

## EN BANC

[ A.C. No. 12019, September 03, 2019 ]

**JOSE ANTONIO G. GABUCAN, COMPLAINANT, VS. ATTY.  
FLORENCIO A. NARIDO, JR., RESPONDENT.**

### R E S O L U T I O N

#### **CARANDANG, J.:**

In a Complaint<sup>[1]</sup> filed by Jose Antonio G. Gabucan (complainant) against Atty. Florencio A. Narido, Jr. (Atty. Narido, Jr.), complainant charges Atty. Narido, Jr. for violation of Rule 1.01,<sup>[2]</sup> Canon 1, Rule 18.04,<sup>[3]</sup> Canon 18 and Rule 20.04,<sup>[4]</sup> Canon 20 of the Code of Professional Responsibility (CPR).

#### **Fact of the Case**

Complainant alleged that he is the owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. 3934 located at Catarman, Camiguin. He hired the services of Atty. Narido, Jr. to initiate an ejectment case before the 2<sup>nd</sup> Municipal Circuit Trial Court of Catarman, Sagay (MCTC) against Rogelio Ebalang (Ebalang).<sup>[5]</sup>

On December 7, 2004, the parties concluded an Agreement<sup>[6]</sup> as to the engagement of Atty. Narido, Jr., as the lawyer of Gabucan, to wit:

07 December 2004

MR. JOSE ANTONIO G. GABUCAN  
Liloan, Catarman, Camiguin Province

RE: HANDLING THE COMPLAINT FOR UNLAWFUL DETAINER AGAINST  
ROGELIO EBALANG AT THE MUNICIPAL CIRCUIT TRIAL COURT OF  
CATARMAN

Dear Mr. Gabucan,

In line with our practice to appraise our client in advance regarding our fees in handling a particular case, we are pleased to submit the foregoing proposal for your consideration. Please be advised that our fees is based on a semi-contingent basis as follows:

- a. Acceptance fee is waived
- b. Professional fee is 35% of the property or its value and the amount of damages that may be awarded in favor of client
- c. Appearance fee is P2,500.00 per hearing subject to changes should circumstances warrant upon prior notice and consent of the client.

Appearance fee shall become due each and every time the Law Firm through any of its partners or associates makes representation on your

behalf before the court or any government agencies or for a (sic) in relation to the above case.

Expenses or fees incidental to the processing of papers or documentation, photocopying, mailing, transportation, meals, lodging and similar expenses shall be for the client's account and for this purpose the client shall deposit with the Law Firm the amount of P1,000.00.

Docketing, filing and other miscellaneous fees as may be determined by the court shall be paid for by the client. The client shall be notified properly for the payment of the obligation.

The Law Firm shall inform the client for the need to replenish the deposit should the same be consumed for the purpose intended.

In the event the controversy is settled in favor of the client at any stage of the proceedings, the foregoing contractual obligation of the client shall become immediately due.

If you agree to the foregoing terms and conditions, please affix your signature to show your conformity and this instrument shall then become our handling agreement in this case.

Very truly yours,

[(Sgd)] ATTY. FLORENCIO A. NARIDO, JR.  
For the Firm

With My Conformity

[(Sgd)] JOSE ANTONIO G. GABUCAN  
Client

On December 10, 2004, Atty. Narido, Jr. entered into a Contract of Lease<sup>[7]</sup> with the complainant over a property covered by Original Certificate of Title (OCT) No. 386, the property that would be the subject of the unlawful detainer case. Thereafter, Atty. Narido, Jr. took possession of the litigated property and introduced improvements by building a shanty made up of mixed materials.<sup>[8]</sup>

On March 18, 2008, complainant, through Atty. Narido, Jr. filed a case for unlawful detainer against Ebalang over the subject property covered by OCT No. 386.<sup>[9]</sup>

On April 5, 2005, the MCTC rendered a Decision<sup>[10]</sup> in favor of the complainant and ordered the ejectment of Ebalang.

On appeal, the Regional Trial Court of Mambajao, Camiguin, Branch 28 (RTC), in its Decision<sup>[11]</sup> dated February 15, 2006, dismissed the appeal and remanded the case to the MCTC for execution.

