



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 22, 2022** which reads as follows:*

“**A.C. No. 12504 – (Parkroad Inc. v. Atty. Marciano S. Bacalla, Jr.)**. – The instant administrative case is brought about by a complaint¹ for suspension filed by Parkroad Inc., through its President Sung Jung Park (Parkroad) against Atty. Marciano S. Bacalla, Jr. (Atty. Bacalla) before the Integrated Bar of the Philippines (IBP) for violation of Canons 1 and 16 of the Code of Professional Responsibility (CPR) and Rule 138 of the Rules of Court.

Antecedents

On 28 July 2011, Parkroad filed a complaint against Atty. Bacalla for the alleged misappropriation of the sum of ₱1,190,524.30. Parkroad claims that Atty. Bacalla was its original counsel in the civil action for rescission/cancellation of contract and certificate of registration and application for a writ of replevin it filed before the RTC of Antipolo City. The alleged misappropriated amount was supposed to be a part of the ₱1,290,000.00 premium demanded by the surety, First Integrated Bonding Insurance Company, Inc. (FIBICO), to post the bond required by the court for the issuance of the writ of replevin.² Atty. Bacalla submitted the surety bond with the court. However, when Parkroad demanded a copy of the receipt issued by FIBICO, it took Atty. Bacalla a while to deliver a copy of the receipt for the amount of ₱1,290,000.00 under Official Receipt (OR) No. A-483295 dated 10 December 2010.³

¹*Rollo*, pp. 1-10.

²*Id.* at 194.

³*Id.*

Parkroad then demanded from FIBICO for the official receipt of the bond so they may declare it for taxation purposes.⁴ It later learned from FIBICO that the amount it received as premium payment was only ₱99,475.71, as shown by OR No. A-483298. FIBICO also denied issuing OR No. A-483295, which was earlier presented by Atty. Bacalla to Parkroad as proof of payment, as well as the signature that appeared thereon.⁵

In his verified Answer,⁶ Atty. Bacalla contended that after receiving the amount of ₱1,290,000.00 from his client, he paid the said amount to FIBICO through its insurance broker's aide, Ruel Caballero (Mr. Caballero). He did not, however, realize that the latter failed to issue a receipt as he was focused on securing the bond without delay and the issuance of the replevin order. It was only upon the request of Parkroad that Atty. Bacalla started demanding Mr. Caballero for a copy of the receipt. Mr. Caballero, in turn, gave him a mere photocopy of OR No. A-483295 in the amount of ₱1,290,000.00 as the original was allegedly with a certain Ms. Buenaventura. After some time, Mr. Caballero furnished Atty. Bacalla with the original copy of OR No. A-483295.

According to Atty. Bacalla, Parkroad's recourse is not to him but against FIBICO who issued two (2) receipts for the same transaction. He also claimed that he paid the entire amount of ₱1,290,000.00 to FIBICO as evidenced by OR No. A-483295; a fact never disputed by FIBICO itself.⁷ Atty. Bacalla added that he never breached his duty as counsel for his client and that he performed his function as a lawyer in a diligent, honest, and proper manner.⁸

Report and Recommendation of the IBP

In a report and recommendation,⁹ Integrated Bar of the Philippines (IBP) Investigating Commissioner (investigating commissioner) Atty. Salvador B. Belaro, Jr. found Atty. Bacalla liable for gross misconduct, recommending the penalty of suspension for

⁴Id. at 2-3.

⁵Id. at 4-5.

⁶Id. at 25-31.

⁷Id. at 195.

⁸Id. at 150.

⁹Id. at 149-153.

two years from the practice of law. The IC ruled that Atty. Bacalla failed to account and return the amount of ₱1,190,524.30, upon demand by the Parkroad, constituting as a blatant disregard of Rule 16.01 of the CPR.¹⁰

On 08 August 2014, the IBP Board of Governors issued a Resolution,¹¹ adopting and approving the findings of the investigating commissioner, with modification as to the penalty. In addition to the penalty of two years suspension from the practice of law, The IBP Board ordered Atty. Bacalla to account for the money received.¹²

Atty. Bacalla moved for reconsideration,¹³ which the IBP Board of Governors granted in its Resolution¹⁴ dated 05 June 2015. It set aside the 08 August 2014 Resolution and dismissed the complaint against Atty. Bacalla.

On 29 November 2016, the IBP Board of Governors, in an extended resolution, reversed its 05 June 2015 Resolution, following the memorandum¹⁵ of the Director of Committee on Bar Discipline, and suspended Atty. Bacalla from the practice of law for one year.

Ruling of the Court

The Court agrees with the findings and recommendations of the IBP that Atty. Bacalla violated Canon 16, Rule 16.01 of the CPR warranting his suspension from the practice of law for one year.

The CPR states:

CANON 16 — A lawyer shall hold in trust all moneys and properties of his [or her] client that may come into his [or her] possession.

¹⁰Id. at 151.

¹¹Id. at 148.

¹²Id.

¹³Id. at 154-162.

¹⁴Id. at 203.

¹⁵Id. at 204-210.

RULE 16.01. A lawyer shall account for all money or property collected or received for or from the client.

