

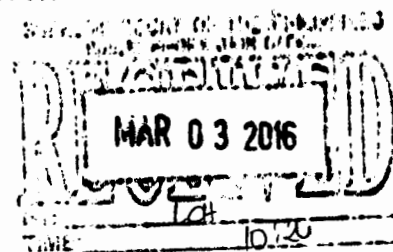


Republic of the Philippines

Supreme Court

Manila

EN BANC



**SPOUSES JONATHAN and  
ESTER LOPEZ,**

Complainants,

- versus -

**ATTY. SINAMAR E. LIMOS,**  
Respondent.

**A.C. No. 7618**

Present:

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

Promulgated:

February 2, 2016

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

**DECISION**

**PERLAS-BERNABE, J.:**

For the Court's resolution is a petition<sup>1</sup> dated July 16, 2007 filed by complainants-spouses Jonathan and Ester Lopez (complainants) against respondent Atty. Sinamar E. Limos (respondent), praying that the latter be meted disciplinary sanctions for her alleged numerous and repeated violations of the Code of Professional Responsibility (CPR) by failing to perform her undertaking as counsel and to return complainants' money despite demands.

\* On official leave.

<sup>1</sup> Received by the Office of the Bar Confidant on September 10, 2007. *Rollo*, pp. 3-8.

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### The Facts

Complainants alleged that sometime in June 2006, and while living abroad, they secured the services of respondent as counsel in connection with their intention to adopt a minor child, Ethan Benedict Victore.<sup>2</sup> In consideration therefor, complainants, through a representative,<sup>3</sup> paid respondent the aggregate amount of ₱75,000.00, which was duly received by the latter.<sup>4</sup> A few months later, or on October 6, 2006, they purposely came back to the Philippines for a two (2)-week stay to commence the filing of the adoption case before the proper court. However, despite payment and submission of all the required documents to respondent, no petition was filed during their stay.<sup>5</sup>

Sometime in May 2007, complainants, through Jonathan's employer, received respondent's letter<sup>6</sup> dated March 6, 2007, requesting that complainants be allowed to come home to the Philippines to appear and testify in court for the adoption case she purportedly filed on behalf of complainants before the Regional Trial Court of San Fernando City, La Union, Branch 30 (RTC), docketed as Spl. Proc. Case No. 2890. Thus, complainants returned to the Philippines in June 2007, only to find out that: (a) Spl. Proc. Case No. 2890 referred to a petition for the declaration of the presumptive death of another person filed by another lawyer;<sup>7</sup> and (b) respondent had yet to file a petition for adoption on their behalf.<sup>8</sup> Utterly dismayed, complainants withdrew all their documents from respondent's custody<sup>9</sup> and hired another lawyer to handle the filing of the adoption case.<sup>10</sup> Moreover, complainants demanded the return of the amount of ₱75,000.00 given as legal fees.<sup>11</sup> However, respondent refused to return such money, retorting that as a standard operating procedure, she does not return "acceptance fees."<sup>12</sup> In view of the foregoing, complainants filed the instant administrative case against respondent before this Court.

Despite numerous directives to file a comment,<sup>13</sup> respondent failed to do so; thus, the Court was constrained to dispense with the filing of the same and to impose a fine in the amount of ₱2,000.00 against her.<sup>14</sup> The administrative case was then referred to the Integrated Bar of the Philippines

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<sup>2</sup> Id. at 3.

<sup>3</sup> Sharon Nazario, who signed the Retainership Agreement (see id. at 21-23) on behalf of complainants. See id. at 4.

<sup>4</sup> See Official Receipt No. 0051 and Acknowledgment Receipt signed by Donna Marie Rafada; id. at 11.

<sup>5</sup> Id. at 4. See also id. at 126.

<sup>6</sup> Id. at 12.

<sup>7</sup> Id. at 126. See Certification dated July 11, 2007 issued by Clerk of Court & Ex-Officio Sheriff Atty. Rollie Modesto A. Laigo of the Office of the Clerk of Court of the Regional Trial Court of San Fernando City, La Union; id. at 13.

<sup>8</sup> Id. at 76.

<sup>9</sup> See id. at 14.

<sup>10</sup> Id. at 5-6 and 76.

<sup>11</sup> See complainants' letter dated July 5, 2007; id. at 15.

<sup>12</sup> See respondent's letter dated July 5, 2007; id. at 16-19.

<sup>13</sup> See Court's Resolutions dated December 12, 2007 (id. at 56-57) and August 6, 2009 (id. at 61-62).

