

EN BANC

[A.C. No. 1037, December 14, 1998]

**VICTORIANO P. RESURRECCION, COMPLAINANT, VS. ATTY.
CIRIACO C. SAYSON, RESPONDENT.**

D E C I S I O N

PER CURIAM:

To say that lawyers must at all times uphold and respect the law is to state the obvious, but such statement can never be overemphasized. Considering that, "of all classes and professions, [lawyers are] most sacredly bound to uphold the law,"^[1] it is imperative that they live by the law. Accordingly, lawyers who violate their oath and engage in deceitful conduct have no place in the legal profession.

In a Complaint-Affidavit, Victoriano P. Resurreccion charged Respondent Atty. Ciriaco C. Sayson with acts constituting "malpractice, deceit and gross misconduct in his office and a violation of his duties and oath as a lawyer." The Complaint arose from a homicide through reckless imprudence case, in which Complainant Resurreccion was the defendant and Respondent Sayson was the counsel for the offended party, Mr. Armando Basto Sr. The complainant alleged that, pursuant to the amicable settlement previously reached by the parties, he gave P2,500 to the respondent who, however, never gave the money to his client. Thus, the complainant was compelled to give another P2,500 to Mr. Basto as settlement of the case. The complainant then demanded the return of the money from respondent, to no avail. Thus, the Complaint for Disbarment.

The records show that the Office of the Solicitor General (OSG) conducted several hearings on the matter; during which the complainant was represented by Atty. Ronaldo Lopez. Although respondent had been notified, he failed to attend a number of such hearings. He eventually appeared through his new counsel, Atty. Wenceslao Fajardo. Because respondent once again failed to attend the next hearing, the OSG, in its September 4, 1973 Order,^[2] deemed the investigation of the case terminated. But upon the motion of the respondent, the OSG on October 31, 1973, set aside its earlier Order and once again set the case for a hearing of the former's evidence. Since then, however, it appears that the OSG has not been able to submit its report and recommendation on the case.

In 1990, the Integrated Bar of the Philippines (IBP) took cognizance of the case^[3] and tasked Commissioner Jesulito A. Manalo with the investigation, of which both the complainant and the respondent were duly notified. Complainant Resurreccion manifested his assent to the pursuit of the matter, but Respondent Sayson could not be found.^[4] In his Report, Commissioner Manalo presented the following facts:

"Respondent, a member of the Philippine Bar was accused of having converted and appropriated [for] his own personal benefit the amount of

P2,500.00 representing the amount which was delivered by the complainant to the respondent as compensation or settlement money of a case for homicide thru reckless imprudence.

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"Complainant alleged that on 13 May 1970, he was involved in a vehicular accident which occurred at Epifanio delos Santos Avenue, Quezon City which involved a boy [named] the name of Armando Basto resulting [in] the death of the latter. By reason of the said incident, complainant was accused of homicide thru reckless imprudence before the City Fiscal's Office at Quezon City. In the preliminary investigation, the father of the victim Mr. Armando Basto, Sr., was represented by respondent. Complainant was however, represented by Atty. Ramon Umali. The case for homicide thru reckless imprudence was amicably settled on 8 August 1970 and respondent received from the complainant the amount of P2,500.00. Respondent allegedly assured complainant that the sum [would] be delivered to his client Mr. Armando Basto, Sr. Respondent acknowledged in writing having received the amount of P2,500.00.

"Contrary however, to the assurances of the respondent, he had not delivered the said amount of P2,500.00 and the case was not dismissed for which reason complainant was compelled to pay anew the heirs of the victim the amount of P2,500.00. Demands were made for the respondent to return the said amount of P2,500.00 but the latter failed. By reason thereof, complainant filed a complaint for estafa against the respondent before the City Court of Quezon City which was docketed as Criminal Case No. III-149358 entitled 'People of the Philippines vs. Ciriaco C. Sayson'.

"In the hearing held on 22 May 1973, complainant Victoriano P. Resurreccion appeared assisted by his counsel. There was however, no appearance for the respondent Ciriaco C. Sayson. The investigator declared his failure to appear as a waiver of his presence and Mr. Armando Basto, Sr. was presented as witness. He testified that he [was] the father of Armando Basto, Jr. who was ran over by a motor vehicle then driven by the respondent. By reason of such death a case was filed in court and he was represented by Atty. Ciriaco Sayson, respondent in this case. A settlement arrangement was arrived at and complainant entrusted the amount of P2,500.00 to the respondent for the latter to turn over the same to his client. Atty. Ciriaco Sayson, however, failed to turn over the said amount of P2,500.00 to his client for which reason the case was not immediately dismissed. To effect dismissal of the case, complainant was forced to pay anew the sum of P2,500.00.

"Complainant was next presented as witness and he testified that on 30 May 1970, he was involved in a vehicular accident which resulted in the death of one Armando Basto, Jr. By reason thereof, he was accused of homicide thru reckless imprudence[,] and to effect settlement of that case he agreed to pay the amount of P2,500.00.

"On 8 August 1970, complainant together with his counsel conferred with [the] respondent in the latter's office at May Building, Rizal Avenue, Manila and in a conference, a settlement was arrived at whereby complainant [would] pay the amount of P2,500.00. This was done and payment was delivered to the respondent who acknowledged having received the said amount.

"Subsequently, complainant learned that the said amount of P2,500.00 was not delivered by respondent to Mr. Armando Basto, Sr., the father of the victim for which reason he was compelled to pay another amount of P2,500.00 to the heirs of the victim.

"Thereafter, he demanded [the] return of the said amount of P2,500.00 from the respondent. Despite visiting the latter fifteen or sixteen times, Atty. Ciriaco C. Sayson still failed to return the money. Thus, complainant filed a complaint for estafa which was elevated in Court and docketed as Criminal Case No. 49358.

"A Decision finding the respondent guilty of [the] crime of estafa was promulgated by the City Court of Quezon City."^[5]

Commissioner Manalo then rendered his evaluation and recommendation in this wise:

"Complainant was able to establish by more than convincing evidence that the misappropriation was in fact committed by the respondent. This fact [is] eloquently proven by Exhibits "A" to "E", all of which were not controverted by the respondent.

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"In view of the foregoing, undersigned Commissioner respectfully recommends that the above-entitled case be endorsed by the Honorable Board Governors to the Supreme Court with the recommendation that the complain[ant be] disbarred and his name be stricken off xxx the roll of attorneys.

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On February 28, 1998, the IBP Board of Governors issued a Resolution adopting and approving the report and recommendation of Commissioner Manalo. The Resolution, signed by IBP National Secretary Roland B. Inting and forwarded to this Court on March 28, 1998, is worded as follows:

"RESOLUTION NO. XIII-97-202
Adm. Case No. 1037
Victoriano P. Resurreccion vs.
Atty. Ciriaco C. Sayson

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED AND APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution/Decision as Annex "A" and, finding the recommendation fully