

EN BANC

[A.C. No. 10555, July 31, 2018]

EVELYN T. GOPIO, COMPLAINANT, VS. ATTY. ARIEL D. MAGLALANG, RESPONDENT.

DECISION

JARDELEZA, J.:

This is a petition^[1] filed by respondent Atty. Ariel D. Maglalang (Atty. Maglalang) challenging the Resolution^[2] dated December 14, 2012 of the Integrated Bar of the Philippines (IBP) Board of Governors (IBP Board) which imposed upon him the penalty of suspension from the practice of law for three years and ordered the restitution of P400,000.00 to complainant Evelyn T. Goopio (Goopio).

The case originated from a disbarment complaint^[3] filed by Goopio charging Atty. Maglalang with violation of Section 27, Rule 138 of the Rules of Court, which provides:

Sec. 27. Attorneys removed or suspended by Supreme Court on what grounds. — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a wilful disobedience of any lawful order of a superior court, or for corruptly or wilfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

In her disbarment complaint, Goopio primarily alleged that sometime in 2005, in relation to her need to resolve property concerns with respect to 12 parcels of land located in Sagay City, Negros Occidental, she engaged the services of Atty. Maglalang to represent her either through a court action or through extra-judicial means. Having been employed in Switzerland at the time, she allegedly likewise executed a General Power of Attorney^[4] on June 18, 2006 in favor of Atty. Maglalang, authorizing him to settle the controversy covering the properties with the developer, including the filing of a petition for rescission of contract with damages.

^[5]

Goopio further alleged that Atty. Maglalang supposedly informed her that the petition for rescission was filed and pending with the Regional Trial Court (RTC) of

Bacolod City, and that as payment of the same, the latter requested and received the total amount of P400,000.00 from her.^[6] Goopio similarly alleged that Atty. Maglalang presented an official receipt^[7] covering the alleged deposit of the P400,000.00 with the court.^[8]

Goopio further contended that Atty. Maglalang rendered legal services in connection with the petition, including but not limited to, appearances at mediations and hearings, as well as the preparation of a reply between the months of December 2006 and April 2007, in relation to which she was supposedly billed a total of P114,000.00, P84,000.00 of which she paid in full.^[9]

Goopio also claimed that she subsequently discovered that no such petition was filed nor was one pending before the RTC or any tribunal,^[10] and that the purported inaction of Atty. Maglalang likewise resulted in the continued accrual of interest payments as well as other charges on her properties.^[11]

She alleged that Atty. Maglalang admitted to all these when he was confronted by Goopio's representative and niece, Milogen Canoy (Canoy), which supposedly resulted in Goopio's revocation^[12] of the General Power of Attorney on May 17, 2007. Goopio finally alleged that through counsel, she made a formal demand^[13] upon Atty. Maglalang for restitution, which went unheeded; hence, the disbarment complaint.^[14]

In his verified answer,^[15] Atty. Maglalang specifically denied Goopio's claims for being based on hearsay, untrue, and without basis in fact. He submitted that contrary to Goopio's allegations, he had not met or known her in 2005 or 2006, let alone provided legal services to her as her attorney-in-fact or counsel, or file any petition at her behest. He specifically denied acceding to any General Power of Attorney issued in his favor, and likewise submitted that Goopio was not in the Philippines when the document was purportedly executed. He further firmly denied receiving P400,000.00 from Goopio, and issuing any receipts.^[16] He also added that he had not received any demand letter.^[17]

Clarifying the capacity in which he knew Goopio, Atty. Maglalang explained that Ma. Cecilia Consuji (Consuji), Goopio's sister and his client since 2006, introduced him to Goopio sometime in 2007, where an altercation ensued between them.^[18]

As special and affirmative defenses, Atty. Maglalang further countered that without his knowledge and participation, Consuji surreptitiously used his name and reputation, and manipulated the supposed "engagement" of his services as counsel for Goopio through the execution of a falsified General Power of Attorney. Atty. Maglalang likewise submitted that Consuji collected huge sums of money from Goopio by furtively using his computerized letterhead and billing statements. In support of the same, he alleged that in fact, Consuji's name appeared on the annexes, but there was no mention of her in the actual disbarment complaint for purposes of isolating her from any liability.^[19]

To bolster his affirmative defense that no lawyer-client relationship existed between him and Goopio, Atty. Maglalang submitted that in fact, the Office of the City

Prosecutor of Bacolod City had earlier dismissed two complaints filed by Goopio against him for charges of falsification of public documents and estafa by false pretenses,^[20] alleging the same set of facts as narrated in the present disbarment complaint. Atty. Maglalang submits that in a Resolution dated February 14, 2008, the City Prosecutor summarily dismissed the complaints for being hearsay.^[21]

In a Report and Recommendation^[22] dated August 13, 2010, IBP Commissioner Victor C. Fernandez (Commissioner Fernandez) found that a lawyer-client relationship existed between complainant Goopio and Atty. Maglalang. This was found to be sufficiently proven by the documentary evidence submitted by Goopio. Commissioner Fernandez did not give any credence to the specific denials of Atty. Maglalang. Moreover, the IBP held that the demand letter of Attys. Lily Uy Valencia and Ma. Aleta C. Nuñez dated June 5, 2007 sufficiently established Atty. Maglalang's receipt of the amount of P400,000.00. Commissioner Fernandez held that had Atty. Maglalang found the demand letter suspect and without basis, he should have sent a reply denying the same.^[23]