<sup>14</sup> See Court's Resolution dated January 17, 2011; id. at 64-65.

(IBP) for investigation, report, and recommendation,<sup>15</sup> wherein respondent similarly disregarded the IBP's directives to participate in the Mandatory Conference and to submit her position paper despite due notice.<sup>16</sup>

### **The IBP's Report and Recommendation**

In a Report and Recommendation<sup>17</sup> dated January 28, 2014, the IBP Investigating Commissioner found respondent administratively liable and, accordingly, recommended that she be meted the penalty of suspension from the practice of law for three (3) years and ordered to return the amount of ₱75,000.00 with legal interest to complainants. It was likewise recommended that respondent should show compliance with such directives within ten (10) days from receipt of the order of suspension.<sup>18</sup>

The IBP Investigating Commissioner found respondent guilty of violating Rule 18.03, Canon 18 of the CPR, as she neglected the legal matter entrusted to her by complainants – *i.e.*, the filing of the adoption case – for almost a year until complainants finally withdrew their documents from respondent and opted to have the filing of the case handled by another lawyer. Worse, respondent refused to return the amount of ₱75,000.00 representing legal fees paid by complainants to her. In this relation, the Investigating Commissioner added that respondent's liability was further aggravated by the fact that she: (a) deceived complainants by informing them that a petition for adoption had already been filed on their behalf, when in truth, there was none; and (b) failed to file any comment when the Court required her to do so.<sup>19</sup>

In a Resolution<sup>20</sup> dated October 10, 2014, the IBP Board of Governors adopted and approved the aforesaid report and recommendation, without mentioning, however, of the IBP Investigating Commissioner's imposition of legal interest on the amount to be returned.

### **The Issue Before the Court**

The essential issue in this case is whether or not respondent should be held administratively liable for violating the CPR.

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<sup>15</sup> Id.

<sup>16</sup> See IBP's Order dated July 13, 2011; *id.* at 73. See also *id.* at 126.

<sup>17</sup> *Id.* at 125-127. Penned by Commissioner Arsenio P. Adriano.

<sup>18</sup> *Id.* at 127.

<sup>19</sup> *Id.*

<sup>20</sup> See Notice of Resolution No. XXI-2014-741 issued by National Secretary Nasser A. Marohomsalic; *id.* at 124.

### The Court's Ruling

A judicious perusal of the records reveals that sometime in June 2006, complainants secured the services of respondent in order to file a petition for adoption of a minor child named Ethan Benedict Victore, and in connection thereto, paid the latter the amount of ₱75,000.00 representing legal fees. However, despite the lapse of almost a year and for reasons unknown, respondent failed to perform anything in furtherance of the legal matter entrusted to her by complainants. As correctly pointed out by the IBP Investigating Commissioner, respondent's acts constitute a flagrant violation of Rule 18.03, Canon 18 of the CPR, to wit:

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.

Under the foregoing provisions, once a lawyer takes up the cause of his client, he is duty-bound to serve the latter with competence, and to attend to such client's cause with diligence, care, and devotion whether he accepts it for a fee or for free. He owes fidelity to such cause and must always be mindful of the trust and confidence reposed upon him.<sup>21</sup> Therefore, a lawyer's neglect of a legal matter entrusted to him by his client constitutes inexcusable negligence for which he must be held administratively liable,<sup>22</sup> as in this case.

In this relation, respondent also violated Rules 16.01 and 16.03, Canon 16 of the CPR when she failed to return the amount of ₱75,000.00 representing legal fees that complainants paid her, viz.:

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.

x x x x

Rule 16.03 – A lawyer shall deliver the funds and property of his client when due or upon demand. x x x.

<sup>21</sup> *Lad Vda. de Dominguez v. Agleron, Sr.*, A.C. No. 5359, March 10, 2014, 718 SCRA 219, 222.

<sup>22</sup> See *Nebreja v. Reonal*, A.C. No. 9896, March 19, 2014, 719 SCRA 385; *Figueras v. Jimenez*, A.C. No. 9116, March 12, 2014, 718 SCRA 450; and *Abiero v. Juanino*, 492 Phil. 149 (2005).

