



Republic of the Philippines
Supreme Court
Manila

EN BANC

REYNALDO
(DECEASED),
BEATRIZ
CABUTIN,

A. CABUELLO
SUBSTITUTED BY
CABUELLO

Complainant,

- versus -

ATTY. EDITHA P. TALABOC,
Respondent.

A.C. No. 10532

[Formerly CBD Case No. 10-2773]

Present:

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

Promulgated:

November 7, 2017

X-----X

DECISION

PERALTA, J.:

On October 12, 2010, complainant Reynaldo A. Cabuello filed an administrative complaint against respondent Atty. Editha P. Talaboc with the Integrated Bar of the Philippines (IBP).

Complainant engaged the services of respondent to represent his parents who were the accused in Criminal Cases Nos. CC-2007-1635 and CC-

-
- On official leave.
 - On official business.
 - On leave.

A handwritten signature in black ink, appearing to read "J. Peralta".

2007-1636, entitled *People of the Philippines vs. Alejandro and Cecilia Cabuello*, which cases were pending before the Regional Trial Court (RTC) of Calbiga, Samar, Branch 33. Alejandro and Cecilia Cabuello were charged with the crime of qualified theft of coconuts.

In his Complaint,¹ complainant stated that respondent, with postal address at No. 185 EDSA, Wack Wack, Greenhills East, Mandaluyong City, neglected the criminal cases of his parents. Complainant alleged that he paid for the legal services of respondent, but she did not attend any hearing. She also failed to file the necessary complaint against the policemen (who arrested the accused) as agreed upon by them.

Complainant alleged that he paid for respondent's legal services as follows: (1) ₱20,000.00 for filing fee, appearance fee and transportation expenses of respondent and her assistant, given on August 21, 2007; (2) ₱20,000.00 for respondent's acceptance fee, given on October 19, 2007; (3) ₱10,000.00 for the motion and affidavit of waiver, given on November 7, 2007; (4) ₱19,000.00, allegedly for the additional plane fare of respondent and her assistant, as there was no longer any promotional fare, given on December 16, 2007; (5) ₱15,000.00 for the criminal case to be filed against the police officers who arrested the accused, given on January 13, 2008 and July 16, 2008; (6) ₱8,500.00, allegedly for the fare of respondent and her assistant, including taxi fare and food at the airport, given on February 4, 2008; (7) ₱2,500.00 for penalty, as they were not able to use their plane tickets, given on February 4, 2008; and (8) ₱2,500.00 for payment of a motion, given on April 18, 2008 (totaling ₱97,500.00.).

Complainant alleged that because respondent did not attend the hearings of the case, he was forced to go back and forth from Manila to the province for 10 months to attend to the cases of his parents. Every time he went home to the province, he spent ₱5,000.00 for his bus and plane fares and ₱1,000.00 for the van. He spent a total amount of about ₱150,000.00 due to the negligence of respondent.

Unsatisfied with respondent's legal services, complainant sent respondent a demand letter² dated February 15, 2009 and a second demand letter³ dated September 13, 2010, asking respondent to return the payments given to her, but respondent disregarded his demand letters.

Complainant stated that he filed this complaint so the respondent will not repeat her negligence of duty toward her client's case and for the return of

¹ *Rollo*, pp. 2-5.

² *Id.* at 6.

³ *Id.* at 7.

the payments given to respondent, because she failed to fulfill her legal obligation toward his parents as their lawyer.

On October 13, 2010, the IBP Director for Bar Discipline ordered respondent to file her Answer within 15 days from notice. However, respondent failed to file her answer despite receipt of the order.⁴ Hence, Investigating Commissioner Victor C. Fernandez set the hearing of the case *ex-parte* on January 21, 2011.⁵ On the said date, only the complainant and his counsel appeared. As there was no showing that respondent received notice of the said hearing, the same was cancelled and reset to March 4, 2011.⁶ On March 4, 2011, complainant and his counsel appeared, and respondent's representative, Marivic Alusitain, also appeared. Respondent's representative manifested to the Commission that the respondent intended to file her Answer and prayed for a period of seven days from the said date within which to do so, but respondent did not file an Answer. The hearing was reset to April 1, 2011,⁷ which was later cancelled, because complainant's counsel was not feeling well and respondent's representative manifested that respondent was in Mindanao, attending to the wake of her first cousin. Hence, the hearing was reset to April 15, 2011. On April 15, 2011, complainant and his counsel appeared, while respondent and her representative were absent despite due notice. The parties were given a period of 30 days from the said date within which to submit their respective verified position papers. Complainant filed his position paper on May 16, 2011. Respondent did not file a position paper.⁸

