

SECOND DIVISION

[A.C. No. 6934, April 06, 2016]

**HELEN CHANG, COMPLAINANT, VS. ATTY. JOSE R. HIDALGO,
RESPONDENT.**

RESOLUTION

LEONEN, J.:

A lawyer cannot simply withdraw from a case without notice to the client and complying with the requirements in Rule 138, Section 26 of the Rules of Court. Otherwise, the lawyer will be held liable for violating Canons 17 and 18 of the Code of Professional Responsibility.

Complainant Helen Chang (Chang) filed this administrative Complaint^[1] before the Office of the Bar Confidant of this Court on November 7, 2005. Chang prayed that this Court discipline respondent Atty. Jose R. Hidalgo (Atty. Hidalgo) for being remiss in his duties as her counsel and as an officer of the court.^[2] She claimed that Atty. Hidalgo failed to "handle [her] cases to the best of his ability and to deal with [her] in all honesty and candor."^[3]

In her Complaint, Chang alleged that she engaged the services of Atty. Hidalgo as legal counsel to represent her in several collection cases pending in various courts.^[4] Pursuant to the contract they executed, Chang issued five (5) checks in favor of Atty. Hidalgo totaling P52,000.00.^[5] Atty. Hidalgo also collected P9,500.00 as "hearing fee."^[6] Chang claimed that despite receiving a total of P61,500.00, Atty. Hidalgo did not attend any of the hearings in the collection cases and, instead, sent another lawyer without her consent.^[7] The other lawyer failed to attend all hearings, which resulted in the dismissal of the cases.^[8] Chang prayed that Atty. Hidalgo be administratively disciplined by this Court.^[9]

On December 12, 2005, Atty. Hidalgo was required to comment on the Complaint in the Resolution^[10]. The Notice of Resolution sent to Atty. Hidalgo in the address provided by Chang was returned unserved with the notation that Atty. Hidalgo had moved out from the address.^[11]

Chang was then ordered to submit Atty. Hidalgo's correct and present address.^[12] She filed her Compliance^[13] and attached a Certification^[14] from the Integrated Bar of the Philippines stating Atty. Hidalgo's known address. This Court also ordered the Office of the Bar Confidant to provide Atty. Hidalgo's address "as appearing in its files[.]"^[15]

Still, notices of the Resolution dated December 12, 2005 sent to these addresses were returned unserved with the notation that the addressee, Atty. Hildalgo, had

already moved out.^[16]

Finally, on October 31, 2007, Atty. Hidalgo received the Notice of the Resolution requiring him to comment.^[17] However, he still failed to do so.^[18] Thus, in the Resolution^[19] dated June 2, 2008, this Court considered the submission of the comment as waived and referred the case "to the Integrated Bar of the Philippines for investigation, report[,] and recommendation[.]"^[20]

The Commission on Bar Discipline of the Integrated Bar of the Philippines then set a Mandatory Conference/Hearing on September 30, 2008.^[21] During the mandatory conference, only Chang appeared.^[22] The Investigating Commissioner noted that the notice for Atty. Hidalgo was returned and not served on him,^[23] In the Order^[24] dated September 30, 2008, the Investigating Commissioner directed Atty. Hidalgo to file his Comment.^[25] This Order was received by Atty. Hidalgo.^[26]

On November 10, 2008, the Commission on Bar Discipline received a handwritten and unverified Comment^[27] from Atty. Hidalgo.^[28] In his Comment, Atty. Hidalgo admitted that Chang retained him as counsel but countered that he attended the hearings.^[29] He denied allowing another lawyer to appear on his behalf.^[30] Although he denied waiving his appearance fee, he claimed that he did not receive "such a sum [referring to the acceptance fee] from [Chang] mainly because of the length of time [that] passed."^[31] Atty. Hidalgo insisted that due to the "transigent [sic] and uncooperative"^[32] attitude of Chang, he decided that he "could no longer perform [his job as Chang's counsel] adequately."^[33] He reasoned that he could not put up an effective defense due to his illness and his impoverished state.^[34] He prayed that the administrative case against him be dismissed.^[35]

