



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

**KENNETH R. MARIANO,**  
Complainant,

**A.C. No. 11978**  
[Formerly CBD Case No. 10-2769]

**Present:**

LEONARDO-DE CASTRO, C.J.,  
CARPIO,  
PERALTA,  
BERSAMIN,  
DEL CASTILLO,  
PERLAS-BERNABE,  
LEONEN,\*  
JARDELEZA,\*  
CAGUIOA,\*\*  
TIJAM,  
REYES, A., JR.,\*\*\*  
GESMUNDO, and  
REYES, J., JR., JJ.

- versus -

**ATTY. JOSE N. LAKI,**  
Respondent.

**Promulgated:**

September 25, 2018

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**DECISION**

***PER CURIAM:***

Before us is a Affidavit-Complaint dated October 7, 2010 filed by complainant Kenneth R. Mariano (*Mariano*) against respondent Atty. Jose N. Laki (*Atty. Laki*), docketed as A.C. No. 11978 for dishonesty, unprofessional conduct and violation of the Code of Professional Responsibilities (*CPR*).<sup>1</sup>

\* On wellness leave.  
\*\* On official business.  
\*\*\* On leave.  
<sup>1</sup> *Rollo*, pp. 2-4.

The facts are as follows:

On January 7, 2009, Mariano alleged that he approached Atty. Laki to engage his legal services for the filing of a petition for annulment of his marriage. Atty. Laki then informed him to prepare the amount of ₱160,000.00, representing a package deal for his professional fee, docket fee and expenses for the preparation and filing of the petition, subject to an advance payment of ₱50,000.00. Mariano expressed surprise over the huge amount that Atty. Laki was asking, thus, the latter assured him that he could secure a favorable decision even without Mariano's personal appearance since he will file the petition for annulment before the Regional Trial Court (RTC) of Tarlac which is presided by a "friendly judge" and is known to be receptive to annulment cases.

Believing in Atty. Laki's assurances, Mariano initially paid Atty. Laki the amount of ₱50,000.00, as evidenced by a receipt<sup>2</sup> issued by Atty. Laki himself on January 7, 2009. Upon Atty. Laki's relentless follow-ups to pay the remaining balance, Mariano made the succeeding payments in the amounts of ₱40,000.00 and ₱60,000.00 on April 13, 2009 and August 2009, respectively, as evidenced by receipts<sup>3</sup> issued by Atty. Laki.

For almost a year thereafter, Mariano followed up with Atty. Laki the status of the petition. He then discovered that the petition has yet to be filed. Atty. Laki told him that the Presiding Judge of the RTC-Tarlac where he allegedly filed the petition has been dismissed by the Supreme Court, thus, he decided to withdraw the case since he did not expect the new presiding judge to be "friendly."

Doubtful of Atty. Laki's allegations, Mariano attempted to get a copy of the petition but the former told him that he still has to locate the copy in his office. Mariano tried several times to get hold of a copy of the petition but nevertheless failed, as it became very difficult to meet Atty. Laki. Mariano averred that he also tried calling Atty. Laki through his cellphone, but his calls were likewise rejected. These then prompted Mariano to instead demand the return of his money considering that it was apparent that Atty. Laki failed to fulfill his duty as lawyer to file the petition for annulment.

Despite Mariano's demand to Atty. Laki to return his money, his demands were left unheeded. Atty. Laki promised Mariano that he would return the money in installments within two weeks because he still has to raise it, but Atty. Laki failed to make good of his promise. Later, Mariano's succeeding phone calls were rejected. Mariano also alleged that Atty. Laki's office in Guagua, Pampanga, was always closed. On August 29, 2010, per

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<sup>2</sup> *Id.* at 6.

<sup>3</sup> *Id.* at 7-8.

advise of another lawyer, Mariano sent a demand letter<sup>4</sup> to Atty. Laki which was served at the Integrated Bar of the Philippines (*IBP*), Pampanga Chapter, San Fernando, Pampanga, where the latter allegedly holds office as an IBP Director.

