



Republic of the Philippines
SUPREME COURT
Manila

EN BANC

ETHELENE W. SAN JUAN,
Complainant,

A.C. No. 11317

Present:

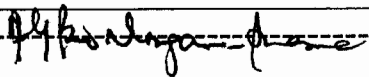
- versus -

ATTY. FREDDIE A. VENIDA,
Respondent.

SERENO, *C.J.*,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,*
PERALTA,
BERSAMIN,
DEL CASTILLO,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA, *JJ.*

Promulgated:

August 23, 2016

X----------X

DECISION

PER CURIAM:

Before this Court is an administrative complaint filed by Ethelene W. San Juan (Ethelene) against respondent Atty. Freddie A. Venida (Atty. Venida) for violation of the Lawyer's Oath and the Code of Professional Responsibility.

Sometime in 2007, Ethelene required the services of a lawyer to handle the petition for the declaration of nullity of her marriage that she was considering to file. Ethelene's mother referred her to Atty. Venida, whom she engaged to file the case on her behalf. Atty. Venida agreed to handle the case for a consideration of Twenty-Five Thousand Pesos (₱25,000) by way of acceptance, filing, and docket fees. Atty. Venida personally collected the

* On leave.

₱25,000 from Ethelene's house on April 22, 2007, and required her to sign a verification to be attached to the petition.¹

The following day, Atty. Venida required an additional Four Thousand Pesos (₱4,000) for the fees of the sheriff or process server in order to serve the summons. Ethelene paid the said amount on April 24, 2007, as evidenced by an Acknowledgment Receipt² dated April 22, 2007. Atty. Venida assured Ethelene that he will file the petition with the Regional Trial Court of Makati City (Makati RTC) as soon as possible.

After a month, Ethelene's mother called Atty. Venida to inquire if the case had already been filed, and the latter answered in the affirmative. Based on Atty. Venida's assurances, Ethelene's mother contacted him again to confirm if a hearing of the case had already been scheduled. Atty. Venida told Ethelene's mother to wait and that he will inform them if a hearing had already been set. Ethelene's mother persisted on inquiring when a hearing on the petition will be scheduled, and Atty. Venida repeatedly answered that it normally takes time before a hearing is scheduled, and they would just have to wait.³

In the meantime, Ethelene's mother asked for a copy of the petition that Atty. Venida filed in court. Upon examination of the copy of the petition that she received,⁴ Ethelene discovered that it was not stamped "Received" by the Makati RTC Office of the Clerk of Court (OCC). Ethelene contacted Atty. Venida to clarify this matter, and the latter informed her that only the draft copy was given to them and that the file copy of the petition, duly acknowledged by the OCC, was left in his office.⁵ Ethelene asked Atty. Venida for his office or residence address in order to secure a copy of the petition herself. However, Atty. Venida refused to reveal his address.

Beginning to suspect that something was amiss, Ethelene went to the OCC to verify and inquire about the status of the petition. To her great dismay and disappointment, the OCC informed her that no such petition was filed with its office.⁶ Ethelene contacted Atty. Venida to clarify the matter, but the latter merely avoided her and told her he was busy. When Atty. Venida finally agreed to meet with Ethelene and her mom, he did not show up. Ethelene tried to contact him again, but he never returned her calls.⁷

Thus, on August 8, 2007, Ethelene filed a complaint for disbarment against Atty. Venida with the Integrated Bar of the Philippines (IBP). Acting on the complaint, the Commission on Bar Discipline (CBD) issued a Notice of Mandatory Conference on February 13, 2014 directing Ethelene

¹ *Rollo*, p. 2.

² *Id.* at 7.

³ *Id.* at 3.

⁴ *Id.* at 8-10.

⁵ *Id.* at 3.

⁶ *Id.* A Certification dated July 20, 2007 was issued by the OCC to attest to this fact, *see id.* at 11.

⁷ *Id.*

Atty. Venida

and Atty. Venida to appear before the CBD for mandatory conference on April 8, 2014 and to submit their respective Mandatory Conference Brief three days prior to the scheduled date. Both parties, however, failed to appear despite notice. Thus, the CBD submitted the case for resolution.