After receiving the Comment, the Investigating Commissioner noted that it was not verified, in violation of the Rules of Procedure of the Integrated Bar of the Philippines.^[36] Thus, the Investigating Commissioner did not consider it.^[37] Instead, he set another mandatory conference on January 13, 2009.^[38]

This Order was again returned unserved.^[39] The notation in the returned Order stated "RTS [Return To Sender], Refused to Accept[.]"^[40] The Investigating Commissioner set another mandatory conference on February 11, 2009.^[41] Chang appeared, but Atty. Hidalgo again failed to appear.^[42]

On August 6, 2010, the Investigating Commissioner found Atty. Hidalgo guilty of gross misconduct and of violating Canons 17, 18, and 19 of the Code of Professional Responsibility.^[43] Investigating Commissioner Albert R. Sordan discussed:

While this Commission commiserates with the hard luck story and plight of the impecunious respondent, the indubitable fact remains that his misconduct runs afoul with the Code of Professional Responsibility. Further, it is incumbent upon respondent to meet the issue head-on and overcome the evidence against him. He must show proof that he still maintains that degree of morality and integrity which at all times is expected of him. These, respondent has failed miserably to do. The

record is bereft of any evidence to show that respondent has presented any countervailing evidence to dispute the charges against him. In his unverified and belated answer, he has not even denied complainant's allegations. He has only prayed that the complaint be dismissed out of pity for a man of straw.^[44]

The dispositive portion of the Investigating Commissioner's Report and Recommendation^[45] reads:

WHEREFORE, premised [sic] considered, respondent **Atty. Joel R. Hidalgo** has been found **GUILTY** of gross misconduct. Accordingly, it is hereby recommended that he be **SUSPENDED** for a period of **TWO (2) YEARS** from the practice of law, with a **STERN WARNING** that a repetition of the same or a similar act will be dealt with more severely.^[46] (Emphasis in the original)

On December 14, 2012, the Board of Governors of the Integrated Bar of the Philippines passed the Resolution^[47] adopting with modification the Report and Recommendation of the Investigating Commissioner. The Board of Governors recommended decreasing the penalty to one (1) year suspension from the practice of law and "[ordering [him] to [r]eturn the amount of Sixty One thousand (P61,000.00) [sic] Pesos to complainant [Chang] within thirty (30) days from receipt of notice with legal interest reckoned from the time the demand was made."^[48]

On April 11, 2013, Atty. Hidalgo moved for reconsideration.^[49] This time, he admitted receiving money from Chang as agreed attorney's fees.^[50] He reiterated that he attended the hearings set for the cases.^[51] However, he claimed that he filed a Notice of Withdrawal as Counsel due to Chang's stubbornness and uncooperative behavior in the handling of the cases.^[52] Since he transferred residence, he was not able to verify if the court granted his Notice of Withdrawal.^[53] Nonetheless, Atty. Hidalgo alleged that he was entitled to the acceptance fees for exerting time and effort in the preparation of the cases and in the collation of evidence.^[54] He maintained that the return of the fees, as ordered by the Board of Governors of the Integrated Bar of the Philippines, was not possible because his only means of income was the Social Security System pension he has been receiving, and even that was not enough for his health maintenance.^[55]

On February 11, 2014, the Board of Governors denied^[56] Atty. Hidalgo's Motion for Reconsideration.

We resolve whether respondent Atty. Jose R. Hidalgo is guilty of gross misconduct for failing to render legal services despite receipt of payment of legal fees.

In an administrative case against a lawyer, the complainant has the burden of proof to show by preponderance of evidence that the respondent lawyer was remiss of his or her duties and has violated the provisions of the Code of Professional Responsibility.^[57]

Here, it is established that respondent was engaged as counsel for complainant to

represent her in various collection cases and that he received P61,500.00 from her as attorney's fees. Respondent also admitted withdrawing from the cases allegedly due to complainant's uncooperative demeanor. However, there is no showing that complainant agreed to the withdrawal, or that respondent filed the proper motion before the courts where the cases were pending.