Report and Recommendation of the Investigating Commissioner

On July 25, 2011, Investigating Commissioner Victor C. Fernandez submitted his Report and Recommendation⁹ on the administrative complaint, finding respondent guilty of violating Canons 17 and 18 of the Code of Professional Responsibility and recommended the suspension of respondent from the practice of law for six months.

The Investigating Commissioner stated that it is undisputed that complainant engaged the services of respondent to represent complainant's parents, Alejandro and Cecilia Cabuello, in Criminal Cases Nos. CC-2007-1635 and CC-2007-1636, which were pending before the RTC of Calbiga, Samar, Branch 33. Respondent was paid the following attorney's fees: (1) ₱20,000.00 for filing fee, appearance fee and transportation expenses of respondent and her assistant, given on August 21, 2007; (2) ₱20,000.00 for respondent's acceptance fee, given on October 19, 2007; (3) ₱10,000.00 for

⁴ *Id.* at 9.

⁵ *Id.*

⁶ *Id.* at 11.

⁷ *Id.* at 13.

⁸ *Id.* at 173-174.

⁹ *Id.* at 173-180.



the motion and affidavit of waiver, given on November 7, 2007; (4) ₱19,000.00, allegedly for the additional plane fare of respondent and her assistant, as there was no longer any promotional fare, given on December 16, 2007; (5) ₱15,000.00 for the criminal case to be filed against the police, given on January 13, 2008; (6) ₱8,500.00 for the fare of respondent and her assistant, including taxi fare and food at the airport, given on February 4, 2008; (7) ₱2,500.00 for penalty, as they were not able to use their plane tickets, given on February 4, 2008; and (8) ₱2,500.00 for payment of a motion, given on April 18, 2008.

The cases of complainant's parents were set for arraignment on July 27, 2007. On the said date, respondent failed to appear. Hence, a counsel *de oficio* was assigned to assist complainant's parents. Thereafter, the hearing was set on October 1 and 12, 2007.

On August 31, 2007, respondent filed a *Motion to Transfer Dates of Hearing*,¹⁰ praying that the hearings set on October 1, 2007 and on October 12, 2007 be cancelled and transferred to November 8 and 9, 2007 allegedly for convenience, economic reason and to maximize efforts and results.

After the trial court granted the motion to transfer the hearing to November 8 and 9, 2007, respondent again filed an *Urgent Motion to Reset Hearing (Scheduled on November 8 and 9, 2007)*¹¹ to January 18, 2008, because respondent was allegedly suffering from severe and recurring back pains due to a vehicular accident that occurred on September 7, 2007, and she submitted a medical certificate¹² therefor. Thus, the pre-trial was reset to November 28 and 29, 2007,¹³ which did not proceed, because respondent filed another motion to reset the hearing to December 19 and 20, 2007.¹⁴ Several postponements followed until June 19, 2008 when respondent failed to appear because of peptic ulcer.¹⁵ (In the Order¹⁶ dated June 19, 2008, the trial court issued a warrant of arrest for the apprehension of the accused). Thereafter, respondent filed a *Motion for Reconsideration with Motion to Lift Warrant of Arrest with Apologia Cum Explanation*,¹⁷ and requested that the hearing of the motion be set on July 25, 2008, but since the court would not be in session on the said date, the hearing of the motion was set on July 31, 2008.¹⁸ On the said date, respondent again failed to appear despite due notice. This was followed

¹⁰ *Id.* at 43-45.