Verily, the relationship between a lawyer and his client is highly fiduciary and prescribes on a lawyer a great fidelity and good faith.<sup>23</sup> The highly fiduciary nature of this relationship imposes upon the lawyer the duty to account for the money or property collected or received for or from his client.<sup>24</sup> Thus, a lawyer's failure to return upon demand the funds held by him on behalf of his client – as in this case – 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. Such act is a gross violation of general morality, as well as of professional ethics.<sup>25</sup>

Even worse, respondent misrepresented to complainants that she had already commenced an adoption proceeding on behalf of the latter, as evidenced by the letter<sup>26</sup> dated March 6, 2007 she sent to Jonathan's employer requesting that he, together with her wife, Ester, be allowed to come home to the Philippines to appear and testify in court. She even provided them with a case number, Spl. Proc. Case No. 2890, which was purportedly pending before the RTC. Such misrepresentation resulted in complainants going through the trouble of coming back to the Philippines, only to find out that: (a) Spl. Proc. Case No. 2890 referred to a petition for the declaration of the presumptive death of another person filed by another lawyer; and (b) respondent had yet to file a petition for adoption on their behalf. These deceitful acts of respondent clearly violate Rule 1.01, Canon 1 of the CPR, which provide:

CANON 1 – A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.01, Canon 1 of the CPR instructs that, as officers of the court, lawyers are bound to maintain not only a high standard of legal proficiency, but also of morality, honesty, integrity, and fair dealing.<sup>27</sup> Indubitably, respondent fell short of such standard when she committed the afore-described acts of deception against complainants. Such acts are not only unacceptable, disgraceful, and dishonorable to the legal profession; they reveal basic moral flaws that make him unfit to practice law.<sup>28</sup>

To aggravate further respondent's administrative liability, the Court notes that it repeatedly required her to comment on complainants' petition, but respondent ignored such commands. Similarly, when the instant case was referred to the IBP for investigation, report, and recommendation, respondent again disregarded the directives of the Investigating

<sup>23</sup> *Bayonla v. Reyes*, 676 Phil. 500, 509 (2011).

<sup>24</sup> *Navarro v. Solidum, Jr.*, A.C. No. 9872, January 28, 2014, 714 SCRA 586, 597.

<sup>25</sup> *Adrimisin v. Javier*, 532 Phil. 639, 645-646 (2006).

<sup>26</sup> *Rollo*, p. 12.

<sup>27</sup> *Tabang v. Gacott*, A.C. No. 6490, July 9, 2013, 700 SCRA 788, 804.

<sup>28</sup> *See Spouses Olbes v. Diciembre*, 496 Phil. 799, 812 (2005).

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Commissioner to attend the mandatory conference and to submit a position paper. Such audacity on the part of respondent – which caused undue delay in the resolution of the instant administrative case – contravenes Canon 11 and Rule 12.04, Canon 12 of the CPR, all of which read:

CANON 11 – A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

x x x x

CANON 12 – A lawyer shall exert every effort and consider it his duty to assist in the speedy and efficient administration of justice.

x x x x

Rule 12.04 – A lawyer shall not unduly delay a case, impede the execution of a judgment or misuse court processes.

Undoubtedly, “[t]he Court’s patience has been tested to the limit by what in hindsight amounts to a lawyer’s impudence and disrespectful bent. At the minimum, members of the legal fraternity owe courts of justice respect, courtesy, and such other becoming conduct essential in the promotion of orderly, impartial, and speedy justice.”<sup>29</sup> What respondent has done was the exact opposite, and hence, she must be disciplined accordingly.

Anent the proper penalty for respondent, jurisprudence provides that in similar cases where lawyers neglected their client’s affairs and, at the same time, failed to return the latter’s money and/or property despite demand, the Court imposed upon them the penalty of suspension from the practice of law. In *Segovia-Ribaya v. Lawsin*,<sup>30</sup> the Court suspended the lawyer for a period of one (1) year for his failure to perform his undertaking under his retainership agreement with his client and to return the money given to him by the latter. Also, in *Jinon v. Jiz*,<sup>31</sup> the Court suspended the lawyer for a period of two (2) years for his failure to return the amount his client gave him for his legal services which he never performed. Finally, in *Agot v. Rivera*,<sup>32</sup> the Court suspended the lawyer for a period of two (2) years for his: (a) failure to handle the legal matter entrusted to him and to return the legal fees in connection thereto; and (b) misrepresentation that he was an immigration lawyer, when in truth, he was not. In this case, not only did respondent fail to file a petition for adoption on behalf of complainants and to return the money she received as legal fees, she likewise committed deceitful acts in misrepresenting that she had already filed such petition when nothing was actually filed, resulting in undue prejudice to complainants. On top of these, respondent showed impertinence not only to the IBP Investigating Commissioner, but to the Court as well, when she

<sup>29</sup> *Conlu v. Aredonia*, 673 Phil. 1, 8 (2011).