He recommended that Atty. Maglalang be found guilty of violating Section 27, Rule 138 of the Rules of Court and Canon 16 of the Code of Professional Responsibility, suspended from the practice of law for two years, and ordered to return to Goopio the amount of P400,000.00, under pains of disbarment.^[24]

In a Resolution dated December 14, 2012, the IBP Board affirmed with modification the Report and Recommendation of Commissioner Fernandez, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering respondent's violation of Section 27, Rule 138 of the Rules of Court and Canon 16 of the Code of Professional Responsibility, Atty. Ariel D. Maglalang is hereby **SUSPENDED from the practice of law for three (3) years** and Ordered to Return to complainant the amount of Four Hundred Thousand (P400,000.00) Pesos within thirty (30) days from receipt of notice with legal interest reckoned from the time the demand was made.^[25]

Atty. Maglalang filed a motion for reconsideration^[26] of the IBP Board's Resolution. In said motion for reconsideration, Atty. Maglalang prayed for full exoneration on the ground that he was also merely a victim of the manipulations made by his former client, Consuji, further contending that if any fault could be attributed to him, it would only be his failure to detect and discover Consuji's deceit until it was too late. The same motion was denied in a Resolution^[27] dated March 22, 2014. Hence, this petition.

In his petition, Atty. Maglalang reiterated his defense of specific denial, and further claimed that his efforts to locate Consuji to clarify the complaint were exerted in

vain. He likewise additionally submitted that in demonstration of his desire to have the case immediately resolved, and with no intentions of indirect admission of guilt, he agreed to pay complainant the amount she was claiming at a rate of P50,000.00 per month.^[28]

Atty. Maglalang's forthright actions to further the resolution of this case is noted. All claims and defenses considered, however, we cannot rule to adopt the IBP Board's findings and recommendations.

The practice of law is a privilege burdened with conditions,^[29] and so delicately affected it is with public interest that both the power and the duty are incumbent upon the State to carefully control and regulate it for the protection and promotion of the public welfare.^[30]

Adherence to rigid standards of mental fitness, maintenance of the highest degree of morality, faithful compliance with the rules of the legal profession, and regular payment of membership fees to the IBP are the conditions required for remaining a member of good standing of the bar and for enjoying the privilege to practice law. Beyond question, any breach by a lawyer of any of these conditions makes him unworthy of the trust and confidence which the courts and clients must repose in him, and renders him unfit to continue in the exercise of his professional privilege.^[31] Both disbarment and suspension demonstrably operationalize this intent to protect the courts and the public from members of the bar who have become unfit and unworthy to be part of the esteemed and noble profession.^[32]

However, in consideration of the gravity of the consequences of the disbarment or suspension of a member of the bar, we have consistently held that a lawyer enjoys the presumption of innocence, and the burden of proof rests upon the complainant to satisfactorily prove the allegations in his complaint through substantial evidence.^[33] A complainant's failure to dispense the same standard of proof requires no other conclusion than that which stays the hand of the Court from meting out a disbarment or suspension order.

Under the facts and the evidence presented, we hold that complainant Goopio failed to discharge this burden of proof.

First. To prove their lawyer-client relationship, Goopio presented before the IBP photocopies of the General Power of Attorney she allegedly issued in Atty. Maglalang's favor, as well as acknowledgement receipts issued by the latter for the amounts he allegedly received. We note, however, that what were submitted into evidence were mere photocopies, in violation of the Best Evidence Rule under Rule 130 of the Rules of Court. Sections 3 and 4 of Rule 130 provide:

Sec. 3. Original document must be produced; exceptions. — When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

(a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;

- (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;
- (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and
- (d) When the original is a public record in the custody of a public officer or is recorded in a public office.

Sec. 4. *Original of document.* —

- (a) The original of a document is one the contents of which are the subject of inquiry.
- (b) When a document is in two or more copies executed at or about the same time, with identical contents, all such copies are equally regarded as originals.
- (c) When an entry is repeated in the regular course of business, one being copied from another at or near the time of the transaction, all the entries are likewise equally regarded as originals.

Although a disbarment proceeding may not be akin to a criminal prosecution, if the entire body of proof consists mainly of the documentary evidence, and the content of which will prove either the falsity or veracity of the charge for disbarment, then the documents themselves, as submitted into evidence, must comply with the Best Evidence Rule, save for an established ground that would merit exception. Goopio failed to prove that the present case falls within any of the exceptions that dispense with the requirement of presentation of an original of the documentary evidence being presented, and hence, the general rule must apply.

The necessary import and rationale behind the requirement under the Best Evidence Rule is the avoidance of the dangers of mistransmissions and inaccuracies of the content of the documents.^[34] This is squarely true in the present disbarment complaint, with a main charge that turns on the very accuracy, completeness, and authenticity of the documents submitted into evidence. It is therefore *non-sequitur* to surmise that this crucial preference for the original may be done away with or applied liberally in this case merely by virtue of Atty. Maglalang's failure to appear during the second mandatory conference. No such legal license was intended either by the Rules on Evidence or the rules of procedure applicable to a disbarment case. No such effect, therefore, may be read into the factual circumstances of the present complaint.

The Notice of Mandatory Conference itself stated that "[n]on-appearance at the mandatory conference shall be deemed a waiver of the right to participate in the proceedings."^[35] At most, Atty. Maglalang's non-appearance during the rescheduled mandatory conference dated March 12, 2009^[36] merited the continuation of the proceedings *ex parte*.^[37] **Nothing in the face of the notice provided that in case of Atty. Maglalang's non-appearance, a leniency in the consideration of the evidence submitted would be in order.**^[38] **Nowhere in the**