¹¹ *Id.* at 48-51.

¹² *Id.* at 51.

¹³ *Id.* at 52-53.

¹⁴ See Order dated November 28, 2007, *id.* at 54.

¹⁵ *Rollo*, p. 59.

¹⁶ *Id.* at 55.

¹⁷ *Id.* at 56-59.

¹⁸ *Id.* at 61.

by other settings until the pre-trial conference was set on September 25, 2008.¹⁹

On the scheduled pre-trial conference on September 25, 2008, respondent again failed to appear despite due notice. Hence, the trial court appointed Atty. Prescilla A. Salvacion of the Public Attorney's office (*PAO*) as counsel for complainant's parents. Notwithstanding the appointment by the trial court of a counsel *de officio* due to the repeated absences of the respondent, the latter still filed a *Motion to Reset Hearing*,²⁰ praying that the hearings of the case for trial on the merits scheduled on November 27, 2008 and December 11, 2008 be reset to January 15, 2009 and February 19, 2009, which motion was denied by the trial court.²¹

On December 11, 2008, before the prosecution presented its first witness, Atty. Salvacion manifested to the trial court that respondent's secretary called up to inform her that respondent would still be appearing in the said case and that she would be available on January 15, 2009. Thereafter, the respondent never communicated with the complainant or his family. The demand letters sent by complainant to respondent for the return of the payments made to her were just ignored.

Based on the foregoing facts, the Investigating Commissioner found that respondent violated Canons 17²² and 18²³ of the Code of Professional Responsibility and recommended that respondent be sanctioned with suspension from the practice of law for six months.

On May 17, 2012, respondent filed a *Motion to Re-open and to Set Conference and For (15) Days to File Opposition/Position Paper*,²⁴ praying that, in the interest of substantial justice, the case be re-opened and the conference be set anew on May 31, 2013 and that respondent be given 15 days or until May 31, 2012 within which to file her Opposition/Position Paper relative to the complaint. Respondent stated that she learned of the filing of the complaint and was able to read the allegations therein when she arrived from the U.S.A. for medical reasons as she had to be tested at the New York Hospital in New York, U.S.A. for the donation of her bone marrow to her brother who was afflicted with cancer.



¹⁹ *Id.* at 63-64.

²⁰ *Id.* at 67-70.

²¹ *Id.* at 66.

²² Canon 17 – A lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed in him.

²³ Canon 18 – A lawyer shall serve his client with competence and diligence.

²⁴ *Rollo*, pp. 160-161.

Complainant filed an Opposition²⁵ dated May 29, 2012, praying for the denial of respondent's motion, as it did not state the period of her stay in the U.S.A. and no document was attached to support her excuse. Moreover, during the mandatory conference dated March 4, 2011, respondent's representative manifested that respondent intended to file an Answer, but she did not file an Answer or a Position Paper. Respondent's representative also never mentioned that respondent was in the U.S.A., but she informed the Commission that respondent was sick and could not appear before it.

Ruling of the IBP Board of Governors

On March 20, 2013, the IBP Board of Governors passed Resolution No. XX-2013-234,²⁶ which adopted and approved with modification the Investigating Commissioner's Report and Recommendation, finding that respondent violated Canons 17 and 18 of the Code of Professional Responsibility, and sanctioned respondent with suspension from the practice of law for six (6) months and ordered her to return the amount received from complainant with legal interest from the time the demand was made within thirty (30) days from receipt of notice.

On July 10, 2013, respondent filed a Motion for Reconsideration²⁷ of the IBP Resolution. Respondent apologized for her failure to appear during the proceedings of this case, and reiterated that she was then in New York, U.S.A., as she was being considered as a bone marrow donor for her brother who was afflicted with cancer. She stated that complainant's allegation of payments made to her was not supported by evidence.

