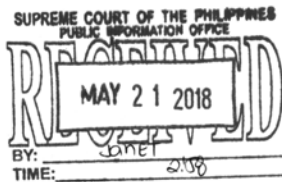




Republic of the Philippines
Supreme Court
 Baguio City



FIRST DIVISION

DARIO TANGCAY,
Complainant,

A.C. No. 11821
(formerly CBD Case No. 15-4477)

Present:

- versus -

SERENO,* C.J.,**
 LEONARDO-DE CASTRO,***
 DEL CASTILLO,
 JARDELEZA, and
 TIJAM, JJ.

ATTY. HONESTO ANCHETA
CABARROGUIS,
Respondent.

Promulgated:
APR 02 2018

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RESOLUTION

DEL CASTILLO, J.:

This resolves the Affidavit-Complaint¹ filed by complainant Dario Tangcay (Tangcay) for impropriety against respondent Atty. Honesto A. Cabarroguis (Atty. Cabarroguis) before the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD).

Factual Antecedents

Tangcay averred in his complaint that: (1) he inherited a parcel of land from his father and the same was registered in his name under Transfer Certificate of Title (TCT) No. T-288807 (subject property); (2) one Emilia S. Solicar filed a Petition for Probate of a purported Last and Will Testament of his late father docketed as Special Proceedings No. 4833-98 (probate case); (3) he engaged the legal services of Atty. Cabarroguis to defend and represent him in the probate

* On leave.
 ** J. Carpio designated as Acting Chief Justice pursuant to Special Order No. 2539 dated February 28, 2018.
 *** Acting Chairperson pursuant to Special Order No. 2540 dated February 28, 2018.
¹ Rollo, pp. 3-5.

case; (4) while handling the case, Atty. Cabarroguis learned that the subject property was mortgaged² with the First Davao Lending Corporation (lending corporation) for ₱100,000.00; (5) Atty. Cabarroguis then offered him a loan of ₱200,000.00 with an interest lower than what the lending corporation imposed; (6) he accepted the same and signed the real estate mortgage³ unaware of the illegality and impropriety of a lawyer lending money to a client; and (7) when he defaulted in payment, Atty. Cabarroguis instituted a Judicial Foreclosure of the real estate mortgage.

In compliance with the Order⁴ of IBP-CBD, Atty. Cabarroguis filed his Answer⁵ dated March 11, 2015. Atty. Cabarroguis essentially claimed that, despite his generosity and liberality in the collection of his professional legal fees, he was still not fully paid for the cases he won for Tangcay.

IBP Report and Recommendation

In his Report and Recommendation⁶ dated May 19, 2015, IBP Commissioner Arsenio P. Adriano (Commissioner Adriano) found Atty. Cabarroguis administratively liable under Canon 16, particularly Rule 16.04, of the Code of Professional Responsibility and recommended that Atty. Cabarroguis be suspended from the practice of law for three months.

In its Resolution No. XXI-2015-429⁷ dated June 6, 2015, the IBP-Board of Governors –

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”, considering [Atty. Cabarroguis’] violation of Canon 16, Rule 16.04 of the Code of Professional Responsibility. Thus, respondent Atty. Honesto Ancheta Cabarroguis is hereby **SUSPENDED from the practice of law for three (3) months.** (Emphasis in the original)

Our Ruling

The Court adopts the resolution of the IBP Board of Governors.



² See Real Estate Mortgage with First Davao Lending Corporation: id. at 20-21.

³ See Real Estate Mortgage with Spouses Cabarroguis; id. at 23-24.

⁴ Id. at 35.

⁵ Id. at 37-48.

⁶ Id. at 223-224.

⁷ Id. at 222.

Quite clearly, Atty. Cabarroguis violated the prohibition against lawyers lending money to their clients.