In its Report and Recommendation⁸ dated June 22, 2015, the CBD recommended the disbarment of Atty. Venida for exhibiting dubious character that affects the standing of lawyers. The CBD was convinced that Atty. Venida acted in bad faith, with a clear intent to deceive Ethelene when he furnished her a draft copy of the petition rather than a receiving copy to show that the petition had, indeed, been filed.

On June 30, 2015, the IBP Board of Governors issued Resolution No. XXI-2015-609,⁹ adopting and approving the recommendation of the CBD. The Resolution reads:

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 as Annex "A", and finding the recommendation to be fully supported by the evidence on record and applicable laws, and considering Respondent's rude disposition denigrating the legal profession and insolent and conceited manner before the Commission on Bar Discipline, Atty. Freddie A. Venida is hereby DISBARRED from the practice of law and his name stricken off from the Roll of Attorneys.

Given the foregoing finding, the only remaining question that begs resolution is whether Atty. Venida is guilty of misappropriating the total amount of ₱29,000 that Ethelene entrusted to him for filing the petition for the annulment of the latter's marriage.

We sustain the findings of the IBP that Atty. Venida acted in bad faith and deceived Ethelene, in violation of his sworn duties under the Lawyer's Oath and Code of Professional Responsibility (Code).

Lawyers are duty-bound to exhibit fidelity to their client's cause and to be mindful of the trust and confidence reposed in them to diligently prosecute their clients' cases the moment they agreed to handle them, as is mandated of them under Canon 17 of the Code. They owe entire devotion to the interest of the client, warm zeal in the maintenance and the defense of the client's rights, and the exertion of their utmost learning and abilities to the end that nothing be taken or withheld from the client, save by the rules of law legally applied.¹⁰ Atty. Venida grossly failed to fulfil this mandate.

The records definitively show that Atty. Venida was completely remiss and negligent in handling Ethelene's case, notwithstanding his receipt of the sum of Twenty-Nine Thousand Pesos (₱29,000) from her by way of

⁸ Id. at 20-21.

⁹ Id. at 18-19.

¹⁰ See *Burbe v. Atty. Magulta*, A.C. No. 5713, June 10, 2001, 383 SCRA 277; citing *Tan v. Lapak*, G.R. No. 93707, January 23, 2001, 350 SCRA 74.

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his acceptance and filing fees. Instead of filing the petition, Atty. Venida gave his client a runaround and led her to believe that the petition had already been filed. When pressed for updates, Atty. Venida evaded Ethelene and refused to return her calls. Worse, the fees remain unaccounted for, which were entrusted to him for the filing of the petition.

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 that particular purpose. And if he or she does not use the money for the intended purpose, the lawyer must immediately return the money to the client.¹¹ Consequently, Atty. Venida is duty-bound to return the ₱29,000 given to him by Ethelene. Failure to do so is a breach of Rule 16.01 of the Code, which provides:

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

Atty. Venida's agreement to handle Ethelene's case, cemented by his receipt of his legal fees, is an assurance and representation to his client that he would be diligent and competent in handling her case. This includes constantly updating her, on his volition, of the status of her case. Thus, his actions are contrary to Canon 18, and its Rules 18.03 and 18.04, which state:

Canon 18 – A lawyer shall serve his client with competence and diligence;

x x x x

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. x x x

Moreover, Rule 1.01 of the Code states that “a lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.” Deceitful conduct involves moral turpitude and includes anything done contrary to justice, modesty or good morals. It is an act of baseness, vileness or depravity in the private and social duties which a man owes to his fellowmen or to society in general, contrary to justice, honesty, modesty, or good morals.¹² As pronounced by this Court in *Belleza v. Atty. Macasa*,¹³ a lawyer has the duty to deliver his client's funds or properties as they fall due or upon demand. His failure to return the client's money upon demand gives rise to the presumption that he has misappropriated it for his own use to the

¹¹ *Dizon v. Atty. De Taza*, A.C. No. 7676, June 10, 2014, 726 SCRA 70; citing *Navarro v. Atty. Solidum, Jr.*, A.C. No. 9872, January 28, 2014.

¹² *Overgaard v. Atty. Valdez*, A.C. No. 7902, September 30, 2008, 567 SCRA 118. (citations omitted)

¹³ A.C. No. 7815, July 23, 2009, 593 SCRA 549.