Respondent alleged that these are the true facts pertaining to this case:

- a) Respondent admitted that she was engaged to represent the accused Spouses Cabuello in the criminal cases for qualified theft. However, she said that at that time, she already intimated to Mr. Cabuello that she has health problems so that in case she cannot attend the hearings, she may have to withdraw from the case, although in terms of legwork or filing of pleadings and the like, her assistant Marivic Alusitain can assist them.
- b) Thus, respondent filed an Omnibus Motion²⁸ dated August 16, 2007 in the second case for Qualified Theft, which motion prayed for (1) the early resolution of accused's prayer for reduction of bail incorporated in respondent's (as accused's

²⁵ *Id.* at 164-169.

²⁶ *Id.* at 172.

²⁷ *Id.* at 181-188.

²⁸ *Id.* at 191-194.



counsel) Formal Entry of Appearance; (2) the remand of the custody of both the accused, pending the proceedings of the case, from the provincial jail to the Calbiga Municipal Jail where they were previously detained; and (3) the cancellation of the hearing of the case on August 17, 2007 and resetting it on October 1, 2007 or October 12, 2007 at 8:30 a.m.

- c) Respondent caused a request for reduction of the bail of the accused, and in an Order²⁹ dated August 9, 2007, the trial court gave notice that the request for reduction of bail from ₱24,000.00 and ₱30,000.00, respectively, to ₱5,000.00 for both cases would be heard on August 17, 2007.
- d) In the Order³⁰ dated September 21, 2007, the court stated that co-accused Cecilia Cabuello posted thru Marivic Alusitain the amount of ₱22,000.00 as cash bail for both cases. In view thereof, co-accused Cecilia Cabuello was ordered released from detention.
- e) In one of the hearings of the case, both accused were indisposed due to medical reasons; hence, an order for the issuance of a warrant of arrest against them was issued. Thus, respondent filed a Motion for Reconsideration³¹ of the said Order with an Affidavit of Waiver³² so that the absence of the accused thereafter may be excused.
- f) During the subsequent hearings of the case, either the court or the respondent, who was afflicted with several ailments, [reset the hearings] as evidenced by the orders of the court for the resetting of the case and some of the medical certificates attached to the motion.
- g) All the resetting of the hearings of the case that were filed by the respondent were with the knowledge and conformity of her clients as well as complainant Reynaldo Cabuello.
- h) Thus, respondent and Mr. Cabuello agreed, for economic reasons, that the Cabuellos would verify from the court, days before a hearing is scheduled, if the hearing would push through so that there would be no need for them to go to court in case a hearing is or would be cancelled.



²⁹ *Id.* at 197.

³⁰ *Id.* at 198.

³¹ *Id.* at 273-275.

³² *Id.* at 276.

- i) For the February 6, 2008 hearing, respondent purchased a PAL ticket,³³ but she was informed by complainant Reynaldo Cabuello the day before the hearing that the said February 6, 2008 hearing was cancelled due to the retirement of the Presiding Judge of the court.
- j) Because of the foregoing events and incidents, which have caused problems, stress and inconvenience as well as expenses for all parties, both accused, thru complainant Reynaldo Cabuello, informed the respondent that they will terminate her services and they will get a new lawyer to represent them. As far as respondent knows, the accused were already represented by a new counsel of record in the case (per the trial court's Order³⁴ dated February 5, 2009).
- k) Thus, respondent filed a *Motion to Withdraw as Counsel for the Accused*³⁵ (dated February 28, 2009), with the conformity of the accused and duly received by the court. Corollary thereto, respondent surrendered to the accused all the records of the case in her possession, as evidenced by the Acknowledgment³⁶ (dated February 28, 2009) of Ms. Cabuello.
- l) In the same vein, for the purpose of peace, respondent offered to return to her clients, thru accused Cecilia Cabuello, the payments made by the Cabuellos for the case, as evidenced by the document³⁷ dated February 28, 2009 (Annex "14").³⁸

Moreover, respondent alleged that complainant's monetary claim has no basis, especially as respondent also spent ₱22,000.00 for the bail of her clients, plus ₱10,000.00 for the fare of Ms. Alusitain and ₱10,000.00 for other expenses and court fees, including certified true copies of all the documents in court when she caused the filing of the bail, and ₱5,000.00 for her PAL ticket for the hearing scheduled on February 6, 2008, which was reset by the court because of the Presiding Judge's retirement. Respondent denied the other alleged payments and stated that any money delivered by complainant to her assistant/staff was between them as the same, if any, arose out of their agreement/arrangement, since she (respondent) never ordered complainant to that effect.



