



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

WILLIAM G. CAMPOS, JR.,
represented by **ROSARIO B. CAMPOS,**
RITA C. BATAAC and
DORINA D. CARPIO,
Complainants,

A.C. No. 10443

Present:

CARPIO, Chairperson,
BRION,*
DEL CASTILLO,
MENDOZA, and**
LEONEN, JJ.

- versus -

ATTY. ALEXANDER C. ESTEBAL,
Respondent.

Promulgated:
08 AUG 2016

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DECISION

DEL CASTILLO, J.:

This is a Complaint¹ for Disbarment instituted by William G. Campos, Jr. (Campos), represented by his wife, Rosario B. Campos, and by Rita C. Bataac (Bataac) and Dorina D. Carpio (Carpio) against respondent Atty. Alexander C. Estebal (Atty. Estebal). The Complaint was docketed as CBD Case No. 07-2075 of the Integrated Bar of the Philippines (IBP).

The facts of the case are as follows:

In the early part of 2006, complainants engaged the services of Atty. Estebal to assist each of them in securing tourist visas to the United States (U.S.). Toward this end, on January 24, 2006, Campos and Atty. Estebal entered into a Service Contract² stipulating an acceptance/service fee of ₱200,000.00 exclusive of out-of-pocket expenses such as tickets, filing fees, and application fees; and that in case no visa is issued, Campos is entitled to a refund of what has been actually paid less 7% thereof. Campos paid Atty. Estebal the sum of ₱150,000.00. For their part, Bataac and Carpio gave Atty. Estebal the amounts of ₱75,000.00 and ₱120,000.00, respectively. Unlike Campos, their agreement with Atty. Estebal was not put in writing.

* *On leave.*
** *On official leave.*
¹ *Rollo pp. 2-4.*
² *Id. at 60.*

Complainants claimed that despite receipt of their monies, Atty. Estebal failed to apply or secure for them the U.S. tourist visas that he promised. Thus, they demanded for the return of their monies. Atty. Estebal, however, failed to return the amount despite repeated demands. Hence, they filed this Complaint praying that Atty. Estebal be suspended or disbarred from the practice of law, and that he be directed to return their monies.

In his Answer,³ Atty. Estebal averred: (1) that he is a practicing lawyer specializing in immigration, international law and illegal arrest cases, including the procurement of tourist visas; (2) that like any other professional, he is paid not only for the results he delivered, but also for the time, talent, industry and other items of professional services he rendered, irrespective of the result/s thereof; (3) that his professional services were engaged by complainants for the purpose of enabling them to secure or obtain tourist visas from the U.S. Embassy in Manila; (4) that after interviewing complainants individually, he suggested that complainants file a collective application, meaning that the complainants, along with other applicants for a U.S. tourist visa, should constitute themselves into a tour group, so that their overall chances of obtaining visas for all members of the group would be enhanced; (5) that he made this suggestion because he believed that the more applicants join the group, the lesser the fees that would be charged; (6) that it was agreed that a group of 10 applicants would comprise a tour group; (7) that although some applicants paid the proper fees and submitted the required documents, others neither paid the proper fees nor submitted the necessary documents; (8) and that because of this lack of cohesive action, the plan did not push through at all.

Atty. Estebal posited that complainants' demand for the return or refund of their money has no factual or legal basis at all, especially because he had invested considerable time, talent and energy in the processing of complainants' tourist visa applications with the U.S. Embassy.

Report and Recommendation of the Investigating Commissioner

In his Commissioner's Report,⁴ Investigating Commissioner Jose I. De la Rama, Jr. (Investigating Commissioner), noted that Atty. Estebal received a total of ₱345,000.00 from complainants; that notwithstanding receipt thereof, Atty. Estebal did not make any attempt to process or submit their visa applications; that even if the amount collected is considered as attorney's fees, the same is excessive; and that even if Atty. Estebal is entitled to attorney's fees, the amount of ₱15,000.00 would be considered appropriate under the circumstances. Thus, the Investigating Commissioner recommended that Atty. Estebal be suspended from the practice of law for six (6) months for violating Canons 15, 16 and 20 of

³ Id. at 29-39

⁴ Id. at 215-225.

the Code of Professional Responsibility; moreover, it was recommended that Atty. Estebal be directed to refund the amount of ₱330,000.00 and to retain the amount of ₱15,000.00 as his attorney's fees, viz.:

WHEREFORE, premises considered, and after evaluation of the evidence presented by both parties, the undersigned believes that ATTY. ALEXANDER ESTEBAL, SR. should be SUSPENDED from the practice of law for a period of six (6) months. In addition thereto, he is being ordered to immediately return the following amounts to the complainants, to wit:

- (1) William Campos, Jr. – the amount of ₱145,000.00
- (2) Rita Batac – the amount of ₱70,000.00
- (3) Dorina Carpio – the amount of ₱115,000.00⁵

Recommendation of the IBP Board of Governors

On December 29, 2012, the IBP Board of Governors issued Resolution No. XX-2012-665, affirming with modification the Investigating Commissioner's recommendation, thus:

RESOLVED TO ADOPT and APPROVE, as it is hereby unanimously ADOPTED and APPROVED, with modification, 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, Respondent is hereby Ordered to Return the amount of Three Hundred Thousand (₱300,000.00) Pesos only with legal interest to complainant[s] within thirty (30) days from receipt of notice with a Warning to be more circumspect in his dealings and repetition of the same or similar act shall be dealt with more severely.⁶

In fine, the IBP Board of Governors resolved to delete the recommended penalty of suspension and reduce the amount refunded from ₱330,000.00 to ₱300,000.00.

