



Republic of the Philippines
Supreme Court
 Manila

EN BANC

JUN B. LUNA,
 Complainant,

**A.C. No. 10662 [Formerly CBD
 Case No. 10-2654]**

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

-versus-

ATTY. DWIGHT M. GALARRITA,
 Respondent.

Promulgated:

July 7, 2015

X-----*[Signature]*-----X

DECISION

LEONEN, J:

Before us is a disbarment Complaint against Atty. Dwight M.

- * On leave.
- ** On leave.
- *** On leave.
- **** On leave.
- ***** On leave.

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Galarrita for his failure to deliver to his client, complainant Jun B. Luna, the ₱100,000.00 settlement proceeds he received after entering into a Compromise Agreement in the foreclosure case without his client's consent.

On April 7, 2010, Jun B. Luna (Luna) filed an Affidavit-Complaint¹ against his lawyer, Atty. Dwight M. Galarrita (Atty. Galarrita), before the Integrated Bar of the Philippines.

Luna alleged that he retained Atty. Galarrita's legal services in filing a foreclosure Complaint² on October 14, 2002 before the Regional Trial Court of Gumaca, Quezon.³ The Complaint against one Jose Calvario (Calvario) alleged that Calvario borrowed ₱100,000.00 from Luna. This loan was secured by a Deed of Real Estate Mortgage⁴ over a parcel of land in Quezon Province.⁵ Due to non-payment of the loan, Luna filed the Complaint praying for payment of the obligation with interest, and issuance of a foreclosure decree upon Calvario's failure to fully pay within the period.⁶

The parties tried to amicably settle the case during pre-trial, followed by Luna's presentation and offer of evidence.⁷

Atty. Galarrita opted to enter into a settlement with the other party after his formal offer of evidence.⁸ They submitted the *Kasunduan*⁹ (Compromise Agreement) before the trial court on February 14, 2006.¹⁰ It provided that Calvario would pay Luna ₱105,000.00 as payment for his mortgaged land and, in turn, Luna would cause the removal of the encumbrance annotation on the land title.¹¹ The trial court approved¹² the Compromise Agreement in its February 20, 2006 Decision.¹³

Luna alleged that Atty. Galarrita never informed him of this Compromise Agreement, and did not deliver to him the ₱100,000.00 settlement proceeds Atty. Galarrita had received.¹⁴

Luna's Complaint attached a copy of the Counsel's Report¹⁵ dated

¹ *Rollo*, pp. 2–6.

² *Id.* at 7–10.

³ *Id.* at 2.

⁴ *Id.* at 11–12.

⁵ *Id.* at 7.

⁶ *Id.* at 8–9.

⁷ *Id.* at 2.

⁸ *Id.* at 3.

⁹ *Id.* at 15.

¹⁰ *Id.* at 3.

¹¹ *Id.* at 3 and 15.

¹² *Id.* at 3 and 17.

¹³ *Id.* at 16–17.

¹⁴ *Id.* at 3.

¹⁵ *Id.* at 20–21.

August 12, 2003 where Atty. Galarrita proposed and provided justifications for settlement, and waived any compensation for his services in the case:¹⁶

Please take note that Mr. Jose Calvario is willing, able and ready to pay you **IN CASH** the full amount of One Hundred Ten Thousand Pesos (**Php110,000.00**), no more no less. While we are aware that it's your desire to fight this case to its ultimate legal conclusion, allow us nonetheless, to present the pros and cons of having this case be amicably settled.

Point One: He has in his possession the original copy of the checks you issued showing that upon signing of the **Contract Of Real Estate Mortgage**, he received from you Eighty Eight Thousand Pesos (**Php88,000.00**) only. Meaning, he has already paid in advance his interest of 12% or the equivalent of Twelve Thousand Pesos (**Php12,000.00**) when the contract was signed. Consequently, it is useless for us to argue before the court that his principal indebtedness amounted to One Hundred Thousand Pesos (**Php100,000.00**). Hence, if you accept the compromise settlement of One Hundred Ten Thousand Pesos (**Php110,000.00**), you stand to gain Twenty Two Thousand Pesos (**Php22,000.00**).

.....

Rest assured, your undersigned counsel leaves it to your better judgment as to whether he deserves to be paid for his legal services regarding this case against Mr. Jose Calvario.