³³ *Id.* at 285.

³⁴ *Id.* at 215.

³⁵ *Id.* at 216-217.

³⁶ *Id.* at 292.

³⁷ *Id.* at 219.

³⁸ *Id.* at 258-260.

Respondent also stated that she had already rendered her services in the case and had filed the Omnibus Motion, Waiver and other pleadings; hence, based on *quantum meruit*, she may already be entitled to certain fees.

Respondent asserted that she did not violate Canons 17 and 18 of the Code of Professional Responsibility, considering the foregoing facts and evidence. She prayed that the IBP reconsider and set aside its Resolution and that a new Order be issued dismissing the complaint for lack of merit.

On August 29, 2013, complainant filed his comment³⁹ to respondent's motion for reconsideration. He contended that the motion should be denied on the following grounds: (a) respondent's version of the facts should not be raised in a motion for reconsideration; (b) the attachments to the motion would show that respondent admitted that there were payments made; (c) contrary to respondent's claim, the attachments would show that respondent had been coordinating with complainant; and (d) the duty of a lawyer to his client to exert diligent efforts should be until the termination of the client-lawyer relationship.

Complainant denied respondent's allegation that he took advantage of the fact that respondent was in the U.S.A. at the time he filed the complaint, since he had no knowledge of the same. During the mandatory conference held on March 4, 2011, respondent's representative, Marivic Alusitain, appeared and manifested that respondent intended to file an Answer within a period of seven days. Respondent's representative informed the Commission that respondent was sick and could not appear before it, but she never mentioned that respondent was in the U.S.A. for any medical examination for bone marrow transplant. Respondent has not substantiated her claim of being in the U.S.A. at that time.

Complainant also denied that respondent was the one who paid for the bail bond of his parents, since he had the money and respondent's representative/secretary, Marivic Alusitain, only accompanied him. Marivic Alusitain later advised him that the receipt should be under her name in order that they will be known in the place as complainant's counsel.⁴⁰

Further, complainant stated that it was not true that Cecilia Cabuello received the documents and money from respondent, because what she received from respondent were the documents pertaining to Civil Case No. 05-203, which complainant and Cecilia Cabuello asked her to review or give an opinion on. Cecilia Cabuello refused and never received the money because she knew that the money belonged to him (complainant) and his

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Entitled *Opposition to Respondent's Motion for Reconsideration*, *id.* at 297-303.

⁴⁰

Rollo, pp. 305-310.



siblings. Cecilia Cabuello remembered that respondent's secretary tricked her to sign a document that she did not understand. Complainant attached to his Comment the letter⁴¹ of Cecilia Cabuello, which stated that she did not receive the money from respondent's representative/secretary, Marivic Alusitain, because she had no right to get the money that belonged to her children.

Complainant contended that it is not true that respondent had an agreement with complainant's parents that respondent may have to withdraw from the case because of health problems, but her assistant can assist them in terms of legwork or filing of pleadings and the like, since respondent did not even present any written agreement or contract to show the consent of the other party. Respondent may have been able to present pleadings that she had filed prior to the arraignment of his parents, but from the arraignment of the case until respondent's withdrawal as counsel for the accused, respondent never appeared before the court, and it was the counsel *de oficio* who assumed her duties in order not to delay the proceedings.

On March 21, 2014, the IBP Board of Governors passed Resolution No. XXI-2014-96,⁴² which denied respondent's motion for reconsideration, thus:

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. Further, the Board RESOLVED to AFFIRM, with modification, Resolution No. XX-2013-234 dated March 20, 2013 and accordingly the penalty meted by Atty. Editha Talaboc increased from six (6) months SUSPENSION from the practice of law to two (2) years. Moreover, she is hereby Ordered to Return the amount received from Complainant with legal interest from the time the demand was made within thirty (30) days from notice.

