



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

MYRNA OJALES,
Complainant,

A.C. No. 10243

Present:

CARPIO, J., Chairperson,
PERALTA,
PERLAS-BERNABE,
CAGUIOA, and
REYES, JR., JJ.

- versus -

ATTY. OBDULIO GUY D.
VILLAHERMOSA III,
Respondent..

Promulgated:

02 OCT 2017

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RESOLUTION

PERALTA, J.:

On July 15, 2011, complainant Myrna Ojales filed a Complaint¹ against respondent Atty. Obdulio Guy Villahermosa III with the Integrated Bar of the Philippines (IBP).

In her Complaint, complainant Ojales stated that on February 26, 2010, she bought a parcel of land situated in Palinpinon, Valencia, Negros Occidental as evidenced by a Deed of Absolute Sale² notarized by respondent Atty. Villahermosa. Respondent volunteered to process the issuance of the title in complainant's name and assured her that the title would come out in two to three months.

¹ Rollo, pp. 2-5.
² Id. at 6-7.

On March 2, 2010, respondent received from complainant the total amount of ₱21,280.00 as evidenced by two receipts signed by respondent. The first receipt for ₱10,000.00³ was for the payment of respondent's processing fee, and the second receipt for ₱11,280.00⁴ was for the payment of the capital gains tax.

After five months, complainant went to the Bureau of Internal Revenue (*BIR*) to inquire whether the capital gains tax on the sale of property was paid, but she was told that no document pertaining to a deed of sale in her favor was submitted to the *BIR*. So complainant went to the house of respondent, who assured her that her title would be ready by September 4, 2010. After September 4, 2010, complainant went back to the *BIR*, but she was again informed that no document of her transaction was submitted. She was advised to secure from respondent the claim slip normally issued by the *BIR* for such transaction. Thus, complainant asked respondent for the claim slip from the *BIR*, but respondent could not produce it and asked for another month to process her title. Finally, complainant went back to respondent's house to ask for a refund of her money, but she was instead scolded by respondent's wife. Hence, complainant filed this administrative case praying for the refund of the money she gave respondent and that the appropriate disciplinary action be imposed on the respondent.

On July 18, 2011, Director for Bar Discipline Alicia A. Risos-Vidal issued an Order⁵ directing respondent to answer the Complaint within 15 days from receipt of the Order. A copy of the Order was received by respondent on August 3, 2011 per the registry return receipt⁶ attached to the record. However, respondent did not file an Answer.

On October 10, 2011, a Notice of Mandatory Conference/Hearing scheduled on December 1, 2011 at 2:00 p.m. was sent to the parties. A copy of the Notice was received by the respondent on October 25, 2011 per the registry return receipt⁷ attached to the record. Only the complainant appeared at the scheduled mandatory conference.

On December 1, 2011, Commissioner Loreto C. Ata issued an Order⁸ declaring respondent in default and deemed to have waived his right to participate in the proceedings.

³ *Id.* at 9.

⁴ *Id.* at 8.

⁵ *Id.* at 11.

⁶ *Id.* (back).

⁷ *Id.* at 12 (back).

⁸ *Id.* at 14.

The Commissioner's Report and Recommendation

On June 1, 2012, Investigating Commissioner Loreto C. Ata submitted a Report and Recommendation⁹ on the administrative complaint.

Commissioner Ata stated that the record shows that respondent received from complainant ₱21,280.00 for which respondent wrote and signed two receipts. Respondent's acceptance of the amount established an attorney-client relationship between him and complainant, thereby giving rise to his duty of fidelity to the client's cause,¹⁰ and to attend with dedication and care to the legal matter entrusted to him, which was to pay the capital gains tax on the sale of property and to work on the transfer of the title of the property in complainant's name. As twice verified by complainant from the BIR, nothing was done by respondent on the matter from the time he received the money from complainant on March 2, 2010 and even after complainant filed her complaint with the Committee on Bar Discipline of the IBP Negros Oriental Chapter.

The Investigating Commissioner reported that as of the date of the mandatory conference held on December 1, 2011, complainant affirmed that respondent had not performed the legal matter entrusted to him and he had not returned the amount received from complainant as she had demanded. Respondent's omissions give rise to the presumption that he appropriated for himself the amount of ₱21,280.00 that he received from complainant to the latter's prejudice.

Moreover, the Investigating Commissioner stressed that respondent failed to answer the complaint filed against him by complainant with the Committee on Bar Discipline of the IBP Negros Oriental Chapter and the IBP Commission on Bar Discipline. He also did not attend the mandatory conference held on December 1, 2011 despite notice. He had not taken steps to meet the issue against him, deny the charge, or offer a valid explanation for his conduct, as would have been expected of someone who is innocent of the charge. His failure to answer the charge and participate in the disciplinary proceeding evinces disrespect and disregard of authority.¹¹

On the basis of the foregoing, the Investigating Commissioner recommended that the respondent be suspended for six months from the

⁹ *Id.* at 30-35.

¹⁰ *Id.* at 33, citing *Rollon v. Atty. Naraval*, 493 Phil. 24, 29 (2005).

¹¹ *Id.* at 34, citing *Yu v. Atty. Palaña*, 580 Phil. 19, 28 (2008).

practice of law and ordered to return to the complainant the amount of ₱21,280.00 within 30 days from notice.

