

## EN BANC

[ A.C. NO. 7057, July 25, 2006 ]

**DAVID L. ALMENDAREZ, JR., COMPLAINANT, VS. ATTY. MINERVO T. LANGIT, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Case

On 5 May 2004, David L. Almendarez, Jr. ("complainant") filed this complaint-affidavit<sup>[1]</sup> before the Integrated Bar of the Philippines (IBP), seeking the disbarment of Atty. Minervo T. Langit ("respondent") for acts unbecoming a lawyer.

The facts are undisputed:

Complainant, as attorney-in-fact of his mother Pura Lioanag Vda. de Almendarez, was the plaintiff in an ejectment case before the Municipal Trial Court of Dagupan City, Branch 2 ("trial court"). Respondent served as complainant's counsel. While the case was pending, defendant Roger Bumanlag ("Bumanlag") deposited monthly rentals for the property in dispute to the Branch Clerk of Court.

On 3 February 1994, the trial court rendered a decision in the ejectment case based on a compromise agreement executed by complainant and Bumanlag. On 18 December 1995, the trial court issued an alias writ of execution for the satisfaction of the decision. A court order<sup>[2]</sup> dated 2 March 2000 granted the Omnibus Motion for Execution and Withdrawal of Deposited Rentals filed by respondent as complainant's counsel. Respondent filed a second motion for withdrawal of deposited rentals, which the trial court also granted on 16 March 2000.

Sometime in May 2003, complainant learned that respondent was able to withdraw the rentals deposited by Bumanlag. Felicidad Daroy ("Daroy"), Officer-in-Charge Clerk of Court, confirmed this to complainant who received from Daroy copies of the two withdrawal slips drawn from the trial court's savings account. One slip dated 10 March 2000 was for P28,000,<sup>[3]</sup> and another slip dated 19 April 2000 was for P227,000.<sup>[4]</sup> Thus, respondent received a total of P255,000, as evidenced by two receipts<sup>[5]</sup> signed by him. The withdrawals were made through Daroy's authorized representative Antonia Macaraeg, but Daroy personally delivered the money to respondent. Respondent did not inform complainant of these transactions.

Complainant, through his new counsel Atty. Miguel D. Larida, sent respondent on 30 June 2003 a final demand letter for the accounting and return of the P255,000.<sup>[6]</sup> Respondent failed to reply.

Hence, complainant filed this case for disbarment against respondent for failing to account for complainant's funds. Complainant further accuses respondent of neglecting to pursue the implementation of the writ of execution issued in the ejectment case.

On 12 May 2004, IBP Director for Bar Discipline Rogelio A. Vinluan ("IBP Director Vinluan") ordered respondent to submit his Answer to the complaint. Respondent did not file an answer despite receipt of the notice.<sup>[7]</sup>

On 4 October 2004, IBP Investigating Commissioner Caesar R. Dulay ("IBP Commissioner Dulay") notified the parties to appear before him for a mandatory conference on 15 November 2004, later reset to 17 January 2005. Only complainant appeared at the conference, prompting IBP Commissioner Dulay to order the conference terminated and to declare that respondent had waived his right to participate in the proceedings. IBP Commissioner Dulay directed the parties to file their respective position papers. Complainant submitted his position paper on 22 March 2005. Again, respondent took no action.

### **Findings and Recommendation of the IBP**

On 8 June 2005, IBP Commissioner Dulay submitted his Report and Recommendation ("Report")<sup>[8]</sup> with the finding that respondent failed to account for money he held in trust for complainant. The Report considered complainant's evidence "clear and convincing" enough to justify disciplinary action against respondent for violation of Rule 16.01 of the Code of Professional Responsibility. IBP Commissioner Dulay recommended that respondent be declared guilty of gross misconduct and suspended for one year, aside from being ordered to render an accounting of the money he had received.

In a Resolution<sup>[9]</sup> dated 17 December 2005, the IBP Board of Governors approved the Report, with the modification that the penalty of suspension be increased to two years.

### **The Court's Ruling**

We sustain the findings of the IBP.

Respondent committed a flagrant violation of his oath when he received the sum of money representing the monthly rentals intended for his client, without accounting for and returning such sum to its rightful owner. Respondent received the money in his capacity as counsel for complainant. Therefore, respondent held the money in trust for complainant. The Code of Professional Responsibility ("Code") states:

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.

Rule 16.03-A lawyer shall deliver the funds and property to his client when due or upon demand. However, he shall have a lien over the funds