



Republic of the Philippines
Supreme Court
Baguio City

THIRD DIVISION

PEDRO RAMOS,

Complainant,

A.C. No. 11128

Present:

VELASCO, JR., J.,
Chairperson,

- versus -

PERALTA,
 PEREZ,
 REYES, and
 JARDELEZA, JJ.

**ATTY. MARIA NYMPHA C.
 MANDAGAN,**

Respondent.

Promulgated:

April 6, 2016

[Handwritten Signature]

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RESOLUTION

REYES, J.:

Before this Court is an administrative complaint¹ for disbarment filed by complainant Pedro Ramos (Ramos) against respondent Atty. Maria Nympha C. Mandagan (Atty. Mandagan) for gross misconduct in violation of the Code of Professional Responsibility (CPR).

In his Complaint, Ramos alleged that Atty. Mandagan demanded from him the amount of Three Hundred Thousand Pesos (P300,000.00) in connection with the criminal case filed against him for murder before the Sandiganbayan. According to Ramos, the P300,000.00 shall be used as bail bond in the event that his petition for bail in the said criminal case is granted.² Also, Atty. Mandagan collected an additional amount of Ten

¹ Rollo, pp. 2-3.

² Id. at 8.

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Thousand Pesos (₱10,000.00) for operating expenses. In both instances, an Acknowledgment Receipt was issued in his favor as proof of payment.³

Contrary to the assurance, however, of Atty. Mandagan, Ramos' petition for bail was denied by the Sandiganbayan. Moreover, Atty. Mandagan withdrew as his counsel without returning the amount of ₱300,000.00 despite the demand sent by Ramos' counsel.⁴

On December 19, 2012, the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) issued an Order⁵ directing Atty. Mandagan to submit her Answer to Ramos' complaint within fifteen (15) days from receipt of the Order.

In her Answer,⁶ Atty. Mandagan argued that the amount of ₱300,000.00 was not intended for payment of bail, but as mobilization expenses for preparation of witnesses, defenses, and other documentary exhibits for both Ramos and his co-accused Gary Silawon.⁷ Atty. Mandagan likewise alleged that Ramos never paid her for acceptance, appearance fees, and legal services rendered in the entire course of the proceedings until her withdrawal as counsel.⁸

On April 26, 2013, the IBP-CBD issued a Notice of Mandatory Conference⁹ directing the parties to appear for a mandatory conference. During the mandatory conference, however, only Atty. Joselito Frial appeared, as counsel for Ramos, while Atty. Mandagan was absent.

On August 29, 2013, the IBP-CBD issued an Order¹⁰ terminating the mandatory conference and directed both parties to submit their respective position papers within a non-extendible period of ten (10) days upon receipt of the said order.

On December 18, 2013, the IBP-CBD issued a Report and Recommendation,¹¹ finding Atty. Mandagan liable for gross misconduct and for failure to render an accounting of funds, and recommended that Atty. Mandagan be suspended for a period of one (1) year. Subsequently, the Report and Recommendation of the IBP-CBD was adopted and approved by the IBP Board of Governors in a Resolution¹² dated October 11, 2014.

³ Id. at 2.

⁴ Id.

⁵ Id. at 9.

⁶ Id. at 13-18.

⁷ Id. at 15.

⁸ Id. at 99.

⁹ Id. at 27-28.

¹⁰ Id. at 34.

¹¹ Id. at 99-100.

¹² Id. at 98.

A Motion for Reconsideration was filed by Atty. Mandagan, but the same was denied by the IBP Board of Governors in a Resolution¹³ dated June 5, 2015.

After a careful review of the records of the case, the Court finds the Report and Recommendation of the IBP-CBD, as adopted and approved by the IBP Board of Governors, to be proper under the circumstances.

The practice of law is considered a privilege bestowed by the State on those who show that they possess and continue to possess the legal qualifications for the profession. As such, lawyers are expected to 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.¹⁴

In *Cruz-Villanueva v. Atty. Rivera*,¹⁵ this Court held that:

When a lawyer receives money from the client for a particular purpose, the lawyer must render an accounting to the client showing that the money was spent for the intended purpose. Consequently, if the lawyer does not use the money for the intended purpose, the lawyer must immediately return the money to the client.¹⁶ (Citations omitted)

In the present case, Atty. Mandagan never denied receiving the amount of ₱300,000.00 from Ramos for the purpose of posting a bond to secure the latter's provisional liberty. When the petition for bail of Ramos, however, was denied by the Sandiganbayan, Atty. Mandagan failed to return the amount to Ramos. Worse, she unjustifiably refused to turn over the amount to Ramos despite demand from Ramos' counsel.

Clearly, Atty. Mandagan failed to act in accordance with the rule stated in Canon 16 of the CPR, to wit:

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

¹³ Id. at 217-218.

¹⁴ *Molina v. Atty. Magat*, 687 Phil. 1, 5 (2012).

¹⁵ 537 Phil. 409 (2006).

¹⁶ Id. at 416.

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

In *Belleza v. Atty. Macasa*,¹⁷ this Court stated that:

[A] lawyer has the duty to deliver his client's funds or properties as they fall due or upon demand. His failure to return the client's money upon demand 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; it impairs public confidence in the legal profession and deserves punishment. Indeed, it may border on the criminal as it may constitute a *prima facie* case of swindling or estafa.¹⁸ (Citations omitted)

This court cannot give credence to Atty. Mandagan's defense that the amount she received from Ramos was not for bail but merely for mobilization expenses. Records show that Atty. Mandagan failed to substantiate her claim. At any rate, as correctly observed by the IBP-CBD, "[Atty. Mandagan] should be forthright in stating what constitutes legal mobilization expenses if only to dispel any doubt as to its intended purpose."¹⁹

Atty. Mandagan's failure to make an accounting or to return the money to Ramos is a violation of the trust reposed on her. As a lawyer, Atty. Mandagan should be scrupulously careful in handling money entrusted to her in her professional capacity because the CPR exacts a high degree of fidelity and trust from members of the bar.

WHEREFORE, the Court finds respondent Atty. Maria Nympha C. Mandagan **GUILTY** of violating Canon 16, Rule 16.01 and Rule 16.03 of the Code of Professional Responsibility, and **SUSPENDS** her from the practice of law for a period of one (1) year effective upon receipt of this Resolution, with **WARNING** that a similar offense will be dealt with more severely.

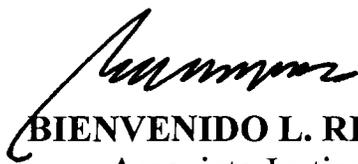
Let copies of this Resolution be entered in the personal record of Atty. Maria Nympha C. Mandagan as a member of the Philippine Bar and furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts in the country.

¹⁷ 611 Phil. 179 (2009).

¹⁸ Id. at 191.

¹⁹ *Rollo*, p. 222.

SO ORDERED.


BIENVENIDO L. REYES
Associate Justice

WE CONCUR:


PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson


DIOSDADO M. PERALTA
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


FRANCIS H. CARDELEZA
Associate Justice