



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Baguio City

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **25 April 2022** which reads as follows:*

**“A.C. No. 11975 [Formerly CBD Case No. 09-2517] (*Leonora Cabanes and Wilfredo Bardenas v. Atty. Marlon C. Cabilan*).** — The present administrative case stemmed from an Affidavit-Complaint<sup>1</sup> dated August 17, 2009 filed by Leonora Cabanes and Wilfredo Bardenas (Bardenas; collectively, complainants) against Atty. Marlon Cabilan (Atty. Cabilan), before the Integrated Bar of the Philippines (IBP) and docketed as CBD Case No. 09-2517, for failure to return his clients’ money despite demand.

**Antecedents**

Complainants contracted the legal services of Atty. Cabilan as counsel in LSED Case No. RO700-2002-RI-411 (DOLE case), pending before the Department of Labor and Employment (DOLE), and RAB Case No. 09-2119-05 (NLRC case) pending before the National Labor Relations Commission (NLRC). Atty. Cabilan charged complainants attorney’s fees amounting to 25% of the award in the DOLE case, and 30% of the award in the NLRC case, although both constitute the same case.<sup>2</sup>

In 2005, a Decision was rendered in LSED Case No. RO700-2002-RI-411 awarding complainants the amount of ₱578,000.00, to be sourced from the public auction of properties of the respondent in said case. Atty. Cabilan received ₱302,200.00 as proceeds from the public auction, which he completely failed to deliver to complainants, as well as some unsold personal properties. Atty. Cabilan admitted to have spent for his personal use the said amount, and promised to pay the complainants as soon as the remaining properties have been sold. However, Atty. Cabilan did not fulfill his promise despite repeated

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<sup>1</sup> *Rollo*, pp. 4-5.

<sup>2</sup> *Id.* at 4.

demands.<sup>3</sup>

Subsequently, in 2008, a Decision was rendered in RAB Case No. 09-2119-05 where complainant Bardenas was awarded the amount of ₱39,000.00. However, Bardenas did not receive the amount. Instead, it was received by Globalyn D. Abellar, the office secretary of Atty. Cabilan. Complainants averred that to facilitate the release of the monetary awards, Atty. Cabilan asked them to sign a Special Power of Attorney in the latter's favor. Out of the amount of ₱39,000.00, Atty. Cabilan remitted certain amounts to Bardenas on installments, leaving a balance of ₱13,000.00.<sup>4</sup>

As complainants' demand remained unheeded, they filed the instant complaint against Atty. Cabilan.

The IBP-Commission on Bar Discipline (IBP-CBD), through various issuances,<sup>5</sup> required Atty. Cabilan to file his Answer,<sup>6</sup> and to attend the mandatory conference;<sup>7</sup> however, the latter failed to do so. Thus, the IBP issued an Order<sup>8</sup> dated May 16, 2014 submitting the case for report and recommendation.

### **Report and Recommendation of the IBP**

In a Report and Recommendation<sup>9</sup> dated June 27, 2015, IBP Commissioner Romualdo A. Din, Jr. (Commissioner Din, Jr.), recommended that Atty. Cabilan be suspended from the practice of law for a period of one year, and that he likewise be directed to return the money he has collected and withheld from his clients, including the unsold personal properties subject of the DOLE case due them. The IBP-CBD found Atty. Cabalin guilty of violating Rule 1.01, Canon 16, Rule 16.01, 16.02, and 16.03 of the Code of Professional Responsibility (CPR) for engaging in dishonest and deceitful acts in his professional conduct.<sup>10</sup>

### **Resolution of the IBP Board of Governors**

In a Resolution<sup>11</sup> dated January 27, 2017, the Board of Governors of the IBP approved and adopted the recommendation of the Investigating Commissioner. The pertinent portion of which reads:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner dismissing the complaint.

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<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id. at 16.

<sup>6</sup> Id.

<sup>7</sup> Id. at 29; 31; 33.

<sup>8</sup> Id. at 34.

<sup>9</sup> Id. at 38-45, penned by Commissioner Romualdo A. Din, Jr.

<sup>10</sup> Id. at 41-45.

<sup>11</sup> Id. at 36-37.

RESOLVED FURTHER to direct the respondent to turn over the money he has collected including the personal properties due to the complainant.<sup>12</sup>

### Our Ruling

At the outset, We wish to point out Our observation that the January 27, 2017 Resolution of the IBP Board of Governors erroneously and inadvertently stated that it is “dismissing the complaint.” Since the IBP Board of Governors is supposedly “[adopting] the findings of fact and recommendation of the Investigating Commissioner,”<sup>13</sup> then it is definitely not dismissing the complaint, but adopting the finding and recommendation of the Investigating Commissioner to suspend Atty. Cabilan from the practice of law for a period of one year, and to return the amount owed to them, as well as the unsold personal properties.

After a careful review of the records of the case, the Court resolves to adopt the findings and recommendation of the Investigating Commission, as affirmed by the IBP Board of Governors, to suspend Atty. Cabilan from the practice of law for one year, and to return the amount owed to complainants, as well as the unsold properties in his possession. Clearly, Atty. Cabilan violated Canon 16, Rule 16.01, 16.02, and 16.03 of the CPR when he failed to return the money and personal properties that he received on behalf of his clients.