Repeat, I will no longer ask from you any compensation for my services regarding this case.¹⁷ (Emphasis in the original)

Atty. Galarrita wrote Luna the following: Counsel's Reports, Requests for Funding, and Statements of Accounts in relation to case developments, retainer's fees, and reimbursement for expenses incurred.¹⁸

After learning of the settlement, Luna wrote Atty. Galarrita: "I was so surprised when you went into plea agreement for Compromise Agreement without my knowledge [a]nd beyond to [sic] what we had discussed."¹⁹ Atty. Galarrita replied through the Letter²⁰ dated January 27, 2006, stating in part:

I entered into an amicable settlement with Mr. Jose Calvario because I am certain that in this kind of case, a compromise is better than WINNING it.

Everything is transparent. You even told me that you are not

¹⁶ Id. at 4.

¹⁷ Id. at 20–21.

¹⁸ Id. at 52–95.

¹⁹ Id. at 18.

²⁰ Id. at 19.

interested to acquire the land that's why you signaled your approval of a compromise.

I was hoping that you already understood my situation. As I have told you, I can't waste my time going to Gumaca every now and then. Traveling time is too precious for my cases here in Metro Manila.

The point is: I did not receive any appearance fee for the numerous hearings conducted there despite sending several statements of accounts (SOA) to your office.

If that's the case, why prolong the agony?

Why bother after all to pursue this case when indeed, you are not interested to acquire the land and you are not bent in spending the right remuneration for your undersigned counsel?

I have nothing to hide. The money will be deposited in my savings account because I just could not handle that amount of cash in my pocket.²¹

In his Letter²² dated February 27, 2006, Luna wrote:

Yes I'm not interested with that lot in Quezon, [and this is] the reason why I'm the one who propose to them [that] [w]e settle this case on our own without any lawyer, they are the one[s] who insist to go to Court. . . . This is what we come out to [p]ropose to them, with the right amount to cover all those only been spent including Acceptance fee. You even waive[d] your fee on this, for every hearing which I couldn't understand, [y]et we end up that we still going [sic] to pursue this case, it was discussed during my trip there. [This is] [t]he reason I'm too surprised with your plea Agreement without my knowledge.²³

Luna mentioned that the delay in retainer's fee payments was due to Atty. Galarrita's negligence in handling the case.²⁴

In his Letter²⁵ of the same date, Atty. Galarrita explained: "The reason this case was archived [was] because I could not attend several hearings for lack of meal and transport allowance going to Gumaca, Quezon. . . . that's moot and academic because this case was not dismissed by the court, at all."²⁶ Atty. Galarrita then stated that "[f]or all my shortcomings as a lawyer, I now ask forgiveness. . . . But let it not be said that I betrayed you and your cases."²⁷

²¹ Id.

²² Id. at 22.

²³ Id.

²⁴ Id.

²⁵ Id. at 23.

²⁶ Id.

²⁷ Id.

In August 2009, Luna received a letter from one of the heirs of Jose Calvario, Emma C. Tayag, seeking delivery of the land title since they paid the ₱100,000.00 settlement amount.²⁸ Another heir, Lutchiare Calvario, wrote Luna in September 2009 again demanding delivery of title.²⁹

Luna alleged in his Affidavit-Complaint that Atty. Galarrita has not remitted the ₱100,000.00 to date.³⁰ He prays for Atty. Galarrita's disbarment.³¹

In his Verified Answer,³² Atty. Galarrita prays for the dismissal of the disbarment Complaint.³³ He argues that he entered the Compromise Agreement by virtue of a Special Power of Attorney³⁴ that includes this purpose.³⁵ He regularly submitted reports to Luna on developments and possible settlement before he entered the Compromise Agreement.³⁶ He submits that Luna "'slept' on his rights."³⁷

Atty. Galarrita adds that under their General Retainership Agreement,³⁸ Luna shall pay him ₱4,000.00 monthly.³⁹ Luna should have paid ₱48,000.00 as of November 17, 2006, and after four years with no revocation, termination, or nullification, Luna's unpaid obligation amounted to ₱208,000.00.⁴⁰ He listed other unpaid amounts for his legal services.⁴¹ Atty. Galarrita, thus, argues for an application of the rule on retaining lien.⁴²

Atty. Galarrita also raises the two-year prescription under Rule VIII, Section 1 of the Rules of Procedure of the Integrated Bar of the Philippines Commission on Bar Discipline.⁴³ More than four years elapsed since their last communication in 2006 when the Compromise Agreement became final.⁴⁴

In his December 4, 2010 Report and Recommendation,⁴⁵ the

²⁸ Id. at 5 and 26.

