

SECOND DIVISION

[ADM. CASE NO. 5018, January 26, 2007]

ROGELIO H. VILLANUEVA, COMPLAINANT, VS. ATTY. AMADO B. DELORIA, RESPONDENT.

R E S O L U T I O N

TINGA, J.:

This treats of the Complaint^[1] for Disbarment dated February 17, 1999 filed by Rogelio H. Villanueva (Villanueva) against Atty. Amado B. Deloria in connection with HLRB Case No. REM-080592-5166, entitled "*Spouses Conrado De Gracia v. Estate of Jaime Gonzales, et al.*" Atty. Deloria, a former full-time Commissioner of the Housing and Land Use Regulatory Board (HLURB), appeared as counsel for the spouses De Gracia.

Villanueva avers that a decision in that case was rendered by Housing and Land Use Arbiter,^[2] Atty. Teresita R. Alferez, requiring the Estate of Jaime Gonzales to, among other things, refund to the spouses De Gracia the amount of P69,000.00 plus interest at the prevailing commercial interest rates. The case was eventually assigned to Villanueva upon the latter's designation as Arbiter.

It appears that Atty. Deloria filed a Motion for Issuance of Substitute Judgment and for Consignation^[3] claiming that the Estate of Jaime Gonzales does not want to pay interest based on commercial interest rates. Villanueva asserts, however, that Atty. Deloria's allegation is belied by two motions filed by counsel for the Estate of Jaime Gonzales which merely seek to clarify the precise interest rate applicable to the case in order for it to fully comply with the decision.

Atty. Deloria's misrepresentation is allegedly a violation of the Code of Professional Responsibility (Code), particularly Canons 1,^[4]

10,^[5] 12^[6] and 19^[7] thereof, the Attorney's Oath of Office and Art. 19 of the Civil Code. Atty. Deloria also allegedly violated Canon 11^[8] of the Code because he sought the substitution of a decision which he knew had already become final and partially executed.

Villanueva notes that Atty. Deloria enclosed with his motion a check in the amount of P69,000.00 payable to the order of the Estate of Jaime Gonzales and Corazon Gonzales, representing the principal refunded to the spouses De Gracia in compliance with the decision. Villanueva states that the check was drawn against Atty. Deloria's personal checking account in violation of Canon 16^[9] of the Code.

Moreover, according to Villanueva, Atty. Deloria offered him 50% of the recoverable amount in the case if he resolves the latter's motion favorably.^[10] Atty. Deloria's

conduct allegedly violates the previously cited canons of the Code, Canon 13,^[11] Rule 15.06,^[12] Canon 15 of the Code, Art. 212 of the Revised Penal Code, the Attorney's Oath of Office and Art. 19 of the Civil Code.

Villanueva also alleges that Atty. Deloria used his influence as former Commissioner of the HLURB to persuade Atty. Alferez to impose interest based on commercial rates instead of the interest rate fixed in Resolution No. R-421^[13] and Memorandum Circular No. 19,^[14] both of which provide a uniform rate of interest in decisions involving refunds. Atty. Deloria also allegedly used his connections in the HLURB to prevent Villanueva from releasing an Order denying the former's motion and to prevail upon the agency's Legal Services Group to interpret the term "commercial rate of interest" in a way that is favorable to his client's case, again in violation of the Code.^[15]

Further, Villanueva claims that Atty. Deloria assisted his client in filing an unfounded criminal case against him before the Office of the Ombudsman with the purpose of getting even with Villanueva for denying their motion. When his client pursued this course of action, Atty. Deloria allegedly should have withdrawn his services in accordance with Rule 22.01,^[16] Canon 22 of the Code.

In his Comment^[17] dated September 22, 2000, Atty. Deloria denies any wrongdoing and sought the dismissal of the Complaint for lack of merit. He avers that the refusal of the Estate of Jaime Gonzales to pay the interest stipulated in the decision is evident from the various motions it has filed. On the alleged commingling of his funds with those of his clients', Atty. Deloria claims that the spouses De Gracia requested him to advance the amount intended for consignment as they were then on vacation in the United States. He also maintains that he did not exert any influence on the HLURB to rule in his clients' favor, adding that the draft order which he filed in the case is required under the rules of the agency.

Atty. Deloria counters that it is Villanueva who has exhibited partiality in favor of the Estate of Jaime Gonzales by failing to rule on the motions for clarification filed by the latter, thereby forcing the spouses De Gracia to wait for an inordinately long time for the decision in their favor to be fully implemented.

Villanueva, in his Reply^[18] dated November 10, 2000, contends that he would have been indicted by the Office of the Ombudsman if it were true that his Order in the case was motivated by bias and partiality in favor of the Estate of Jaime Gonzales.

In a Resolution^[19] dated February 19, 2001, we referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

Investigating Commissioner Renato G. Cunanan submitted a Report^[20] dated September 29, 2005, finding merit in the Complaint and recommending that Atty. Deloria be suspended from the practice of law for two (2) years and/or be fined in the amount of P20,000.00. This recommendation was annulled and set aside by the IBP in its Resolution No. XVII-2006-279 dated May 26, 2006. The case was instead dismissed for lack of merit.

The report and recommendation of the Investigating Commissioner appears to be