The relationship between a lawyer and his or her client is highly fiduciary and prescribes on a lawyer great fidelity and good faith. The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his or her client.¹⁶

It is undisputed that Atty. Bacalla received the amount intended as payment for the replevin bond in the civil case he handled for Parkroad. Although Atty. Bacalla claims that he paid the same to FIBICO thru Mr. Caballero and was issued OR No. A-483295 dated 10 December 2010, Atty. Bacalla failed to account for the said amount he received in trust from Parkroad. Clearly, Atty. Bacalla failed to exert diligent efforts to secure the official receipt from Mr. Caballero, despite paying a large amount of ₱1,290,000.00. Atty. Bacalla only requested for the original copy of OR No. A-483295 several days after the writ of replevin was served, or at least 14 days after he received the amount of ₱1,290,000.00 from Parkroad. In fact, according to Atty. Bacalla, he forwarded a copy of the receipt to his client only after the latter demanded for it.¹⁷ And when asked to justify the delay, he offered a flimsy excuse that he was interested in immediately securing the bond and the replevin order.

We also note of the following observations made by the investigating commissioner in his report and recommendation on the following circumstances that makes OR No. A-483295 highly suspicious, thus:

- a. The existence of OR No. A-483298 dated 9 December 2010 which apparently had been issued to FIBICO one day earlier than OR No. A-483295 and which contains a detailed breakdown of the actual expenses paid for by Parkroad, amounting to P99,475.71;
- b. The absence of a detailed breakdown of the actual expenses amounting to P1,290,000.00 in OR No. A-483295;
- c. The existence of a letter from FIBICO's counsel dated 7

¹⁶*Minas v. Doctor, Jr.*, A.C. No. 12660 (Resolution), 28 January 2020.

¹⁷*Rollo*, 209-210.

February 2011 attaching a copy of OR No. A-483298 and denying knowledge of the existence of OR No. A-483295.¹⁸

In addition, the IBP Board of Governors also made the following observations: The OR No. A-483298 shows the control number of the bond which FIBICO issued, unlike the OR No. A-483295 in the amount of ₱1,290,000.00 which Atty. Bacalla claims to be issued by FIBICO, and which has no control number of the bond issued relative thereto. Moreover, OR No. A-483298 dated 09 December 2010, in the amount of ₱99,475.71 is also consistent with the other documents submitted to the court in the posting of the replevin bond which were all similarly dated 09 December 2010. In contrast to OR No. A-483295 presented by Parkroad dated 10 December 2010, the same does not correspond to the documents submitted in court for the purpose of posting the replevin bond.¹⁹ It bears pointing to as well that OR No. A-483295 was dated *after* OR No. A-483298, despite being ahead in the numerical series of the official receipts.

It is settled that when a lawyer receives money from the client for a particular purpose, the lawyer is bound to render an accounting to the client showing that the money was spent for the intended purpose. Consequently, if not used accordingly, the money must be returned immediately to the client.²⁰ While We agree that Atty. Bacalla failed to properly account for the money received from Parkroad because of the existence of OR No. A-483298 which he failed to reconcile with OR No. A-483295, the purpose for which the bond was secured was nonetheless served. The bond was correspondingly approved, a writ of replevin²¹ was issued and which was returned in court fully satisfied.²²

All the foregoing considered, the Court finds the recommended penalty of suspension of one (1) year to be in order. In a number of cases,²³ the Court imposed the penalty of not less than six (6) months suspension upon erring lawyers who were found guilty of the same or

¹⁸Id. at 151-152.

¹⁹Id. at 201.

²⁰*Olayta-Camba v. Bongon*, 757 Phil. 1, 7 (2015).

²¹*Rollo*, pp. 125-126.

²²Id. at 88-90.

²³*Go v. Buri*, A.C. No. 12296, 04 December 2018; *Luna v. Atty. Gallarita*, 763 Phil. 175 (2015); *Agot v. Rivera*, 740 Phil. 393 (2014); *Jinon v. Jiz*, 705 Phil. 321 (2013).

similar acts. The one year suspension of Atty. Bacalla appears to be proper considering Parkroad's prayer for suspension and not disbarment, and further considering that the imposition of such penalty serves the purpose of protecting the interest of the public and the legal profession.²⁴

WHEREFORE, the Court **RESOLVES** to **ADOPT** and **APPROVE** the findings of fact, conclusions of law, and recommendation of the Integrated Bar of the Philippines in the attached Resolution dated 29 November 2016. Accordingly, for violation of Rule 16.01, Canon 16 of the Code of Professional Responsibility, Atty. Marciano S. Bacalla, Jr., is hereby **SUSPENDED** from the practice of law for a period of one (1) year, effective upon notice or receipt of this Resolution, with a **STERN WARNING** that repetition of the same or similar acts will be dealt with more severely.


The respondent, upon receipt of this Resolution shall immediately serve his suspension. He shall formally manifest to this Court that his suspension has started, and copy furnish all courts and quasi-judicial bodies where he has entered his appearance, within five (5) days upon receipt of this Resolution. Respondent shall also serve copies of his manifestation on all adverse parties in all the cases he entered his formal appearance.

Let copies of this Resolution be served on the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts in the country for their information and guidance and be attached to Atty. Bacalla's personal records as attorney.

²⁴*Meneses v. Macalino*, 518 Phil. 378, 387 (2006).

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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JUL 19 2022

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