It is without dispute that Atty. Cabilan received the amounts of ₱302,200.00, which he totally failed to remit to the complainants, and ₱39,000.00, of which he withheld ₱13,000.00, as well as the unsold personal properties.

We agree with the observations of the IBP that Atty. Cabilan failed to account for the said amounts which he accepted on behalf of complainants. Worse, Atty. Cabilan refused to surrender the same to the complainants despite repeated demands.<sup>14</sup> Notwithstanding the execution of a promissory note<sup>15</sup> undertaking to pay, Atty. Cabilan still failed to return the amount due. Indeed, Atty. Cabilan violated the fiduciary relationship with his clients which warrants the imposition of disciplinary action.

It must be stressed that the relationship between lawyers and their clients is highly fiduciary and prescribes on the lawyers a great fidelity and good faith.<sup>16</sup> The highly fiduciary nature of this relationship imposes upon lawyers the duty to account for the money or property collected or received for or from their clients.<sup>17</sup> Thus, a lawyer's failure to return upon demand the funds held by him or her on behalf of his or her client, as in this case, gives rise to the

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<sup>12</sup> Id. at 36.

<sup>13</sup> Id.

<sup>14</sup> Id. at 44.

<sup>15</sup> Id. at 42-43.

<sup>16</sup> See *Egger v. Duran*, 795 Phil. 9, 17 (2016).

<sup>17</sup> Id.

presumption that he or she has appropriated the same for his or her own use, in violation of the trust reposed in him or her by his or her client.<sup>18</sup> In this case, Atty. Cabilan himself admitted to have appropriated the amount to his personal uses. Such act is a gross violation of general morality, as well as of professional ethics.<sup>19</sup>

Atty. Cabilan violated Canon 16, Rule 16.01, 16.02, and 16.03 of the CPR, *viz.*:

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 16.02. A lawyer shall keep the funds of each client separate and apart from his own and those of others kept by him.

RULE 16.03. A lawyer shall deliver the funds and property of his client when due or upon demand. x x x

“Time and again, We have reminded lawyers that the practice of law is a privilege bestowed only to those who possess and continue to possess the legal qualifications for the profession.<sup>20</sup> As such, lawyers are duty-bound to maintain at all times a high standard of legal proficiency, morality, honesty, integrity, and fair dealing.<sup>21</sup> If the lawyer falls short of this standard, the Court will not hesitate to discipline the lawyer by imposing an appropriate penalty based on the exercise of sound judicial discretion.”<sup>22</sup> Hence, the palpable improprieties of Atty. Cabilan shall not be countenanced by the Court, as these constitute deliberate violation of the fiduciary duty that lawyers owe to their client.

Finally, the Court sustains the IBP’s recommendation to order Atty. Cabilan to return the amounts he received on behalf of his clients. While the Court has previously held that disciplinary proceedings should only revolve around the determination of the respondent-lawyer’s administrative, and not his or her civil liability, it must be clarified that this rule remains applicable only to claimed liabilities which are purely civil in nature — for instance, when the claim involves moneys received by the lawyer from his or her client in a transaction separate and distinct, and not intrinsically linked to his or her professional engagement.<sup>23</sup> Thus, it is warranted that Atty. Cabilan return and surrender the amounts of ₱13,000.00 to complainant Bardenas, and the amount of ₱302,200.00, to both complainants Bardenas and Cabanes, as well as the unsold personal properties, for being intrinsically linked to the lawyer’s professional engagement.

<sup>18</sup> Id.

<sup>19</sup> Id.

<sup>20</sup> *De Borja v. Mendez, Jr.*, 835 Phil. 476, 487 (2018).

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

In addition, the amounts due shall earn interest at the rate of six percent (6%) per *annum* from date of finality of this Resolution until fully paid.

**WHEREFORE**, respondent Atty. Marlon C. Cabilan is found guilty of violating Canon 16, Rule 16.01, 16.02, and 16.03 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of one year, effective upon receipt of this Resolution. He is **STERNLY WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

/ Atty. Marlon C. Cabilan is also **ORDERED** to immediately return the amount of ₱13,000.00 to complainant Wilfredo Bardenas, and the amount of ₱302,200.00 to both complainants Leonora Cabanes and Wilfredo Bardenas, as well as the unsold personal properties. The said amounts shall earn legal interest at the rate of six percent (6%) per *annum* from date of finality of this Resolution until fully paid.

Atty. Marlon C. Cabilan is **DIRECTED** to file a Manifestation before the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Resolution be furnished to the Office of the Bar Confidant, to be appended to the personal record of Atty. Marlon C. Cabilan as an attorney-at-law; to the Integrated Bar of the Philippines, and the Office of the Court Administrator, for dissemination to all branches and courts, respectively, throughout the country for their guidance and information.

**SO ORDERED.**" (*Perlas-Bernabe, S.A.J., on official leave; Hernando, J., Acting Chairperson per Special Order No. 2887 dated April 4, 2022*)

By authority of the Court:

  
**TERESITA AQUINO TUAZON**

Division Clerk of Court *pt/ab*

06 MAY 2022

MS. LEONORA CABANES (reg)  
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237 Ibabao, Mambaling  
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Respondent  
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Ortigas Center, 1605 Pasig City

ATTY. ROMUALDO A. DIN, JR. (reg)  
Investigating Commissioner  
Integrated Bar of the Philippines  
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