



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 5, 2022 which reads as follows:

“A.C. No. 13478 [Formerly CBD Case No. 15-4698] (*Miguel Jonathan A. Dawis v. Atty. Orlando O. Ailes*). – The instant administrative case stemmed from a *Sinumpaang Reklamo*¹ (complaint-affidavit) filed by Miguel Jonathan A. Dawis (complainant) against Atty. Orlando O. Ailes (respondent) for failure to account and give money due to him.

Antecedents

Complainant alleged that respondent was his counsel in a collection case against one Sheila Rowena Federis² (Federis) and Mirasol Isaac, docketed as Civil No. 12-30553 (collection case). In a Judgment³ dated 11 December 2013 of Branch 50, Metropolitan Trial Court (MTC) of Caloocan City ruled in favor of complainant, *viz*:

WHEREFORE, foregoing considered, judgment is hereby rendered ordering the defendant Shiela Rowena Federis to pay plaintiff Miguel Jonathan A. Dawis, the following to wit: 1) ₱66,800.00 as principal obligation, with legal interest of 12% per month from extrajudicial demand, on July 18, 2012 until it is fully paid (2) to pay ₱15,000 as and for attorney’s fees and (3) cost of suit.

The claim for ₱10,000.00 litigation expenses is denied for lack of factual and legal basis.

¹ *Rollo*, Vol. 1, pp. 17-20.

² Also referred as "Shiela Rowena Federis" in the *rollo*.

³ *Rollo*, pp. 27-29, penned by Presiding Judge Lady Rochelle S. Saymo-Llabres.

The case of defendant Mirasol Isaac is ordered archived, subject to revival upon acquisition of jurisdiction over her person.

SO ORDERED.⁴

Complainant alleged that when he tried to follow up with respondent on the status of the case, the latter shouted at him and said, “[p]utang ina, [kumuha] ka ng ibang abogado x x x” Because of respondent’s reaction, complainant was constrained to seek assistance from another lawyer to represent him in the appeal filed by Federis.⁵

When complainant filed a Petition for *Certiorari* before the Court of Appeals, he learned, through the Comment⁶ filed by Federis therein, that respondent received ₱25,000.00 as partial payment for the judgment debt in the collection case. As proof of such payment, complainant attached a Receipt⁷ dated 16 February 2014 signed by respondent. Complainant then enumerated the various amounts of money respondent received, viz.: 1) ₱24,000.00 representing attorney and legal fees from complainant; 2) ₱5,100.00 for filing fees from complainant⁸; 3) ₱25,000.00 from Federis; and 4) ₱6,000.00 without receipt.⁹

In an Order¹⁰ dated 25 August 2015, the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline (CBD) required respondent to file his Answer. Respondent filed various motions¹¹ seeking extension to file Answer, claiming that he is pressured with other cases and with his preparation for his presidential campaign in the 09 May 2016 Presidential elections.

During the mandatory conference hearing on 18 March 2016, only complainant appeared.¹² The IBP-CBD ordered that the case be heard *ex-parte* and directed complainant to file a position paper.¹³ On 30 March 2016, complainant filed his Position Paper.¹⁴

On 22 April 2016, respondent moved to set aside the order of default and submitted his Position Paper.¹⁵ Respondent, for his part, claimed that complainant is a “loan shark” who operates a lending business without a license. He admitted that he was the counsel in the collection case, and that he received the ₱25,000.00 from Federis. He, however, argued that he did not immediately turn over the amount to complainant because Federis

⁴ Id. at 27-29.

⁵ Id. at 18.

⁶ Id. at 23-24.

⁷ Id. at 26.

⁸ Id. at 30.

⁹ Id. at 18-19.

¹⁰ Id. at 32.

¹¹ Id. at 33-46.

¹² Id. at 60.

¹³ Id. at 61.

¹⁴ Id. at 64-69.

¹⁵ Id. at 76-77.

informed him that the judgment was already reversed.¹⁶ He also claimed that he was not able to give the money because he was in a “distant place.” Likewise, respondent averred that complainant abandoned him “by not finding time to drop by his law office.” He explained that “it is not entirely the fault of the lawyer to keep the money received for his [or her] client who has been unheard of for a long time even after he [or she] filed this disbarment complaint.” To corroborate his claim, respondent submitted an Affidavit¹⁷ from his secretary, stating that 1) she was not able to reach complainant because they have no record of his contact number, and 2) she sent a notice to complainant’s address, but received no response.