In a letter⁴³ dated July 15, 2014, the IBP Director for Bar Discipline informed the Chief Justice of the Supreme Court of the transmittal of the documents of this case to the Court pursuant to Rule 139-B of the Rules of Court.

On September 12, 2014, respondent filed a motion for extension of 15 days to file a petition for review of the Resolution of the Commission on Bar Discipline denying her motion for reconsideration, which motion was granted by the Court in a Resolution⁴⁴ dated October 14, 2014.

⁴¹ *Id.* at 243-244.

⁴² *Id.* at 327.

⁴³ *Id.* at 326.

⁴⁴ *Id.* at 341.

In a Resolution⁴⁵ dated September 15, 2015, the Court considered respondent to have waived the filing of a petition for review as she failed to file the petition within the extension granted by the Court, which expired on September 27, 2014.

On July 4, 2016, the IBP Director for Bar Discipline referred to the Office of the Bar Confidant the *Motion for Substitution of Complainant Reynaldo Cabuello*⁴⁶ filed by Ms. Beatriz C. Cabutin on July 1, 2016, which motion informed the Court of complainant's death on March 27, 2016 and prayed that he be substituted by his sister, Beatriz Cabuello Cabutin.

In a Resolution⁴⁷ dated November 8, 2016, the Court granted the motion for substitution and ordered the substitution of Reynaldo A. Cabuello by Beatriz Cabuello Cabutin as complainant in this case.

Ruling of the Court

The Court agrees with the finding of the Investigating Commissioner and affirms Resolution No. XX-2013-234 and Resolution No. XXI-2014-96 of the IBP Board of Governors, but modifies the penalty imposed on the respondent and the amount of money to be refunded by respondent to complainant.

The records show that as counsel of the complainant's parents, respondent was remiss in her duty toward them by never appearing in the hearings of the criminal case, which contributed to the delay of the pre-trial of the case for eleven months or almost a year until the trial court finally appointed a counsel de *oficio* for respondent's clients so the pre-trial and trial on the merits could proceed. Respondent kept on filing a motion to reset the scheduled pre-trial, including those dates of hearings requested by her, from the start until her withdrawal as counsel. This is borne out by the Orders of the RTC having jurisdiction over the cases of complainant's parents. The Order dated June 19, 2008 states:

It appears from the records that the arraignment of these cases was conducted on July 27, 2007 yet but no pre-trail conference was conducted because Atty. Editha Talaboc, the counsel for both accused had filed a series of postponements alleging every thinkable ground as reasons for her non-appearance.

Considering that sufficient time had already been granted by the Court to the accused, further considering that in all of these scheduled

⁴⁵ *Id.* at 352.

⁴⁶ *Id.* at 356.

⁴⁷ *Id.* at 376.

hearings both accused were not present, issue a warrant of arrest for the apprehension of accused Alejandro Cabuello and Cecilia Cabuello.⁴⁸

To the Order quoted above, respondent filed a *Motion for Reconsideration with Motion to Lift Warrant of Arrest with Apologia cum Explanation*⁴⁹ dated June 24, 2008. The trial court set the respondent's motion for hearing on July 31, 2008.⁵⁰

In the Order⁵¹ dated July 31, 2008, the trial court lifted the warrant for the arrest of the accused as they were present in court. Respondent, however, was not available on that day, so the court re-scheduled the pre-trial conference on August 28, 2008 and stated that if respondent would not appear on that day, the court will appoint a counsel *de oficio* to assist the accused.

In an Order⁵² dated August 21, 2008, the pre-trial conference was reset to September 25, 2008. On September 25, 2008, respondent was not present, so the court appointed Atty. Prescilla A. Salvacion of the PAO to represent complainant's parents.⁵³

Thereafter, the hearing for the presentation of the evidence for the prosecution was scheduled on November 27, 2008 and December 11, 2008. Respondent again filed a *Motion to Reset Hearing*,⁵⁴ alleging that she was not available during the scheduled hearings as she was committed to appear in other branches of the RTC in Metro Manila, and praying that the trial of the cases be reset to January 15, 2009 and February 19, 2009.

