

SECOND DIVISION

[A.C. No. 11326 (Formerly CBD Case No. 14-4305), June 27, 2018]

**PELAGIO VICENCIO SORONGON, JR., COMPLAINANT, V. ATTY.
RAMON Y. GARGANTOS,^[1] SR., RESPONDENT.**

DECISION

CAGUIOA, J:

Before the Court is the Affidavit Complaint^[2] dated July 1, 2014 filed before the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline (CBD) by complainant Pelagio Vicencio Sorongon, Jr. (complainant) against herein respondent Atty. Ramon Y. Gargantos, Sr. (respondent). The complainant, a retired businessman and resident of Davao City, was charged, together with personnel of the Regional Health Office No. XI in Davao City, before the Sandiganbayan for violation of Section 3(e) of Republic Act No. 3019, docketed as Crim. Case Nos. 24483, 24486, and 24488.^[3] The complainant engaged respondent's legal services to represent him in the said cases.^[4]

Antecedents

The complainant alleged that he gave respondent the amount of Two Hundred Thousand Pesos (P200,000.00) as full payment of the latter's legal services, which, s allegedly agreed upon, would cover the acceptance fee, appearance fees, and other fees until the resolution of the cases.^[5] The complainant also alleged that respondent did not give him a receipt nor did they execute a formal memorandum of agreement (MOA).^[6] In addition, complainant narrated that they agreed that if there would be court hearings outside of Quezon City, then complainant would provide respondent's plane ticket, meals, and hotel accommodation.^[7] However, should the hearing be at the Sandiganbayan, they would just meet in the court.^[8]

On June 3, 2014, complainant called the respondent regarding the scheduled hearings on June 4 and 5, 2014 at the Sandiganbayan.^[9] The respondent instructed the complainant to pick him up at his residence in Quezon City, otherwise he would not attend the hearing.^[10] The complainant complied and they attended the hearing at the Sandiganbayan on June 4, 2014.^[11] After the hearing and on their way to respondent's residence, he allegedly demanded "pocket money" from the complainant since he would accompany his wife to the United States, otherwise, he would not appear in the hearing the following day and he would no longer serve as complainant's counsel.^[12]

The next day, June 5, 2014, the complainant went again to the respondent's residence to pick him up for the hearing.^[13] However, the respondent allegedly asked him in a harsh voice, "*O ano? Dala ma ba yong hinihingi ko? Sinabi ka na*

s[a]yo kahap[o]n kung di mo dala di ako sisipot sa hearing mo at layasan kita."^[14]
When the complainant replied that he did not have the money, the respondent allegedly shouted at him, "*Babaliktarin kita. Sasabihin ko na di mo ako binabayaran at ipakukulong kita. Di mo ako kilala. Umalis [kana] at baka ano pa ang mangyari s[a]yo. Pagdating mo mamaya sa Sandiganbayan, sabihin at ikwento mo kung ano ang ginawa ko s[a]yo, hindi na ako sisipot ngayong araw at magresign na ako bilang abagado mo."*^[15]

The complainant alleged that he was traumatized by respondent's acts, and with teary eyes and a cordial voice, he begged respondent not to abandon him.^[16] However, instead of listening to him, the respondent ordered him to leave.^[17] He then politely replied, "*[Sige] po Atty. Alis na po ako. Salamat po."*^[18] During the hearing on that day, the complainant narrated before the Sandiganbayan the acts of respondent, and informed the court that, being a jobless senior citizen, he could not afford to hire a new lawyer to represent him.^[19] At 4:35 p.m. of the same day, respondent filed a letter informing the Sandiganbayan of his withdrawal as the complainant's counsel.^[20] Thus, in the abovementioned Affidavit Complaint, the complainant prayed for the refund of a portion of the amount paid to respondent in order that he might be able to hire a new counsel.^[21]

In an Order^[22] dated August 18, 2014, Dominic C.M. Solis, the Director for Bar Discipline (Director Solis), directed the respondent to submit his Answer to the Affidavit Complaint pursuant to Bar Matter No. 1755 (*Re: Rules of Procedure of the Commission on Bar Discipline*), as amended by A.M. No. 11-9-4-SC (*Re: Efficient Use of Paper Rule*).

