

EN BANC

[A.C. No. 12460, March 26, 2019]

DIWEI "BRYAN" HUANG, COMPLAINANT, V. ATTY. JUDE FRANCIS V. ZAMBRANO, RESPONDENT.

D E C I S I O N

PER CURIAM:

This administrative case stemmed from a Complaint for Disbarment dated December 16, 201^[1] (Disbarment Case) filed before the Commission on Bar Discipline of the Integrated Bar of the Philippines (CBD-IBP) by complainant Diwei "Bryan" Huang (Huang) against respondent Atty. Jude Francis V. Zambrano (Zambrano), charging the latter with violation of Canon 16 of the Code of Professional Responsibility (CPR).

The facts follow.

Huang is a citizen of Singapore, who is abroad at most times and comes to the Philippines only for business.

Sometime in October 2014, Huang engaged Atty. Zambrano's services to pursue a money claim against certain individuals. In view of such engagement, Atty. Zambrano filed on November 11, 2014, on Huang's behalf, a criminal case for estafa against several individuals (Estafa Case) before the Office of the City Prosecutor of Pasig City. Huang paid the amount of PhP50,000.00 to Atty. Zambrano for his legal services. As Huang was often out of the country, his communication with Atty. Zambrano was through electronic mail or Facebook chat messages.

On or about the first week of January 2015, Atty. Zambrano informed Huang that the respondents in the pending Estafa Case had expressed their willingness to settle and pay Huang PhP250,000.00. Huang accepted the settlement proposal per Atty. Zambrano's advice.

Huang asked Atty. Zambrano how the settlement would be facilitated. Being abroad at that time, Huang suggested that either: (1) Atty. Zambrano would relay Huang's bank account details to the respondents in the Estafa Case so they could directly deposit the settlement money to the said account; or (2) Huang's friend, Ang Kevin Kar Wai (Ang), could personally collect the amount after Atty. Zambrano had secured the same from the respondents in the Estafa Case. However, Atty. Zambrano rejected both of Huang's suggestions. He rebuffed the first option, insisting that the payment should be coursed through him before it was to be transferred to Huang; while he disagreed with the second option as he would be unable to track the money once he has transferred it to Ang, whom he does not know.

The respondents in the Estafa Case eventually paid Huang the settlement money *via* Atty. Zambrano. When Huang inquired as to how he could get his money, Atty.

Zambrano answered that the dismissal of the Estafa Case should first be processed. For two months, Huang constantly followed-up and demanded his money from Atty. Zambrano but to no avail. Atty. Zambrano would proffer to Huang various excuses, to wit: the Estafa Case has not yet been formally dismissed; his busy schedule; or he was dealing with personal and family issues.

Realizing that the demands for his money were futile, Huang instituted the present Disbarment Case against Atty. Zambrano before the CBD-IBP. Huang asserted that Atty. Zambrano violated Rules 16.01 and 16.03, Canon 16 of the CPR that enjoin a lawyer to hold in trust all moneys and properties of his client that may come into his possession, to account for all money or property collected or received for or from his client, and to deliver the funds and property of his client when due or upon demand. Huang claimed that Atty. Zambrano had already received, on Huang's behalf, the payment for the settlement of the Estafa Case amounting to PhP250,000.00, but despite Huang's continuous demands, the money remained in Atty. Zambrano's possession.

Atty. Zambrano did not file any answer to the complaint or submit his brief for the scheduled mandatory conference despite duly receiving copies of the CBD-IBP Order^[2] requiring the same. His counsel appeared only once in two scheduled mandatory conferences^[3] before the CBD-IBP.

The CBD-IBP Investigating Commissioner^[4] eventually ruled in Huang's favor. He found that Atty. Zambrano's continued refusal to remit the settlement proceeds to his client, Huang, despite the latter's repeated demands was a clear violation of Canon 16 of the CPR. Also, Atty. Zambrano's failure to turn over Huang's money upon demand gave rise to a reasonable assumption that he had already misappropriated the same. In his Report and Recommendation^[5] dated September 29, 2017, the Investigating Commissioner concluded:

In view of the foregoing premises, it is respectfully recommended that Respondent Jude Francis V. Zambrano be SUSPENDED from the practice of law for two (2) years and further be ORDERED to return to Complainant the amount of Two Hundred Fifty Thousand Pesos (PhP250,000) plus legal interest from the finality of the Judgment.^[6]

In its Resolution^[7] dated June 29, 2018, the IBP Board of Governors resolved to adopt the Investigating Commissioner's findings of fact and recommendation of suspension.

While we agree in the factual findings of the CBD-IBP Investigating Commissioner and the IBP Board of Governors, we find that their recommended two-year suspension as too benevolent. Given the circumstances, Atty. Zambrano deserves the ultimate penalty of disbarment.

Rules 16.01 and 16.03, Canon 16 of the CPR state:

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 16.03 - 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. (Emphases ours.)

In *Egger v. Duran*,^[8] we highlighted that:

"The relationship between a lawyer and his client is highly fiduciary and prescribes on a lawyer a great fidelity and good faith. The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his client. Thus, a lawyer's failure to return upon demand the funds held by him on behalf of his client, as in this case, gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed in him by his client. Such act is a gross violation of general morality, as well as of professional ethics."

Once money or property is received by a lawyer on behalf of his client, the former has the obligation to account for the said money or property and remit the same immediately to the latter. To ignore consecutive follow-ups and demands from the client without any acceptable reason corrodes the client's trust and stains the legal profession.

By his actuations, Atty. Zambrano damaged his reliability and reputation as a lawyer. There is no dispute that he had received the PhP250,000.00 from the respondents in the Estafa Case. He rejected Huang's sound suggestion to have the settlement money directly deposited by said respondents to his account. He also refused Huang's alternative proposition to have his friend receive the money on his behalf. There is evidently a premeditated effort by Atty. Zambrano to ensure that the settlement money would be given to him.

Furthermore, the reasons he gave for failing to remit the settlement money to Huang were highly dubious, if not shallow and baseless.

There is no law or jurisprudence which requires the formal dismissal of the case before the lawyer yields possession of his client's money. In advising Huang of the same, Atty. Zambrano had acted deceitfully - willfully misleading Huang and abusing the trust and confidence his client reposed in him. This is in contravention of Rule 1.01, Canon 1 of the CPR which bids lawyers not to engage in unlawful, dishonest, immoral, or deceitful conduct.

The foregoing likewise renders highly doubtful Atty. Zambrano's claims of heavy workload and family problems as additional excuses for failing to remit the settlement money to Huang, which were seemingly meant only to further thwart Huang's efforts to get his money. Even assuming that Atty. Zambrano's claims were true, these do not absolve him from complying with his professional obligations as a lawyer. It would not have taken much time or effort for him to transfer the settlement money to Huang especially given the different remote and online options now available for fund transfers.