The trial court denied the motion as it had already appointed Atty. Prescilla A. Salvacion to assist the accused and she had already ably assisted the accused during the pre-trial conference of the case on September 25, 2008.⁵⁵

During the hearing of the presentation of evidence for the prosecution scheduled on December 11, 2008, Atty. Prescilla A. Salvacion informed the court that respondent's secretary called up to inform her that respondent will still be representing the accused in the case and that she is available on January



⁴⁸ *Id.* at 55. (Underscoring supplied)

⁴⁹ *Id.* at 56-58.

⁵⁰ *Id.* at 61.

⁵¹ *Id.* at 63.

⁵² *Id.* at 64.

⁵³ *Id.* at 65. See the Order dated November 20, 2008, *id.* at 66.

⁵⁴ *Id.* at 67-70.

⁵⁵ *Id.* at 66.

15, 2009. As reflected in the transcript of stenographic notes, the Court replied, thus:

The Court: The Order of the Court is final. I have already appointed the PAO as the counsel de oficio of this case, considering that Atty. Editha Talabo[c] just kept on promising that she will be coming to appear on this case, but she never once [came] to this Court to appear. I will make an Order.⁵⁶

On March 13, 2009, respondent filed a *Motion to Withdraw as Counsel for the Accused*.⁵⁷

Based on the foregoing, it is clear that respondent indeed violated Canons 17 and 18 of the Code of Professional Responsibility, thus:

Canon 17 – A lawyer owes fidelity to the cause of his client and shall be mindful of the trust and confidence reposed in him.

Canon 18 – A lawyer shall serve his client with competence and diligence.

A member of the legal profession owes his/her client entire devotion to the latter's genuine interest, and warm zeal in the maintenance and defense of his/her rights.⁵⁸ An attorney is expected to exert his/her best efforts and ability to preserve his/her client's cause, for the unwavering loyalty displayed to his/her client, likewise, serves the ends of justice.⁵⁹ Verily, the entrusted privilege to practice law carries with it the corresponding duties, not only to the client, but also to the court, to the bar and to the public.⁶⁰

*Camara v. Atty. Reyes*⁶¹ held:

Disciplinary proceedings involve no private interest and afford no redress for private grievance. They are undertaken and prosecuted solely for the public welfare, and for the purpose of preserving courts of justice from the official ministration of persons unfit to practice in them. The attorney is called to answer to the court for his conduct as an officer of the court. The complainant is in no sense a party, and has generally no interest in the outcome of the case. This is also the reason why this Court may investigate charges against lawyers regardless of complainant's standing.⁶²

⁵⁶ *Id.* at 72-73.

⁵⁷ *Id.* at 290-291

⁵⁸ *Camara v. Atty. Reyes*, 612 Phil. 1, 7 (2009).

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Supra* note 55.

⁶² *Id.* at 6.



In regard to the refund sought for payments made to respondent alleged to be in the total amount of ₱97,500.00, complainant failed to present receipts or documents to evidence the same.

The attorney's fees shall be those stipulated in the retainer's agreement between the client and the attorney, which constitutes the law between the parties for as long as it is not contrary to law, good morals, good customs, public policy or public order.⁶³ In this case, there was no retainer's agreement between the parties to be able to ascertain the attorney's fees agreed upon and received by respondent. In his Complaint, complainant sought the return of acceptance fees in the amount of ₱20,000.00 for the criminal cases and ₱15,000.00 for the case supposed to be filed against the police officers who arrested the accused. The Court notes that in Annex "14"⁶⁴ of respondent's motion for reconsideration, respondent admitted to having received the amount of ₱25,000.00 as attorney's fee/acceptance fee for the two criminal cases and ₱15,000.00 for the case supposed to be filed with the fiscal's office plus ₱5,000.00 for expenses, and ₱5,000.00 representing the refund of the PAL ticket rescheduled four times due to the cancellation and resetting of the court hearings, totaling ₱50,000.00, which amount respondent offered to return to complainant's mother Cecilia Cabuello.⁶⁵ Cecilia Cabuello, however, declined and denied receipt of such payment from respondent's representative, Marivic Alusitain, because she had no right to receive the money that belonged to her children, as stated in her letter (Annex "D-2")⁶⁶ attached to complainant's *Opposition to Respondent's Motion for Reconsideration*.