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prejudice of and in violation of the trust reposed in him by the client. It is a gross violation of general morality as well as of professional ethics; it impairs public confidence in the legal profession and deserves punishment.¹⁴

Atty. Venida's misappropriation of the funds, as well as avoidance to account for his actions when confronted of his falsities, constitutes dishonesty, abuse of trust and confidence, and betrayal of his client's interests. These acts undoubtedly speak of deceit. Such malfeasance is not only unacceptable, disgraceful, and dishonorable to the legal profession; it also reveals a basic moral flaw that makes him unfit to practice law.¹⁵ Good moral character is not only a condition precedent relating to his admission into the practice of law, but is a continuing imposition in order for him to maintain his membership in the Philippine Bar.¹⁶

In this regard, Section 27, Rule 138 of the Revised Rules of Court mandates that a lawyer may be disbarred or suspended by this Court for any of the following acts: (1) deceit; (2) malpractice; (3) gross misconduct in office; (4) grossly immoral conduct; (5) conviction of a crime involving moral turpitude; (6) violation of the lawyer's oath; (7) willful disobedience of any lawful order of a superior court; and (8) willfully appearing as an attorney for a party without authority to do so.¹⁷ Thus, a lawyer may be disbarred or suspended for any violation of his oath, a patent disregard of his duties, or an odious deportment unbecoming of an attorney. A lawyer must at no time be wanting in probity and moral fiber, which are not only conditions precedent to his entrance to the Bar, but are likewise essential demands for his continued membership in it.¹⁸

The IBP Board of Governors resolved to adopt the recommendation of the IBP-CBD to disbar Atty. Venida from the practice of law for his infractions against Ethelene. However, jurisprudence advises that the power to disbar must be exercised with great caution, and may be imposed only in a clear case of misconduct that seriously affects the standing and the character of the lawyer as an officer of the Court and as a member of the bar. Disbarment should never be decreed where any lesser penalty could accomplish the end desired. Without doubt, a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair.¹⁹

¹⁴ *Belleza v. Atty. Macasa*, A.C. No. 7815, July 23, 2009, 593 SCRA 549.

¹⁵ *CF Sharp Crew Management Incorporated v. Atty. Torres*, A.C. No. 10438, September 23, 2014. (citations omitted)

¹⁶ *Ong v. Atty. Delos Santos*, A.C. No. 10179, March 4, 2014; citing *Manaois v. Diciembre*, Adm. Case No. 5364, August 20, 2008, 562 SCRA 359.

¹⁷ *Nazaria S. Hernandez, substituted by Luciano S. Hernandez, Jr. v. Atty. Go*, A.C. No. 1526, January 31, 2005, 450 SCRA 1.

¹⁸ *Penilla v. Atty. Alcid, Jr.*, A.C. No. 9149, September 4, 2013, 705 SCRA 1.

¹⁹ *Francia v. Atty. Abdon*, A.C. No. 10031, July 23, 2014; citing *Alitagtag v. Atty. Garcia*, 451 Phil. 420, 426 (2003).

J. P. Morgan

The question as to what disciplinary sanction should be meted out against a lawyer found guilty of misconduct requires consideration of a number of factors. When deciding upon the appropriate sanction, the Court must consider that the primary purposes of disciplinary proceedings are to protect the public; to foster public confidence in the Bar; to preserve the integrity of the profession; and to deter other lawyers from similar misconduct.²⁰

It is for this reason that we take note of Atty. Venida's wanton disregard of the disbarment complaint against him, as well as the arrogance that he exhibited before the IBP-CBD in ignoring the notices sent to him to explain the matter. Clearly, Atty. Venida does not seem to consider that an administrative case against him, which could very well result in the revocation of his license and expulsion from the Roll of Attorneys, is neither pressing nor important enough to merit his attention.

We also take note of the past disbarment complaints that had been filed against him that resulted in his suspension for one (1) year from the practice of law for each case. In G.R. No. 132826 entitled *Rolando Saa v. The Integrated Bar of the Philippines, Commission on Bar Discipline, Board of Governors, Pasig City, and Atty. Freddie A. Venida*, the complainant filed a disbarment case against Atty. Venida with this Court. We required Atty. Venida to comment on the complaint against him in a Resolution dated February 17, 1992. Instead of complying with the directive, he belatedly filed a partial comment and asked to be furnished with a copy of the complaint. Despite receipt of a copy of the complaint, Atty. Venida still did not file his complete comment within 10 days as required in the February 17, 1992 Resolution. He only filed a partial comment on January 26, 1993 or 11 months after being directed to do so in the February 17, 1992 resolution. Atty. Venida filed his full comment on September 4, 1995 which was a little over three years after due date. For his blatant disregard of the Court's order and unduly delaying the complaint against him, Atty. Venida was suspended by the Court for one (1) year from the practice of law.

