

SECOND DIVISION

[A.C. No. 5623, December 11, 2003]

LUTHGARDA F. FERNANDEZ, COMPLAINANT, VS. ATTY. FIDEL M. CABRERA II, RESPONDENT.

RESOLUTION

QUISUMBING, J.:

In a verified complaint^[1] dated February 15, 2002, filed before the Office of the Bar Confidant of this Court, complainant Luthgarda F. Fernandez sought the disbarment of respondent, Atty. Fidel M. Cabrera II, for malpractice, deceit, and gross misconduct. Complainant alleges that she engaged the services of respondent sometime in July, 2001 to handle the cases of her associates in Baguio City and entrusted to him the records of the said cases. After paying respondent's acceptance fee of P20,000 and P2,500 appearance fee, respondent disappeared with the records of the cases. Respondent used to hold office at PO5 Prince Jun Condo, 42 Timog Avenue, Quezon City, but could no longer be located there. Nor did he leave a forwarding address.^[2]

In a Resolution dated April 3, 2002,^[3] this Court required respondent to file his comment within ten (10) days from notice. However, the copy of the said Resolution was returned to the Court unserved with the notation "RTS MOVED OUT." Thereafter, this Court required complainant by Resolution dated July 24, 2002^[4] to submit the correct and present address of respondent.

Complainant, through her counsel, filed a Manifestation^[5] dated September 13, 2002, stating that she cannot comply with the Court's July 24, 2002 Resolution requiring her to submit the correct and present address of the respondent. She explained that she filed the complaint for disbarment against respondent precisely because after taking hold of the records of the cases complainant entrusted to him and after getting initially paid for the services he would render, respondent suddenly disappeared and could no longer be located in his given address nor in the addresses that complainant gathered as his former and allegedly present addresses.^[6] In view of the aforesaid circumstances, the Court resolved on November 20, 2002^[7] to refer the case to the Integrated Bar of the Philippines for investigation, report, and recommendation.

The notices of hearing dated February 29, 2003 and March 19, 2003 likewise having been returned to the IBP unserved with the notation "MOVED", the IBP deemed to consider the notices as served on the respondent by substituted service under Section 8,^[8] Rule 13 of the 1997 Rules of Civil Procedure.

On June 21, 2003, the IBP Board of Governors passed Resolution No. XV-2003-366, the full text of which reads as follows:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and considering that respondent committed gross misconduct which shows him to be unfit for the office and unworthy of the privilege which his license and law confer upon him, Atty. Fidel M. Cabrera II is hereby SUSPENDED from the practice of law for one (1) year. [9]

This Resolution is now before this Court in view of the conclusion rendered and the penalty recommended by the IBP Board of Governors.

Acceptance of money from a client establishes an attorney-client relationship and gives rise to the duty of fidelity to the client's cause. The canons of professional responsibility require that once an attorney agrees to handle a case, he should undertake the task with zeal, care, and utmost devotion.[10] An attorney is bound to protect his client's interest to the best of his ability and with utmost diligence. It is the duty of a lawyer to serve his client with competence and diligence and he should exert his best efforts to protect within the bounds of law the interest of his client. A lawyer should never neglect a legal matter entrusted to him, otherwise his negligence in fulfilling his duty will render him liable for disciplinary action.[11]

As clearly stated in the Code of Professional Responsibility—

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.

Rule 18.04—A lawyer shall keep his client informed of the status of his case and shall respond within a reasonable time to the client's request for information. [12]

The failure to exercise that degree of vigilance and attention expected of an Officer of the Court makes such lawyer unworthy of the trust reposed in him by his clients and makes him answerable not just to his client but also to the legal profession, the courts, and the society. When a lawyer violates his duties to his client, the courts, the legal profession, and the public, he engages in unethical and unprofessional conduct for which he should be held accountable.

The circumstances of this case indubitably show respondent's failure to live up to his duties as a lawyer in consonance with the strictures of the lawyer's oath and the Code of Professional Responsibility, thereby warranting his suspension from the practice of law. Respondent's action projects his appalling indifference to his client's cause and a brazen disregard of his duties as a lawyer. Not only did he fail to render service of any kind, he also absconded with the records of the cases with which he was entrusted. Then to top it all, he kept the money complainant paid to him.

Such conduct is unbecoming of a member of the bar, for a lawyer's professional and personal conduct must at all times be kept beyond reproach and above suspicion. [13] The duty of a lawyer is to uphold the integrity and dignity of the legal profession