On April 2, 2013, Atty. Estebal filed an Urgent Manifestation with Motion for Extension to file Motion for Reconsideration.⁷ This was followed by an Urgent Manifestation and Motion for Second Extension of Time to File Motion for Reconsideration⁸ on April 19, 2013. Atty. Estebal eventually filed his Motion for Reconsideration⁹ on April 28, 2013.

⁵ Id. at 225.

⁶ Id. at 214.

⁷ Id. at 226-228.

⁸ Id. at 229-231.

⁹ Id. at 235-245.

On February 11, 2014, the IBP Board of Governors issued Resolution No. XX-2014-29, to wit:

RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Furthermore, the Board RESOLVED to AFFIRM, with modification, Resolution No. XX-2012-665 dated December 29, 2012, and accordingly ADOPTED and APPROVED the Report and Recommendation of the Investigating Commissioner SUSPENDING Respondent from the practice of law for six (6) months.¹⁰

In short, the IBP Board of Governors resolved to reinstate and adopt the recommendation of the Investigating Commissioner to suspend Atty. Estebal from the practice of law for a period of six (6) months.

On April 25, 2014, Director for Bar Discipline Dominic C.M. Solis transmitted the entire records of this case to this Court for final resolution. Per records of the Office of the Bar Confidant, no motion for reconsideration or petition for review has been filed by either party.

Issue

Is Atty. Estebal guilty of professional misconduct for violating the pertinent provisions of the Code of Professional Responsibility?

Our Ruling

We have gone over the records of this case with utmost care and we fully agree with the following pertinent findings and well-thought-out assessment of the Investigating Commissioner:

Obviously, the complainants failed to get the US visa. There was even no attempt on the part of the respondent to submit the application form for US Visa before the US Embassy. Respondent failed to attach any record that will show that he made an attempt to submit the same either individually or collectively.

What is clear is that the amount individually paid by the complainants went to the pocket of the respondent. It is not even clear if it is for the payment of his attorney's fees or for the payment of the application for the US visa, as above stated, an applicant has to spend only ₱6,157.00. Thus, by mere mathematical computation, the amount of ₱200,000.00 contract with complainant William Campos is excessive. If it is for the payment of attorney's fees, the same is also considered excessive and unreasonable.

¹⁰ Id. at 252.

While lawyers are entitled to the payment of attorney's fees, the same should be reasonable under the circumstances. Even if we base the attorney's fees of the respondent on x x x quantum meruit, still, the amount collected by the respondent is still excessive. The Supreme Court, in justifying quantum meruit, has laid down the following requisites:

Recovery of attorney's fees on the basis of quantum meruit is authorized (1) when there is no express contract for payment of attorney's fees (2) when although there is a formal contract for attorney's fees, the fees stipulated are found unconscionable or unreasonable by the Court (3) when the contract for attorney's fees is void due to purely formal defects of execution (4) when the lawyer for justifiable cause was not able to finish the case for its conclusion (5) when the lawyer and the client disregard the contract for attorney's fees and (6) when the client dismissed his client before the termination of the case or the latter withdrew therefrom for valid reason (Rillaroza Africa de Ocampo and Africa vs. Eastern telecommunications Phils., Inc., 128 SCRA 475).

Undersigned believes that since the amount received by the respondent either as payment for attorneys' fees or either as payment for visa application is **excessive**, respondent should return the money to the complainant. The attorney's fees is **excessive** in a sense that in the Service contract (Annex "B" attached to the Position Paper of the complainant), the scope of work are as follows:

SCOPE OF WORK. Initial interview of client and collation of all x x x information relevant to the case; assessment of case; evaluation of documents; formulation of the theory of the case; filing up of forms, DS-156 & 157; general briefing, specific briefing including mock interview.

If this is only the scope of work done by the respondent, the amount of ₱200,000.00 that he received from complainant William Campos is really excessive.

It is unfortunate that respondent failed to appear personally before this Commission in order to confront the complainants face to face.

Respondent clearly violated Canons 15, 16 and 20 of the Code of Professional Responsibility

CANON 15 – A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENTS.

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

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

CANON 20 – A LAWYER SHALL CHARGE ONLY FAIR AND REASONABLE FEES.

Rule 20.01 – A lawyer shall be guided by the following factors in determining his fees.