<sup>30</sup> See A.C. No. 7965, November 13, 2013, 709 SCRA 287.

<sup>31</sup> See A.C. No. 9615, March 5, 2013, 692 SCRA 348.

<sup>32</sup> See A.C. No. 8000, August 5, 2014, 732 SCRA 12.

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ignored directives to comment on the complainants' petition against her and to participate in the investigation of the case. Under these circumstances, the Court imposes on respondent the penalty of suspension from the practice of law for a period of three (3) years, as recommended by the IBP.


Finally, the Court sustains the IBP's recommendation ordering respondent to return the amount of ₱75,000.00 she received from complainants as legal fees. It is well to note that "[w]hile the Court has previously held that disciplinary proceedings should only revolve around the determination of the respondent-lawyer's administrative and not his civil liability, it must be clarified that this rule 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 and not intrinsically linked to his professional engagement."<sup>33</sup> Since respondent received the aforesaid amount as part of her legal fees, the Court, thus, finds the return thereof to be in order, with legal interest as recommended by the IBP Investigating Commissioner.<sup>34</sup>

**WHEREFORE**, respondent Atty. Sinamar E. Limos is found **GUILTY** of violating Rule 1.01 of Canon 1, Canon 11, Rule 12.04 of Canon 12, Rules 16.01 and 16.03 of Canon 16, and Rule 18.03 of Canon 18 of the Code of Professional Responsibility. Accordingly, she is hereby **SUSPENDED** from the practice of law for a period of three (3) years, effective upon the finality of this Decision, with a stern warning that a repetition of the same or similar acts will be dealt with more severely.

Furthermore, respondent is **ORDERED** to return to complainants-spouses Jonathan and Ester Lopez the legal fees she received from the latter in the amount of ₱75,000.00, with legal interest, within ninety (90) days from the finality of this Decision. Failure to comply with the foregoing directive will warrant the imposition of a more severe penalty.

Let copies of this Decision be served on the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts in the country for their information and guidance and be attached to respondent's personal record as attorney.

**SO ORDERED.**

  
**ESTELA M. PIRLAS-BERNABE**  
Associate Justice

<sup>33</sup> *Pitcher v. Gagante*, A.C. No. 9532, October 8, 2013, 707 SCRA 14, 25-26.

<sup>34</sup> See *Jinon v. Jiz*, supra note 31.


**WE CONCUR:**



**MARIA LOURDES P. A. SERENO**  
Chief Justice



**ANTONIO T. CARPIO**  
Associate Justice



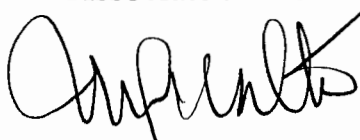
**PRESBITERO J. VELASCO, JR.**  
Associate Justice



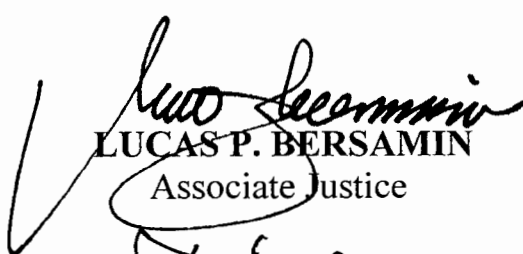
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice



**ARTURO D. BRION**  
Associate Justice




**DIOSDADO M. PERALTA**  
Associate Justice



**LUCAS P. BERSAMIN**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



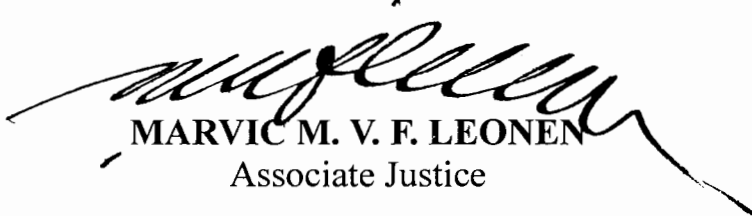
**JOSE PORTUGAL PEREZ**  
Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



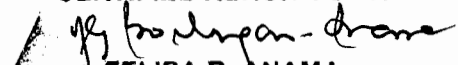
**MARVIC M. V. F. LEONEN**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice

On Official Leave  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

CERTIFIED XEROX COPY:



**FELIPA B. ANAMA**  
CLERK OF COURT, EN BANC  
SUPREME COURT