Aggrieved, Mariano filed the instant disbarment complaint against Atty. Laki for dishonesty, unprofessional conduct and violations of the CPR.

On October 11, 2010, the IBP-Commission on Bar Discipline (*IBP-CBD*) ordered Atty. Laki to submit his Answer on the complaint against him.<sup>5</sup>

On February 4, 2011, the IBP-CBD issued a Notice of Mandatory Conference/Hearing<sup>6</sup> notifying the parties to appear on March 4, 2011 with a warning that non-appearance by the parties shall be deemed a waiver of their right to participate in the proceedings.

On February 18, 2011, Atty. Laki moved for the cancellation and postponement of the mandatory conference on the ground that he has to appear for court hearings in Pampanga on the same day.<sup>7</sup>

On March 4, 2011, both Mariano and Atty. Laki failed to attend the rescheduled mandatory conference. As such, the Commission issued an Order<sup>8</sup> cancelling the scheduled conference and resetting it to April 15, 2011 with a stern warning to the parties that no further postponement will be entertained.

On April 15, 2011, Mariano was the only one who appeared before the Commission, and Atty. Laki was absent, despite notice, without any explanation. As such, the Commission issued an Order<sup>9</sup> noting that Atty. Laki again failed to appear despite warning and that he has yet to file an answer to the complaint. Consequently, the case was submitted for report and recommendation.

A month after, or on May 24, 2011, Atty. Laki filed a Manifestation with Motion,<sup>10</sup> explaining that he was suffering from acute bronchitis during the scheduled mandatory conference, and attached a medical certificate thereto. He, likewise, prayed that the Order submitting the case for report

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<sup>4</sup> *Id.* at 9-10.

<sup>5</sup> *Id.* at 11.

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

<sup>7</sup> *Id.* at 16.

<sup>8</sup> *Id.* at 20.

<sup>9</sup> *Id.* at 22.

<sup>10</sup> *Id.* at 24.

and recommendation be recalled and reconsidered, and that the mandatory conference be set preferably on June 24, 2011.

In an Order<sup>11</sup> dated June 3, 2011, the Commission, in the interest of justice, set aside its previous Order considering the case was submitted for report and recommendation, and set anew the mandatory conference on July 15, 2011.

On July 15, 2011, Mariano and Atty. Laki both appeared on the rescheduled mandatory conference, but the counsel of Mariano was absent, thus, the conference was reset on August 26, 2011. The Commission also noted that Atty. Laki has still not filed his Answer to the Complaint.<sup>12</sup>

On October 14, 2011, the case was re-assigned to Commissioner Leland R. Villadolid, Jr., and the parties were notified to appear before the Commission for the mandatory conference on November 29, 2011.<sup>13</sup>

On November 24, 2011, Atty. Laki filed an Urgent Motion for Postponement<sup>14</sup> on the ground that he has two scheduled court hearings on the scheduled mandatory conference on November 29, 2011.

On November 29, 2011, it was only Mariano who appeared before the Commission. The Commission, however, noted Atty. Laki's urgent motion for postponement on record and issued an Order<sup>15</sup> granting his motion for postponement to January 17, 2012. It also noted that Atty. Laki has still not submitted his Answer, thus, was given a final period of fifteen (15) days to file it.

On January 17, 2012, there was still no appearance on the part of Atty. Laki but his secretary, a certain Michael Brutas, appeared and informed the Commission that Atty. Laki would not be able to appear because his "*kinakapatid*" passed away. Mariano interposed objections arguing that the case has been pending for quite some time already, and that Atty. Laki has failed to submit his Answer to the complaint despite numerous notices. Finding merit in Mariano's arguments, the Commission denied the request of Atty. Laki for postponement. The Commission terminated the mandatory conference and gave Mariano fifteen (15) days to submit his verified position paper, after which, the case was submitted for report and recommendation.<sup>16</sup>

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<sup>11</sup> *Id.* at 28.

<sup>12</sup> *Id.* at 30.

<sup>13</sup> *Id.* at 31.

<sup>14</sup> *Id.* at 32-33.

<sup>15</sup> *Id.* at 36-37.