Ebalang, however, filed a Petition for Review<sup>[12]</sup> before the Court of Appeals (CA).<sup>[13]</sup> Pending review by the CA, Atty. Narido, Jr. failed to communicate to complainant, to at least apprise or report the status of the case. Atty. Narido, Jr., likewise, failed to file a comment or memorandum as required by the CA.<sup>[14]</sup>

In a Decision<sup>[15]</sup> dated February 28, 2008, the CA granted the petition and remanded the case to the MCTC for further proceedings.

Because of the inaction of Atty. Narido, Jr., complainant felt aggrieved such that he was forced to hire the services of another lawyer to continue prosecuting the remanded case before the MCTC. Atty. Narido, Jr. did not object to the termination of his services.<sup>[16]</sup>

On April 2, 2011, complainant amicably settled the attorney's fees of Atty. Narido, Jr., fixing the 35% contingent fee of the latter at P70,000.00. The partial payment of P35,000.00 to be paid on that day, while the other P35,000.00 to be paid 15 days after the initial payment but not later than the end of June 2011. Atty. Narido, Jr. further agreed to voluntarily relinquish, abandon, or waive all and whatever interest he had over Lot 3934, together with all improvements he introduced therein, and further agreed that the costs of the demolition shall be on his account. To evidence the same, Atty. Narido, Jr. prepared an Acknowledgment with Quitclaim.<sup>[17]</sup>

Eventually, the MCTC rendered a decision in favor of complainant. Thus, the latter immediately executed the judgment and took possession of the property by leasing the same to a certain Bernard Guani (Guani). Thus, Guani began introducing improvements in the leased property.<sup>[18]</sup>

On November 4, 2011, the complainant, through his representative Evangelista Z. Almonia (Almonia), sought to pay the remaining P35,000.00 to Atty. Narido, Jr. However, the latter refused to accept the same, unless an additional amount of P10,000.00 would be paid, as payment for the materials of his improvements that were demolished.<sup>[19]</sup>

Then, on November 6, 2011, Atty. Narido, Jr., by coercion and intimidation, re-entered the property and had his men build a structure thereon purposely to obstruct and to prevent the passage of the dump trucks of Guani. Thus, a certain Minerva Adaza Cunayan, an employee of Guani, reported the same to the police station.<sup>[20]</sup>

On November 8, 2011, complainant filed a complaint with the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline (IBPCBD).

In his Answer,<sup>[21]</sup> Atty. Narido, Jr. admitted that he was engaged by the complainant in a semi-contingency basis to file a case for unlawful detainer against Ebalang.<sup>[22]</sup>

Atty. Narido, Jr. claimed that of all the hearings he attended for the complainant's case, complainant only paid his appearance fee once. Even with the disregard of complainant's obligation, he did not abandon the case until a favorable decision was issued by the MCTC. When Ebalang appealed the decision of the MCTC, Atty. Narido, Jr. informed Almonia to advise the complainant that a separate professional fee for the appeal has to be agreed upon. Atty. Narido, Jr., however, claimed that he never heard from the complainant or Almonia despite repeated reminders. Despite the absence of a separate agreement, Atty. Narido, Jr. still represented the complainant in the RTC, until again, a favorable decision was rendered by the court. Even with this development, Atty. Narido, Jr. alleged that neither the complainant nor Almonia communicated with him nor answered his request for a separate professional fee.<sup>[23]</sup>

When Ebalang appealed the case to the CA, Atty. Narido, Jr. still represented the complainant despite the absence of a separate professional fee agreement. Atty. Narido, Jr. stated that he was already confident that the CA will uphold the rulings of the MCTC and the RTC, which is why he did not see the need to file a comment or a memorandum.<sup>[24]</sup>

When the CA decision remanded the case to the MCTC, it was only at this point that the complainant communicated with him and informed him that he will engage the services of a new lawyer to handle the remanded case. Atty. Narido, Jr. reminded the complainant that he still has unpaid obligations to the former, including his contingency fee. Since the complainant was a political ally, Atty. Narido, Jr. accommodated his plea of consideration. When the MCTC rendered a decision in the remanded case in favor of the complainant, the latter immediately had it executed.<sup>[25]</sup>