²⁹ Id. at 5 and 29.

³⁰ Id. at 5.

³¹ Id.

³² Id. at 31–43.

³³ Id. at 41.

³⁴ Id. at 45.

³⁵ Id. at 32.

³⁶ Id. at 32–33.

³⁷ Id. at 33.

³⁸ Id. at 48–51.

³⁹ Id. at 34.

⁴⁰ Id.

⁴¹ Id. at 36.

⁴² Id. at 37–38.

⁴³ Id. at 39.

⁴⁴ Id. at 39–40.

⁴⁵ Id. at 240–243.

Integrated Bar of the Philippines Investigating Commissioner⁴⁶ found that Atty. Galarrita violated Rule 16.03 of the Code of Professional Responsibility and recommended “his suspension from the practice of law for a period of one (1) year[.]”⁴⁷

The Integrated Bar of the Philippines Board of Governors, in its April 15, 2013 Resolution No. XX-2013-441,⁴⁸ adopted and approved with modification the Investigating Commissioner’s Report and Recommendation in that Atty. Galarrita is recommended to be “suspended from the practice of law for six (6) months and [o]rdered to [r]eturn the amount of One Hundred Thousand (P100,000.00) Pesos to complainant without prejudice to the filing of a collection case for retainer’s fee against complainant.”⁴⁹ The Board of Governors denied reconsideration in its May 3, 2014 Resolution No. XXI-2014-270.⁵⁰

The Office of the Bar Confidant reported that “no motion for reconsideration or petition for review was filed as of November 17, 2014.”⁵¹ In any case, it is this court that has the authority to discipline members of the bar.⁵²

The issue for resolution is whether respondent Atty. Galarrita should be held administratively liable for entering into a Compromise Agreement without his client complainant Luna’s consent, then refusing to turn over the settlement proceeds received.

This court acknowledges the recommendation of the Integrated Bar of the Philippines Board of Governors, with modification increasing the period of suspension from the practice of law to two (2) years.

I

Those in the legal profession must always conduct themselves with honesty and integrity in all their dealings.⁵³

⁴⁶ The Investigating Commissioner is Commissioner Oliver A. Cachapero.

⁴⁷ *Rollo*, p. 243.

⁴⁸ *Id.* at 239.

⁴⁹ *Id.*

⁵⁰ *Id.* at 244.

⁵¹ *Id.*

⁵² RULES OF COURT, Rule 138, sec. 27 provides:

SEC. 27. *Disbarment or suspension of attorneys by Supreme Court; grounds therefor.* – A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or wilfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

⁵³ *Villanueva v. Atty. Ishiwata*, 486 Phil. 1, 6 (2004) [Per J. Sandoval-Gutierrez, Third Division].

Lawyers should maintain, at all times, “a high standard of legal proficiency, morality, honesty, integrity and fair dealing, and must perform their four-fold duty to society, the legal profession, the courts and their clients, in accordance with the values and norms embodied in the Code [of Professional Responsibility].”⁵⁴

Members of the bar took their oath to conduct themselves “according to the best of [their] knowledge and discretion with all good fidelity as well to the courts as to [their] clients[,]”⁵⁵ and to “delay no man for money or malice[.]”⁵⁶

These mandates apply especially to dealings of lawyers with their clients considering the highly fiduciary nature of their relationship.⁵⁷ Clients entrust their causes—life, liberty, and property—to their lawyers, certain that this confidence would not be abused.

Complainant Luna entrusted respondent Atty. Galarrita with handling the civil case involving a mortgaged land in Quezon Province. However, without complainant Luna’s consent, respondent Atty. Galarrita settled this case with the other party.

Article 1878 of the Civil Code provides that “[s]pecial powers of attorney are necessary in the following cases: . . . (3) *To compromise*, to submit questions to arbitration, to renounce the right to appeal from a judgment, to waive objections to the venue of an action or to abandon a prescription already acquired[.]”