<sup>16</sup> *Id.* at 39.

On February 17, 2012, Mariano filed his Position Paper<sup>17</sup> in compliance with the Order of the Commission. However, Atty. Laki still failed to submit his Answer to the Complaint. He was eventually declared in default. Thus, the instant case was submitted for report and recommendation.<sup>18</sup>

However, on March 28, 2012, Atty. Laki filed a Motion for Reconsideration with Motion to Lift the Order of Default as he claimed that his absence during the scheduled mandatory conference on January 17, 2012 was unintentional and was not meant to delay the proceedings.<sup>19</sup>

In its Report and Recommendation<sup>20</sup> dated August 20, 2015, the IBP-CBD recommended that Atty. Laki be disbarred from the practice of law. It, likewise, recommended that Atty. Laki be ordered to return to the complainant the amount of ₱150,000.00 which he received as professional fee. In Resolution No. XXII-2016-323,<sup>21</sup> the IBP-Board of Governors adopted and approved the IBP-CBD's report and recommendation.

After a review of the records of the case, We resolve to sustain the findings and recommendation of the IBP-Board of Governors.

The ethics of the legal profession rightly enjoin every lawyer to act with the highest standards of truthfulness, fair play and nobility in the course of his practice of law. Lawyers are prohibited from engaging in unlawful, dishonest, immoral or deceitful conduct and are mandated to serve their clients with competence and diligence. To this end, nothing should be done by any member of the legal fraternity which might tend to lessen in any degree the confidence of the public in the fidelity, honesty, and integrity of the profession.<sup>22</sup>

Canon 1, Rule 1.01 of the Code provides that "[lawyers] shall not engage in unlawful, dishonest, immoral or deceitful conduct." By taking the lawyer's oath, lawyers become guardians of the law and indispensable instruments for the orderly administration of justice. As such, they can be disciplined for any conduct, in their professional or private capacity, which renders them unfit to continue to be officers of the court.<sup>23</sup>

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<sup>17</sup> *Id.* at 41-46.

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

<sup>19</sup> *Id.* at 49-50.

<sup>20</sup> *Id.* at 102-115

<sup>21</sup> *Id.* at 63-64.

<sup>22</sup> *Posidio v. Atty. Vitan*, 548 Phil. 556, 562 (2007).

<sup>23</sup> *Foronda v. Atty. Alvarez, Jr.*, 737 Phil. 1, 10 (2014), citing *Manzano v. Soriano*, 602 Phil. 419, 426-427 (2009).

The rule on the accounting of monies and properties received by lawyers from clients as well as their return upon demand is explicit. Canon 16, Rules 16.01, 16.02 and 16.03 of the CPR provides:

CANON 16 – A LAWYER SHALL HOLD IN TRUST ALL MONEY 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.

Rule 16.02 - A lawyer shall keep the funds of each client separate and apart from his own and those of others kept by him.

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

In the instant case, it is clear that Atty. Laki violated his sworn duties under the CPR. Not only did he fail to file the petition for annulment of marriage despite receipt of the acceptance fee in the amount of ₱150,000.00, he also failed to account for the money he received. He also failed to keep his client abreast with the developments and status of the case as he actually never provided Mariano a copy of the petition despite demand. Worse, after receiving his acceptance fee, Atty. Laki also made it difficult for his client to contact him, as in fact Mariano felt that he was being avoided.

Having received payment for services which were not rendered, Atty. Laki was unjustified in keeping Mariano's money. His obligation was to immediately return the said amount. His refusal to do so despite repeated demands constitutes a violation of his oath where he pledges not to delay any man for money and swears to conduct himself with good fidelity to his clients. His failure to return the money, also gives rise to the presumption that he has misappropriated it for his own use to the prejudice of, and in violation of, the trust reposed in him by the client. It is a gross violation of general morality as well as of professional ethics, as it impairs public confidence in the legal profession.<sup>24</sup>

It must be emphasized anew that the fiduciary nature of the relationship between the counsel and his client imposes on the lawyer the duty to account for the money or property collected or received for or from his client. When a lawyer collects or receives money from his client for a particular purpose, he should promptly account to the client how the money was spent. If he does not use the money for its intended purpose, he must immediately return it to the client. Atty. Laki's failure to render an accounting, and to return the money if the intended purpose thereof did not materialize, constitutes a blatant disregard of Rule 16.01 of the CPR. ¶

<sup>24</sup> *Id.*, citing *Arma v. Atty. Montevilla*, 581 Phil. 1, 8 (2008).