Without his knowledge, Atty. Narido, Jr. learned that the complainant conveyed the subject property to Guani for an undisclosed sum of money without informing him that his share, totalling to about 76 square meters of the property, was included in the disposition. Despite this, Atty. Narido, Jr. did not confront the complainant because he still has his house built on the property. Thus, complainant had no choice but to negotiate with Atty. Narido Jr. if he was willing to sell his portion of the lot, since Guani demanded that the property be delivered to him free from any claims from other persons.<sup>[26]</sup>

Thereafter, they agreed that complainant was to pay Atty. Narido, Jr. P35,000.00 initially. As evidence of their agreement, Atty. Narido, Jr. executed an Acknowledgment with Quitclaim.<sup>[27]</sup> Atty. Narido, Jr. claimed that he agreed to undertake the demolition of the house in order to allow him to salvage materials therefrom. However, even if the complainant had not paid in full and without prior notice to Atty. Narido, Jr., the latter asserted that the complainant caused the demolition of the house scattering all the materials. Because of the dump trucks of Guani that entered the property, Atty. Narido, Jr. claimed that his materials were buried and he cannot retrieve and use them for his purpose. Consequently, Atty. Narido, Jr. demanded that complainant pay the amount of P10,000.00 to compensate him for the valuable materials, which were buried. Atty. Narido Jr. claimed that the P10,000.00 was a meager amount considering that the construction of his house amounted to P260,000.00.<sup>[28]</sup>

Atty. Narido, Jr. claimed that the lease of the property between him and complainant was merely a strategy to prevent Guani to take possession of the property. Atty. Narido, Jr. claimed that even before the filing of the unlawful detainer case, it appeared that a certain Mrs. Banaag sold the subject property to Guani. The strategy proved to be successful because Guani was not able to enter the property.<sup>[29]</sup>

Atty. Narido, Jr. asserted that he was not remiss in his obligation to keep his client informed of the status of his case. He gave constant updates to Almonia due to complainant's constant absence from the country. It was complainant who reneged on his obligations. He also did not engage in any unlawful, dishonest, immoral or deceitful conduct because he fully served complainant even beyond the term of his engagement.<sup>[30]</sup>

## **IBP Commission on Bar Discipline**

On July 29, 2015, the Investigating Commissioner found that Atty. Nando, Jr. violated Rule 18.04 of the CPR and his Lawyer's Oath, thus:

IN VIEW OF THE FOREGOING, it is respectfully submitted that a clear case for disciplinary sanction has been duly established against respondent and it is recommended that respondent be SUSPENDED from the practice of law for a period of TWO (2) YEARS.

RESPECTFULLY SUBMITTED.<sup>[31]</sup>

## **IBP Board of Governors**

On August 27, 2016, the IBP Board of Governors issued a Resolution<sup>[32]</sup> adopting the findings of the Investigating Commissioner, thus:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner imposing the penalty of SUSPENSION from the practice of law for a period of two (2) years.

## **Issue**

Whether Atty. Narido, Jr., is guilty of violating the CPR and his Lawyer's Oath, necessitating his suspension from the practice of law for two (2) years.

## **The Ruling of the Court**

In disciplinary proceedings against lawyers, public interest is the primary objective. The Court is called upon to determine whether a lawyer is still fit to be allowed the privileges of the practice of law. Thus, the Court calls upon the lawyer to account for his actuations as an officer of the court, with the end in view of preserving the purity of the legal profession and the proper and honest administration of justice by purging the profession of members, who by their misconduct is not worthy to be entrusted with the duties and responsibilities that pertain to a lawyer.<sup>[33]</sup>

***Atty. Narido Jr. violated Rule 18.04 of the CPR by failing to inform the complainant of the status of the case.***

Rule 18.04 of the CPR states that "[a] lawyer shall keep the client informed of the status of his case and shall respond within a reasonable time to the client's request for information."

A lawyer's duty to keep his client constantly updated on the developments of his case is crucial in maintaining the client's confidence. The lawyer needs to inform his client, timely and adequately, important updates and status affecting the client's case. He should not leave his client in the dark as how to he is defending the client's interest.<sup>[34]</sup>

In this case, Atty. Narido, Jr. claims that he has constantly updated complainant through his representative Almonia. However, Atty. Narido, Jr. did not present any document establishing such fact. It is logical that Atty. Narido, Jr. should have at