Respondent also denied that he shouted at complainant and alleged that the supposed incident was “a mere concoction and childish.” He insisted that complainant did not pay him his acceptance fee in another case, although he admitted receiving ₱5,100.00 as filing fee. He claimed that he and complainant had an agreement that the “acceptance fee will be taken from the proceeds of the judgment on the Federis case.” Finally, respondent surmised that the complainant filed the case to harass and embarrass him.¹⁸

Report and Recommendation of the IBP

On 14 October 2019, the Investigating Commissioner issued a Report and Recommendation¹⁹ proposing that respondent be suspended from the practice of law for a period of one year.

Meanwhile, the IBP Board of Governors (IBP-BOG), in a Resolution²⁰ dated 28 February 2020, agreed with the factual findings of the Investigating Commissioner, but modified the recommended penalties. The IBP Resolution reads:

CBD Case No. 15-4698
Miguel Jonathan A. Dawis vs.
Atty. Orlando O. Ailes

*RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED with **modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case and finding the recommendation fully supported by the evidence on record and the applicable laws and rules, Atty. Orlando Ailes is hereby recommended to be **SUSPENDED from the practice of law for one (1) year and be Ordered to Return** to complainant the settlement money of Twenty Five Thousand (P25,000.00) Pesos and the filing fees for another case amounting to Five Thousand One Hundred*

¹⁶ Id. at 81.

¹⁷ Id. at 111.

¹⁸ Id. at 103-105.

¹⁹ Id. at 194-199; signed by Commissioner Jose Alfonso M. Gomos.

²⁰ Id. at 192; signed by National Secretary Roland B. Inting.



(P5,100.00) Pesos. ²¹

Respondent filed a Motion for Reconsideration²² on 06 November 2020, arguing that the penalty of suspension of one year is severe, harsh, and not commensurate to his alleged violation. According to respondent, he did not misappropriate the money but merely deposited the ₱25,000.00 in a bank. Moreover, his secretary informed complainant that he can claim the amount at his office. However, complainant failed to show up. Thus, he pleaded for a reduction of the penalty, arguing that as an 82-year-old lawyer, suspending him would “hasten his professional demise.”

In a Resolution ²³ dated 03 December 2021, the IBP-BOG reconsidered its earlier resolution and reduced the penalty to admonition. The Board considered respondent’s advanced age, and the fact that he restituted the amount complainant claims.

Issue

The sole issue here is whether respondent should be held administratively liable based on the allegations in the complaint.

Ruling of the Court

Our ethical rules are cognizant of the highly fiduciary nature of the professional relationship between attorney and client that specific rules have been established to primarily protect the trust, and guard the interests of the client. Consistent with the nature of legal practice as primarily a form of public service, the Code of Professional Responsibility (CPR) requires that the lawyer observe candor, fairness, and loyalty in his or her dealings with his or her client. The following provisions of the CPR are pertinent:

CANON 16 – A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS [OR HER] PROFESSION.

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 of his [or her] client when due or upon demand. However, he [or she] shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his [or her] lawful fees and disbursements, giving notice promptly thereafter to his [or her] client. He [or she] shall also have a lien

²¹ Id.

²² Id. at 200-204.

²³ Id. at 218-219; signed by Assistant National Secretary Jose Angel B. Guidote, Jr.

to the same extent on all judgments and executions he [or she] has secured for his [or her] client as provided for in the Rules of Court.

In this case, respondent himself admitted that he received money from Federis. Although he asserts that he gave complainant notice, he failed to present proof thereof during the proceedings before the IBP. His attempt to impute “contributory negligence” to complainant does not merit consideration, and only serves to highlight his indifference to his client’s cause.

While it is true that communication is a shared responsibility between counsel and their clients, it is the counsel’s primary duty to inform their clients of the status of their case and the orders which have been issued by the court. A lawyer cannot simply wait for their clients to make an inquiry about the developments in their case. Close coordination between counsel and client is necessary for them to adequately prepare for, and to effectively monitor the progress of the case. Besides, it is elementary procedure for a lawyer and their clients to exchange contact details at the initial stages in order to have constant communication with each other.²⁴ Logic and basic diligence behoove a lawyer to get the contact information of their client for prompt updating on the case. Thus, this Court rejects the statement of respondent’s secretary that it was complainant who did not reply to the notice she sent to complainant’s address. Without proof of mailing of said notice, her allegations are clearly self-serving. It is truly puzzling that at this time of proliferation of social media, online interactions, and the extensive use of mobile phones, respondent failed to ask complainant’s contact information other than his residential address. It does not appear further that respondent exerted other efforts to get hold of complainant through other persons nor attempted to give him another notice via mail.