But what we find more deplorable was Atty. Laki's act of giving assurance to Mariano that he can secure a favorable decision without the latter's personal appearance because the petition will be filed in the RTC of Tarlac, which is allegedly presided by a "friendly" judge who is receptive to annulment cases. Atty. Laki's deceitful assurances give the implication that a favorable decision can be obtained by being in cahoots with a "friendly" judge. It gives a negative impression that decisions of the courts can be decided merely on the basis of close ties with the judge and not necessarily on the merits. Without doubt, Atty. Laki's statements cast doubts on the integrity of the courts in the eyes of the public. By making false representation to his client, Atty. Laki not only betrayed his client's trust but he also undermined the trust and faith of the public in the legal profession.

Canon 11 and Rule 11.04 of the CPR state that:

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

Rule 11.04 A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality to the case.

From the foregoing rules, a lawyer, as an officer of the court; he is, "like the court itself, an instrument or agency to advance the ends of justice." His duty is to uphold the dignity and authority of the courts to which he owes fidelity, "not to promote distrust in the administration of justice." Faith in the courts, a lawyer should seek to preserve. For, to undermine the judicial edifice "is disastrous to the continuity of government and to the attainment of the liberties of the people."<sup>25</sup> Thus, it has been said of a lawyer that "[a]s an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily that high esteem and regard towards the courts so essential to the proper administration of justice."<sup>26</sup> It is with this exacting standard that we measure Atty. Laki, and find him wanting.

The misconduct of Atty. Laki is further aggravated by Atty. Laki's non-chalant attitude on the proceedings before the IBP, as demonstrated by his repetitive disregard of the IBP's directives to file his comment on the complaint and appear during hearings. Atty. Laki, while astute in filing several motions for postponement of the mandatory conference, he never filed his answer to the complaint, despite several reminders and opportunities given by the IBP. He, likewise, offered no justification or any valid reason as to why he failed to submit his Answer.

<sup>25</sup> *Cruz v. Justice -Aliño-Hormachuelos, et al.*, 470 Phil. 435, 445 (2004), citing *Surigao Mineral Reservation Board v. Cloribel*, No. L-27072, January 9, 1970, 31 SCRA 1, 16-17.

<sup>26</sup> *Id.*

Clearly, Atty. Laki's act of ignoring the IBP's directives is tantamount to an obstinate refusal to comply with the IBP's rules and procedures. This constitutes blatant disrespect for the IBP which amounts to conduct unbecoming lawyer.<sup>27</sup> As an officer of the court, Atty. Laki is expected to know that said directives of the IBP, as the investigating arm of the Court in administrative cases against lawyers, is not a mere request but an order which should be complied with promptly and completely.<sup>28</sup> As an officer of the court, it is a lawyer's duty to uphold the dignity and authority of the court. The highest form of respect for judicial authority is shown by a lawyer's obedience to court orders and processes.

### ***PENALTY***

This Court, in its unceasing quest to promote the people's faith in courts and trust in the rule of law, has consistently exercised its disciplinary authority on lawyers who, for malevolent purpose or personal malice, attempt to obstruct the orderly administration of justice, trifle with the integrity of courts, and embarrass or, worse, malign the men and women who compose them.<sup>29</sup>

Thus, a member of the Bar may be penalized, even disbarred or suspended from his office as an attorney, for violation of the lawyer's oath and/or for breach of the ethics of the legal profession as embodied in the CPR. The practice of law is a profession, a form of public trust, the performance of which is entrusted to those who are qualified and who possess good moral character. The appropriate penalty for an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.

