

## THIRD DIVISION

[ A.C. No. 11128, April 06, 2016 ]

**PEDRO RAMOS, COMPLAINANT, VS. ATTY. MARIA NYMPHA C. MANDAGAN, RESPONDENT.**

### RESOLUTION

**REYES, J.:**

Before this Court is an administrative complaint<sup>[1]</sup> for disbarment filed by complainant Pedro Ramos (Ramos) against respondent Atty. Maria Nympha C. Mandagan (Atty. Mandagan) for gross misconduct in violation of the Code of Professional Responsibility (CPR).

In his Complaint, Ramos alleged that Atty. Mandagan demanded from him the amount of Three Hundred Thousand Pesos (P300,000.00) in connection with the criminal case filed against him for murder before the Sandiganbayan. According to Ramos, the P300,000.00 shall be used as bail bond in the event that his petition for bail in the said criminal case is granted.<sup>[2]</sup> Also, Atty. Mandagan collected an additional amount of Ten Thousand Pesos (P10,000.00) for operating expenses. In both instances, an Acknowledgment Receipt was issued in his favor as proof of payment.<sup>[3]</sup>

Contrary to the assurance, however, of Atty. Mandagan, Ramos' petition for bail was denied by the Sandiganbayan. Moreover, Atty. Mandagan withdrew as his counsel without returning the amount of P300,000.00 despite the demand sent by Ramos' counsel.<sup>[4]</sup>

On December 19, 2012, the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) issued an Order<sup>[5]</sup> directing Atty. Mandagan to submit her Answer to Ramos' complaint within fifteen (15) days from receipt of the Order.

In her Answer,<sup>[6]</sup> Atty. Mandagan argued that the amount of P300,000.00 was not intended for payment of bail, but as mobilization expenses for preparation of witnesses, defenses, and other documentary exhibits for both Ramos and his co-accused Gary Silawon.<sup>[7]</sup> Atty. Mandagan likewise alleged that Ramos never paid her for acceptance, appearance fees, and legal services rendered in the entire course of the proceedings until her withdrawal as counsel.<sup>[8]</sup>

On April 26, 2013, the IBP-CBD issued a Notice of Mandatory Conference<sup>[9]</sup> directing the parties to appear for a mandatory conference. During the mandatory conference, however, only Atty. Joselito Frial appeared, as counsel for Ramos, while Atty. Mandagan was absent.

On August 29, 2013, the IBP-CBD issued an Order<sup>[10]</sup> terminating the mandatory conference and directed both parties to submit their respective position papers within a non-extendible period often (10) days upon receipt of the said order.

On December 18, 2013, the IBP-CBD issued a Report and Recommendation,<sup>[11]</sup> finding Atty. Mandagan liable for gross misconduct and for failure to render an accounting of funds, and recommended that Atty. Mandagan be suspended for a period of one (1) year. Subsequently, the Report and Recommendation of the IBP-CBD was adopted and approved by the IBP Board of Governors in a Resolution<sup>[12]</sup> dated October 11, 2014.

A Motion for Reconsideration was filed by Atty. Mandagan, but the same was denied by the IBP Board of Governors in a Resolution<sup>[13]</sup> dated June 5, 2015.

After a careful review of the records of the case, the Court finds the Report and Recommendation of the IBP-CBD, as adopted and approved by the IBP Board of Governors, to be proper under the circumstances.

The practice of law is considered a privilege bestowed by the State on those who show that they possess and continue to possess the legal qualifications for the profession. As such, lawyers are expected to maintain at all times a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform their four-fold duty to society, the legal profession, the courts, and their clients, in accordance with the values and norms embodied in the Code.<sup>[14]</sup>

In *Cruz-Villanueva v. Atty. Rivera*,<sup>[15]</sup> this Court held that:

When a lawyer receives money from the client for a particular purpose, the lawyer must render an accounting to the client showing that the money was spent for the intended purpose. Consequently, if the lawyer does not use the money for the intended purpose, the lawyer must immediately return the money to the client.<sup>[16]</sup> (Citations omitted)

In the present case, Atty. Mandagan never denied receiving the amount of P300,000.00 from Ramos for the purpose of posting a bond to secure the latter's provisional liberty. When the petition for bail of Ramos, however, was denied by the Sandiganbayan, Atty. Mandagan failed to return the amount to Ramos. Worse, she unjustifiably refused to turn over the amount to Ramos despite demand from Ramos' counsel.

Clearly, Atty. Mandagan failed to act in accordance with the rule stated in Canon 16 of the CPR, to wit:

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.

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