Meanwhile, respondent’s explanation that complainant owes him his acceptance fees in other cases do not justify taking the money from Federis without informing complainant. The Court has long held that a lawyer is not entitled to unilaterally appropriate their client’s money, as well as properties and documents, for themselves by the mere fact that they are owed legal fees. It is essential that the client consent to the application of their property or funds to the legal fees, in which case the lawyer may deduct what is due to them and return the excess to the client. Absent the client’s consent, the lawyer must return the funds to the client, without prejudice to the filing of a case to recover the unpaid fees.²⁵ Evidently, the failure to account and give the money to the client give rise to the obligation to return the same. In this case, contrary to the finding of the IBP-BOG, this Court is unable to find anything in the records which proves that the same was deposited in a bank, or that the amount was turned over to complainant. Thus, this Court disagrees with the IBP-BOG and modifies the penalty accordingly.

²⁴ *Spouses Aranda v. Elayda*, 653 Phil. 1, 9 (2010).

²⁵ *Home Guaranty Corp. v. Tagayuna*, A.C. No. 13131, 23 February 2022.

Verily, a lawyer who commits a breach of Canon 16 of the CPR ranges from suspension from practice for six months to two years, or even disbarment, depending on the circumstances of each case.²⁶ As stated above, there is no evidence of deposit or return of the ₱25,000.00 to complainant. Further, this Court cannot turn a blind eye on the delay caused in the resolution of this case on account of various motions for extensions filed by respondent before the IBP, as well as his non-appearance in the mandatory conference. While this Court can only surmise on the challenges of a presidential election campaign, it is resolute in its pronouncement that pressure and large volume of legal work do not excuse delays in filing of papers or pleadings.²⁷ By delaying the filing of required pleadings and his absence in the mandatory conference, respondent showed his disrespect to the IBP's authority and processes. Weighing these circumstances with the fact that respondent is of advanced age, this Court finds that the penalty of suspension for two months proper. Verily, lawyers must be reminded that the profession requires a high degree of professionalism, candor, and integrity not only with clients and the Court, but also in relations with colleagues in the profession and the IBP.²⁸

WHEREFORE, premises considered, respondent Atty. Orlando O. Ailes is hereby found **GUILTY** of violating Canon 16 of the Code of Professional Responsibility. He is **SUSPENDED** from the practice of law for two months, with **STERN WARNING** that a repetition of the same or similar violation shall be dealt with more severely.

The suspension in the practice of law shall take effect immediately upon receipt of this Resolution by respondent Atty. Orlando O. Ailes. He is **ORDERED** to immediately file a Manifestation to the Court that his suspension has started, and to furnish copies to all courts and quasi-judicial bodies where he entered his appearance as counsel.

Respondent is also **ORDERED** to return to complainant Miguel Jonathan A. Dawis within 10 days from notice the sum of ₱25,000.00 with interest of six percent (6%) per *annum* from receipt of this Resolution until the full amount is satisfied. He shall submit to the Court proof of restitution within 10 days from payment. Failure to comply with this directive shall warrant the imposition of a more severe penalty.

Let copies of this Resolution be furnished to the Office of the Bar Confidant, to be appended to Atty. Orlando Ailes' personal record as attorney. Likewise, let copies of this Resolution be furnished to the Integrated Bar of the Philippines and the Court Administrator for circulation to all the courts in the country for their information and guidance.


²⁶ Id.

²⁷ See *De Guzman v. De Quiroz*, A.C. No. 10853 17 June 2020; *Taghoy v. Tecson III*, A.C. No. 12446, 16 November 2020.

²⁸ See *Bondoc v. Licudine*, A.C. No. 12768, 23 June 23, 2020.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court 10/16

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

108

OCT 13 2022

Mr. Miguel Jonathan A. Dawis
Complainant
Block 2, Lot 74, Alecon Homes
Barangay Llano, 1400 Caloocan City

Atty. Orlando O. Ailes
Respondent
2/F, ARCA Building (fronting SSS Deparo)
Celia Subdivision, Camarin, Novaliches
1422 Caloocan City

Integrated Bar of the Philippines
15 Doña Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

Office of the Bar Confidant (x)
Supreme Court

Office of the Court Administrator (x)
Supreme Court

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)

Philippine Judicial Academy (x)
Supreme Court



UR

~~NOT~~