In the instant case, *first*, Atty. Laki received money from his client for the purpose of filing a petition but he failed to do so; *second*, after his failure to render legal service despite the receipt of acceptance fee, he also unjustifiably refused to return the money he received; *third*, he grossly disrespected the IBP by ignoring its directives to file his answer to the complaint and appear at the mandatory hearings; and *lastly*, Atty. Laki maligned the Judiciary by giving the impression that court cases are won, not on the merits, but through close ties with the judges.

From these actuations, it is undisputed that Atty. Laki wronged his client and the Judiciary as an institution, and the IBP of which he is a member. He disregarded his duties as a lawyer and betrayed the trust of his

<sup>27</sup> *Almendarez, Jr. v. Atty. Langit*, 528 Phil. 814, 821 (2006).

<sup>28</sup> *Caspe v. Atty. Mejica*, 755 Phil. 312, 321 (2015).

<sup>29</sup> *Pobre v. Senator Defensor-Santiago*, 613 Phil. 352, 365 (2009).



client, the IBP, and the courts. The Court, thus, rules that Atty. Laki deserves the ultimate administrative penalty of disbarment.


Finally, we also deem it proper to order the return of the acceptance fee in the amount of ₱150,000.00 which Atty. Laki received from Mariano, considering that said transaction was borne out of their professional relationship.


**IN VIEW OF ALL THE FOREGOING**, the Court finds respondent **ATTY. JOSE N. LAKI, GUILTY** of gross misconduct and willful disobedience of lawful orders, rendering him unworthy of continuing membership in the legal profession. He is, thus, **ORDERED DISBARRED** from the practice of law and his name stricken-off of the Roll of Attorneys, effective immediately. We, likewise, **REVOKE** his incumbent notarial commission, if any, and **PERPETUALLY DISQUALIFIES** him from being commissioned as a notary public.


Furthermore, Atty. Laki is **ORDERED** to **RETURN** to complainant Kenneth R. Mariano the total amount of ₱150,000.00, with legal interest of six percent (6%) *per annum*, if it is still unpaid, within ninety (90) days from receipt of this Decision.

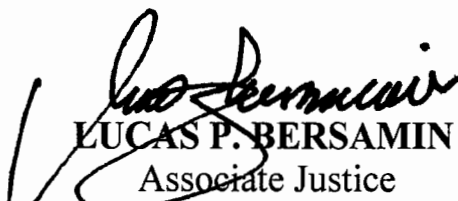
Let copies of this Decision be furnished the Office of the Bar Confidant, which shall forthwith record it in the personal file of respondent. All the courts of the Philippines; the Integrated Bar of the Philippines, shall disseminate copies thereof to all its Chapters; and all administrative and quasi-judicial agencies of the Republic of the Philippines.

**SO ORDERED.**

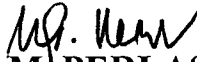
  
**TERESITA J. LEONARDO-DE CASTRO**  
Chief Justice

  
**ANTONIO T. CARPIO**  
Associate Justice

  
**DIOSDADO M. PERALTA**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice


  
**MARIANO C. DEL CASTILO**  
Associate Justice

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

On wellness leave  
**MARVIC M.V.F. LEONEN**  
Associate Justice

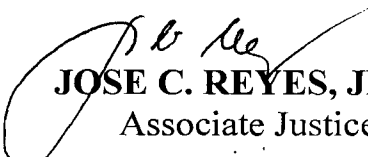
On wellness leave  
**FRANCIS H. JARDELEZA**  
Associate Justice

On official business  
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

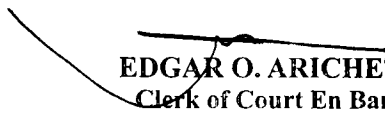
  
**NOEL GIMENEZ TIJAM**  
Associate Justice

On leave  
**ANDRES B. REYES, JR.**  
Associate Justice

  
**ALEXANDER G. GESMUNDO**  
Associate Justice

  
**JOSE C. REYES, JR.**  
Associate Justice

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**EDGAR O. ARICHETA**  
Clerk of Court En Banc  
Supreme Court