On March 20, 2013, the IBP Board of Governors passed Resolution No. XX-2013-197, which adopted and approved the Report and Recommendation of the Investigating Commissioner. The Resolution reads:

RESOLUTION NO. XX-2013-197
CBD Case No. 11-3096
Myrna Ojales vs.
Atty. Obdulio Guy Villahermosa III

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously 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 fully supported by the evidence on record and the applicable laws and rules and considering respondent's failure to perform the legal matter entrusted to him nor returned the amount received from complainant and for his disrespect and disregard of the notices of the Commission on Bar Discipline, Atty. Obdulio Guy Villahermosa III is hereby **SUSPENDED from the practice of law for six (6) months.**¹²

In a letter¹³ dated October 7, 2013, the Director for Bar Discipline notified the Chief Justice of the Supreme Court of the transmittal of the documents of the case to the Court and that no motion for reconsideration has been filed by either party.

The Ruling of the Court

The Court agrees with the finding and recommendation of the IBP Board of Governors.

The records show that respondent notarized the *Deed of Absolute Sale of a Portion of Real Property* executed by the vendor, Alberto C. Tajo, and the vendee, complainant herein. In two receipts¹⁴ both dated March 2, 2010, respondent acknowledged that complainant gave him the amount of ₱11,280.00 for payment of the capital gains tax on the sale of property and that complainant paid him ₱10,000.00 for processing the transfer of the title of the property in complainant's name. As respondent failed to comply with his obligation at the promised time, complainant went to the BIR to inquire whether the capital gains tax had been paid. Complainant learned from the BIR that no document of her transaction was submitted, and respondent

¹² *Rollo*, p. 29.

¹³ *Id.* at 28.

¹⁴ *Id.* at 8-9.

could not produce the claim slip from the BIR, which showed that respondent did not fulfill the legal matter entrusted to him by the complainant. Respondent's omission is violative of Canon 18 and Rule 18.03, thus:

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.

Moreover, despite complainant's demand that respondent return her money as he did not fulfill his obligation, respondent failed to do so, which is violative of Canon 16 of the Code of Professional Responsibility:

CANON 16 – A LAWYER SHALL HOLD IN TRUST ALL MONEYS AND PROPERTIES OF HIS CLIENT THAT MAY COME INTO HIS POSSESSION.

In *Barnachea v. Atty. Quiocho*,¹⁵ the Court held:

A lawyer is obliged to hold in trust money or property of his client that may come to his possession. He is a trustee to said funds and property. He is to keep the funds of his client separate and apart from his own and those of others kept by him. Money entrusted to a lawyer for a specific purpose such as for the registration of a deed with the Register of Deeds and for expenses and fees for the transfer of title over real property under the name of his client if not utilized, must be returned immediately to his client upon demand therefor. The lawyer's failure to return the money of his client upon demand gave rise to a presumption that he has misappropriated said money in violation of the trust reposed on him.

x x x¹⁶

Further, respondent failed to answer the complaint filed against him with the Committee on Bar Discipline of the IBP Negros Oriental Chapter and the IBP Commission on Bar Discipline. He did not attend the mandatory conference held on December 1, 2011 despite notice. Respondent's failure to comply with the orders of the IBP without justifiable reason manifests his disrespect of judicial authorities.¹⁷ As a lawyer, he ought to know that the compulsory bar organization was merely deputized by this Court to undertake the investigation of complaints against lawyers.¹⁸ In short, his

¹⁵ 447 Phil. 67 (2003).

¹⁶ *Barnachea v. Atty. Quiocho*, *supra*, at 75.

¹⁷ *Yu v. Atty. Palaña*, *supra* note 11, at 28.

¹⁸ *Id.*

disobedience to the IBP is in reality a gross and blatant disrespect of the Court.¹⁹


The Court sustains the recommendation of the IBP Board of Governors that respondent be penalized with suspension from the practice of law for six (6) months. The restitution of the processing fee and payment for the capital gains tax in the total amount of ₱21,280.00 is proper, since respondent failed to fulfill his obligation toward complainant.

WHEREFORE, premises considered, the Court finds respondent Atty. Obdulio Guy Villahermosa III **GUILTY** of violating Canon 16, Canon 18 and Rule 18.03 of the Code of Professional Responsibility. Hence, respondent is **SUSPENDED** from the practice of law for **SIX (6) MONTHS**, which shall take effect immediately upon receipt of this Resolution by the respondent, and he is **STERNLY WARNED** that a repetition of the same or a similar offense shall be dealt with more severely. Respondent is also **DIRECTED** to return to the complainant Myrna Ojales the amount of Twenty-One Thousand Two Hundred Eighty Pesos (₱21,280.00), with interest at the legal rate of six percent (6%) *per annum*, from the date of receipt of this Resolution until fully paid.


Upon receipt of this Resolution, respondent is **DIRECTED** to immediately file a Manifestation informing this Court that his suspension has started and to furnish a copy of the Manifestation to 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 respondent's personal record; the Integrated Bar of the Philippines; and the Office of the Court Administrator for circulation to all courts of the country for their information and guidance.

SO ORDERED.


DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

¹⁹

Id.

Ms. Reyes
ESTELA M. PERLAS BERNABE
Associate Justice


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice

