

EN BANC

[A.C. No. 12881. February 9, 2021.]

NORMA NICOLAS, *complainant*, **vs. ATTY. JOSE LAKI**, *respondent*.

DECISION

PER CURIAM .:

Antecedents

By Complaint-Affidavit **1** filed before the Integrated Bar of the Philippines (IBP) on June 20, 2007, complainant Norma Nicolas sought the disbarment of respondent Atty. Jose Laki for violation of Canon 1, Rules 1.01 and 1.02; Canon 10, Rule 10.01; Canon 15, Rule 15.06; Canon 16, Rules 16.01 and 16.03; and Canon 18, Rule 18.03, all of the Code of Professional Responsibility (CPR). **2** She essentially alleged:

In November 2005, she asked Atty. Adoracion Umipig to handle the nullity of marriage case of her brother Joseph Darag, a Filipino based in Japan. But since Atty. Umipig worked with the government, she referred the matter to her friends in private practice. Respondent, an old friend and former officemate of hers, volunteered to handle the case. **3**

Respondent informed her he would be filing the case in Balanga, Bataan where he had successfully handled and completed a similar petition in only three (3) months. He charged a fee of P130,000.00 and assured her the annulment proceedings would be finished by the first week of April 2006. **4**

About a month later, respondent fetched Atty. Umipig in Manila and met with her (complainant) in Mabalacat City, Pampanga. There, she gave respondent the initial payment of P100,000.00 which was discounted to P95,000.00. Atty. Umipig was present when the payment was made. **5**

In March 2006, respondent requested additional payment and reassured her that the case was almost finished. Thus, she had Atty. Umipig deposit P20,000.00 to the bank account of respondent's mother. **6**

In April 2006, respondent told her and Atty. Umipig that Judge Vianzon who was presiding over the case was on leave. He nevertheless guaranteed that the case was almost done. But after the holy week, she could no longer contact respondent. Atty. Umipig, too, tried to contact him, but to no avail. **7**

Atty. Umipig was eventually able to locate respondent but the latter simply made excuses. He claimed that Judge Vianzon was hesitant to issue a favorable decision but he managed to convince the judge to do it anyway. According to him, the sheriff was already serving copies of the decision to the National Statistics Office and the Local Civil Registrar in Nueva Ecija where Joseph's marriage took place. **8** Thereafter, respondent became elusive once again. **9**

In November 2006, she went to Balanga, Bataan to check on the status of Joseph's annulment case but discovered that no case was ever filed by respondent. She thus sought Atty. Umipig's help to compel respondent to return the money she had

paid. Eventually, they were able to contact respondent who promised to return the money he received. But he never made good his promise. He, too, ignored the demand letter she sent him. **10**

Hence, she now seeks respondent's disbarment for the latter's misrepresentations, deceitful conduct, and misappropriation of money entrusted him, in violation of the CPR.

Respondent failed to refute the charges against him.

First. Respondent failed to file any answer despite seeking an extension to file one until August 16, 2007. About a decade later, when he was given a fresh period of fifteen (15) days or until May 9, 2017 within which to file an answer, he squandered the opportunity anew. **11**

Second. On respondent's manifestation-request, the investigating commissioner issued Order dated November 8, 2017, giving respondent ten (10) days to file his position paper. He failed to comply yet again. **12**

Finally. Respondent failed to attend the clarificatory hearing on May 4, 2018 where Atty. Umipig testified against him. **13**

IBP Report and Recommendation

By Report and Recommendation **14** dated April 3, 2019, Commissioner Nelly Annegret R. Puno-Yambot found respondent guilty of violating Canon 1, Rule 1.01; Canon 11; Canon 15, Rule 15.06; **15** Canon 16, Rules 16.01 and 16.03; and Canon 18, Rule 18.03, warranting his disbarment, thus:

WHEREFORE in view thereof, it is respectfully recommended that respondent Jose N. Laki be DISBARRED from the practice of law. The Commission likewise recommends that respondent be ordered to pay the complainant twenty **n** (P20,000.00) with legal interest of six percent (6%) per annum.

Respectfully submitted.

Preliminarily, Commissioner Puno-Yambot noted that respondent already got disbarred in **Kenneth R. Mariano v. Atty. Jose N. Laki** **16** for reasons similar to those complained of in the present case. Thus, Commissioner Puno-Yambot recommended respondent's disbarment anew, if only to caution this Court against granting respondent's plea for judicial clemency, if at all he would ask for it. **17**

By Resolution dated June 17, 2019, the IBP Board of Governors adopted Commissioner Puno-Yambot's recommendation although it deleted the order to reimburse P20,000.00 to complainant and imposed a P20,000.00 fine, *viz.*:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, **with modification**, to impose upon Respondent the penalty of **DISBARMENT** and for failure to comply with the various orders and requirements of the Commission, a **FINE of P20,000.00** plus application of legal interest thereto until fully paid.

On July 28, 2020, the IBP elevated the entire records for the Court's consideration since the IBP Resolution was merely recommendatory in nature and does not attain finality without the Court's final act.

Ruling

The Court adopts the factual findings of the IBP but modifies the recommended

penalty.

As keenly observed by Commissioner Puno-Yambot, the present case mirrors the factual milieu of **Mariano** in all substantial aspects. A reproduction of the facts therein is *apropos*: **18**

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 P160,000.00, 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 P50,000.00. 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 P50,000.00, as evidenced by a receipt 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 P40,000.00 and P60,000.00 on April 13, 2009 and August 2009, respectively, as evidenced by receipts 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.

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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.

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. 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. 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.

In *Mariano*, respondent accepted money from his client as payment for handling the latter's case for nullity of marriage. But respondent failed to file any petition for his client. He, too, failed to return his client's money despite demand. Respondent's attitude during the IBP proceedings and his repeated disregard of its directives also did not escape the Court's attention. In view of the totality of respondent's infractions, the Court imposed the ultimate penalty of disbarment against him.

Indeed, the facts laid down in *Mariano* do not stray from the present case. Respondent did not change his pattern of behavior, only his victim. Hence, the Court shall deal with respondent in the present case with as much severity as it did in *Mariano*.

In *Mariano*, the Court found respondent guilty of violating Canon 1, Rule 1.01; Canon 11, Rule 11.04; and Canon 16, Rules 16.01 to 16.03 of the CPR, which ordain:

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

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

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.

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

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.

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. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

As held: **19**

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 P150,000.00, 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.

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.

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.

Surely, the clear repetition of offenses here warrants the same finding of guilt for violation of the above-cited canons and rules.

The Court finds, however, that Commissioner Puno-Yambot correctly included Canon 15, Rule 15.06, and Canon 18, Rule 18.03 in respondent's repertoire of violations. These provisions state:

CANON 15 — A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his client.

Rule 15.06 A lawyer shall not state or imply that he is able to influence any public official, tribunal or legislative body.

CANON 18 — A lawyer shall serve his client with competence and diligence.

Rule 18.03 A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

Indeed, respondent's act of telling complainant that he could get a favorable decision should he file the petition for nullity of marriage in Bataan and, thereafter, boasting he was able to convince the presiding judge who had misgivings regarding the purported case shows respondent's disrespect toward the independence of the Judiciary. His actions gave the false impression that judges may be influenced or

swayed, causing public confidence in the Judiciary to erode. ²⁰ Such conduct should not be taken lightly considering that the image of the Judiciary was diminished in the eyes of the public. ²¹ Respondent should therefore be held liable for violation of Canon 15, Rule 15.06.

As regards Canon 18, Rule 18.03, **Zaldivar v. Cabanes** ²² elucidates:

x x x a lawyer's duty of competence and diligence includes not merely reviewing the cases entrusted to the counsel's care or giving sound legal advice, but also consists of properly representing the client before any court or tribunal, attending scheduled hearings or conferences, **preparing and filing the required pleadings**, prosecuting the handled cases with reasonable dispatch, and urging their termination without waiting for the client or the court to prod him or her to do so.

Conversely, **a lawyer's negligence in fulfilling his duties subjects him to disciplinary action**. While such negligence or carelessness is incapable of exact formulation, the Court has consistently held that **the lawyer's mere failure to perform the obligations due his client is per se a violation**.

In **Enriquez v. Lavadia, Jr.**, ²³ respondent got disbarred for his proven propensity for filing motions for extension without filing the required pleading, in violation of Canon 18, Rule 18.03 of the CPR, among others. Too, in **Mariveles v. Mallari**, ²⁴ the Court disbarred respondent for failing to file his client's appellant's brief despite being granted a 245-day extension. And in **Figueras v. Jimenez**, ²⁵ respondent was found administratively liable for failing to file the appellant's brief on behalf of his client.

Here, respondent violated the rule when he neglected to file Joseph's petition for nullity of marriage, the very pleading which would have initiated the entire process. Despite repeated prodding from complainant, respondent simply made excuses and foisted lies upon lies onto complainant to lead her to believe there was actual progress in Joseph's case when in fact there was none. Commissioner Puno-Yambot, therefore, correctly found respondent liable for violating Rule 18.03 of the CPR.

All told, the Court finds more reason to disbar respondent here than it did in **Mariano**. But then the Court cannot disbar respondent anew. For in this jurisdiction, we do not impose double disbarment. ²⁶

In **Punla v. Villa-Ona**, ²⁷ the Court would have disbarred respondent for her gross and continuing violation of the CPR, were it not for her disbarment in a prior disciplinary case. Since respondent could no longer serve the same penalty, the Court imposed a fine of P40,000.00 on respondent instead.

Here, the Court finds justification in the imposition of a P40,000.00 fine on respondent. It is distinct and separate from the P20,000.00 fine imposed by the IBP for respondent's failure to comply with its various directives. The former is imposed in *lieu* of disbarment since respondent cannot serve two (2) penalties of disbarment simultaneously; the latter, for his discourtesy toward the IBP and his defiance of its directives to appear during the proceedings and respond to the complaint filed against him.

Finally, respondent must return the money he received from complainant for his utter failure to render the legal service required of him under their attorney-client relation. ²⁸ Commissioner Puno-Yambot found that complainant was able to prove

payment to respondent of P20,000.00 which Atty. Umipig deposited to the bank account of respondent's mother. ²⁹ In addition, the Court notes that complainant, too, sufficiently established that she paid respondent P95,000.00 while they were in Mabalacat City, Pampanga. For one, respondent failed to refute this allegation despite having been given the opportunity to do so many times. For another, Atty. Umipig executed an affidavit stating she witnessed that such payment in fact took place. ³⁰ Thus, respondent is liable to reimburse complainant P115,000.00, plus twelve percent (12%) interest per annum from demand on March 27, 2007 until June 30, 2013, and six percent (6%) interest per annum from July 1, 2013 until fully paid in accordance with ***Nacar v. Gallery Frames***. ³¹

WHEREFORE, the Court **FINDS** respondent **Jose Laki GUILTY** of violating Canon 1, Rule 1.01; Canon 11, Rule 11.04; Canon 15, Rule 15.06; Canon 16, Rules 16.01 and 16.03; and Canon 18, Rule 18.03 of the Code of Professional Responsibility.

He is **ORDERED** to **PAY** a fine of P40,000.00 in *lieu* of disbarment, and P20,000.00 for failure to comply with the various directives of the Integrated Bar of the Philippines.

Respondent is also **REQUIRED** to **RETURN** to complainant Norma Nicolas P115,000.00 plus twelve percent (12%) interest *per annum* from demand on March 27, 2007 until June 30, 2013, and six percent (6%) interest *per annum* from July 1, 2013 until fully paid.

Furnish a copy of this Decision to the Office of the Bar Confidant, which shall append the same to the personal record of respondent; to the Integrated Bar of the Philippines; and the Office of the Court Administrator, which shall circulate the same to all courts in the country for their information and guidance.

SO ORDERED.

Peralta, C.J., Perlas-Bernabe, Leonen, Caguioa, Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, M.V. Lopez, Delos Santos, Gaerlan, Rosario and J.Y. Lopez, JJ., concur.

Footnotes

- ¹. *Rollo*, p. 2.
- ². CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and for legal processes.

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

RULE 1.02 A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

CANON 10 — A lawyer owes candor, fairness and good faith to the court.

RULE 10.01 A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead or allow the Court to be misled by any artifice.

CANON 15 — A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his client.

RULE 15.06 A lawyer shall not state or imply that he is able to influence any public official, tribunal or legislative body.

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.

RULE 16.03 A lawyer shall deliver the funds and property of his client when due or upon demand. However, he shall have a lien over the funds and may apply so much thereof as may be necessary to satisfy his lawful fees and disbursements, giving notice promptly thereafter to his client. He shall also have a lien to the same extent on all judgments and executions he has secured for his client as provided for in the Rules of Court.

CANON 18 — A lawyer shall serve his client with competence and diligence.

RULE 18.01 A lawyer shall not undertake a legal service which he knows or should know that he is not qualified to render. However, he may render such service if, with the consent of his client, he can obtain as collaborating counsel a lawyer who is competent on the matter.

RULE 18.03 A lawyer shall not neglect a legal matter entrusted to him, and his negligence in connection therewith shall render him liable.

3. *Rollo*, p. 3.

4. *Id.* at 4.

5. *Id.*

6. *Id.* at 4 and 17.

7. *Id.* at 4.

8. *Id.* at 5.

9. *Id.*

10. *Id.*

11. *Id.* at 47.

12. *Id.*

13. *Id.*

14. *Id.* at 44.

15. Stated as Rule 15.05 but actually cites Rule 15.06.

16. A.C. No. 11978, September 25, 2018.

17. *Rollo*, pp. 59-60.

18. A.C. No. 11978, Sep. 25, 2018.

19. A.C. No. 11978, September 25, 2018.

20. *Rollo*, p. 58.
 21. See *Domingo v. Revilla*, A.C. No. 5473, January 23, 2018.
 22. 713 Phil. 530, 538 (2013).
 23. 760 Phil. 1, 13 (2015).
 24. 292 Phil. 34, 38 (1993).
 25. 729 Phil. 101, 112 (2014).
 26. *Punla v. Villa-Ona*, 816 Phil. 776, 784-785 (2017).
 27. *Id.*
 28. See *Go v. Buri*, A.C. No. 12296, December 4, 2018.
 29. *Rollo*, pp. 4 and 17.
 30. *Id.* at 11.
 31. 716 Phil. 267, 283 (2013).
- n Note from the Publisher: Copied verbatim from official document.