Hence, in the absence of receipts or documentary evidence to substantiate the amount of ₱97,500.00 sought to be recovered by complainant from respondent, complainant is entitled to a refund in the amount of ₱50,000.00, which had been admittedly received by respondent from the Cabuellos as payment for attorney's/acceptance fees and other expenses including refund of a PAL ticket and which amount respondent offered to return to Cecilia Cabuello.

The Court modifies the penalty of suspension imposed by the IBP Board of Governors on respondent from two years to one year. In *Chang v. Hidalgo*,⁶⁷ the Court stated that in several cases, it has imposed the penalty of one (1) year suspension from the practice of law for violation of Canons 17 and 18 of the Code of Professional Responsibility.

⁶³ *Sanchez v. Aguilos*, A.C. No. 10543, March 16, 2016, 787 SCRA 457, 470.

⁶⁴ *Rollo*, p. 293.

⁶⁵ See Respondent's Motion for Reconsideration, *id.* at 260, paragraph (l).

⁶⁶ Annex D-2, *rollo*, pp. 243-244.

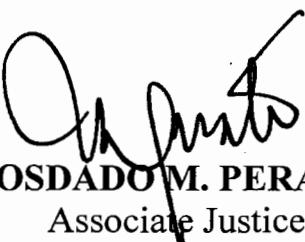
⁶⁷ A.C. No. 6934, April 6, 2016, 788 SCRA 474, 486.

WHEREFORE, premises considered, the Court finds respondent Atty. Editha P. Talaboc **GUILTY** of violating Canons 17 and 18 of the Code of Professional Responsibility. Hence, respondent is **SUSPENDED** from the practice of law for **ONE (1) YEAR**, which shall take effect immediately upon receipt of this Decision by the respondent, and she is **STERNLY WARNED** that a repetition of the same or a similar offense shall be dealt with more severely. Respondent is also **DIRECTED** to return to complainant Beatriz Cabuello Cabutin the amount of Fifty Thousand Pesos (₱50,000.00), with interest at the legal rate of six percent (6%) *per annum*, from the date of receipt of this Decision until fully paid.

Upon receipt of this Decision, respondent is **DIRECTED** to immediately file a Manifestation informing this Court that her suspension has started and to furnish a copy of the Manifestation to all courts and quasi-judicial bodies where she has entered her appearance as counsel.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be appended to respondent's personal record; the Integrated Bar of the Philippines; and the Office of the Court Administrator for circulation to all courts of the country for their information and guidance.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

respondeo
MARIA LOURDES P. A. SERENO
Chief Justice

Antonio T. Carpio
ANTONIO T. CARPIO
Associate Justice

On official leave
PRESBITERO J. VELASCO, JR.
Associate Justice

On official leave
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Lucas P. Bersamin
LUCAS P. BERSAMIN
Associate Justice

On official leave
MARIANO C. DEL CASTILLO
Associate Justice

On official business
ESTELA M. PERLAS-BERNABE
Associate Justice

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

Alfredo Benjamin S. Caguioa
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

On leave
FRANCIS H. JARDELEZA
Associate Justice

Noel Gimenez Tijam
NOEL GIMENEZ TIJAM
Associate Justice

Samuel R. Martires
SAMUEL R. MARTIRES
Associate Justice

Andres B. Reyes, Jr.
ANDRES B. REYES, JR.
Associate Justice

Alexander G. Gesmundo
ALEXANDER G. GESMUNDO
Associate Justice

CERTIFIED XEROX COPY:

JG for Mayor - Aban
PHILIP B. ANAMA
CLERK OF COURT, EN BANC
SUPREME COURT