During the mandatory conferences before the Integrated Bar of the Philippines, complainant appeared but respondent did not make any appearance despite receiving notice.

Respondent failed to present proof that he performed any act in relation to complainant's collection cases or attended the hearings for the collection cases. Instead, respondent merely claimed:

Also, respondent [Atty. Hidalgo] devoted substantial time and energy in researching and preparing the case for trial, and he even attended hearings to that effect. He exerted his best efforts in collating their evidences [sic] and their defense. However, the complainant [Helen Chang] would not listen to respondent. Complainant has other matters and line of defense on her mind because she keeps on insisting they do things her way. Respondent felt that he could no longer work for the complainant as [sic]. Left without any recourse, respondent advised the complaint [sic] to seek the services of another lawyer as he could no longer perform adequately and this; was done in good faith. And the actuations of the complainant apparently precipitated the respondent to file the withdrawal as counsel. The respondent is entitled to the acceptance fees he collected from the complainant, or at least a portion of it.^[58]

The Investigating Commissioner found that respondent failed to refute complainant's allegations. Thus:

Prescinding from the foregoing, Atty. Hidalgo acknowledged the special retainer he had with Helen Chang. Atty. Hidalgo failed to debunk claims of Helen Chang that he failed to perform his bounden duty despite receipt of the sixty-one thousand five hundred pesos (P61,500.00). Worse, the cases were dismissed summarily.^[59]

We find respondent remiss of his duties as complainant's counsel.

Respondent's acts constitute violations of Canon 17 and Canon 18, Rule 18.03 of the Code of Professional Responsibility, which state:

CANON 17 — A lawyer owes fidelity to the cause of his client and he shall be mindful of the trust and confidence reposed in him.

CANON 18 — A lawyer shall serve his client with competence and diligence.

. . . .

Rule 18.03 A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

In *Layos v. Villanueva*,^[60] this Court reiterated that a "lawyer must constantly keep in mind that his [or her] actions, omissions, or nonfeasance would be binding upon his [or her] client."^[61]

Due to respondent's withdrawal as complainant's counsel for the cases, he did not anymore attend any of the hearings, Since the withdrawal was without the conformity of complainant, new counsel was not engaged. This necessarily resulted in the summary dismissal of the collection cases as alleged by complainant.

Complainant could have obtained the services of another lawyer to represent her and handle her cases with the utmost zeal and diligence expected from officers of the court. However, respondent simply opted to withdraw from the cases without complying with the requirements under the Rules of Court and in complete disregard of his obligations towards his client.

Rule 138, Section 26 of the Rules of Court provides, in part:

RULE 138

Attorneys and Admission to Bar

. . . .

SECTION 26. *Change of attorneys.* — An attorney may retire at any time from any action or special proceeding, by the written consent of his client filed in court. He may also retire at any time from an action or special proceeding, without the consent of his client, should the court, on notice to the client and attorney, and on hearing, determine that he ought to be allowed to retire. In case of substitution, the name of the attorney newly employed shall be entered on the docket of the court in place of the former one, and written notice of the change shall be given to the adverse party.

Respondent admittedly withdrew from the cases but he failed to provide any evidence to show that complainant, his client, agreed to the withdrawal or, at the very least, knew about it. The offensive attitude of a client is not an excuse to just disappear and withdraw from a case without notice to the court and to the client, especially when attorney's fees have already been paid.

In *Ramirez v. Buhayang-Margallo*:^[62]

The relationship between a lawyer and a client is "imbued with utmost trust and confidence." Lawyers are expected to exercise the necessary diligence and competence in managing cases entrusted to them. They commit not only to review cases or give legal advice, but also to represent their clients to the best of their ability without need to be reminded by either the client or the court.^[63] (Citations omitted)

Similarly, in *Nonato v. Fudolin, Jr.*:^[64]

A lawyer is bound to protect his client's interests to the best of his ability and with utmost diligence. He should serve his client in a conscientious, diligent, and efficient manner; and provide the quality of service at least