Pertinent to the case at bar is Canon 16 of the Code of Professional Responsibility (CPR) which states:

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

And Rule 16.04 thereof which mandates that:

A lawyer shall not borrow money from his client unless the client's interests are fully protected by the nature of the case or by independent advice. **Neither shall a lawyer lend money to a client except, when in the interest of justice, he has to advance necessary expenses in a legal matter he is handling for the client.** (Emphasis ours)

There is hardly any doubt or dispute that Atty. Cabarroguis did lend money to his client, Tangcay, this fact being evidenced by a real estate mortgage which the latter signed and executed in favor of the former.

In fact, Commissioner Adriano noted that “[r]espondent did **not** deny the existence of the mortgage in his favor. His answer did not directly touch on the propriety of his act of extending the loan to Tangcay, a client.”⁸

In *Linsangan v. Atty. Tolentino*,⁹ this Court explained why the lending of money by a lawyer to his client is frowned upon, viz.:

The rule is that a lawyer shall not lend money to his client. The only exception is, when in the interest of justice, he has to advance necessary expenses (such as filing fees, stenographer's fees for transcript of stenographic notes, cash bond or premium for surety bond, etc.) for a matter that he is handling for the client.

The rule is intended to safeguard the lawyer's independence of mind so that the free exercise of his judgment may not be adversely affected. It seeks to ensure his undivided attention to the case he is handling as well as his entire devotion and fidelity to the client's cause. If the lawyer lends money to the client in connection with the client's case, the lawyer in effect acquires an interest in the subject matter of the case or an additional stake in its outcome. Either of these



⁸ Id. at 353. Emphasis ours.

⁹ A.C. No. 6672, 614 Phil. 327, 335 (2009).

circumstances may lead the lawyer to consider his own recovery rather than that of his client, or to accept a settlement which may take care of his interest in the verdict to the prejudice of the client in violation of his duty of undivided fidelity to the client's cause. (Citations omitted)

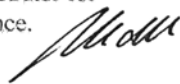
The law profession is distinguished from any other calling by the fiduciary duty of a lawyer to his or her client. It is almost trite to say that lawyers are strictly required to maintain the highest degree of public confidence in the fidelity, honesty and integrity of their profession.¹⁰ "Lawyers who obtain an interest in the subject-matter of litigation create a conflict-of-interest situation with their clients and thereby directly violate the fiduciary duties they owe their clients."¹¹

In *Anaya v. Alvarez, Jr.*¹² this Court once again reminded lawyers that the legal profession is not a mere money – making occupation but a noble and ennobling calling that is heavily encumbered and hedged about by such salutary and honored strictures as integrity, morality, honesty, fair dealing and trustworthiness, to wit:

The practice of law is a privilege granted only to those who possess the strict intellectual and moral qualification required of a lawyer. As vanguards of our legal system, they are expected to maintain not only legal proficiency but also a high standard of morality, honesty, integrity, and fair dealing. Their conduct must always reflect the values and norms of the legal profession as embodied in the CPR.¹³

WHEREFORE, respondent Atty. Honesto A. Cabaroguis is found guilty of violating Rule 16.04, Canon 16 of the Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for a period of three (3) months effective upon receipt of this Resolution, with a stern warning that a commission of the same or similar acts or offenses will be dealt with more severely. Atty. Cabaroguis is **DIRECTED** to inform the Court of the date of his receipt of this Resolution within ten (10) days from receipt thereof.

Let a copy of this Resolution be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all the courts in the country for their information and guidance.



¹⁰ *Rangwani v. Atty. Diño*, 486 Phil. 8, 20 (2004).

¹¹ *Roxas v. Republic Real Estate Corporation*, G.R. Nos. 208205 & 208212, June 1, 2016, 792 SCRA 31, 73-74.

¹² A.C. No. 9436, August 1, 2016, 799 SCRA 1.

¹³ *Id.* at 4.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:

(On leave)
MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


FRANCIS H. JARDELEZA
Associate Justice


NOEL GIMENEZ TIJAM
Associate Justice