In yet another disbarment case against Atty. Venida, docketed as A.C. No. 10043 and entitled *Aurora H. Cabauatan v. Atty. Freddie A. Venida*, the complainant alleged that she engaged the services of Atty. Venida to handle her case which was pending with the Court of Appeals. Complainant made several follow-ups on her case until she lost contact with him. Hearing nothing from Atty. Venida, complainant just found out that her appeal was deemed abandoned and dismissed when an Entry of Judgment in the case was issued against her. Thus, she filed a complaint for disbarment against Atty. Venida for his gross, reckless, and inexcusable negligence in handling her appeal. We found Atty. Venida guilty of violating Canons 17 and 18, and Rules 18.03 to 18.04 and suspended him from the practice of law for one (1) year.

²⁰ *Advincula v. Atty. Macabata*, A.C. No. 7204, March 7, 2007, 517 SCRA 600. (citations omitted)

Freddie A. Venida

Indubitably, Atty. Venida has a penchant for violating not only his oath as a lawyer and the Code, but orders from the Court as well. He had been repeatedly warned that a similar violation will merit a more severe penalty, and yet, his reprehensible conduct has, time and again, brought embarrassment and dishonour to the legal profession. The Court cannot allow his blatant disregard of the Code and his sworn duty to continue.

In *CF Sharp Crew Management Incorporated v. Atty. Torres*,²¹ the Court disbarred the respondent for failing to account for and for misappropriating the various amounts he received from his client. Similarly in *Arellano University, Inc. v. Mijares III*,²² the Court disbarred the lawyer for misappropriating the client's money intended for securing a certificate of title on the latter's behalf.

With the aforementioned cases as guidelines, We deem it fit to impose the ultimate penalty of disbarment from the practice of law upon Atty. Venida, considering that this is the second disciplinary action against him for a case of a similar nature. Membership in the legal profession is a privilege, and whenever it is made to appear that an attorney is no longer worthy of the trust and confidence of his clients and the public, it becomes not only the right but also the duty of the Court to withdraw the same.²³

WHEREFORE, respondent Atty. Freddie A. Venida is found **GUILTY** of violating Canons 16, 17, and 18, and Rules 1.01, 16.01, 18.03 and 18.04 of the Code of Professional Responsibility. Accordingly, he is hereby **DISBARRED** from the practice of law and his name is **ORDERED** stricken off from the Roll of Attorneys, effective immediately.

Atty. Venida is ordered to refund the amount of ₱29,000 to complainant Ethelene W. San Juan within thirty (30) days from notice. Otherwise, he may be held in contempt of court.

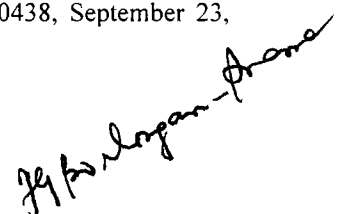
Let copies of this Decision be furnished all courts of the land, the Integrated Bar of the Philippines, and the Office of the Bar Confidant for their information and guidance, and let it be entered in Atty. Freddie A. Venida's record in this Court.

SO ORDERED.

²¹ A.C. No. 10438, September 23, 2014.

²² A.C. No. 8380, November 20, 2009, 605 SCRA 93.

²³ *CF Sharp Crew Management Incorporated v. Atty. Torres*, A.C. No. 10438, September 23, 2014.



Maria Lourdes P. A. Sereno

MARIA LOURDES P. A. SERENO
Chief Justice

Antonio T. Carpio

ANTONIO T. CARPIO
Associate Justice

Presbitero J. Velasco, Jr.

PRESBITERO J. VELASCO, JR.
Associate Justice

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

(On Leave)
ARTURO D. BRION
Associate Justice

Diosdado M. Peralta

DIOSDADO M. PERALTA
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Lucas P. Bersamin

LUCAS P. BERSAMIN
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CERTIFIED XEROX COPY:

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CLERK OF COURT, EN BANC
SUPREME COURT