The Rules of Court thus requires lawyers to secure special authority from their clients when entering into a compromise agreement that dispenses with litigation:

SEC. 23. *Authority of attorneys to bind clients.* – Attorneys have authority to bind their clients in any case by any agreement in relation thereto made in writing and in taking appeals, and in all matters of ordinary judicial procedure. ***But they cannot, without special authority, compromise their client’s litigation,*** or receive anything in discharge of a client’s claim but the full amount in cash.⁵⁸ (Emphasis supplied)

⁵⁴ *Jinon v. Jiz*, A.C. No. 9615, March 5, 2013, 692 SCRA 348, 354 [Per J. Perlas-Bernabe, En Banc], citing *Molina v. Magat*, A.C. No. 1900, June 13, 2012, 672 SCRA 1, 6 [Per J. Mendoza, Third Division].

⁵⁵ Attorney’s Oath.

⁵⁶ Attorney’s Oath.

⁵⁷ *Villanueva v. Atty. Ishiwata*, 486 Phil. 1, 6 (2004) [Per J. Sandoval-Gutierrez, Third Division], citing *Atty. Penticostes v. Pros. Ibañez*, 363 Phil. 624, 628 (1999) [Per J. Romero, En Banc].

⁵⁸ RULES OF COURT, Rule 138, sec. 23.

Atty. Galarrita contends that he holds a Special Power of Attorney to enter into compromise agreements, but as found by the Investigating Commissioner:

There seems to be a compelling reason to believe that Complainant had not given any authority for the Complainant [sic] to enter into Compromise Agreement at that precise stage of the trial. Firstly, the Complainant was not made a party to the Compromise Agreement despite the fact that he was not abroad when the agreement was executed. Secondly, there was no indication that he had agreed to the amount of P100,000.00 in exchange for his withdrawal of the complaint. Thirdly, he was not seasonably informed of the execution of the Compromise Agreement/payment of the P100,000.00 and came to know of the same only much later.

Respondent argued that Complainant had previously executed a Special Power of Attorney wherein he authorized the former to “*enter into possible amicable settlement or submit any matter to arbitration and alternative modes of dispute resolution, simplification of the issues, the necessity of amendment to the pleadings, the possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof, the limitation of the number of witnesses, the advisability of preliminary reference of issues to a commissioner, the propriety of rendering judgment on the pleadings, or summary judgment, or of dismissing the action should a valid ground therefor be found to exist, the advisability of suspending the proceedings, offer matters that may properly be considered under Rule 18 of the 1997 Rules on Civil Procedure.*” It would seem, however, that despite the authority given to Respondent, the same SPA cannot justify Respondent’s representation in the Compromise Agreement on February 14, 2006. ***To dissect, the SPA was executed on September 16, 2002 or a month before the filing of the Complaint for Foreclosure of Mortgage. Thus, the conclusion seems to be that the authority given therein to Respondent to enter into a possible settlement referred only to a possible settlement that could be secured or firmed up during the preliminary conference or pre-trial of the case.*** In fact, the tenor of the SPA indicates that the SPA was precisely executed in order to constitute Respondent as Complainant’s representative during the preliminary conference or pre-trial.

Assuming it can be inferred that the SPA and the authority given to Respondent can be liberally interpreted and allowed to extend up to the time the Compromise had been executed, still the Respondent may not have faithfully performed his sworn duty to his client. During the mandatory conference, it was established that at the time the compromise was executed the Complainant was not abroad and, therefore, given the current information technology it would have been easy or convenient for Respondent to have informed his client about it. Admittedly, his failure in this regard had only given Complainant the reason to cast doubt on his real intention in agreeing to the compromise agreement for and in his behalf.

It would seem, however, that by Complainant’s act of demanding the amount from Respondent, the former may have already ignored the issue on the lack of authority on his part thus curing the defect on the

latter's authority to enter into the same.⁵⁹ (Emphasis supplied, citation omitted)

Rule 1.01 of the Code of Professional Responsibility states that “[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.”⁶⁰ Members of the bar must always conduct themselves in a way that promotes “public confidence in the integrity of the legal profession.”⁶¹

Even though complainant Luna effectively abandoned the issue on respondent Atty. Galarrita's lack of authority to compromise the civil case when he demanded the payment of the settlement proceeds, this does not erase his acts of abusing the trust and confidence reposed in him by complainant Luna.

II

Worse, respondent Atty. Galarrita not only failed to promptly inform complainant Luna of the former's receipt of the ₱100,000.00 settlement proceeds but also refused to turn over the amount to complainant Luna.

This court has held that “any money collected for the client or other trust property coming into the lawyer's possession should promptly be reported by him [or her].”⁶² Rule 16.03 under Canon 6 of the Code of Professional Responsibility provides that:

CANON 16 – A lawyer shall hold in trust all moneys and properties of his client that may come into his possession.

....

Rule 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

In several cases, we have disciplined lawyers who failed or refused to remit amounts received for and on behalf of their clients. “The penalty for violation of Canon 16 of the Code of Professional Responsibility usually ranges from suspension for six months, to suspension for one year, or two

⁵⁹ *Rollo*, pp. 241–242.

⁶⁰ *See Malecdan v. Atty. Pekas*, 465 Phil. 703, 716 (2004) [Per J. Callejo, Sr., En Banc].

⁶¹ *Cerdan v. Atty. Gomez*, 684 Phil. 418, 428 (2012) [Per J. Mendoza, Third Division].

⁶² *Villanueva v. Atty. Ishiwata*, 486 Phil. 1, 6 (2004) [Per J. Sandoval-Gutierrez, Third Division], *citing Judge Angeles v. Atty. Uy, Jr.*, 386 Phil. 221, 233 (2000) [Per J. Panganiban, Third Division].

years, and even disbarment[,]”⁶³ depending on the circumstances of each case.

In *Villanueva v. Atty. Ishiwata*,⁶⁴ respondent received four checks totalling ₱225,000.00 from his client’s employer after signing a Quitclaim and Release pursuant to their compromise agreement.⁶⁵ Despite full payment of settlement award, respondent only remitted ₱45,000.00 to his client and refused to deliver the balance.⁶⁶ Respondent explained that he delivered ₱90,000.00 to his client’s wife, but his secretary misplaced the signed receipts, and he deducted his 25% attorney’s fees of ₱56,250.00 from the award.⁶⁷ The balance left was only ₱750.00.⁶⁸ This court found Atty. Ishiwata guilty of violating Canon 16 of the Code of Professional Responsibility, suspended him from the practice of law for one (1) year, and ordered him to restitute to complainant the amount of ₱154,500.00 representing the balance after ₱45,000.00 and the 10% attorney’s fees had been deducted from the settlement award.⁶⁹

In *Aldovino v. Atty. Pujalte, Jr.*,⁷⁰ respondent received ₱1,001,332.26 from the Branch Clerk of Court corresponding to the six shares of his clients in the estate of their deceased mother, but respondent only delivered ₱751,332.26 to his clients.⁷¹ Respondent explained that he deducted ₱250,000.00 as his attorney’s fees, while complainants countered that respondent could only retain ₱14,000.00 as they already paid him ₱86,000.00 for his services.⁷² This court found Atty. Pujalte, Jr. guilty of violating Canon 16 of the Code of Professional Responsibility, suspended him from the practice of law for one (1) year, and ordered him to return to complainants the amount of ₱236,000.00.⁷³

In *Almendarez, Jr. v. Atty. Langit*,⁷⁴ respondent received ₱255,000.00 from the Officer-in-Charge Clerk of Court representing the monthly rentals deposited by the other party in the ejectment case respondent handled for his client.⁷⁵ Respondent did not inform his client of this transaction and failed to reply to the final demand letter for accounting.⁷⁶ Respondent did not file an Answer to the administrative Complaint despite notice, and failed to appear at the mandatory conference.⁷⁷ This court found Atty. Langit guilty

⁶³ *Cerdan v. Atty. Gomez*, 684 Phil. 418, 428 (2012) [Per J. Mendoza, Third Division].

⁶⁴ 486 Phil. 1 (2004) [Per J. Sandoval-Gutierrez, Third Division].

⁶⁵ Id. at 4.

⁶⁶ Id.

⁶⁷ Id. at 5.

⁶⁸ Id.

⁶⁹ Id. at 7–8.

⁷⁰ 467 Phil. 556 (2004) [Per J. Sandoval-Gutierrez, Third Division].

⁷¹ Id. at 558.

⁷² Id. at 558–559.

⁷³ Id. at 562.

⁷⁴ 528 Phil. 814 (2006) [Per J. Carpio, En Banc].

⁷⁵ Id. at 817.

⁷⁶ Id. at 817–818.

⁷⁷ Id. at 818.

of violating Canons 1, 11, 16, and 17 of the Code of Professional Responsibility, suspended him from the practice of law for two (2) years, and ordered him to restate to complainant the amount of ₱255,000.00 with 12% interest per annum.⁷⁸

In *Bayonla v. Reyes*,⁷⁹ respondent should have delivered to her clients the amount of ₱123,582.67—the net amount of Bayonla’s share in the expropriation compensation after deducting respondent’s 40% share as attorney’s fees—but respondent only delivered ₱79,000.00 and refused to remit the ₱44,582.67 shortage.⁸⁰ This court found Atty. Reyes guilty of violating Rules 16.01 and 16.03 of the Code of Professional Responsibility, suspended her from the practice of law for two (2) years, ordered her to pay complainants the amount of ₱44,582.67 with 12% interest per annum, and render accounting and inventory.⁸¹

In *Jinon v. Jiz*,⁸² respondent received ₱45,000.00 from his client for transfer of title expenses.⁸³ His client later learned that respondent had been collecting the rentals from the property amounting to ₱12,000.00, yet respondent only turned over ₱7,000.00.⁸⁴ Complainant terminated respondent’s legal services and demanded the return of the amounts.⁸⁵ Respondent countered that his legal services covered negotiation and sale of the property for a fee of ₱75,000.00.⁸⁶ This court found Atty. Jiz guilty of violating Rules 16.01, 16.03, and 18.03 of the Code of Professional Responsibility, suspended him from the practice of law for two (2) years, and ordered him to pay complainant the amount of ₱45,000.00 with 6% legal interest per annum from date of demand until finality of Decision, then 12% until fully paid.⁸⁷

In this case, respondent Atty. Galarrita entered into the Compromise Agreement involving complainant Luna’s property without informing him. Even though complainant Luna forewent the lack of authority issue, respondent Atty. Galarrita still continued to act in bad faith by refusing to turn over the ₱100,000.00 settlement amount received. The Integrated Bar of the Philippines Investigating Commissioner found that:

On another point, there seems no cogent proof, too, that Respondent had been advised of Complainant’s supposed agreement to Mr. Calvario’s payment of P100,000.00. Despite R[es]pondent’s

⁷⁸ Id. at 821–822.

⁷⁹ A.C. No. 4808, November 22, 2011, 660 SCRA 490 [Per J. Bersamin, En Banc].

⁸⁰ Id. at 499.

⁸¹ Id. at 507.

⁸² A.C. No. 9615, March 5, 2013, 692 SCRA 348 [Per J. Perlas-Bernabe, En Banc].

⁸³ Id. at 350.

⁸⁴ Id.

⁸⁵ Id. at 351.

⁸⁶ Id.

⁸⁷ Id. at 358.

allegations that he had informed Complainant about his so-called counsel's report, it remains undisputed that the Complainant did not give him any express approval of the same.

There is to the undersigned enough *indicia* to conclude that Respondent had committed bad faith in entering into the Compromise Agreement. From February 2006 to November 2010, or a period of four (4) years, Respondent failed to turn-over the P100,000.00 he had collected from Mr. Calvario to Complainant. Worse, he failed to seasonably inform Complainant about the same. He kept the money and claimed he had the right to retain the same invoking the counsel's right to a retaining line [sic]. He pointed out that Complainant had incurred accrued attorney's fees which he is bound to pay under the general retainer agreement. Thus, it is not amiss to state that he entered into the said agreement with the odious motivation to hold on to it and pave the way for the payment of his attorney's fees. In so doing, he violated the trust reposed in him by his client and violated Rule 16.03 of the Code of [P]rofessional Responsibility.

As to Respondent's invocation of the lawyer's retaining lien and his retention of the money, the undersigned deems the same unlawful. True, the Code of Professional Responsibility allows the lawyer to apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client." But this provision assumes that the client agrees with the lawyer as to the amount of attorney's fees and as to the application of the client's fund to pay his lawful fees and disbursements, in which case he may deduct what is due him and remit the balance to his client, with full disclosure on every detail. ***Without the client's consent, the lawyer has no authority to apply the client's money for his fees, but he should instead return the money to his client, without prejudice to his filing a case to recover his unsatisfied fees.***

.....

On Respondent's argument that prescription has already set in against Complainant, suffice it to state that the rules have already been supplanted by a new set of rules which do not anymore carry the same.⁸⁸ (Emphasis supplied, citations omitted)

Administrative proceedings require only substantial evidence.⁸⁹ This court accepts and adopts the findings of the Integrated Bar of the Philippines Board of Governors, but with modification increasing the period of suspension from the practice of law to two (2) years considering that respondent Atty. Galarrita not only compromised litigation without complainant Luna's consent, but also refused to turn over the settlement proceeds to date.

III

⁸⁸ *Rollo*, pp. 242–243.

⁸⁹ *Jinon v. Jiz*, A.C. No. 9615, March 5, 2013, 692 SCRA 348, 357–358 [Per J. Perlas-Bernabe, En Banc], citing *Babante-Caples v. Caples*, A.M. No. HOJ-10-03, November 15, 2010, 634 SCRA 498, 502 [Per J. Nachura, Second Division].

This court sustains the order for respondent Atty. Galarrita to return the amount of ₱100,000.00 to complainant Luna.

In *Ronquillo v. Atty. Cezar*,⁹⁰ the parties entered a Deed of Assignment after which respondent received ₱937,500.00 from complainant as partial payment for the townhouse and lot.⁹¹ However, respondent did not turn over this amount to developer Crown Asia, and no copy of the Contract to Sell was given to complainant.⁹² This court suspended Atty. Cezar from the practice of law for three (3) years, but did not grant complainant's prayer for the return of the ₱937,500.00.⁹³

Ronquillo held that “[d]isciplinary proceedings against lawyers do not involve a trial of an action, but rather investigations by the court into the conduct of one of its officers.”⁹⁴ Thus, disciplinary proceedings are limited to a determination of “whether or not the attorney is still fit to be allowed to continue as a member of the Bar.”⁹⁵

Later jurisprudence clarified that this rule excluding civil liability determination from disciplinary proceedings “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 client in a transaction separate and distinct [from] and not intrinsically linked to his professional engagement.”⁹⁶ This court has thus ordered in administrative proceedings the return of amounts representing legal fees.

This court has also ordered restitution as concomitant relief in administrative proceedings when respondent's civil liability was already established:

Although the Court renders this decision in an administrative proceeding primarily to exact the ethical responsibility on a member of the Philippine Bar, the Court's silence about the respondent lawyer's legal obligation to restate the complainant will be both unfair and inequitable. ***No victim of gross ethical misconduct concerning the client's funds or property should be required to still litigate in another proceeding what the administrative proceeding has already established as the***

⁹⁰ 524 Phil. 311 (2006) [Per J. Puno, En Banc].

⁹¹ Id. at 313–314.

⁹² Id. at 314.

⁹³ Id. at 318.

⁹⁴ Id.

⁹⁵ Id.

⁹⁶ *Agot v. Atty. Rivera*, A.C. No. 8000, August 5, 2014 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2014/august2014/8000.pdf>> 6 [Per J. Perlas-Bernabe, En Banc], citing *Pitcher v. Gagate*, A.C. No. 9532, October 8, 2013, 707 SCRA 13, 26 [Per J. Perlas-Bernabe, En Banc].

respondent's liability. That has been the reason why the Court has required restitution of the amount involved as a concomitant relief in the cited cases of *Mortera v. Pagatpatan*, *supra*, *Almendarez, Jr. v. Langit*, *supra*, *Small v. Banares*, *supra*.⁹⁷ (Emphasis supplied)

Respondent Atty. Galarrita does not deny his receipt of the ₱100,000.00 but justifies his refusal to turn over the amount by invoking jurisprudence on retaining lien.⁹⁸ The Rules of Court provides for attorney's retaining lien as follows:

