

On May 30, 2011, at the next mandatory conference, Atty. Adame filed her entry of appearance as counsel for Merlina. Atty. Sevandal again reiterated his objection.[14]

On June 17, 2011, Atty. Sevandal filed an *Ex-Parte* Motion for Attorney's Lien, equivalent to 20% of whatever amount would be awarded to Merlina, as agreed upon under the Addendum to Retainer Contract.[15]

On July 7, 2011, Atty. Adame filed an Opposition/Manifestation[16] (to the *Ex-Parte* Motion for Attorney's Lien) stating that she caused the filing of the NLRC complaint. Atty. Adame alleged that Atty. Sevandal has no basis for claiming attorney's fees since Merlina "vehemently denies having signed any addendum contract giving 20% fee to Atty. Sevandal."[17] Atty. Adame added that the Retainer Contract dated March 9, 2011 was annulled/made void by Merlina through a Revocation of Retainer Contract dated May 24, 2011.

In an Order dated August 1, 2011, the Labor Arbiter approved the Compromise Agreement entered into by Merlina and Bandila Maritime and the amount of P300,000.00 attorney's fees was awarded to Atty. Sevandal. Atty. Sevandal was made to sign a general release and quitclaim, captioned as Sum of Money and Release of Attorney's Lien, to absolve and release Bandila Maritime from any and all claims.[18]

On September 6, 2011, Atty. Sevandal filed the disbarment complaint against Atty. Adame with the IBP-CBD.

In her Answer[19] dated October 4, 2011, Atty. Adame denied the allegations that she violated the CPR. Atty. Adame expressed that while she was not privy to the Retainer Contract executed by Atty. Sevandal and Merlina, the same had no relation to the case she filed with the NLRC since the Retainer Contract was made exclusively for the filing of civil cases at the RTC level only. Atty. Adame stated that Merlina executed a Revocation of Retainer Contract[20] dated May 24, 2011 revoking, annulling and voiding the Retainer Contract because of misrepresentations, threats, abuse of confidence and conflict of interests with Atty. Sevandal. Also, Atty. Adame posited that Merlina denied signing any Addendum to Retainer Contract and that Atty. Sevandal did not even submit an original copy of the alleged Addendum to the NLRC and the IBP, but only mere photocopies which were questionable in its content and accompanying signatures. Atty. Adame argued that since the Retainer Contract had been revoked by Merlina, then it should follow that the alleged Addendum had also been revoked.[21]

Likewise, Atty. Adame declared that Atty. Sevandal's misleading assertions of alleged pending payment before DRPI in settlement of Merlina's claims was denied by DRPI's counsel during the NLRC mandatory conference on May 30, 2011 while in open session and in the presence of the Labor Arbiter and all parties, including Atty. Sevandal himself.[22]

Atty. Adame objected to Atty. Sevandal's allegation that Merlina agreed to the withdrawal of the NLRC complaint. Atty. Adame clarified that (1) Merlina filed a Manifestation on May 25, 2011 to the NLRC that she appointed Atty. Adame as her lawful attorney-in-fact on May 3, 2011 and Atty. Adame had the sole authority and discretion relevant to the case she filed before the NLRC, and (2) Merlina declared in the NLRC open session on May 30, 2011 that she chose Atty. Adame as her legal counsel.[23]

Further, Atty. Adame asserted that Atty. Sevandal was the one vehemently against the filing of the case at the NLRC and his entry of appearances at the NLRC mandatory conferences as counsel for Merlina, as well as his objections to Atty. Adame's representation, was self-serving. Atty. Adame added that in all the pleadings from the parties in the NLRC case, Atty. Sevandal was not included as a

counsel on record, but was merely allowed to be present in the proceedings as a mere bystander.[24]

Atty. Adame expressed that she did not object to Merlina's generous offer to give the amount of P300,000.00 to Atty. Sevandal, being the uncle of her deceased husband, in order to expedite the NLRC case. The said amount was given to Atty. Sevandal during the last hearing and where Atty. Sevandal was made to sign a document entitled "Sum of Money and Release of Attorney's Lien." However, despite receiving said amount and signing the quitclaim, Atty. Sevandal harbored ill feelings against her, when she only did her duty and successfully finished the case in a span of two months.[25]

Lastly, Atty. Adame stated that there was no encroachment of professional employment of another lawyer to speak of since the Retainer Contract refers to properties already acquired and which had to be recovered or restored to Merlina as the first wife of Camilo, but had nothing to do with the money claim for death benefits of her late husband's employment as a seafarer. Also, the scope of the Retainer Contract covered litigation of a case at the RTC level only.[26]

The IBP's Report and Recommendation

On February 2, 2013, the Investigating Commissioner of the IBP-CBD issued a Report and Recommendation[27] finding that Atty. Adame did not encroach on the professional employment of Atty. Sevandal nor commit any falsehood. The dispositive portion of the Report and Recommendation states:

> In view of the foregoing premises, it is respectfully recommended that the instant complaint be dismissed for lack of merit.
>
> MOREOVER, it is respectfully recommended that an order be made directing complainant to explain why he should not be held administratively liable for encroaching upon the professional services of respondent with client and for receiving Php300,000 as attorney's fees in the NLRC case considering that complainant has neither authority to appear nor has he rendered any service for the client on the said NLRC case.
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> RESPECTFULLY SUBMITTED.[28]

The Investigating Commissioner held that Atty. Adame did not violate Rule 8.02, Canon 8 of the CPR. The Investigating Commissioner stated that the Retainer Contract dated 9 March 2011 relied upon by Atty. Sevandal as his basis that Atty. Adame allegedly encroached on his professional services covered the litigation at the level of the RTC only. Thus, the NLRC case was not covered by Atty. Sevandal's engagement with his client, Merlina. Also, Merlina even declared in writing and in open court that Atty. Adame was her counsel of choice, which repudiated Atty. Sevandal's claim.[29]

Also, the Investigating Commissioner declared that on the contrary, it was Atty. Sevandal who encroached upon and meddled with the legal services and professional engagement provided by Atty. Adame to Merlina in the NLRC case by attending the NLRC hearings even without Merlina's authority. Further, Atty.