In a handwritten letter^[23] dated November 6, 2014 addressed to Director Solis, the respondent, who stated therein that he is already 82 years old, requested for a copy of the Affidavit Complaint in order to be able to prepare his Answer thereof.

On January 9, 2015, IBP-CBD Commissioner Honesto A. Villamor (Commissioner Villamor) issued a Notice of Mandatory Conference/Hearing^[24] to the parties, requiring them to attend the mandatory conference/hearing on March 26, 2015, and to submit their respective briefs at least ten (10) days prior to the hearing.

In compliance therewith, the complainant filed his Mandatory Conference Brief^[25] dated March 13, 2015, wherein he reiterated the allegations in his Affidavit Complaint, and expressed his unwillingness to enter into an amicable settlement.^[26]

In an Order^[27] dated March 26, 2015, Commissioner Villamor noted that only the complainant appeared for the mandatory conference, coming all the way from Davao City. His Mandatory Conference Brief was also noted.^[28] Moreover, the Order also noted that respondent failed to file his Answer, and thus, he was considered in default and to have waived his right to be present in the mandatory conference.^[29] The parties were ordered to file their respective position papers with supporting documentary exhibits and/or judicial affidavit/s of witness/es, if any, within fifteen (15) days from receipt of the said Order.^[30] After the lapse of the period for submission of position papers, the case would then be deemed submitted for report and recommendation.^[31]

The complainant filed his Position Paper^[32] dated May 18, 2015, reiterating the allegations in his Affidavit Complaint and Mandatory Conference Brief. Meanwhile, aside from the abovementioned handwritten letter dated November 6, 2014, the respondent failed to file any pleadings, or to participate in the proceedings before the IBP-CBD.

Report and Recommendation of the CBD

In his Report and Recommendation^[33] (*Report*) dated May 29, 2015, Commissioner Villamor found respondent to have violated the Lawyer's Oath and the Code of Professional Responsibility (CPR), particularly Canon 16,^[34] Rule 16.01,^[35] and thus, recommended that he be suspended from the practice of law for a period of one (1) year and that he should return all documents and money in his possession over and above his lawful and reasonable attorney's fee with a warning that a repetition of the same or similar offense shall be dealt with more severely.^[36]

In his *Report*, Commissioner Villamor considered the amount of P50,000.00 as reasonable attorney's fee for the time spent and the extent of the services rendered by respondent during the arraignment of the complainant's case, but respondent was to return the remaining amount of P150,000.00 to the complainant.^[37]

Moreover, Commissioner Villamor found that the respondent abandoned the complainant, and his withdrawal as counsel was without good cause.^[38] He also noted that respondent failed, despite demand, to return the documents to the complainant.^[39]

Resolution of the Board of Governors of the IBP

On June 20, 2015, the IBP Board of Governors issued Resolution No. XXI-2015-581,^[40] adopting and approving the above *Report*, but modified the same by ordering respondent to return the entire amount of Two Hundred Thousand Pesos (P200,000.00) to the complainant.^[41]

Court's Ruling

As found by Commissioner Villamor, the respondent allegedly failed to return, despite demand, the complainant's documents after he withdrew as his counsel^[42] in violation of Canon 16, Rule 16.01 which provides that a lawyer shall account for and hold in trust the money or property from the client. Moreover, despite respondent's legal services having been allegedly paid in the amount of Two Hundred Thousand Pesos (P200,000.00), which, as allegedly agreed upon, was to cover the acceptance fee, appearance fees, and other fees until the resolution of the cases, he allegedly abandoned his client when the latter was not able to give him the "pocket money" he had demanded. This is a serious charge which the respondent should have addressed and answered, as well as the other allegations, during the IBP proceedings. However, after requesting for a copy of the Affidavit Complaint in order to be able to prepare his Answer, respondent failed to participate in the IBP proceedings.

While we adopt the findings of Commissioner Villamor, we note that this is respondent's first offense, and we shall also take into consideration his advanced age (*i.e.*, he stated that he was already 82 years old in his abovementioned