Respondent violated Canon 15 for the reason that he was not candid enough to tell the complainants their chance[s] of getting [a] US visa. Instead, the respondent made the complainants believe that they will have a good chance of getting the US visa if they will be joined with other groups. It turned out to be false. Complainants waited for so long before the respondent could find other members of the group. In the end, nothing happened.

He also violated Canon 16, Rule 16.01 because he did not account [for] the money he received from the complainants. It is not clear to the complainants how much is the amount due to the respondent.

Lastly, it appears that the attorney's fees that he collected from the complainants are excessive and unreasonable. Considering the degree of work and number of hours spent, the amount he collected from the complainants is not commensurate to the degree of services rendered. Obviously, respondent took advantage of the weakness of the complainants in their desire to go the United States.

After evaluating the evidence presented by both parties, the undersigned believes that the complainants have satisfactorily shown the degree of the required evidence to convince this Commission that indeed, Atty. Estebal, Sr. should be held administratively liable.

That in fairness to the respondent, he is also entitled to his attorney's fees. Having performed the scope of work he mentioned in his contract, the amount of ₱5,000.00 per complainant would be reasonable payment for his attorney's fee. It is but proper to deduct the ₱5,000.00 from each complainant as reasonable attorneys' fees.¹¹

There is hardly any doubt that Atty. Estebal's act of receiving such substantial sums from complainants without in the least intending to honor his word to secure the U.S. tourist visas that he promised to get for them constitutes a breach of his professional responsibility. It was both a refusal and a failure to give complainants their due; it was also both a refusal and a failure to observe honesty and good faith in his dealings with them. Indeed, Atty. Estebal acted unjustly; he denied complainants their due; and he displayed unmitigated dishonesty and bad faith in his professional and personal relations with complainants.

In *Nery v. Sampana*,¹² the Court declared that:

¹¹ Id. at 218-224.

¹² A.C. No. 10196, September 9, 2014, 734 SCRA 486.

Acceptance of money from a client establishes an attorney-client relationship and gives rise to the duty of fidelity to the client's cause. Every case accepted by a lawyer deserves full attention, diligence, skill and competence, regardless of importance. A lawyer also owes it to the court, their clients, and other lawyers to be candid and fair. Thus, the Code of Professional Responsibility clearly states:

x x x x

x x x A lawyer's failure to return upon demand the funds held by him gives rise to the presumption that he has appropriated the same for his own use, in violation of the trust reposed in him by his client and of the public confidence in the legal profession.¹³

Similarly, the Court in *Jinon v. Atty. Jiz*,¹⁴ pronounced that:

[M]oney entrusted to a lawyer for a specific purpose, such as for the processing of transfer of land title but not used for the purpose, should be immediately returned. A lawyer's failure to return upon demand the funds held by him on behalf of his client gives rise to the presumption that he has appropriated the same for his own use in violation of the trust reposed to him by his client. Such act is a gross violation of general morality as well as of professional ethics. It impairs public confidence in the legal profession and deserves punishment.¹⁵

Under the foregoing circumstances, we believe that the recommended penalty of suspension from the practice of law for a period of six (6) months must be upgraded to suspension from the practice of law for one (1) year. In all other respects, the recommendation of the IBP Board of Governors as contained in Resolution No. XX-2014-29 is hereby adopted.

ACCORDINGLY, respondent Atty. Alexander C. Estebal is hereby found **GUILTY** of violating the Code of Professional Responsibility and is hereby **SUSPENDED** from the practice of law for a period of one (1) year, effective upon receipt of this Decision. He is also **ORDERED** to return the amounts of ₱135,000.00 to William G. Campos, Jr., ₱60,000.00 to Rita C. Batac; and ₱105,000.00 to Dorina D. Carpio. Atty. Alexander C. Estebal is **WARNED** that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

¹³ Id. at 491-493.

¹⁴ 705 Phil. 321 (2013).

¹⁵ Id. at 328.

WE CONCUR:



ANTONIO T. CARPIO

Associate Justice
Acting Chief Justice

(On leave)

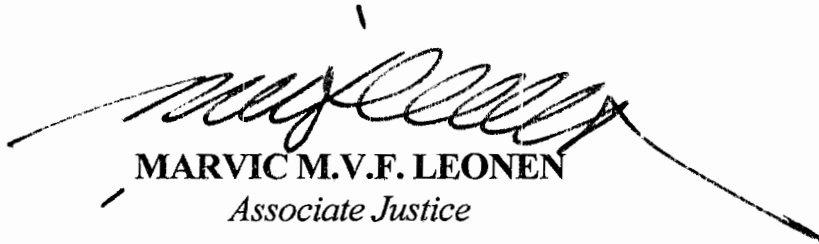
ARTURO D. BRION

Associate Justice

(On official leave)

JOSE CATRAL MENDOZA

Associate Justice



MARVIC M.V.F. LEONEN

Associate Justice

