

EN BANC

[A.C. No. 4808, November 22, 2011]

TERESITA T. BAYONLA, COMPLAINANT, VS. ATTY. PURITA A. REYES, RESPONDENT.

DECISION

BERSAMIN, J.:

Rule 16.03 - A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the *Rules of Court*.

- *Code of Professional Responsibility.*

This canon of professional responsibility is at the center of this administrative complaint for disbarment for gross dishonesty, deceit, conversion, and breach of trust filed against Atty. Purita A. Reyes by Teresita T. Bayonla, her client.^[1]

Antecedents

Petra Durban and Paz Durban were sisters who had jointly owned a parcel of land situated in Butuan City in their lifetimes. They died without leaving a will. Their land was thereafter expropriated in connection with the construction of the Bancasi Airport. An expropriation compensation amounting to P2,453,429.00 was to be paid to their heirs. Bayonla and her uncle, Alfredo Tabada (Alfredo), were the compulsory heirs of Paz, being, respectively, Paz's granddaughter and son.^[2]

On June 22, 1997, Bayonla charged Atty. Reyes with gross dishonesty, deceit, conversion, and breach of trust. Bayonla alleged that on October 21, 1993, she and Alfredo had engaged the legal services of Atty. Reyes to collect their share in the expropriation compensation from the Air Transportation Office (ATO), Cagayan De Oro City,^[3] agreeing to her attorney's fees of 10% of whatever amount would be collected; that in November 1993, Atty. Reyes had collected P1 million from the ATO; that Bayonla's share, after deducting Atty. Reyes' attorney's fees, would be P75,000.00, but Atty. Reyes had delivered to her only P23,000.00, and had failed to deliver the balance of P52,000.00 despite repeated demands; that on June 5, 1995, Atty. Reyes had collected the amount of P121,119.11 from the ATO; that Bayonla's share, after deducting Atty. Reyes' attorney's fees, would be P109,007.20, but Atty. Reyes had handed her only P56,500.00, and had failed to deliver the balance of P52,507.20; and that Atty. Reyes should be disbarred for depriving her of her just

share.^[4]

In her comment dated February 10, 1998,^[5] Atty. Reyes admitted that Bayonla and Alfredo had engaged her legal services for the purpose of collecting their share in the expropriation compensation; that as consideration for her services, Bayonla and Alfredo had agreed upon a 40% contingent fee for her; that she had given to Bayonla more than what had been due to her; that Alfredo had received from the ATO the check for the second release corresponding to the share of both Bayonla and Alfredo; that Alfredo had gotten more than Bayonla out of the second release; that on June 5, 1995 she had received out of the second release by the ATO only her 40% contingent fee; that Bayonla and Alfredo had agreed to bear the expenses for the collection of their share; that she had incurred travel and other expenses in collecting such share; and that she should be absolved from liability arising from the complaint.

On June 29, 1998, the Court referred the complaint to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.^[6]

On April 20, 1999, IBP Commissioner Lydia A. Navarro (Commissioner Navarro) rendered a report,^[7] whereby she found and recommended against Atty. Reyes as follows:

In so far as this case of disbarment is concerned, the issue hinges only on the complainant's position; one of the heirs of Paz Durban whose legal services of the respondent was not revoked.

The parties were required to submit documents relative to their respective defenses (sic) specially the actual amounts released by ATO, actual amount due to the complainant as her share, the remittances made by the respondent to the complainant of her share and receipts to prove the same.

Unfortunately, only the respondent filed an answer without the necessary documents required of them and attached only a xerox copy of the computation made by Atty. Ismael Laya for the heir of Pedro Durban which had already been previously attached to the records of this case.

In the said computation it appears that for the release on February 17, 1993, the heirs of Durban received P84,852.00 and for the second release each of them as well as the complainant was entitled P121,119.11. It could be inferred from here that complainant was supposed to received (sic) P205,971.11 as her share.

Inasmuch as the attorney's fees of 40% was (sic) supported by evidence instead of (sic) complainant's allegation of ten [10%] percent; then respondent was entitled to P82,388.45 as attorney's fees; leaving a balance of P123,582.66 due to the complainant.

Respondent's allegation that she gave more than what was alleged by the complainant is untenable for she did not submit evidence to prove the

same, therefore, as it is complainant's allegation that she received only P79,000.00 for her share as a whole shall be considered for the moment until such time that proofs to the contrary shall have been submitted.

Considering that complainant was supposed to receive the amount due her which was P123,582.66 and actually received only P79,000.00; then respondent still has to remit to complainant the amount of P44,582.66.

From the records of this case respondent alleged that she only collected the 40% attorney's fees for the second release whereby Alfredo Tabada the other heir of Paz Durban received the check from ATO and got a large part of the same. Respondent did not mention how much she got as attorney's fees against complainant's share but on the whole amounting to P496,895.00 which is unfair to the complainant.

As counsel for the heirs of Paz Durban, complainant herein should have been advised by the respondent and given a breakdown of whatever amount was received or came to her knowledge as complainant's counsel. Short of the foregoing, respondent violated Rule 16.01 Canon 16 Chapter III of the Code of Professional Responsibility; to wit:

"Rule 16.01 – A lawyer shall account for all money or property collected or received for or from the client."

Respondent was given a chance to rectify whatever errors or misgivings (sic) she had done for her client but she unfortunately failed to do so and did not comply with the Order dated October 29, 1998.