SEC. 37. *Attorney's liens*. – An attorney shall have a lien upon the funds, documents and papers of his client which have lawfully come into his possession and may retain the same until his lawful fees and disbursements have been paid, and may apply such funds to the satisfaction thereof. He shall also have a lien to the same extent upon all judgments for the payment of money, and executions issued in pursuance of such judgments, which he has secured in a litigation of his client, from and after the time when he shall have caused a statement of his claim of such lien to be entered upon the records of the court rendering such judgment, or issuing such execution, and shall have caused written notice thereof to be delivered to his client and to the adverse party; and he shall have the same right and power over such judgments and executions as his client would have enforce his lien and secure the payment of his just fees and disbursements.⁹⁹

First, “lawyer[s] [are] not entitled to unilaterally appropriate [their] clients['] money for [themselves] by the mere fact that the client[s] [owe] [them] attorney’s fees.”¹⁰⁰ They must give prompt notice to their clients of any receipt of funds for or on behalf of their clients.¹⁰¹

Rule 16.01 of the Code of Professional Responsibility provides for a lawyer’s duty to “account for all money or property collected or received for or from the client.”

Respondent Atty. Galarrita refused to comply with these duties, warranting his suspension from the practice of law.

Second, the elements required for full recognition of attorney’s lien are: “(1) lawyer-client relationship; (2) lawful possession of the client’s funds, documents and papers; and (3) unsatisfied claim for attorney’s

⁹⁷ *Bayonla v. Reyes*, A.C. No. 4808, November 22, 2011, 660 SCRA 490, 506 [Per J. Bersamin, En Banc].

⁹⁸ *Rollo*, pp. 37–39.

⁹⁹ RULES OF COURT, Rule 138, sec. 37.

¹⁰⁰ *Almendarez, Jr. v. Atty. Langit*, 528 Phil. 814, 819–820 (2006) [Per J. Carpio, En Banc], *citing Schulz v. Atty. Flores*, 462 Phil. 601, 613 (2003) [Per J. Ynares-Santiago, First Division].

¹⁰¹ Code of Professional Responsibility, rule 16.03.

fees.”¹⁰²

Respondent Atty. Galarrita must prove the existence of all these elements. However, this is not the main issue in this disbarment case against him, and the validity of his retaining lien defense was not established. Counter evidence even exists such as respondent Atty. Galarrita’s Letter dated August 12, 2003 waiving any compensation for his services in the foreclosure case.¹⁰³ Complainant Luna also raises respondent Atty. Galarrita’s negligence in handling the case, and lack of supporting receipts for the incurred expenses respondent Atty. Galarrita seeks to reimburse.¹⁰⁴

Nevertheless, we maintain that the disposition of this case is without prejudice to the filing of a collection case for retainer’s fee against complainant Luna.

WHEREFORE, respondent Atty. Dwight M. Galarrita is **SUSPENDED** from the practice of law for two (2) years, with a stern warning that a repetition of the same or similar acts shall be dealt with more severely. He is **ORDERED** to return to complainant Jun B. Luna the amount of ₱100,000.00, with legal interest of 6% per annum from February 2006¹⁰⁵ until fully paid, without prejudice to the filing of a collection case for retainer’s fee against complainant Luna.

Let a copy of this Decision be furnished to the Office of the Bar Confidant to be entered into respondent Atty. Galarrita’s records as attorney. Copies shall likewise be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice

¹⁰² *Miranda v. Atty. Carpio*, 673 Phil. 665, 672 (2011) [Per J. Peralta, Third Division], citing *Ampil v. Hon. Agrava, et al.*, 145 Phil. 297, 303 (1970) [Per J. Teehankee, En Banc].

¹⁰³ *Rollo*, pp. 47 and 243.

¹⁰⁴ *Id.* at 22.

¹⁰⁵ *Id.* at 242–243.

(On leave)
ANTONIO T. CARPIO
Associate Justice

(On leave)
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
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

Mariano C. del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Martin S. Villarama, Jr.
MARTIN S. VILLARAMA, JR.
Associate Justice

Jose Portugal Perez
JOSE PORTUGAL PEREZ
Associate Justice

Jose Catral Mendoza
JOSE CATRAL MENDOZA
Associate Justice

(On leave)
BIENVENIDO L. REYES
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

(On leave)
FRANCIS H. JARDELEZA
Associate Justice