Wherefore, in view of the foregoing, the Undersigned respectfully recommends that the respondent be required to render an accounting or inventory duly confirmed by the complainant of all the collected shares due the complainant and remit to the latter the said amount of P44.582.66;

Until such time that respondent had complied with the aforementioned, she is suspended from the practice of her legal profession.

Respectfully submitted.

On June 19, 1999, the IBP Board of Governors adopted and approved the report of Commissioner Navarro through Resolution No. XIII-99-165.^[8]

Atty. Reyes moved for reconsideration, but on September 27, 1999 the IBP Board of Governors denied her motion for reconsideration through Resolution No. XIV-99-117.^[9]

Atty. Reyes then filed a motion for reinvestigation. However, through its Resolution No. XV-2001-111 adopted on July 28, 2001, the IBP Board of Governors denied the motion for reinvestigation for lack of jurisdiction, stating that the matter had already been endorsed to the Court.^[10]

On July 30, 2002, the Court directed the IBP Board of Governors to report on whether Atty. Reyes had already accounted for and remitted the amount of P44,582.66 to Bayonla.^[11]

On August 22, 2002, the IBP Board of Governors informed the Court that per the manifestation of Bayonla's counsel Atty. Reyes had not yet rendered an accounting and had not yet remitted the amount of P44,582.66 to Bayonla.^[12]

Through her manifestation dated September 4, 2002 to the Court,^[13] Atty. Reyes posed some queries, as follows: (a) whether she could be compelled to pay the amount of P44,582.66 to Bayonla even if the latter's claims had been based on perjured statements; (b) whether the payment of the amount would operate to dismiss the *estafa* case previously filed by Bayonla against her for allegedly failing to deliver the balance of Bayonla's share; and (c) whether she could deposit the amount of P44,582.66 with either the IBP Board of Governors or the Court.

Atty. Reyes also stated in the manifestation that the IBP Board of Governors did not accord to her the right to confront Bayonla during the investigation conducted by the IBP Board of Governors; that Bayonla's counsel had induced Bayonla to file the *estafa* charge against her; and that this had prompted her to initiate a disbarment complaint against Bayonla's counsel.^[14]

On May 24, 2010, the Office of the Bar Confidant (OBC) recommended the final resolution of this case.^[15] The recommendation was noted by the Court on June 29, 2010.^[16]

Issue

Whether or not the findings and recommendations of the IBP Board of Governors were proper.

Ruling

We affirm the findings of the IBP Board of Governors, which were supported by the records, but we modify the sanctions to be imposed on Atty. Reyes.

I

Respondent was guilty of violating the canons of the *Code of Professional Responsibility*

Canon 16 of the *Code of Professional Responsibility* requires that a lawyer shall hold in trust all moneys and properties of her client that may come into her possession. Rule 16.01 of Canon 16 imposes on the lawyer the duty to account for all money or property collected or received for or from the client. Rule 16.03 of Canon 16 demands that the lawyer shall deliver the funds and property of his client when due or upon demand, subject to the lawyer's lien over the funds, or the lawyer's option to apply so much of the funds as may be necessary to satisfy the lawful fees and disbursements, giving notice promptly thereafter to the client.

The canons are appropriate considering that the relationship between a lawyer and her client is highly fiduciary, and prescribes on a lawyer a great degree of fidelity

and good faith. There is no question that the money or property received by a lawyer for her client properly belongs to the latter.^[17] Conformably with these canons of professional responsibility, we have held that a lawyer is obliged to render an accounting of all the property and money she has collected for her client. This obligation includes the prompt reporting and accounting of the money collected by the lawyer by reason of a favorable judgment to his client.^[18]

Based on the records, Bayonla and her uncle would each receive the amount of P84,852.00 out of the first release, and the amount of P121,119.11 out of the second release. Her total share from the two releases was P205,971.11. With Atty. Reyes being entitled to P82,388.44 as attorney's fees, the equivalent of 40% of Bayonla's share, the net share of Bayonla was P123,582.67. Yet, Atty. Reyes actually delivered to her only P79,000.00,^[19] which was short by P44,582.67. Despite demands by Bayonla and despite the orders from the IBP Board of Governors for her to remit the shortage,^[20] Atty. Reyes refused to do so.

By not delivering Bayonla's share despite her demand, Atty. Reyes violated the aforesaid canons. The money collected by Atty. Reyes as the lawyer of Bayonla was unquestionably money held in trust to be immediately turned over to the client.^[21] The unjustified withholding of money belonging to the client warrants the imposition of disciplinary sanctions on the lawyer.^[22] Without doubt, Atty. Reyes' failure to immediately account for and to deliver the money upon demand was deceit, for it signified that she had converted the money to her own use, in violation of the trust Bayonla had reposed in her. It constituted gross misconduct for which the penalty of suspension from the practice of law became justified pursuant to Section 27, Rule 138 of the Rules of Court, to wit:

Section 27. Disbarment or suspension of attorneys by Supreme Court, grounds therefor. – A member of the bar may be disbarred 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 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.

The disbarment or suspension of a member of the Philippine Bar by a competent court or other disciplinary agency in a foreign jurisdiction where he has also been admitted as an attorney is a ground for his disbarment or suspension if the basis of such action includes any of the acts hereinabove enumerated.

The judgment, resolution or order of the foreign court or disciplinary agency shall be *prima facie* evidence of the ground for disbarment or suspension. (As amended by SC Resolution dated February 13, 1992.)